

**CITY OF BLOOMINGTON**

**2011-16**

**An Ordinance Amending the Bloomington City Code to Authorize Emergency Orders by  
the Liquor Commissioner  
Adopted by the City Council  
of the City of Bloomington  
on March 28, 2011**

Published in pamphlet form by authority of the City Council of the  
City of Bloomington, McLean County, Illinois, on March 29, 2011

**ORDINANCE NO. 2011 - 16**

**AN ORDINANCE AMENDING  
THE BLOOMINGTON CITY CODE TO AUTHORIZE  
EMERGENCY ORDERS BY THE LIQUOR COMMISSIONER**

WHEREAS, the City of Bloomington is a home rule unit of local government with authority to legislate in matters concerning its local government and affairs; and

WHEREAS, the City of Bloomington has adopted a comprehensive Liquor Code incorporated as Chapter 6 of the Bloomington City Code; and

WHEREAS, it is in the best interests of the health, safety and welfare of the citizens of Bloomington to grant authority to the Liquor Commissioner to issue emergency orders when, in the determination of the Liquor Commissioner, such order is necessary for the health, safety and welfare of the citizens of Bloomington, necessary to protect property or promote temperance in the consumption of alcoholic liquor.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bloomington, Illinois:

SECTION 1. That Chapter 6, Section 37 of the Bloomington City Code shall be and the same is hereby amended to read as follows: (additions are indicating by underlining; deletions are indicated by strikeouts):

**SEC. 37 SAME - POWERS AND DUTIES GENERALLY.**

The local Liquor Control Commissioner shall have the following powers and duties:

(a) Recommend the Granting, Fining, Suspending or Revoking. To recommend to the City Council the creating and granting of licenses and to fine licensees and/or to suspend or revoke for cause all licenses created under this Chapter for premises within the local Liquor Control Commissioner's jurisdiction. (Ordinance No. 1992-102)

(b) Right of Entry. To enter any time into any premises licensed hereunder to determine whether any of the provisions of the Illinois Liquor Control Act or of this Code or any other laws or of any rules and/or regulations adopted by the Commissioner or by the State Commission have been or are being followed or violated by any person. This authorization provision also applies to law enforcement officers and any member of the Liquor Commission.

It shall be the responsibility and duty of any license holder and of any employee, agent or other representative of a license holder to enable and permit the Liquor Commissioner, any member of the Liquor Commission and any law enforcement officer to enter a licensed establishment at any time before or after the closing time and the failure to do so shall be a violation of this Code. (Ordinance No. 1992-102)

(c) Exercise Powers, Etc. Granted Under State Law, Etc. To exercise all the powers, functions and duties which now or hereafter may be granted to him by the Illinois Liquor Control Act regulations of the Illinois State Liquor Control Commission, or by this Chapter. (Ordinance No. 1992-102)

(d) Liquor Commission. The local Liquor Commissioner may appoint one or more persons to the Bloomington Liquor Commission to assist him and such person(s) shall have any and all of the authority the Commissioner has in the exercise of the powers and the performance of the duties provided for the local Liquor Control Commissioner. (Ordinance No. 1982-102)

(e) Fine and/or Suspension or Revocation of License. To fine any licensee and/or to suspend or revoke any license(s) issued under this Chapter for any of the following reasons:

- (1) That the licensee has violated any of the laws of the United States relating to the sale of alcoholic liquor or any of the provisions of the Illinois Liquor Control Act, of this Chapter, or any applicable rules and regulations adopted by the local Liquor Control Commissioner or by the State Commission.
- (2) The willful making of any false statement as to a material fact in the application for such license or in any change of ownership application or request or affidavit for the renewal of any license. Making a false statement shall include not making a complete statement of all relevant facts which relate to the situation.
- (3) The permitting of any violation of state law or Bloomington City Code by any person upon the licensed premises.
- (4) Failure to use and maintain the licensed premises in compliance with all codes and regulations pertaining to health and safety applicable within the City of Bloomington, including but not limited to Building, Plumbing, Electrical and Fire Codes, Zoning Ordinances, McLean County Health Ordinances, and all regulations and orders of the McLean County Health Department.
- (5) The refusal of any licensee to testify under oath to all relevant and material questions propounded to him at any hearing conducted by the local Liquor Control Commissioner.
- (6) Suspension or revocation of the license of the licensee by the State Commission.
- (7) Payment by the licensee of the special federal tax imposed under Section 4411 (Wagering) or Section 4461 (Coin Operated Gaming Devices) of the Internal Revenue Code of 1954, as amended.

- (8) Maintaining or operating a dram shop on any premises registered as a place of business where activities are carried on which make the person or persons carrying on such activities subject to the special federal tax on wagering. (Section 4411 of said Internal Revenue Code).
- (9) Having on the premises where the licensee carries on his business any coin operated gaming device subject to the special federal tax imposed under Section 4461 of said Internal Revenue Code, whether or not said tax is paid.
- (10) Permitting any gambling device or equipment to be located on the licensed premises.
- (11) Failure to adhere to any changes or requirements imposed as a condition of being issued by the City Council pursuant to Section 4C or by the Liquor Commissioner pursuant to Section 4D of this Chapter. (Ordinance No. 1992-102)

(f) Conditions on License. The Liquor Commission may require changes in the licensee's operations in addition to or in lieu of assessing a fine and/or suspending a license for any of the reasons stated in Section 37(e). Such changes may include, but are not limited to (1) restricting the hours of sale; (2) adding exterior lighting; (3) erecting fencing; (4) patrolling the premises; (5) restricting the sale of single serving sizes of all types or a particular type of alcohol for consumption off of the premises; (6) requiring employee training; (7) establishing a minimum number of employees; (8) limiting the number and/or location of signs. (Ordinance No. 2004-2)

(g) Fines. Each fine imposed hereunder may not be less than \$250.00 nor more than \$3,500.00. A separate fine may be imposed for each violation and each day that the activity of a violation occurs or continues shall be a separate violation for which a separate fine may be assessed.

Fines shall be payable in the manner indicated in any Order which results from a hearing or as the Liquor Commissioner may otherwise specify in writing and the failure to pay any part of a fine as so indicated or specified may result in the license being similarly suspended or revoked by the Liquor Commissioner. The licensee may request a hearing on such action but pending a hearing and a decision thereon by the Liquor Commissioner, the license shall remain suspended or revoked. It shall be the duty of each licensee who makes a fine payment as indicated or specified to request a hearing at the earliest possible time to explain the situation and request that license(s) not be suspended or revoked as provided for herein or for any other reason. Any fine may be collected in court. (Ordinance No. 2004-2)

(h) Examination of Applicants, Licensees and Records. To examine or cause to be examined under oath any applicant or any representative of an applicant for a local license or for a renewal thereof or any licensee (see (g)) and to hear testimony and take proof of any witness or person having information about the issues being considered and to consider any other relevant

evidence and for such purposes to issue subpoenas which shall be effective in any part of the State.

Each licensee involved in a hearing for a possible violation of this Code or other law(s) shall provide to the Liquor Commissioner at his request a copy of the financial statement and/or any other requested financial statement of the past of not less than involved establishment for a reasonable period of one year and the failure to do so shall be a violation of this Code. This provision is not intended to be a limitation of the authority of the Liquor Commissioner under Chapter 43, Illinois Revised Statutes (See Ch. 43, Sec. 126a). (Ordinance No. 1992-102)

(i) Investigation of Complaints, Etc. To receive the complaint of any resident of the City and to investigate upon such complaint or to investigate upon his own initiative any alleged action of any law of the United States relating to the sale of alcoholic liquor or any of the provisions of the Illinois Liquor Control Act or of this Code, or any applicable rules and regulations adopted by the local Liquor Control Commissioner or by the State Commission. (Ordinance No. 1992-102)

(j) Rules and Regulations. To make, promulgate, alter, amend, repeal, and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this Chapter as may be deemed by him to be desirable. (Ordinance No. 1992-102)

(k) Ordering the License Classification of any establishment to be changed upon application as provided in Section 4F of this Chapter or upon his own initiative if he finds, after hearing evidence, that an establishment fails to qualify for the license it holds. (Ordinance No. 1992-102)

(l) To issue temporary emergency orders regulating, restricting or prohibiting the sale of alcoholic liquor in all or a part of the City of Bloomington whenever an emergency exists or is reasonably anticipated. Prior to issuing an emergency order, the Liquor Commissioner shall execute a finding describing the nature and extent of the emergency or the reasonably anticipated emergency. Any emergency order issued pursuant to such finding shall be reasonably related to the protection of persons from injury, the protection of property from damage or destruction, the promotion of temperance in the consumption of alcoholic liquor, or otherwise rationally related to the promotion of the health, safety and welfare of the citizens of Bloomington. Emergency orders shall be effective from the time of issuance for a period not to exceed 48 hours. The order shall be publicly disseminated, delivered to affected licensees, and filed with the City Clerk. No person shall disobey an emergency order.

SECTION 2. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 5. This Ordinance shall take effect immediately upon its passage and approval due to the urgency occasioned by an "unofficial party" potentially to occur in the upcoming week, as similar gatherings in other communities have resulted in a high incidence of alcohol abuse and associated violence, injury and vandalism.

PASSED this 28<sup>th</sup> day of March, 2011.

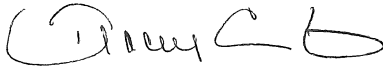
APPROVED this 29<sup>th</sup> day of March, 2011.

APPROVED:



Stephen F. Stockton  
Mayor

ATTEST:



Tracey Covert  
City Clerk

STATE OF ILLINOIS        )  
  ) ss.  
COUNTY OF MCLEAN        )

CERTIFICATE

I, Tracey Covert, certify that I am the duly appointed and qualified municipal clerk of the City of Bloomington, County of McLean, Illinois.

I further certify that on the Corporate Authorities of the above municipality passed and approved Ordinance No. 2011-16, entitled An Ordinance Amending the Bloomington City Code to Authorize Emergency Orders by the Liquor Commissioner which provided by its terms that it should be published in pamphlet form.

The pamphlet form of this Ordinance, including the Ordinance and a cover sheet thereof, was prepared, and a copy of the Ordinance was posted in the municipal building, commencing on March 29, 2011 and continuing for at least ten days thereafter. Copies of the Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Bloomington, Illinois, on March 29, 2011.



Tracey Covert  
City Clerk