

June 10, 2014

MEMO

FROM: TED KUTSUNIS

TO: THOMAS THOMAS

RE: AMENDMENT TO SECTION 3-11 (k) OF THE CODE OF ORDINANCES ON
EMPLOYMENT OF A FELON AS A BARTENDER.

Mayor Pauley requested that I review our liquor ordinance as it pertains to the employment as a bartender a person with a felony conviction that is less than fifteen (15) years old. Section 3-11(k) of our liquor code prohibits a licensee from employing a person in the position of bar manager or bartender if they have a felony conviction that is less than fifteen years old.

Our liquor ordinances are patterned for the most part after the Illinois Liquor Control Act. Section 6-2 of the State Act (235 ILCS 5/6-2) prohibits the employment of a felon in the position of bar manager. Our ordinance (3-11(k)) is more expansive than the State Act by including the prohibition of a convicted felon from being a bartender. Since we are a home rule community, we are allowed to enact ordinances which are stricter or more expansive in their application than state law covering the same subject matter. The question is then does the Local Liquor Commissioner have legal authority to shorten the fifteen (15) year prohibition of a person in the position of bartender. It is my legal opinion that under appropriate circumstances, the liquor commissioner possesses such authority.

The case of *Cairo Turf Club v. Taylor*, 350 Ill. App. 446 (5th Dist. 1953) held that the state has no power to pass on the qualifications of an applicant for a local liquor license. This power is vested with the local liquor commissioner. *Ryan v. Verbic* 97 Ill. App. 3d 739 (1st Dist. 1981) and *Leong v. Village of Schaumburg*, 194 Ill. App. 3d 60 (1st Dist. 1990) allow a local liquor commissioner to lift the prohibition of employment of a felon if the commissioner determines that the person has been sufficiently rehabilitated to warrant the public trust to own (be licensed) a tavern.

The Mayor has been contacted by a person who wishes to work as a bartender but has a minor felony conviction which occurred when she was young. This can only be accomplished by amending our ordinance to allow the Mayor, serving as Liquor Commissioner, to review this person's or for that matter any person's request to waive the fifteen (15) year prohibition. Attached you will find the ordinance I have drafted giving the Liquor Commissioner the ability to waive the fifteen (15) year prohibition. I recommend putting this on the agenda for next week's meeting.

Ted Kutsunis

A SPECIAL ORDINANCE AMENDING CHAPTER 3,
SECTION 3-11, OF THE CODE OF ORDINANCES
OF THE CITY OF ROCK ISLAND, ILLINOIS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCK ISLAND, ILLINOIS:

Section One. That Chapter 3, Section 3-11 (k) is hereby amended by adding the following at the end of said paragraph:

“However, any person seeking employment as a bartender who has been convicted as a felon within the last fifteen (15) years, may, by application submitted to the Liquor Commissioner, seek a hearing before the Liquor Commissioner on the question as to whether the applicant has been sufficiently rehabilitated to warrant the public trust to allow said applicant to be employed as a bartender before the fifteen (15) year period since his or her felony conviction has passed. After said application has been submitted, the Liquor Commissioner may direct the police department to conduct a full investigation and then schedule a hearing before the Liquor Commission on the issue. At said hearing, the applicant may appear with or without counsel and present evidence as to why his or her request should be granted.”

Section Two. All ordinances and parts of ordinances in conflict herewith are hereby repealed insofar as they do so conflict.

Section Three. This ordinance shall be in full force and effect 10 days from its passage and approval, as required by law.

MAYOR OF THE CITY OF ROCK ISLAND

PASSED: _____

APPROVED: _____

ATTEST: _____