ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve an Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 5.20 "Massage Establishments", Sections 5.20.010 "Definitions", 5.20.080 (B), "Issuance and Denial of Licenses", 5.20.110 "Conditions and Restrictions of Licenses", 5.20.170 "Notice" and 5.20.180 (C) "Revocation or Suspension of Licenses" of the St. Charles Municipal Code
Presenter:	Chief Keegan

Please check appropriate box:

X	Government Operations (6/20/16)		Government Services
	Planning & Development		City Council
	Public Hearing		Liquor Control Commission

Estimated Cost:		Budgeted:	YES		NO	

If NO, please explain how item will be funded:

Executive Summary:

This is an amendment to an Ordinance Amending Chapter 5.20 "Massage Establishments", Sections 5.20.010 "Definitions", 5.20.080 (B), "Issuance and Denial of Licenses", 5.20.110 "Conditions and Restrictions of Licenses", 5.20.170 "Notice" and 5.20.180 (C) "Revocation or Suspension of Licenses" of the St. Charles Municipal Code. Pursuant to our annual review and relicensing efforts of those St. Charles businesses offering massage services, coupled with our attempt and desire to legitimize massage practices within St. Charles and strengthen our existing ordinance, the following massage licensing modifications are being recommended in the attached ordinance.

At the time of the posting to this Government Operations Committee agenda, the Liquor Commission meeting is scheduled at 4:30 p.m. June 20 (same day) to process application and to move it forward before this committee to seek approval of said application so it can go before the July 5 City Council for final approval.

Attachments: *(please list)*

Memo
Ordinance

Recommendation / Suggested Action *(briefly explain)*:

Recommendation to approve an Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 5.20 "Massage Establishments", Sections 5.20.010 "Definitions", 5.20.080 (B), "Issuance and Denial of Licenses", 5.20.110 "Conditions and Restrictions of Licenses", 5.20.170 "Notices" and 5.20.180 (C) "Revocation or Suspension of Licenses" of the St. Charles Municipal Code.

For office use only:	*Agenda Item Number:* 4c

Police Department

Memo

To: The Honorable Raymond Rogina, Mayor and Liquor Commissioner

From: James Keegan, Chief of Police

Re: Massage Licensing Ordinance Modifications

Introduction

Pursuant to our annual review and relicensing efforts of those St. Charles businesses offering massage services coupled with our attempt and desire to legitimize massage practices within St. Charles and strengthen our existing ordinance, the following massage licensing modifications are being recommended:

Proposed Modifications

5.20.010 "Definitions"

PREMISES. The area depicted in the License Application.

Section 5.20.080(B) "Issuance and Denial of Licenses" shall be deleted in its entirety and the following language inserted in lieu thereof:

"B. In the case of an application for massage business license, the Building Official shall cause the premises to be licensed to be inspected to assure that the proposed operation complies with all applicable laws, including the building, electrical, plumbing, health, housing, zoning, and fire codes of the City, and any other regulations of the city relating to the public health, safety and welfare. The Director of Community and Economic Development and the Building & Code Enforcement Division Manager shall make written verification to the Local Liquor Control Commissioner concerning compliance with the codes and ordinances of the City."

That the following addition (in red) shall be added to Section 5.20.110 "Conditions and Restrictions of Licenses":

A. Supervision. A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the

licensee. This requirement does not apply to premises in which massage services are performed by a licensed massage therapist by appointment only.

L. No person shall reside in any portion of the licensed premises."

M. Public Access. Every massage establishment that operates on the first floor of a building with direct access from outside the building shall separate the area of the premises in which massages are performed from a public reception and/or waiting room area, and the public entrance to the establishment shall be open and unlocked during all of the hours that massage services are offered, open or advertised to be open to the public. This requirement does not apply to premises in which massage services are performed by appointment only in:

1. Single offices that are rented on second stories; or
2. Single offices in first floors that are interior spaces from which patrons have access through public spaces."

N. Exterior Window Coverings. No massage establishment shall be equipped with tinted or one-way glass in any room or office. Any windows or doors into the lobby shall not be covered. The lobby must be clearly visible from the exterior of the business at all times."

That the last sentence of Section 5.20.170 "Notice" shall be deleted and the following inserted in lieu thereof:

"The revocation or suspension of License shall be deemed effective immediately after personal service or after the mailing of the written notice as provided herein."

That Section 5.20.180(C) "Revocation or Suspension of Licenses" shall be deleted in its entirety and the following language inserted in lieu thereof:

"C. When any license shall have been revoked for cause, no license shall be granted to any person for a period of five years thereafter for the conduct of a massage business in the premises described in the revoked license."

Summary

We as a staff feel these additions/deletions will strengthen our ordinance as established and have vetted these modifications appropriately with our City Attorney. As always, I stand ready to discuss and defend my recommendations accordingly.

Thank you in advance for your cooperation in this matter.

City of St. Charles, Illinois
Ordinance 2016-M-_____

An Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 5.20 "Massage Establishments", Sections 5.20.010 "Definitions", 5.20.080(B), "Issuance and Denial of Licenses", 5.20.110 "Conditions and Restrictions of Licenses", 5.20.170 "Notice" and 5.20.180(C) "Revocation or Suspension of Licenses" of the St. Charles Municipal Code

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES ILLINOIS, AS FOLLOWS:

WHEREAS, THE City of St. Charles (the "City") is a home rule municipality duly organized and existing pursuant to the Illinois constitution of 1970 and the laws of the State of Illinois; and;

WHEREAS, the City has previously adopted an Ordinance providing for licensing of massage establishment within the City; and;

WHEREAS, the City finds that it is necessary and desirable to amend certain sections of the Massage Establishments Ordinance.

SECTION ONE. Recitals. The foregoing recitals are hereby adopted as part of this Ordinance.

SECTION TWO: That Section 5.20.010 "Definitions" of the St. Charles Municipal Code is hereby amended as follows:

The following definition is added to Section 5.20.010:

PREMISES. The area depicted in the License Application."

SECTION THREE: That Section 5.20.080(B) "Issuance and Denial of Licenses" shall be deleted in its entirety and the following language inserted in lieu thereof:

"B. In the case of an application for massage business license, the Building Official shall cause the premises to be licensed to be inspected to assure that the proposed operation complies with all applicable laws, including the building, electrical, plumbing, health, housing, zoning, and fire codes of the City, and any other regulations of the city relating to the public health, safety and welfare. The Director of Community and Economic Development and the Building & Code Enforcement Division Manager

shall make written verification to the Local Liquor Control Commissioner concerning compliance with the codes and ordinances of the City."

SECTION FOUR: That Section 5.20.110 "Conditions and Restrictions of Licenses" is hereby amended as follows:

That the following is added to Section 5.20.110:

A. Supervision. A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee. ***This requirement does not apply to premises in which massage services are performed by a licensed massage therapist by appointment only.***

L. No person shall reside in any portion of the licensed premises."

M. Public Access. Every massage establishment that operates on the first floor of a building with direct access from outside the building shall separate the area of the premises in which massages are performed from a public reception and/or waiting room area, and the public entrance to the establishment shall be open and unlocked during all of the hours that massage services are offered, open or advertised to be open to the public. This requirement does not apply to premises in which massage services are performed by appointment only in:

1. Single offices that are rented on second stories; or
2. Single offices in first floors that are interior spaces from which patrons have access through public spaces."

N. Exterior Window Coverings. No massage establishment shall be equipped with tinted or one-way glass in any room or office. Any windows or doors into the lobby shall not be covered. The lobby must be clearly visible from the exterior of the business at all times."

SECTION FIVE: That the last sentence of Section 5.20.170 "Notice" shall be deleted and the following inserted in lieu thereof:

No license shall be revoked, suspended, or refused until the applicant or license holder has received written notice of violation from the Chief of Police. The notice shall set forth the allegations of why the applicant or license holder should be revoked, suspended, or refused. Said notice shall be served upon an applicant or license holder by delivering the same personally or by delivery to the place of business or residence of the applicant or license holder. All applicants or

license holders shall notify the City within 24 hours of any change of address. If the service of such notice cannot be made in the manner provided herein, a copy of such notice shall be sent by regular mail, postage prepaid, to the last known address of the applicant or license holder contained in the City's files. *The revocation or suspension of license shall be deemed effective three business days after personal service or after the mailing of the written notice as provided herein.*

"The revocation or suspension of license shall be deemed effective immediately after personal service or after the mailing of the written notice as provided herein."

SECTION SIX: That Section 5.20.180(C) "Revocation or Suspension of Licenses" shall be deleted in its entirety and the following language inserted in lieu thereof:

> ***"C. When any license shall have been revoked for cause, no license shall be granted to any person for a period of five years thereafter for the conduct of a massage business in the premises described in the revoked license."***

SECTION SEVEN: SEVERABILITY –If any provision of this Ordinance, or the application of any provision of this Ordinance is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

SECTION EIGHT: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

SECTION NINE: That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this ____ day of _____, 2016.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this ____ day of _____, 2016.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois this ___ day of _____, 2016.

_____
Raymond P. Rogina, Mayor

ATTEST:

_____
City Clerk

COUNCIL VOTE:
Ayes: _____
Nays: _____
Absent: _____
Abstain: _____