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COUNCIL BILL NO. 2007- 115

AN ORDINANCE

~~ADDING ARTICLE 11 OF AMENDING ARTICLE II OF CHAPTER 16 OF THE~~
~~CHAMPAIGN MUNICIPAL CODE, 1985, AS AMENDED, AND 16-15 BY THE ADDITION~~
~~OF ARTICLE II~~
~~ENTITLED "SMOKING REGULATIONS" MENDING SECTION 16-5 OF CHAPTER 16~~
~~OF THE CITY OF CHAMPAIGN MUNICIPAL CODE,~~
~~1985, AS AMENDED~~
(Health and Sanitation – Smoking Regulations)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHAMPAIGN,
ILLINOIS, as follows:

Section 1. That ~~Article II of Article II of Chapter 16 of the Champaign Municipal Code,~~
~~1985, as amended, is hereby amended by the addition of Article II, which shall Section 16-5~~
~~entitled "Smoking", of the Champaign Municipal Code, 1985, is hereby amended to read as~~
follows:

"Article II~~Sec. 16-5,~~ Smoking Regulations.

Sec. 16-5A, This ~~Article~~section shall be known as the
Champaign Clean Indoor Air Ordinance ~~of 2005~~.

B-Sec. 16-6, Definitions. The following words and phrases used in
this ~~section~~Section-article shall have the following meanings:

"Bar/Tavern" means an establishment whose primary function is
the serving of alcoholic beverages for consumption by patrons on
the premises and is in the possession of a Class A Liquor License;
such business may or may not provide food service.

"Bowling Center" means an establishment whose primary function
is having lanes used for the game of bowling.

"Enclosed spaces~~area~~" ~~means~~ A all space in any structure, or
portion thereof, located between a floor and ceiling that is
substantially totally enclosed on all sides by walls, windows,
doorways or combinations thereof that extend from the floor to the
ceiling.

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"Food Service Establishment" shall have the same meaning as set forth in Section 14-21.

"Health care facility"- ~~means~~ ~~A~~ an office or institution providing care or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

"Private club"- ~~means~~ ~~A~~ an incorporated organization which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

"Public place" means any enclosed area to which the public is invited or in which the public is permitted.

"Retail tobacco store"- ~~means~~ ~~A~~ a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

"Smoke or Smoking"- ~~means~~ ~~—~~inhaling, exhaling, burning or carrying any lighted or burning cigarette, cigar, pipe, hookah pipe, pipe weed, or other lighted tobacco product in any manner or in any form.

"Smoking ParaphanaliaParaphernalia"- means ~~A~~ ash trays or similar containers intended for the deposit of tobacco ash, cigarettes, cigars or other tobacco products.

"Tobacco"- ~~means~~ ~~A~~ any substance containing tobacco leaf, including but not limited to, any cigar, cigarette, leaf tobacco, pipe tobacco, or tobacco in any of its forms.

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Sec. 16-7C. - Prohibition of Smoking in Public Places. It shall be unlawful for any ~~No~~ person to ~~shall smoke within~~ smoke in all of the following establishments, buildings, structures, or enclosed spaces ~~containing the following public places establishments~~ within the City of Champaign:

1. Establishments required to be licensed, on an annual basis, for the sale of alcoholic beverages, except establishments operating under Class A or Class C Liquor License.

- ~~1-2.~~ All Bars/Taverns holding a Class A license
- ~~2.~~ All restaurants a Class R-1 or R-2 license
- ~~3.~~ All bars/taverns holding a Class AP license
- ~~4.~~ All hotels holding a Class H license
- ~~5.~~ All private clubs holding a Class C license

Food service establishments, except establishments operating under Class A or Class C Liquor License.

- ~~6-3.~~ Common public areas of health care facilities
- ~~8.~~ Galleries, Libraries and Museums

~~8-4.~~ Health care facilities

~~9-5.~~ Motion picture theaters, opera houses, concert halls

~~11-6.~~ Lecture halls or rooms, auditoriums and assembly halls

~~11-7.~~ Day care centers, nursery schools, elementary schools, high schools, community colleges, technical training establishments, specialty schools, colleges and universities.

~~13-8.~~ Polling places

~~14-9.~~ Restrooms

~~14-10.~~ Places where public meetings are held

~~15-~~ 11. Gymnasiums

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12. Within areas where merchandise is exposed in storage warehouses.
13. Grocery stores, retail stores, and supermarkets.
14. Within the exposition seating areas, or under the stages or in dressing rooms of theaters.
15. Within any vehicle used by the Champaign-Urbana Mass Transit District for public transportation.
16. Bowling centers/alleys

Sec. 16-8D. —. Exemptions-Where smoking is not regulated.

Notwithstanding any other provision of this Ordinance article to the contrary, ~~the following enclosed areas shall be exempt from the provisions of the Champaign Clean Indoor Air Ordinance of 2005. it shall not be a violation of this Aarticle to smoke or permit smoking in the following places:~~

1. Outdoor service areas of all ~~the following:~~ licensed food or liquor service establishments; ~~establishments holding licenses for the sale of alcoholic liquor;~~ or private clubs.

~~Outdoor cafes licensed under Chapter 30 of the Champaign Municipal Code.~~

32. Retail tobacco shops, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under the provisions of any ~~section~~Section of the Champaign Clean Indoor Air Ordinance ~~of 2005.~~
43. Smoking by a cast member as part of a performance in a theatrical production
54. Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms; provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into non-smoking rooms or other areas where smoking is ~~prohibited under the provisions of this section Aarticle.~~ The status ~~of rooms as smoking or nonsmoking may not be changed,~~ except to add

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additional nonsmoking rooms and in any case may not exceed 20 percent of available rooms

56. Private vehicles, not including public transportation facilities or government vehicles
76. Private residences or dwelling places except when used as a licensed child care, adult care facility, health care facility, or any other home-based business open to the public.
87. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted.
9. Smoking as part of a bona fide religious ceremony.
10. Smoking in a health care facility ~~if~~ such smoking is part of any therapeutic treatment plan required by the health care provider.

Sec. 16-98. — Parks

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E. — Obligation of Employers and Owners ~~Proprietors.~~

~~_____A. No It shall be unlawful for an~~ employer, owner, occupant or lessee, as the case may be, in control of a public place ~~shall to~~ knowingly permit smoking in any enclosed ~~area space in said public place~~ as delineated in Section ~~16-7C~~.

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~~_____B. Each employer, owner, occupant or lessee, as the case may be, in control of a public place~~ place where smoking is prohibited under Section 16-7 shall request any person who smokes in an area where smoking is prohibited to refrain from smoking, and if the person continues to smoke, request the person to leave and use other means which may be appropriate to obtain compliance.

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~~_____C. Each employer, owner, occupant or lessee, as the case may be, in control of a public place~~ place where smoking is prohibited under Section 16-7 shall notify employees regarding the requirements of this ~~Article~~

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Sec. 16-10 Posting and Removing Smoking Paraphernalia~~F~~.

~~Responsibilities of Proprietors.~~ Each owner, lessee, occupant, employer or other person in control of a public place where smoking is prohibited under Section 16-7 or a place of employment shall be responsible to do for all the following:

- ~~A1.~~ Post conspicuous signs in the enclosed area-spaces and the entrance or vestibule to the public place, place of employment or the building wherein they are located where smoking is prohibited under Section 16-17, as the case may be, bearing the text "No Smoking" or the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it.
- ~~B.~~ Remove smoking paraphernalia from areas where smoking is prohibited.
- ~~B2.~~ Remove ash trays or other similar containers intended for the deposit of tobacco ash, cigarettes, cigars or other tobacco products smoking paraphernalia from public places.
- ~~3.~~ Request any person who smokes in an area where smoking is prohibited to refrain from smoking, and if the person continues to smoke, request the person to leave and use other means which may be appropriate to obtain compliance.
- ~~4.~~ Notify employees regarding the requirements of this section C. Each employer, owner, occupant or lessee, as the case may be, in control of a public place shall notify employees regarding the requirements of this Article

~~Sec. 16-11G.~~ **Declaration of Establishments as Non-smoking.** Notwithstanding any other provision of the Champaign Clean Indoor Air Ordinance of 2005, any owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate an enclosed place as a non-enclosed area space-any area of said public place or place of

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employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in Section ~~16-10 (C-A)~~ ~~F-e~~ of this ~~section~~ Article.

Sec. 16-12H. — Enforcement.

1. ~~This section may be enforced by the Champaign Police Department, the Champaign-Urbana Public Health District or other designee.~~
2. Notice of the provisions of this ~~section~~ Article shall be given to all ~~a~~ applicants for a business license in the City of Champaign.
23. Any citizen who desires to register a complaint under this ~~section~~ Article may ~~initiate enforcement with the~~ notify the Champaign-Urbana Public Health District ~~or the~~ Champaign Police Department of the facts surrounding the complaint.
34. ~~The Champaign-Urbana Public Health District, the Fire Department and Neighborhood Services Department, the Department of Building and Zoning, the Police Department, any license inspector or their designees may,~~ while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this ~~section~~ Article.
45. An employer, owner, lessee, manager, operator, or employee of an establishment regulated by this ~~Article~~ section shall inform persons violating this ~~Article~~ section of the appropriate provisions thereof.

Sec. 16-13I. — Non-retaliation; non-waiver of rights.

1. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this ~~section~~ Article or reports or attempts to prosecute a violation of this ~~section~~ Article.

An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any

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legal rights the employee may have against the employer or any other party.

~~J. — Noncompliance and penalties.~~

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~~1. — Any person who shall violate Section C of this section shall, on conviction thereof, be punished by a fine of \$50 for each violation.~~

~~2. — Any person who shall violate Section E of this section shall, on conviction thereof, be punished by a fine of \$100 for each violation provided that for the second conviction of any violation of Section E within one year, the fine shall be \$200 and for the third or subsequent conviction of any violation of Section E within one year, the fine shall be \$500. Each day during which a violation of Section 16-5.6 continues beyond the specified time for correction shall constitute a separate punishable offense.~~

~~3. — Any person who shall violate Section F shall, on conviction thereof, be punished by a fine of \$50 for each violation. Each day during which a violation of Section F continues beyond the specified time for correction shall constitute a separate punishable offense.~~

~~4. — In addition to the fines established by this section, violation of this section by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.~~

~~K. — Inconsistency with Fire Prevention Code.~~ No portion of this section shall be deemed to supersede any portion of Chapter 13, Fire Prevention and Protection Generally. In the event of any inconsistency between the provisions of this section and any of the provisions of Chapter 13, the provisions of Chapter 13 shall control.

~~L. — Public Education.~~ The Champaign-Urbana Public Health District shall engage in a continuing program to explain and clarify the purposes and requirements of this sectionSection to citizens affected by it, and to guide owners, lessees, occupants, operators, and managers in their compliance with it. The program may

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~~include publication of a brochure for affected businesses and individuals explaining the provisions of this section.~~
~~Section."~~

~~SEC 16-15.~~ **Sec. 16-14.** Violations of Article II of Chapter 16 as amended herein shall be subject to the general penalty provisions of Section 1-21 of the Champaign Municipal Code with minimum fines provided for by Table I of Chapter 1."

~~Section 2.~~ ~~mb~~ ~~by the addition of the following minimum fine~~ **Paraphernalia**
~~Section 2343.~~ ~~—~~ If any provision, clause, sentence, or paragraph of this section or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

Section 344. 5. ~~—~~ This ordinance will take effect on May 16, 2007. Article II of Chapter 16 entitled "Smoking Regulations" is hereby repealed effective on the effective date of the statute commonly known as the "Smoke Free Illinois Act" (SB500) passed by the Illinois House of

Representatives on May 1, 2007, having previously been passed by the Senate on March 29, 2007, if at all, August 1, on March 31, 2006, or 30 days after on the effective of an ordinance in the City of Urbana, if such an Urbana ordinance is not effective until after August March 31, 2006, requiring the same such conduct enacted by the City of Urbana has in effect whichever is later. The City Manager shall certify to the Champaign City Clerk the date upon such City Ordinance in Urbana is effective.

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COUNCIL BILL NO. 2007~~65~~- 115

PASSED: May 15, 2007—

APPROVED: _____

Mayor

ATTEST: _____

City Clerk

~~A~~PPROVED AS TO FORM:

City Attorney

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ATTACHMENT A

Code Revision Sheet

AN ORDINANCE

AMENDING ARTICLE II OF CHAPTER 16 OF THE
CHAMPAIGN MUNICIPAL CODE, 1985, AS AMENDED,
ENTITLED "SMOKING REGULATIONS"
(Health and Sanitation – Smoking Regulations)

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Article II. Smoking Regulations.

Sec. 16-5. This article shall be known as the Champaign Clean Indoor Air Ordinance.

Sec. 16-6. Definitions. The following words and phrases used in this article shall have the following meanings:

"Bar/Tavern" means an establishment whose primary function is the serving of alcoholic beverages for consumption by patrons on the premises and is in the possession of a Class A Liquor License; such business may or may not provide food service.

"Bowling Center" means an establishment whose primary function is having lanes used for the game of bowling.

"Enclosed spaces" means all space in any structure, or portion thereof, located between a floor and ceiling that is substantially totally enclosed on all sides by walls, windows, doorways or combinations thereof that extend from the floor to the ceiling.

"Food Service Establishment" shall have the same meaning as set forth in Section 14-21.

"Health care facility" means an office or institution providing care or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

"Private club" means an incorporated organization which is the owner, lessee, or occupant of a building or portion thereof used

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exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and which only sells alcoholic beverages incidental to its operation. The affairs and management of the organization are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The organization has established bylaws and/or a constitution to govern its activities. The organization has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. Section 501.

"Public place" means any enclosed area to which the public is invited or in which the public is permitted.

"Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

"Smoke or Smoking" means inhaling, exhaling, burning or carrying any lighted or burning cigarette, cigar, pipe, hookah pipe, pipe weed, or other lighted tobacco product in any manner or in any form.

"Smoking Paraphernalia" means ash trays or similar containers intended for the deposit of tobacco ash, cigarettes, cigars or other tobacco products.

"Tobacco" means any substance containing tobacco leaf, including but not limited to, any cigar, cigarette, leaf tobacco, pipe tobacco, or tobacco in any of its forms.

Sec. 16-7. Prohibition of Smoking. No person shall smoke within enclosed spaces containing the following public places within the City of Champaign:

1. Establishments required to be licensed, on an annual basis, for the sale of alcoholic beverages, **except establishments operating under Class A or Class C Liquor License.**

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Food service establishments, **except establishments operating under Class A or Class C Liquor License.**

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3. Galleries, Libraries and Museums

4. Health care facilities

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5. Motion picture theaters, opera houses, concert halls
6. Lecture halls or rooms, auditoriums and assembly halls
7. Day care centers, nursery schools, elementary schools, high schools, community colleges, technical training establishments, specialty schools, colleges and universities.
8. Polling places
9. Restrooms
10. Places where public meetings are held
11. Gymnasiums
12. Within areas where merchandise is exposed in storage warehouses.
13. Grocery stores, retail stores, and supermarkets.
14. Within the exposition seating areas, or under the stages or in dressing rooms of theaters.
15. Within any vehicle used by the Champaign-Urbana Mass Transit District for public transportation.
16. Bowling centers

Sec. 16-8. Exemptions-Where smoking is not regulated.

Notwithstanding any other provision of this article to the contrary, it shall not be a violation of this article to smoke or permit smoking in the following places:

1. Outdoor service areas of all the following: licensed food service establishments; establishments holding licenses for the sale of alcoholic liquor; or private clubs.
2. Outdoor cafes licensed under Chapter 30 of the Champaign Municipal Code.
3. Retail tobacco shops, provided that smoke from these places does not infiltrate into areas where smoking is

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prohibited under the provisions of any section of the
Champaign Clean Indoor Air Ordinance.

4. Smoking by a cast member as part of a performance in a
theatrical production
5. Hotel and motel sleeping rooms that are rented to guests
and are designated as smoking rooms; provided that all
smoking rooms on the same floor must be contiguous and
smoke from these rooms must not infiltrate into
non-smoking rooms or other areas where smoking is
prohibited under the provisions of this article. The status
of rooms as smoking or nonsmoking may not be changed,
except to add additional nonsmoking rooms and in any case
may not exceed 20 percent of available rooms
6. Private vehicles, not including public transportation
facilities or government vehicles
7. Private residences or dwelling places except when used as a
licensed child care, adult care facility, health care facility,
or any other home-based business open to the public.
8. Private and semi-private rooms in nursing homes and long-
term care facilities that are occupied by one or more
persons, all of whom are smokers and have requested in
writing to be placed in a room where smoking is permitted.
9. Smoking as part of a bona fide religious ceremony.
10. Smoking in a health care facility if such smoking is part of
any therapeutic treatment plan required by the health care
provider.

Sec. 16-9. Obligation of Employers and Owners.

- A. No employer, owner, occupant or lessee, as the case may
be, in control of a public place shall knowingly permit
smoking in any enclosed space as delineated in Section 16-
7.
- B. Each employer, owner, occupant or lessee, as the case may
be, in control of a place where smoking is prohibited under
Section 16-7 shall request any person who smokes in an
area where smoking is prohibited to refrain from smoking,
and if the person continues to smoke, request the person to

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leave and use other means which may be appropriate to obtain compliance.

- C. Each employer, owner, occupant or lessee, as the case may be, in control of a place where smoking is prohibited under Section 16-7 shall notify employees regarding the requirements of this article

Sec. 16-10 Posting and Removing Smoking Paraphernalia.

Each owner, lessee, occupant, employer or other person in control of a place where smoking is prohibited under Section 16-7 shall be responsible to do the following:

- A. Post conspicuous signs in the enclosed spaces and the entrance or vestibule to the public place, place of employment or the building wherein they are located where smoking is prohibited under Section 16-17, bearing the text "No Smoking" or the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it.
- B. Remove smoking paraphernalia from areas where smoking is prohibited.
- C. Each employer, owner, occupant or lessee, as the case may be, in control of a public place shall notify employees regarding the requirements of this article

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Sec. 16-11. Declaration of Establishments as Non-smoking.
Notwithstanding any other provision of the Champaign Clean Indoor Air Ordinance, any owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate any area of said public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in Section 16-10 (A) of this article.

Sec. 16-12. Enforcement.

1. Notice of the provisions of this article shall be given to all applicants for a business license in the City of Champaign.

Any citizen who desires to register a complaint under this article may notify the Champaign-Urbana Public Health

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District or the Champaign Police Department of the facts surrounding the complaint

3. The Fire Department and Neighborhood Services Department, may, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this article.
4. An employer, owner, lessee, manager, operator, or employee of an establishment regulated by this article shall inform persons violating this article of the appropriate provisions thereof.

Sec. 16-13. Non-retaliation; non-waiver of rights.

1. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this article or reports or attempts to prosecute a violation of this article.

An employee who works in a setting where an employer allows smoking does not waive or otherwise surrender any legal rights the employee may have against the employer or any other party.

Sec. 16-14. Violations of Article II of Chapter 16 as amended herein shall be subject to the general penalty provisions of Section 1-21 of the Champaign Municipal Code with minimum fines provided for by Table I of Chapter 1.
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