

# REQUEST FOR LOCAL LIQUOR CONTROL COMMISSION ACTION

**DATE:** November 17, 2015

**ITEM NO. 3** - Consideration of a request to reclassify an existing liquor license from a Class B2 (On-premises consumption of all liquors) to a Class J license (Public Arts Venue) for Varsity Center for the Arts at 418 South Illinois Avenue

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Attached is an application from Varsity Center for the Arts, Inc. requesting a reclassification of their current Class B2 liquor license to a Class J liquor license.

In September 2014, the Class J liquor license was established which authorizes the sale of all alcoholic liquors by the drink for consumption on-premises during theatrical or musical performances, art exhibits, or oral presentations by bona fide nonprofit organizations.

In July 2015, the City of Carbondale rescinded the ordinances commonly referred to as the "Halloween Ordinances" which prohibited Class B establishments within a specified area from opening during dates around the Halloween holiday. While this restriction was in place, establishments with Class B licenses within the boundary area had their base license fee reduced by 100%. As that fee reduction is no longer in effect, the Varsity Center for the Arts would be subject to a liquor license fee of no less than \$750.00 nor more than \$2,250.00.

Class B licenses are frequently referred to as "bar licenses" and at the time that the Varsity Center for the Arts applied for a liquor license, it was the most appropriate classification although they do not operate as a typical tavern would.

As this request would not result in any change in the operations, location, members, managers, or in any way deviate from how the organization has operated for several years, it was determined that the completion of the Background Operation Questionnaire in full would be unnecessary. The only changes resulting from the granting of the transfer request would be to the annual fee (from \$0 to \$100) and classification (from B2 to J.)

**Liquor Code Provisions:** Class J licenses are limited to not-for-profit organizations which exist primarily to offer theatrical or musical performances, art exhibits, or oral presentations. There is not a minimum entry age for Class J establishments.

**Liquor Advisory Board Review:** The Liquor Advisory Board reviewed the request on November 5, 2015 and unanimously recommended approval of the request for reclassification.

**Alternative Actions:** The Local Liquor Control Commission may:

- (1) Approve the reclassification of the liquor license for Varsity Center for the Arts, Inc. from Class B2 to Class J; or
- (2) Deny the reclassification of the liquor license for Varsity Center for the Arts, Inc. from Class B2 to Class J, based on one or more of the provisions of the Liquor Code.

Motion \_\_\_\_\_ Second \_\_\_\_\_ to \_\_\_\_\_

#### 2-4-4: PERSONS INELIGIBLE TO HOLD LICENSE:

No license shall be issued to:

A. An individual person:

1. Who is not a bona fide resident of the city.
2. Who is not of good character and reputation in the city.
3. Who is not a citizen of the United States of America.
4. Who has been convicted of a felony or who has been convicted of pandering or any other crime of morality or a person who has been convicted of being a keeper of a house of ill fame under the laws of the state, or any other federal or state law, unless the local liquor control commission determines, within its sole discretion, that such person now warrants the public trust.
5. Whose license issued under this title or the Illinois liquor control act has been revoked for cause.
6. Who at the time of application for renewal of any license issued under this title would not be eligible for such license upon a first application.
7. Whose business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee.
8. Who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.
9. Club, association, or corporation not eligible for a state retail liquor dealer's license.
10. Who has been convicted of a gambling offense as prescribed by 720 Illinois Compiled Statutes 5/28-1(a)(3) through (a)(10), or as prescribed by section 5/28-3 of the criminal code, as heretofore or hereafter amended or as proscribed by statute replaced by the aforesaid statutory provisions.
11. To whom a federal wagering stamp has been issued by the federal government for the current tax period.
12. Who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor, or who has forfeited his or her bond to appear in court to answer charges for any such violation on or after the adoption date hereof.
13. Who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in subsection (a) of section 6-21 of the Illinois liquor control act.

B. Any law enforcing public official, mayor or any member of the city council; and no such official shall be interested, in any way, either directly or indirectly, in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to a member of the city council (excluding the mayor) in relation to a premises or to an establishment in which the council member has a direct or indirect interest if:

1. The sale of alcoholic liquor pursuant to the license is incidental to the selling of food (class A license only);
2. The issuance of the license is approved by the Illinois liquor control commission;
3. The issuance of the license is in accordance with all applicable ordinances of this code; and
4. The official granted the license does not vote on alcoholic liquor issues pending before the local liquor control commission or the city council.

C. A corporation or limited liability company:

1. If any officer, manager, member, director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock or ownership interest of such corporation or limited liability company, would not be eligible to receive a license hereunder for any reason other than citizenship or residence within the political subdivision. Provided, however, that the manager of a corporation or limited liability company shall be required to comply with the residency requirement or the corporation or limited liability company shall appoint an agent who complies with the residency requirement.
2. Unless it is incorporated or organized in Illinois or unless it is a foreign corporation which is qualified under the business corporation act of 1983 to transact business in Illinois.
3. If the corporation, limited liability company, or any officer, manager, member, or director thereof or any stockholder owning in the aggregate more than five percent (5%) of the stock or ownership interest of said corporation or limited liability company has been issued a federal gaming device stamp or a federal wagering stamp for the current tax period.

D. A partnership:

1. Unless all of the members of such partnership shall be qualified to obtain a license.
2. To which a federal wagering stamp has been issued by the federal government for the current tax period or if any of the partners have been issued a federal wagering stamp by the federal government for the current tax period. (Ord. 2007-38)

#### 2-4-5: ISSUANCE OF LICENSE; FINDINGS:

The commission shall not issue a new liquor license, renew a liquor license, approve a change of classification or transfer of location or the transfer of the license to a new owner unless it has previously been determined that there is no reason to refuse to issue, renew or approve such license. In determining whether there is reason to refuse to issue, renew, or approve a license, the commission shall consider the following criteria:

- A. The class of the liquor license applied for and the availability of a license in the class.
- B. Compliance with all applicable state and city regulations and laws.
- C. The potential impact on and demand for city services.
- D. The location of the proposed establishment and probable impact of a liquor establishment at the location upon the surrounding neighborhood or the city as a whole. Factors to be considered include, but are not limited to:
  - 1. Proximity to residential property,
  - 2. Proximity to schools, churches or synagogues,
  - 3. Proximity to gasoline stations or convenience stores which offer gasoline for sale,
  - 4. Potential impact on traffic safety,
  - 5. Potential adverse impacts on surrounding property values,
  - 6. Proximity to other liquor establishments,
  - 7. Adequate street lighting and lighting on the proposed property,
  - 8. Availability of on street and off street parking in the area,
  - 9. Availability of sidewalks in the area if significant pedestrian traffic is anticipated.
- E. The character and nature of the proposed establishment.
- F. Whether live entertainment will be provided and, if so, the nature of the entertainment.
- G. The proposed operation of the establishment, including staffing levels, the ability and commitment to abide by laws and regulations, and the ability to effectively monitor activities both within the establishment and on the property.
- H. The financial responsibility of the applicant and the past performance of the applicant, if any, in the area of liquor sales or services.
- I. The advisory recommendation of the liquor advisory board and city staff.
- J. Whether the issuance (or renewal) of said license would be in the "best interests" of the city of Carbondale (for example, would there be an adverse impact on public health, safety, or welfare; would the issuance of the license adversely affect the character of the surrounding neighborhood; would the license adversely impact the city's orderly growth and development, etc.).
- K. Whether the applicant or licensee has been delinquent on payment for services, loans or other contractual agreements received by the licensed establishment from the city of Carbondale. For the purpose of this subsection, a licensee shall be considered delinquent on payments if the licensee is currently in arrears on an outstanding debt owed to the city, or has been in arrears for more than fifteen (15) days on a payment to the city for services, loans or other contractual agreements, two (2) or more times within a two (2) year period.
- L. For class A1 and A2 licenses:
  - 1. The kitchen facilities and equipment to be used in the preparation and serving of food;
  - 2. The hours during which the kitchen will be used in the preparation of all food items included on the restaurant menu; and
  - 3. The existence of game rooms, dance floors, etc., that are commonly found in bar type establishments. (Ord. 2007-38)