

# Request for City Council Action

**Date: June 21, 2011**

<b>Agenda Section: General Business</b>  <b>No. 5</b>	<b>Originating Department:</b> Office of the City Manager			
<b>Item:</b> Ordinance Amending Title Two of the Carbondale Revised Code Affecting the Licensing of Package Liquor Sales  <b>No. 5.2</b>	<b>Approved:</b>			
<p><b><u>Background:</u></b></p> <p>For many months, there has been discussion about changing the Liquor Code to allow package sales in grocery stores and other retail outlets. The attached ordinance amends Title 2 of the Carbondale Revised Code in the following respects:</p> <ul style="list-style-type: none"> <li>• The prohibition on package sales in grocery and drug stores is eliminated (Section 2-4-9-C2).</li> <li>• The restrictions on package sales at gasoline filling stations are eliminated (Section 2-4-5-D3 and Section 2-5-17).</li> <li>• The cap on the number of package liquor licenses is eliminated (Section 2-4-9-C2).</li> <li>• The southern liquor boundary is shifted to the southern City limits, rather than stopping at Pleasant Hill Road (Section 2-4-6). Moving this boundary would automatically make the area south of Pleasant Hill road “wet.” If the ordinance passes, any business in this area could apply for a license. The Liquor Commission would then have to approve or disapprove the application. As with newly-annexed areas of the City, it would still be recommended that each applicant also apply for an ordinance declaring the parcel of property to be wet.</li> </ul> <p>The Liquor Advisory Board considered these changes a year ago and recommended the changes. The LAB met again recently for further discussion, but no further recommendations were requested or made. Numerous comments have been made to Council Members, and the issue was debated during the recent municipal elections.</p> <p>If the ordinance is adopted as proposed, there are additional revisions to be considered. Package liquor stores now must close at 2:00 a.m., and some accommodation may need to be made for 24-hour grocery stores. There are restrictions on under age persons being allowed to enter and/or work in licensed establishments, and these may need to be revised. These and other changes needed to implement the intent of the attached ordinance will be submitted at the next Council Meeting, provided the attached ordinance is passed.</p> <p><b><u>Recommended Action:</u></b> The City Council is requested to adopt an ordinance amending Title 2 of the Carbondale Revised Code, affecting the licensing of package liquor sales.</p>				
Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
Council Action: Motion by _____ 2nd by _____ to _____				

**CITY OF CARBONDALE, ILLINOIS  
ORDINANCE NO. 2011-**

**AN ORDINANCE AMENDING TITLE TWO OF THE CARBONDALE REVISED CODE  
AFFECTING THE LICENSING OF PACKAGE LIQUOR SALES**

**ADOPTED BY THE CITY COUNCIL  
OF THE CITY OF CARBONDALE, ILLINOIS  
THE 21<sup>st</sup> DAY OF JUNE, 2011**

Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 22<sup>nd</sup> day of June, 2011.

**CERTIFICATE OF PUBLICATION**

I, Rachael Keehn, the duly qualified and acting City Clerk of the City of Carbondale, Illinois, and the official custodian of the records of said City, do hereby certify that this Ordinance was published in pamphlet form by authority of the City Council on the 22<sup>nd</sup> day of June, 2011.

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Rachael Keehn, City Clerk

**ORDINANCE NO. 2011-**

**AN ORDINANCE AMENDING TITLE TWO OF THE CARBONDALE REVISED CODE  
AFFECTING THE LICENSING OF PACKAGE LIQUOR SALES**

**WHEREAS**, the City of Carbondale, Illinois is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

**WHEREAS**, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, the City of Carbondale regulates licensure and sale of alcoholic beverages within the City of Carbondale; and

**WHEREAS**, the City of Carbondale currently prohibits the sale of alcohol within 250 feet of the sale of gasoline, and the sale of alcohol by any entity which sells gasoline or other petroleum products; and

**WHEREAS**, the City of Carbondale currently limits the number of Class C liquor licenses; and

**WHEREAS**, the City of Carbondale currently prohibits the sale of liquor by grocery stores or drug stores without specific modifications of their facilities; and

**WHEREAS**, the City of Carbondale has determined that all business entities should be allowed to apply for liquor distribution licenses within the City, subject to all other restrictions on the sale of alcohol; and

**WHEREAS**, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend Sections 2-4-5, 2-4-6, 2-4-9, and 2-5-17 of the Carbondale Revised Code to allow the sale of alcohol by previously prohibited businesses.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE, ILLINOIS, AS FOLLOWS:**

SECTION 1. That Section 2-4-5 D. of the Revised Code of the City of Carbondale is hereby amended to read as follows:

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;~~
- 4.3. Potential impact on traffic safety,
- 5.4. Potential adverse impacts on surrounding property values;
- 6.5. Proximity to other liquor establishments,
- 7.6. Adequate street lighting and lighting on the proposed property,
- 8.7. Availability of on street and off street parking in the area,
- 9.8. Availability of sidewalks in the area if significant pedestrian traffic is anticipated.

SECTION 2. That Section 2-4-6 of the Revised Code of the City of Carbondale is hereby amended to read as follows:

**2-4-6: LIMITATIONS ON AREA OF SALE:**

No alcoholic liquor may be sold within the City except within the following areas, subject to the terms, conditions and restrictions of this and other pertinent sections of this code: that area within Carbondale city limits which is north of ~~Pleasant Hill Road/Reservoir Road~~ the southern limits of the City of Carbondale, west of the eastern limits of the City of Carbondale, south of the northern limits of the City of Carbondale and east of the western limits of the City of Carbondale.

SECTION 3. That Section 2-4-9 C. of the Revised Code of the City of Carbondale is hereby amended to read as follows:

2-4-9: CLASSIFICATION:

Licenses issued under this chapter shall be the following classes:

C. Class C Licenses:

1. Class C licenses shall authorize the retail sale of all alcohol liquors, in their original package only, for consumption off the premises only, subject to the terms, conditions, and restrictions of this and all other pertinent Sections of this Code.

SECTION 4. That Section 2-5-17 of the Revised Code of the City of Carbondale is hereby repealed, and no longer of effect.

SECTION 5. All of the remaining sections of Title Two of the Carbondale Revised Code shall remain in full force and effect.

SECTION 6. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 7. The repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance, insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinance.

SECTION 8. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable, and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 9. That the City Council of the City of Carbondale finds that the subject matter of this ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to the provisions of Article VII, Section 6(a) of the 1970 Illinois Constitution.

SECTION 10. That this Ordinance shall be known as Ordinance No. 2011- of the City

of Carbondale, Illinois, and shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: \_\_\_\_\_  
Joel Fritzler, Mayor

FOR: \_\_\_\_\_  
AGAINST: \_\_\_\_\_  
PASSED: \_\_\_\_\_  
APPROVED: \_\_\_\_\_  
RECORDED: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Rachael Keehn, City Clerk

APPROVED AS TO LEGALITY AND FORM:

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P. Michael Kimmel, City Attorney