

# CITY OF BATAVIA

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**DATE:** February 8 , 2013  
**TO:** Government Services Committee  
**FROM:** Bill McGrath, City Administrator  
**SUBJECT:** Municipal Code Revisions: Liquor Code

The current liquor code is out of synch with modern liquor regulation. Over time, classifications have been set up in response to particular situations and buildings and need to be simplified. The development of different kinds of businesses, events, spaces (such as Water Street Studios) and gatherings requires new models to deal with them, especially as some of these places and gatherings can be occasions for minors to be present.

Kevin Drendel, Tyler Stevenson from Kevin's office, along with Chief Schira, Deputy Chief Eul and other staff have been working on the code for quite a long time, in between other projects.

There will be several discussions to be had, and we don't know whether they will be able to be completed in time for the issuance of the licenses May 1. We have contacted the Liquor Control Commission, and we have the ability to extend current licenses for a month or so with no issues, except people will have to deal with their dramshop coverage. We want to make sure that we have enough time for the Council to review new code provisions as well as let the stakeholders weigh in.

We are meeting with the Mayor as the Liquor Commissioner next week to review the final draft and make sure it addresses what he thinks are the very few issues we have here in town presently (but with an eye toward future possibilities) before re sending it to the license holders and the committee.

In the meantime, however, there are 3 areas that can be discussed right now. These are in the areas of "BYOB" which has proliferated, especially in smaller venues for which the investment in a liquor license is a large obstacle, the Special Use" and "Special Events" areas, in which groups of people who ordinarily do not work with alcohol sponsor events which do allow drinking.

I have attached the 3 code sections in final draft form.

## **Carry In Licenses ( BYOB)**

For our purposes we are calling BYOB license Carry-In Licenses. It requires dramshop protection, limits quantities, but does allow removal of partially full wine bottles if secured in one-time sealable plastic bags as permitted by state law. To recover the costs of dramshop coverage, the licensee can (and most likely will) charge for "setups" or serving. People can still bring their favorite beverage but will have to pay something so that they and all residents are protected by the penalties for violation of license terms as well as the mandatory insurance. It is limited to restaurants.

The proposed language is as follows:

### **Class C – Carry In License**

A Class C licenses authorize the carry in of beer or wine to a commercial business or place of public accommodation in which food is prepared and served for consumption on the premises subject to the following limitations:

1. The beer or wine is carried in unopened;
2. No more than one bottle of wine not exceeding seven hundred fifty milliliters and no more than a 6-pack of beer may be carried in per patron;
3. The beer or wine must be opened and served by the licensee;
4. The beer or wine may be only be consumed by persons who are served a meal;
5. The beer or wine may be served only during the hours that food is being served;
6. A patron may not leave the premises with a partially consumed container of beer or wine, except that a patron may leave the premises with a partially consumed container of wine if it is securely sealed by the licensee prior to removal and placed in a transparent, one-time used, tamper proof bag, as required by State law;
7. Proof of dramshop insurance;
8. CIL is limited to indoor seating only. Carry In alcohol may only be outside if under the terms of a separate license held by the Licensee;
9. Licensees are prohibited from storing alcohol on the premises, unless under the terms of a separately held license held by the Licensee; and
10. Licensees shall be liable for violations of this Chapter in the same manner as the holder of any other classification of liquor license, including but not limited to violations for service to minors and the over-serving of patrons.

### **Special Events Licenses**

Kevin and Tyler and the team review our current regulations for special events. Our current code calls these “Temporary Licenses” and Kevin has recommended changing the term to "Special Events" licenses to mirror the language used by the State.

Here are the current Code provisions:

**Class F - Temporary License:** Class F licenses shall authorize the retail sale on the premises specified by service clubs, fraternal and charitable organizations and not for profit corporations of alcoholic liquor subject to the following conditions:

1. The said license shall be valid only for a period of ten (10) hours during any given day, said ten (10) hours to be within the closing hours as established for class A licenses.
2. The fee for each ten (10) hour period shall be fifty dollars (\$50.00).
3. The organization applying for said license must have been in existence for at least two (2) years prior to the application for said license.
4. Each said license shall be issued only on approval by the city council.
5. Each licensee shall provide evidence of liability and dramshop insurance for both the licensee and the owner of the premises where the alcoholic liquor is to be sold upon the filing of the application for said license. (Ord. 82-37, 8-2-1982)

Here is the recommended language. It does not the classification significantly, though it does add provision of security.

### **Class F - Special Event (Not-For-Profit) Licenses**

Class F - Special Event (Not-For-Profit) License: A Class F license shall authorize a Special Event Licensee to purchase less than \$500 of alcoholic liquors from a licensed liquor retailer or \$500 or more of alcoholic liquor from a licensed liquor distributor and to offer for sale and sell alcoholic liquors for use or consumption, but not for resale in any form, at the specific location, on specific date(s) and during the specific hours designated in the application. There is no limit to the number of Special Event (Not-For-Profit) Licenses that can be issued with (City Council) (Liquor Commissioner) [to be discussed] approval, but Special Event (Not-For-Profit) shall be limited to no more than fourteen (14) days in the aggregate to any Special Event Licensee in a year. A Special Event (Not-For-Profit) License shall be valid only for a period of fifteen (15) hours during any given day, which hours must be during the hours of sale for alcoholic liquor as provided in Section 3-3-19. The following conditions shall apply to Special Event (Not-For-Profit) Licenses:

1. A Special Event (Not- For-Profit) License may only be issued to an educational, fraternal, political, civic, religious, or non-profit organization that has been in existence for at least two (2) years prior to the application for said license.
2. The Applicant must obtain a valid State of Illinois Special Event Retailer Liquor License, a copy of which must be filed with the City prior to any sale.
3. Each Special Event (Not-For-Profit) License must be approved by the City Council.
4. Every Special Event (Not-For-Profit) Licensee shall comply with the provisions of Section 3-3-15.1 below.
5. No sale or consumption of alcohol shall take place outdoors unless the applicant complies with the provisions in Section 3-3-15.2 below.
6. The applicant shall provide a bond, letter of credit or cash surety to the City in the amount of \$1,000 prior to issuance of the license. The surety will be returned to the license holder within thirty (30) days after the event, provided no offenses occurred during the event. In the event the license holder is charged with any type of violation during the course of the event, the surety will be retained by the City and used to cover hearing and other related costs.
7. Each licensee shall provide evidence of liability and dramshop insurance for both the licensee and the owner of the premises where the alcoholic liquor is to be sold upon the filing of the application for said license.
8. The applicant, president of the organization, or equivalent, and/or the executive director of the organization, or equivalent, shall submit to fingerprinting and/or a criminal background check at the discretion of the Chief of Police, providing that fingerprinting may not be required more than once per year.

### **Special Use Licenses**

This is a new classification to again mirror State terminology. This is a classification that will address the desire for either not-for-profit or profit entities to allow alcohol to be sold by without resorting to the sponsor getting a license. It allows a person who already has the appropriate license (and who obtains the requisite State Special Use license) to appear at the activity site and sell. This is what will be used at a Water Street Studios opening in the event it does not want to get its own Special Event License. The entity that already has a license can more easily get a

rider for dramshop coverage, and the fact that they already have a license gives them a greater stake in conforming to the regulations. They will have trained personnel, and be more experienced. Issues to be discussed are whether the City Council would have to issue each one or whether the Mayor as Liquor Commissioner could.

Importantly, having both of these classes of license will also address the giving away of alcohol, which is only allowed under state law in the context of a private, invitation only gathering. Thus, for example, some of our races, which traditionally reward adult runners with a beverage, will have to pay for that as part of their registration.

The proposed language is:

#### **G. Class G Special Use Licenses**

Class G licenses authorize a person who has an existing local and State retailer liquor license to transfer a portion of its alcoholic liquor inventory from its licensed retail premises to a designated site for a specific event and to sell or offer for sale at retail, only on the premises specified in the license, the transferred alcoholic liquor for use or consumption, but not for resale in any form. There is no limit to the number of Special Use Licenses that can be issued with (City Council) (Liquor Commissioner) approval, but special use licenses shall be limited to no more than fourteen (14) days in the aggregate to an individual retail licensee in a year. The Special Use License shall be valid only for a period of ten (10) hours during any given day, said ten (10) hours to be within the closing hours as established for class A licenses. The following conditions shall apply to Special Use Licenses:

1. The applicant must obtain a valid State of Illinois Special Use Permit Liquor License, a copy of which must be filed with the City prior to the event and any sale of alcoholic liquor.
2. Each Special Use License must be approved by the City Council.
3. An applicant who does not have a local liquor license issued by the City of Batavia shall submit to fingerprinting and/or a criminal background check if required by the Chief of Police.
4. Every Special Use Licensee shall comply with the provisions of Section 3-3-15.1 below.
5. No sale or consumption of alcohol shall take place outdoors unless the Applicant complies with the provisions in Section 3-3-15.2 below.

We would like to move these provisions forward as soon as possible if we can. They can be approved independently of the rest of the proposed code and thus can be put into use without regard to what we end up doing with existing license holders.

This will be on the Government Services Committee agenda for Monday, February 11, 2013 agenda.

Please call with any questions. Thank you.

C: City Council  
Department Heads