



MEMO TO: Joint Committee of the Whole / City Council
(Government Services)

MEMO

FROM: Eric D. Blowers
Watch Commander – Investigations Unit

DATE: February 2, 2021

SUBJECT: Consideration of Ordinance No. 21-9, “Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amendment of the C-2 Carry-In Liquor License”

Summary:

Please find attached Ordinance Number 21-9, “Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amending the C-2 Carry-In Liquor License.” This amendment would establish a new Class L- Accommodation Facility liquor license classification. The Class L license classification would authorize liquor sales and service for licensed senior-living facilities, hotels, motels, and bed and breakfasts. Additionally, this revision would amend the C-2 Carry-In Liquor License. This amendment broadens the number of businesses eligible for a C-2 Carry-In Liquor License in the downtown mixed use (DMU) zoning district. The amendment allows retail stores and consumer personal service businesses to obtain a C-2 Carry-In Liquor License while restricting licenses to professional service businesses. Finally, the amendment defines “Consumer Personal Service Businesses” and “Professional Service Businesses.”

Background:

Recently, City Officials were approached by several businesses seeking liquor licenses: The Landings Senior Living Facility and Gia Bella Designs. A review of the current City Code found that neither business qualified for an existing classification of liquor license. Legal counsel was requested to research the expansion of the Local Liquor Code to accommodate these businesses.

Attorney Drendel researched the topic and confirmed that the current City Code does not adequately permit either business to obtain proper licensure for their desired operations. Attorney Drendel found that a new classification of license would need to be established to allow liquor sales and consumption at businesses where the sale of food and liquor is ancillary to temporary lodging or permanent sleeping accommodation. This type of license is commonly found in communities that have hotels or other lodging accommodations.

Under current City Code, the C-2 Carry-In Liquor License applies solely to salons and similar businesses in the downtown mixed use zoning district. The proposed amendment to the City Code expands the category of businesses eligible for this type of license to include retail businesses. Professional service businesses remain excluded from licensure and are defined in Title 3, Chapter 3-3, Section 3-3-2 of the Batavia Municipal Code amended definitions. Retail businesses blending their business with on-site activities ancillary to the sale of retail goods remains a growing trend in the industry which coincides with the desire to consume alcohol during such activities.

Analysis:

Amendment to the Batavia Municipal Code was deemed necessary in order to permit the Landings Senior Living Facility and Gia Bella Designs to operate their businesses as intended. The amendments to the Code are similar in language to liquor codes in neighboring communities and in compliance with the Illinois Liquor Control Act. Expansion of the liquor code to include licensure of these types of businesses in the City of Batavia could greatly increase the number of establishments that pursue similar licenses. This in turn could increase the revenue stream created for the City due to the increase in licenses and subsequent sales of alcohol. However, it would also increase access to alcohol, and will likely create additional administrative work for the Police Department (which is required to perform background checks on applicants seeking licensure as well as providing oversight of licensed businesses to verify compliance with Code provisions). Proper and effective oversight of retail business licenses may prove difficult due to the nature and constitution of the business.

Alternatives:

- Approve the recommended revisions to Title 3, Chapter 3, of the Municipal Code as outlined in the attachment to include expansion of the code with a Class L – Accommodation Facility Liquor License and/or the recommended changes to the Class C-2 Carry In DMU License.
- Make no changes or revisions to Title 3, Chapter 3 of the Municipal Code.
- Direct staff to make other revisions to Title 3, Chapter 3 of the Municipal Code.

Budget Impact:

- Minimal: Addition of the Class L Accommodation Facility classification and expansion of the C-2 Carry-In classification will likely lead to additional business interest within the community. The City would collect additional license fees for each additional business licensed.
- Police Department personnel would face additional costs and lost man-hours of investigative personnel from background checks, compliance checks and oversight, at an amount yet to be determined.

Staffing Impact:

- Minimal: Liquor license oversight and compliance responsibilities are assigned to Police Department personnel. Additional background investigations and oversight responsibilities would be a foreseeable outcome of an expansion of the liquor code.

Staff Recommendation:

- For the Committee of the Whole to discuss and recommend to City Council, at the Tuesday, February 9, 2021 Joint Committee of the Whole meeting, the passage of Ordinance 21-9, “Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amending the C-2 Carry-In Liquor License.”
- For the City Council to approve and adopt Ordinance 21-9, “Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amending the C-2 Carry-In Liquor License” at the Monday, February 15, 2021 City Council Meeting.

Attachments:

- 2021-02-15 Ordinance 21-9 (Clean Copy): Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amending the C-2 Carry-In Liquor License (K. Drendel).
- 2021-02-15 Ordinance 21-9 (Red-Line Copy): Revising Title 3 of the Batavia Municipal Code Creating an Accommodation Facility Liquor License and Amending the C-2 Carry-In Liquor License (K. Drendel).

Copy to: L. Newman, City Administrator
City Attorney
Chief D. Eul
Economic Development
D/C Autenrieth
D/C Mazza
C. Shimp
K. Morley
J. Miller

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 21-9**

**REVISING TITLE 3 OF THE BATAVIA MUNICIPAL CODE CREATING AN
ACCOMMODATION FACILITY LIQUOR LICENSE AND AMENDING THE C-2 CARRY
IN LIQUOR LICENSE**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
___ DAY OF _____, 2021**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This ___ day of _____, 2021

Prepared by:
Kevin G. Drendel
City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 21-9**

**REVISING TITLE 3 OF THE BATAVIA MUNICIPAL CODE CREATING AN
ACCOMMODATION FACILITY LIQUOR LICENSE AND AMENDING THE C-2 CARRY
IN LIQUOR LICENSE**

NOW THEREFORE, BE IT HEREBY ORDAINED by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1. Title 3, Chapter 3-3, Section 3-3-2 of the Batavia Municipal Code is hereby revised by amending the following definitions:

PROFESSIONAL SERVICE BUSINESS: Business that include services requiring special training in the arts or sciences that require professional degrees and/or licenses, including, but not limited to architects, accountants, engineers, lawyers, doctors and other licensed health care providers, tattoo artists, massage therapists, psychologists, social workers and licensed counselors; services involving specialized support to businesses, including but not limited to accounting, bookkeeping, IT services, consulting and management advice; and financial services.

CONSUMER PERSONAL SERVICE BUSINESS: Business providing primarily a consumer service, including but not limited to salon, hairdresser, beautician, manicure, pedicure and/or barbershop services, with incidental retail sales of products associated with the service.

SECTION 2. Title 3, Chapter 3-3, Section 3-3-15 of the Batavia Municipal Code is hereby revised by amending Subsection C.10.b as follows:

C. Class C - Carry In Licenses:

....

10. The classes of carry in liquor licenses and additional limitations for each class are as follows:

....

b. Class C-2 (Carry In DMU License): Class C-2 licenses authorize the carry in of alcohol to the premises of a retail or consumer personal service business with incidental retail sales, excluding professional service businesses and businesses that qualify for another category of liquor license, located in the downtown mixed use (DMU) zoning districts during regular business hours. Alcohol may only be carried in by a patron of the business, and the licensee shall post a notice in a conspicuous place that persons may not carry in alcohol separate from engaging in the primary business;

SECTION 3. Title 3, Chapter 3-3, Section 3-3-15 of the Batavia Municipal Code is hereby revised by adding Subsection L as follows:

L. Class L – Accommodation Facility: Class L licenses authorize the retail sale of alcoholic liquors for consumption on the premises only where the primary business or purpose is not the sale of liquor or the sale of food, but the sale of food and liquor is ancillary to temporary lodging or permanent sleeping accommodation. Class L licenses on the following terms and conditions:

1. Alcoholic liquor may be sold in open containers or packages from a bar, lobby, conference room, restaurant and/or banquet facility, but only for consumption on the premises;

2. Alcoholic liquor may be delivered to and maintained and consumed in individual rooms by registered residents, guests and their invitees;

3. Alcoholic liquor may be sold in packages placed in refrigerator units ("minibars") in rooms, provided that the refrigerator units are locked in temporary lodging rooms and keys may only be given to guests who are at least twenty-one (21) years of age; and

4. The Accommodation Facility licenses are divided into the following subclasses:

a. Class L-1 (Senior Living Facility) licenses authorize the retail sale of alcoholic liquors for consumption in a facility for which the primary use is permanent senior living;

b. Class L-2 (Hotel/Motel) licenses authorize the retail sale of alcoholic liquors for consumption in a facility for which the primary use is a hotel/motel as defined in this Chapter, excluding bed and breakfast facilities; and

c. Class L-3 (Bed and Breakfast) licenses authorize the retail sale of alcoholic liquors for consumption in a facility for which the primary use is a bed and breakfast as defined in Section 3-11-1 of the Batavia Municipal Code.

SECTION 4. This Ordinance shall be in full force and effect upon its presentation, passage and publication according to law.

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this ____ day of _____, 2021.

APPROVED by me as Mayor of said City of Batavia, Illinois, this this ____ day of _____, 2021.

Jeffery D. Schielke, Mayor

CITY OF BATAVIA, ILLINOIS ORDINANCE 21-9

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Baerren				
2	Callahan					Wolff				
3	Meitzler					Chanzit				
4	Malay					Knopp				
5	Uher					Beck				
6	Cerone					Russotto				
7	McFadden					Miller				
Mayor Schielke										
VOTE: _____ Ayes _____ Nays _____ Absent _____ Abstentions Total holding office: Mayor and 14 aldermen										

ATTEST:

Ellen Posledni, City Clerk

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b. Class C-2 (Carry In ~~Salon-DMU~~ License): Class C-2 licenses authorize the carry in of alcohol to the premises of a retail or consumer personal service business with incidental retail sales, excluding professional service businesses and businesses that qualify for another category of liquor license, providing primarily salon, hairdresser, beautician, manicure, pedicure and/or barbershop services located in the ~~general commercial (GC) or~~ downtown mixed use (DMU) zoning districts during regular business hours. Alcohol may only be carried in by a person who is seeking services patron of the business, and the licensee shall post a notice in a conspicuous place that persons may not carry in alcohol separate from ~~seeking salon services~~engaging in the primary business;

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