

**AGENDA
CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSION MEETING**

**TUESDAY, FEBRUARY 18, 2014
CITY COUNCIL CHAMBERS @ 4:30 PM
2 E MAIN STREET**

1. Call to Order.
2. Roll Call.
3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on January 21, 2014.
4. Discussion on consideration of a proposal for a drive through grocery/liquor store in St. Charles, IL.
5. Discuss amendments to Title 3, "Revenue and Finance", Chapter 3.42 "Alcohol Tax", Section 3.42.090 "Late payment and/or Filing; Failure to Pay and/or File" of the City Municipal Code.
6. Discussion regarding an Ordinance Amending Title 5 "Business Licenses and Regulations", Chapter 5.08 "Alcoholic Beverages", Sections 5.08.090 "License – Classifications", Section 5.08.100 "License Fees; Fees Established", and Section 5.08.130 "License – Hours of Sale" of the St. Charles Municipal Code.
7. Other Business.
8. Executive Session.
9. Adjournment.

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
TUESDAY, JANUARY 21, 2014**

1. Opening of Meeting

The meeting was convened by Liquor Commissioner Rogina at 4:30 p.m.

2. Roll Call

Members Present: Liquor Commissioner Rogina, Robert Gehm, Ald. Payleitner, Chuck Amenta, and Ald. Lewis

Absent:

Others Present: Interim Police Chief Huffman, Mark Koenen, Atty. John McGuirk, and Tina Nilles

3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on November 18, 2013.

Motion by Mr. Amenta, second by Ald. Lewis to approve minutes of the November 18, 2013 Liquor Control Commission Meeting.

Voice Vote: Ayes: Unanimous, Nays: None. Chrmn. Rogina did not vote as chair. **Motion carried.**

4. Discussion regarding Ordinance Amending Title 5 “Business Licenses and Regulations,” Chapter 5.08 “Alcoholic Beverages” of the St. Charles Municipal Code.

Chrmn. Rogina: Gave thanks to all staff participation for their efforts that went into the changes for the liquor code amendment and thanks to the Liquor Commission for their time and input. I have a few comments because it’s important for the community to understand several things regarding reasons to the revisions and within the revisions the two-prong part of the revisions: the review by City Council and the fees. There’s many reports and blogs on this subject and I want to make sure everything is crystal clear.

First, I campaigned on this issue as Mayor and I’m happy to see that it is at least coming to a vote now. If it passes we can say we accomplished what we set out to do almost a year ago. Second the revisions are put on the table because of your input of the Commission. They are on the table because of input by the City Council at its fall retreat. Finally the Government Operations Committee of the City Council unanimously voted in favor of these revisions. Those in my mind are the reasons for tonight’s proposed revisions.

Now a lot of us have focused our attention on fees but let's not discount a very important piece of the two prongs of this proposal. The first prong is the review of all late night permits issued to licensees by the City Council. The ordinance, by State Statute, gives the Liquor Commission the right of review. When I took over as Mayor I created this commission because I wanted a variety of opinions. I didn't want to be the sole dictator by myself dictating the policy. That is why the commission was created and that is why we are going to review licenses and permits, I want the consent of the City Council. So that piece is in the ordinance.

I believe the review provides strict scrutiny of our licensees which is very important. Selling liquor in a community is not an ordinary business in the fact – it's a special privilege with rules and regulations. When things don't walk along the straight and narrow as they should, we have an obligation as a city to scrutinize that activity. City Council does, in cooperation with our fine police department, who provide us with information and then Council, Commissioner/Mayor will review it.

Ultimately the purpose of the review is to encourage cooperation between the city officials of this community and the business community to create a safe, enjoyable environment. One editorial said this could be construed to be anti-business. I would ask the question what does anti-business mean? We have a lot of businesses in St. Charles and have a lot of concerns from businesses that are not liquor licensees who are tired of the cleanup and messes left after a weekend of frivolity. Maybe we are being pro-business by taking a step toward eliminating some of that and providing a safe, enjoyable environment.

Then to the fees. I do think whether it's our fault as a city, whether it's the press's fault, or whether it's a combination of both; I still think the numbers were clearly rolled out. I say this because of couple of licensees have come to me and said they are being asked to pay an amount that is not in existence. The reason for the fees is that I believe there is an increased value being placed on a 2:00 a.m. closing; because anecdotal evidence provided by a variety of sources suggests the problems still exist. Recently I talked with a manager stating that a comment has been made here that it's been said that nothing good happens between 1:00 – 2:00 a.m. To that statement I ask what's the goal of most people in your establishment between 1:00 – 2:00 a.m.? The answer was to get drunk. I appreciate the honesty but I want them to work with us to make sure that is not the goal. When I talked with another licensee and told them if they closed at 1:00 a.m. their license would be cheaper than a 2:00 a.m. closing. They were surprised and stated they did not need to stay open until 2:00 a.m.

But to the 2:00 a.m. issue, if you recall less than two years ago there was a proposal to close all licensees at 1:00 a.m. The licensees, through a tavern association, came forth to Council and discussed this and asked the Council to work with them. So the Council with a narrow 4/5 vote said okay, we'll work with you. We as a majority agreed not to close all licensees at 1:00 a.m. Today this proposal does not demand that anyone closes at 1:00 a.m. It allows for plenty of options. There is certainly a desire on my part, I am not speaking for the entire Council, but there is a desire to reduce 2:00 a.m. licenses.

We have approximately 60 Class B&C licensees and the proposal that's going before tonight is that of these 60 licensees we have, there are only a very few exceptions that don't close at 2:00 a.m. For a 2:00 a.m. license the vast majority pay \$2,600 a year. Our new proposal, if passed tonight, will establish a license at \$1,200, but instead of 2:00 a.m. it is going to propose that license has a midnight closing.

Built into our proposal are two late night permits (not licenses). If a licensee chooses to close at 1:00 a.m., that permit will cost the licensee an additional \$800 bringing the total to \$2,000. That is \$600 less than what they currently pay. If they choose to close at midnight that's a \$1,400 swing, but that's their decision.

If a licensee chooses a 2:00 a.m. late night permit that additional fee will be \$2,300 more for a total of \$3,500. That is \$900 more. It's been misinterpreted in a few places that the licensee will be paying \$2,300 more than their currently paying and that's not true. Any questions?

Mark Hoffman, 221 S 2nd Street, St. Charles, 2nd Street Tavern: I have a 2:00 a.m. license and my question is why the \$900 increase just on this one license where all the other licenses are actually reduced?

Comm. Rogina: This is trial and error. There was an intent on the part of the leadership here from the last vote to close all the bars at 1:00 a.m.; so what's the impetus to encourage that and at the same time say you can stay open until 2:00 a.m. but a message has to be sent that this is going to have a premium on it based upon what we've seen upon downtown activity here in our community. I could be more specific in saying it could be, after a year, be less. We may decide to recommend to the Council something less; and if things don't change, it might be more. The economist in me would say we are trying to find equilibrium, find the number that is going to work. There's no guarantee this proposal is going to work. I'm hoping very much so to see new behavior in our downtown. I say new behavior not with rolling up the sidewalks at 10:00 p.m. but with some more responsibility placed on our licensees and then transferred to our citizens. That's going to be a review by us and by the Council after this has been implemented. The 10-0 vote by the committee sends a signal that they thought the \$900 was a good number.

Ald. Payleitner: At the same time that we were talking about changing the closing times, we were also having conversations about let's make a distinction between bar, tavern, and restaurant and charge them accordingly. What a nightmare that turned out to be as we researched other towns. This way, I think, we're letting them make the decision. That it isn't up to us, it's up to them to pay accordingly; and there is a little incentive for the earlier closing time.

Comm. Rogina: Mr. Hoffmann I'll be candid with you that it's a privilege to stay open until 2:00 a.m. I don't see a problem with you receiving that. You've been a good licensee in our community but we are putting a premium on a 2:00 a.m. close. This is based upon the fact that after a year and a half I don't think we've seen any noticeable change in the activity downtown despite the fact a Tavern Association came to us and said "work with us." I've been here for eight months and have not talked with one member of the association or hospitality group. In my mind this is fair. It may not be construed that way in all circles but we're going to give it a look-

see. I would go to the point to encourage the theory of a 1:00 a.m. unless there are any other questions on this first item.

Ald. Lewis: I remember that vote a year and a half ago when the vote was 4 to 4 and being in the last seat the vote came to me and I was very much ready to vote for the 1:00 a.m. license; however, when they stood up and presented themselves with an attorney and said they were caught off guard by having only a two-week notice; I thought alright, I'll give them the benefit of the doubt. My vote broke the tie and they got to continue to stay open until 2:00 a.m. There have been several times in the past two years I thought I wished I had voted the other way and we wouldn't be here now. You'd all would have been closed at 1:00 a.m. and wouldn't have the opportunity to have this panel discuss options on how to stay open until 2:00 a.m. I think this may be a positive that we are doing that because it very well could have been voted the other way. I don't think we saw the improvement we were looking for in those next several months after the Tavern Association was created. Instead we saw in their windows signs that said no fighting. In walking downtown and seeing these signs in windows of establishment on how you're supposed to behave is not what we were looking for and I think the Tavern Association did dispense with itself. They don't hand stamp anymore and they were going to monitor and make phone calls to everyone. I don't think that ever really happened. So we were left with coming up with something different to do and I think what the Mayor has suggested has really been a positive solution to move forward.

Mr. Brian Volpe, 1219 Dean Street: As I understand the City is doing away with all 2:00 a.m. licenses and are having only 12:00 midnight licenses. Most establishments have been good and now you're revoking his 2:00 a.m. license and everybody only gets a midnight license. Then if you're liked or pay a special fee you can stay open until 1:00 or 2:00 a.m. That's what I heard.

Comm. Rogina: Midnight license being \$1,400 cheaper.

Mr. Volpe: But there's no license after 12:00 midnight.

Comm. Rogina: Correct but there are late night permits.

Mr. Volpe: The standard is to have all 12:00 midnight licenses then there will be permits for whoever decides they can pay the price. It's not about the fees, it's about the license structure. The City of St. Charles says no more 1:00 or 2:00 a.m. licenses – it's now just 12:00 a.m.

Comm. Rogina: Correct.

Mr. Volpe: Okay so that's our base line for closing and if you want to pay more you can stay open later. So why don't we go to 3:00 – 4:00 a.m. if they're willing to be pay \$2,000 more. Why can't they stay open later? We are not solving the problem. The money you are charging doesn't solve the problem; it just says we'll just drink more. When I used to go out to tavern/bars my goal wasn't to get drunk. It was to go out and have a nice time and enjoy friends that I don't get to see on a regular basis. You're not getting to the core of the problem which I tried to explain at the Council meeting. I guess there is BASSET training but that's not good

enough with just 4 hours training and you get a certificate and say go serve drinks and we don't care. What I'm saying is we need to train the people who are serving better by coming up with a yearly renewal or whatever timeframe where they have to get recertified that they understand what they're serving and providing to their customers. Make them more aware. It's not about putting a dollar in your pocket because you gave them a drink and they go and stumble away. You're penalizing other good establishments by letting the guy go from the place that closes at 12:01 to stumble into their place, they haven't even bought a drink yet and they could already be starting problems in there. So if you can control how, what, and the amount they are being served that's going to be a better solution. That is not being addressed. All we are talking about is whether it's after 1:00 or 2:00 a.m. you're going to pay more. Maybe we also need to have a little more police presence down there. They do a good job but maybe they need to be more out there so people see the police walking around. It may lessen the amount of people who want to fight. Education in the system is the best thing and perhaps if you had more of the bar/tavern owners here to discuss this – we could all come up with a better solution.

Chuck Amenta: If I heard you correctly you're asking the City Council and Liquor Commission to police your establishment; and if there is a problem within your establishment is it not the responsibility of that establishment to contact the police if they have a problem to try and stop that so that their patrons know immediately that kind of behavior is not going to be tolerated? So what someone does out on the street - fine, but they go into the next place, to your point, so maybe the Tavern Association should ban together, if it even exist, to police themselves and work together to maybe hire more training. This association was put together but my understanding never followed through. I never have spoken with any them. I think the idea of more police presence is great, but shouldn't each establishment police themselves?

Mr. Volpe: Let's make our servers better than what the state minimum requires. Maybe we should set the standards to having our people well trained and made more aware. If we are going to let them self-police then we need to be harder on the establishments when something seriously does happen instead of giving them a Monday night slap on the wrist that you don't get to serve alcohol. It needs to be Friday/Saturday night which will be a greater impact. Teach your people to do better otherwise we're going to take away your days that really count.

Chuck Amenta: I do believe the punishment that has been doled out by the Mayor since this Commission has been form has been good and there hasn't been any repeat offenders.

Ald. Payleitner: It's my understanding that this is exactly what this permit is. It's extra accountability. It's really tough to pull a license on someone but the Mayor has the power to pull a permit. If they're not behaving they lose their permit of staying open later.

Comm. Rogina: Mr. Volpe you're misconstruing semantics with licenses and permits.

Ald. Lewis: In comparison to other surrounding communities we are not unusual in having a 12:00 midnight closure or 1:00 a.m. closure. I went to the State of Illinois website where they have a list of different communities where they list the businesses' different closing times for

different days of the week. Campton Hills close across the board at 1:00 a.m. Batavia closes at 1:00 a.m. during the week and 2:00 on Friday/Saturday.

Mr. Volpe: I'm just trying address what the real problem is. It's not about the time, it's about the consumption.

Comm. Rogina: Our goal is to eradicate the problem.

I want to bring one other thing to our attention. With this amended code we are allowing our licensees to stay open until 2:00 a.m. New Year's Day if they so desired. I had a licensee make a comment to me that he does close at 1:00 a.m. most of the time but there are these rare occasions when he needs to stay to open later, but you're forcing me to stay open until 2:00 a.m. in order to protect myself when these occasions happen. I thought about his point. This is not in the proposal tonight but I wanted to hear your thoughts on the idea to maybe encourage more 1:00 a.m. closings to say to a licensee that you have X number of times a year aside from New Year's Eve where you can stay open until 2:00 a.m. for special occasions.

Ald. Lewis: Like an E license for a special event?

Comm. Rogina: Exactly and you apply for it. I would like your thoughts on this. We could amend the liquor code at a future time on this. So licensees would actually pay less money and close at 1:00 a.m. and have some flexibility moving forward. What are your thoughts?

Ald. Lewis: I think it's a good idea. What would the cost be – like \$50 a day and no more than 4 or 5 per year?

Comm. Rogina: The number would be debatable and we would come with a proposal to you. I wanted to get a sense where this group is at. If you all were okay with this we could move it to City Council at some point.

Chuck Amenta: Would we consider a per extension permit at a cost? If it was decided \$50 per event (arbitrary number) that you could apply for it X amount of weeks in advance. You would then have the opportunity to purchase X amount of extensions between your 1:00 to 2:00 a.m. We would have to put a cap on the amount of extensions but I think a 1:00 a.m. permit holder would find that to be an advantage for evenings like a Thursday night before Thanksgiving or some other evening that would be beneficial to them as a business. I think it's a good idea to discuss it.

Ald. Lewis: I agree.

Robert Gehm: I think it's a good idea and they could apply for it with some lead time ahead of the event or situation.

Chuck Amenta: Would this just be for a 1:00 – 2:00 a.m. extension or could it be for a 12:00 midnight to 1:00 a.m. as well?

Comm. Rogina: I think we can be flexible. It would be up to the leadership committee to come back to the Council Committee with a proposal but at least the concept comes with your blessing.

Ald. Lewis: We would have to be careful that we don't do it too often otherwise we would negate what we are trying to do.

Ald. Payleitner: Like if a licensee did 10 of these at \$100 per event they would be better to get a permit for 2:00 a.m.

Robert Gehm: It then becomes a business decision rather than the ordinance driving it.

Mr. Hoffmann: I would like to share a thought. The \$900 additional for a 2:00 a.m. license seems more like a penalty than it does a privilege. And that on top of the 2% additional alcohol sales tax that we have to pay that's been in effect for these last couple of years; it doesn't feel like we are a value to the community. I sense there are probably a lot of people who don't think we are a value to the community except that we do provide jobs and we do pay taxes, we do all the things that a small businessman does because that's what we are. Sometimes we don't get the feeling from City Council or powers that be that we are a valuable part of the community and that stings all the owners. It doesn't mean everything is going to happen right. I don't think everything happens right in any business, but it's an unusual feeling that a lot of us have, me in particular.

Is there any consideration given the fact the St. Charles is doing well financially, that the 2% will be dropped off. It was a need at the time and St. Charles, as I read the reports in the paper if they are right, has been doing well. You've maintained your credit rating. Is it something that could be considered to be dropped in the future or reduced or spread out over all the businesses in St. Charles not just this one. I know you can't give me an answer today but it would certainly be good if that could be considered. Second, would St. Charles consider the video gambling, the poker machines, that so many of the other cities, counties, towns are adopting. Is that something on the agenda to discuss?

Comm. Rogina: First I really respect you coming here and representing yourself in a professional respectful manner. I want you to know as Commissioner that the City Council and Liquor Commission wants to work with you. We respect you as business people in this community as any other business. We want your businesses to succeed. We are going to have a meeting of all the liquor licenses on Thursday and that will be a better opportunity for all of them if they have questions/concerns to put them out on the table and let's talk about them.

Mr. Hoffmann: Please let them know because not all of us feel that way. That message is not coming through to the bar owners that we are valuable to the business community. I am speaking only for myself. My tavern is different than any other bar or club. It's been there for 50 years and is part of a lot of people's lives and it's a tradition good or bad. But in my talking with other bar owners they get the consensus that they are more of a nuisance to the City and if

you can convey to the bar owners what you just said I think it will go a long way to whatever it is that we need to do to help out.

Comm. Rogina: A couple of points are that we should have an ongoing dialogue and you should feel free at any given time to have a conversation with me or any member of the Council. Secondly I don't think anyone disrespects you as a member of the business community, I think the only thing that is disrespected, and I can say this clearly, is sophomoric actions by buffoons. That we have an obligation to eradicate.

Mr. Hoffman: I agree and those guys don't even walk in through my door.

Comm Rogina: With the budget process in session I would ask Mr. Koenen to comment on whether the alcohol sales tax is set in stone or if that's flexible and then I'll make a quick comment about video gambling.

Mark Hoffmann: The alcohol sales tax is part of the current fiscal year budget and we are in the process of doing budget right now. There has been no conversation of changing that. I would say St. Charles has a good revenue stream and alcohol sales tax and a variety of other sources of revenue have created an environment of a good financial position. We also have costs at the same time so we have to balance it. I don't know if we are ready to cut revenue streams at this time. The good news is there is no conversation about increasing the alcohol sales tax.

Comm. Rogina: I don't think anything is ever set in stone. We're always flexible and are willing to listen. To your video gambling point, when I was running for Mayor that question was asked on how do I support video gambling. At that time I said I don't think my constituents would be for it in the 3rd Ward. However, I would support that concept in places where the Moose, who has come to ask for their machines to be put back in, I would support something like that and try to sell it to the Council. I can't speak for the Council here tonight, but because all the money generated went to social services. It didn't go to profit. However if we did that with private clubs would we have to do it with any licensee in the community, the answer is we would. I believe at this point in the game our City Council would not support this. And, yes we do understand the revenues that are brought in but it doesn't mean it can't be discussed and you can come before the City Council Committee and engage them in a conversation asking about this.

5. Other Business - None

6. Executive Session – None

7. Adjournment

Motion to adjourn by Mr. Gehm, second by Amenta at 5:33 p.m.

Voice Vote: Unanimous; Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**



AGENDA ITEM EXECUTIVE SUMMARY

Title: Discussion on Consideration of a Proposal for a Drive-Thru Grocery/Liquor Store in St. Charles, IL

Presenter: Mayor Rogina

Please check appropriate box:

	Government Operations		Government Services
	Planning & Development		City Council
	Public Hearing	X	Liquor Control Commission (2/18/14)

Estimated Cost:		Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

Executive Summary:

Peter Bogle, founder of The Drive-Thru LLC will come before the Liquor Control Commission to discuss his proposal for The Drive-Thru Grocery Store to be located at the south-east corner of Randall Road and Rt. 38, St. Charles, IL.

Attached is an excerpt from the City Liquor Code 5.08.090 License – Classifications regarding the Class A liquor types that detail the qualifications for retail sale of alcohol for packaged liquor.

Attachments: *(please list)*

Business Plan
City Code Excerpt 5.08.090

Recommendation / Suggested Action *(briefly explain):*

Discussion on consideration of a proposal for a Drive-Thru Grocery/Liquor Store in St. Charles, IL.

For office use only:

Agenda Item Number: 4



Example of a current drive-thru



Existing site to convert to Drive-Thru

The Drive-Thru Grocery Store
St. Charles, IL
The Drive-Thru LLC

Identification of the Project

Located on the site of the former Quick Lube location, the new Drive-Thru grocery store will be situated on the South East corner of Randall Road Route 38 in the city of St. Charles, IL. The property has the perfect layout in its 2,800 square feet of space to easily set up one lane of drive thru service. On either side of the space, there will be coolers and dry rack shelf space to keep the refrigerator items cold and to have the dry goods easily available to pick off the shelves. In the pre-application meeting with the city, the project met all PUD requirements and met the electric and city fire codes.

Located on the main North-South thoroughfare in Kane County-Randall Road, this parcel has perfect frontage to allow those heading into the drive-thru to pull out and head, north, south east and west, which is perfect for the busy daily consumer. From recent studies, it is determined that at this intersection there is approximately over 55,000 vehicles passing per day. Over 131,500 people live within a 15 minute drive to this location and the expected population growth is projected to increase by 11% to 145,400 residents by late 2014.

The key attraction for the proposed Drive-Thru Grocery Store will be its location and ease of access during all type of weather conditions. This will be a perfect drive-thru for the busy mother with kids strapped into their car seats, to the father needing to pick up a few last minute items on his way home for dinner, to the hourly worker that needs something quick like a deli sandwich and a drink on their lunch break.

Executive Summary

Current plans for the "Drive-Thru" will feature various dairy products i.e. milk, cream, butter, cottage cheese etc. to breads, muffins to a full line of beer and wine, based on an express model of a high, medium and low price point, to water, juices etc. In addition, there are local restaurants that have already shown interest in wanting to have a few items featured 1-2 days per week as a special. These will be already packaged for take-out, but will start to create a buzz in terms of having a certain days of the week be targeted for a certain special, An example may be, Wednesday is Italian, Monday and Thursday is Mexican etc.

Located on the South East side of Randall Road, just south of Route 38 in St. Charles, the drive thru helps to create a new business opportunity in a retail section that has been quiet the last few years. This will certainly start to create a huge awareness to an area of St. Charles that has not seen a huge amount of activity since the Dominick's had closed their doors. Situated in the heart of a major retail corridor, the Drive-Thru will be a model to build on in other towns or cities, looking to attract potential shoppers via weekend tournaments and general activity in a normal work week.

Knowing that St. Charles has a stacking of cars requirement, the Drive-Thru would be able to accommodate that with the inside location handling 2 cars conservatively which leaves the opportunity for an additional 3 cars in a staging area outside. The way this would work, is a driver would pull up to the far side door, it would automatically open up, the driver then pulls in and is met face to face with a personal shopper or a "picker or runner" as we call them. There would be upwards of three pickers working on a busy day. The picker would get the order from the car as it continues to move forward and hand over the groceries to the driver and pay for the goods at the end of the drive thru bay. Payments will be made electronically and wirelessly via, card swipe on an android phone or I-pad. Cash can be given, with the picker working off of a virtual cash register.

Company Profile

The Drive-Thru LLC is headed up by founder Peter Bogle, a local business owner and a 20 year resident of St. Charles. Going to school in the Midwest, Peter saw this very successful concept first hand in his college town of Wooster, Ohio. This concept has continued to grow with large grocery chains and even major retailers like Meijer trying to work in this arena with curb side shopping. With this vision in mind, Peter and his group have been actively looking for the perfect location to launch this business and the Quick-Lube site became available. Convenience and ease of access is what society is looking for. With both parents working and the kids involved in everything under the sun from an activity perspective, the city will thrive with this very convenient business model.

Development Team

Development Team

Planners/Architect	W. Alex Teipel-Architect, Architectural Resources	Architectural Resources
Customer Cooler Engineers	American Walk-In Coolers	Americanwalkincoolers.com
Structure Consultants	Triad Development Company	Triadcompanies.com
Real Estate Development	Shodeen Management Company	Shodeen.com
General Contractors	O-Liminator	O-Liminator.com
Legal Team	Jodie Hyde	Hyde.Nick@gmail.com
Sales and Marketing	Premier Development Group	JohnGoldsworthy@gmail.com

Project Impact

The project proposed will create more than 15 new employment positions ranging from staff to part time help. This will have a tremendous positive impact for the city of St. Charles and the fox valley as a whole. The growth in usage of the Drive-Thru will draw crowds of families from all surrounding towns, which will help to generate additional retail traffic. With the growth of the area increasing over 11% in the next 2+ years, the "Drive-Thru" will be primed to see that growth as well.

Inquiries

Please send your contact information to peter@o-liminator.com and reference Drive-Thru Grocery Store, St. Charles.

ALCOHOLIC BEVERAGES

- interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;
- P. Any person, firm or corporation not eligible for a state retail liquor dealer's license;
 - Q. Any applicant who fails to obtain a state liquor license;
 - R. A person who is not a beneficial owner of the business to be operated by the licensee;
 - S. A person who has been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, approved July 18, 1961, or as proscribed by a statute replacing any of the aforesaid statutory provisions;
 - T. A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Illinois Raffles Act or the Illinois Pull Tabs and Jar Games Act;
 - U. A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in the Liquor Control Act;
 - V. A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Local Liquor Control Commissioner shall determine if all provisions of this subsection (V) have been met before any action on the corporation's license is initiated;
 - W. In addition to other grounds specified in this chapter, the Local Liquor Control Commissioner shall refuse the issuance or renewal of a local liquor license, or suspend or revoke such license, for any of the following violations of any Tax Act administered by the Illinois Department of Revenue:
 - 1. Failure to make a tax return,
 - 2. The filing of a fraudulent return,
 - 3. Failure to pay all or any part of any tax or penalty finally determined to be due,
 - 4. Failure to keep books and records,
 - 5. Failure to secure and display a certificate or sub-certificate of registration, if required,
 - 6. Willful violation of any rule or regulation of the Department relating to the administration and enforcement of tax liability.
- (Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.005.)

5.08.090 License – Classifications

Local liquor licenses for the retail sale of alcoholic liquor shall be divided into the following classes and sub-classes:

A. Class A – Packaged Alcoholic Liquor Licenses

Class A licenses shall authorize the retail sale of alcoholic liquor in original packages only and not for consumption on the premises, except as permitted for the Class A-4 license. Class A licenses are divided into the following sub-classes:

- A-1. Class A-1 licenses shall authorize the retail sale of alcoholic liquors in original packages only and not for consumption on the premises. Such licenses shall not be authorized for gasoline filling stations. The primary purpose of the premises shall be the retail sale of alcoholic liquor. The premises shall have a minimum gross area of two thousand square feet (2,000'). (Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- A-2. Class A-2 licenses shall authorize the retail sale of alcoholic liquors in original packages only and not for consumption on the premises. The primary purpose of the premises shall be for retail sales other than the retail sales of alcoholic liquor, such as food store, drug store or

ALCOHOLIC BEVERAGES

mass merchandiser. The premises shall have a minimum gross area of ten thousand square feet (10,000'), and provided the square footage devoted to the retail sale of alcoholic liquor is ten percent (10%) or less, of the gross square footage.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1; Ord. 2008-M-71 § 1.)

- A-2B. Class A-2B licenses shall authorize the retail sale of beer and wine only in original packages only and not for consumption on the premises. The primary purpose of the premises shall be for retail sales other than the retail sales of beer and wine, such as food store, drug store or mass merchandiser. The premises shall have a minimum gross area of ten thousand square feet (10,000'), and provided the square footage devoted to the retail sale of beer and wine is ten percent (10%) or less, of the gross square footage.

(Ord. 2012-M-30 § 4.)

- A-3. Deleted in its entirety.

(Ord. 2012-M-30 § 5; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

- A-4. Class A-4 licenses shall authorize the retail sale of beer for consumption on or off the premises, where brewed on the premises, provided the retail sale of beer for consumption off the premises shall be in original packages only. Class A-4 licenses shall also authorize the retail sale of wine in original packages only and not for consumption on the premises where fermented on the premises.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

- A-5. Class A-5 licenses shall authorize the retail sale of domestic and imported wines, champagne, imported alcoholic liquor and gourmet beer in original packages only and not for consumption on the premises. The retail sale of alcoholic liquor shall be incidental to non-alcoholic liquor retail sales and shall not exceed twenty-five percent (25%) of the annual gross sales of said licensee. Class A-5 licenses shall also authorize the retail sale of wine, by the glass only, for consumption on the premises.

(Ord. 2010-M-52 § 1; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

B. Class B – Restaurant Licenses

Class B licenses shall authorize the retail sale of alcoholic liquors, or beer and wine only, for consumption on the premises, whose primary purpose is that of a restaurant or restaurant and tavern as defined in this chapter. Live entertainment may be permitted as otherwise provided in this chapter for Class B-3 licenses only. Class B licenses are divided into the following sub-classes:

- B-1. Class B-1 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of a restaurant.
(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- B-2. Class B-2 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of a restaurant and tavern.
(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- B-3. Class B-3 licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises of a restaurant and tavern. Class B-3 licenses may authorize live entertainment if approved by the Local Liquor Control Commissioner.
(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- B-4. Class B-4 licenses shall authorize the retail sale of beer and wine only for consumption on the premises of a restaurant.
(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- B-5. Notwithstanding any Class B license provisions to the contrary, Class B-5 licenses shall authorize the retail sale of beer and wine for consumption on the premises only. The premises primary purpose shall be counter service of food. Beer and wine shall be served only by counter service and only in conjunction with the service of food.
(Ord. 2010-M-29 § 1.)



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Discuss Amendments to Title 3, “Revenue and Finance”, Chapter 3.42 “Alcohol Tax”, Section 3.42.090 “Late payment and/or Filing; Failure to Pay and/or File” of the City Municipal Code
Presenter:	Julie Herr

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input type="checkbox"/>	Government Services
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input checked="" type="checkbox"/>	Liquor Commission (2/18/14)

Estimated Cost:	N/A	Budgeted:	<input type="checkbox"/>	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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If NO, please explain how item will be funded:

Executive Summary:

City staff is requesting an amendment to Title 3, “Revenue and Finance”, Chapter 3.42 “Alcohol Tax”, Section 3.42.090 “Late Payment and or/Filing; Failure to Pay and/or File”. The purpose of the amendment is to modify the penalty structure for late filing of alcohol taxes to include either a graduated flat rate penalty or a penalty of 5% of the tax due, whichever is greater. For the first offense, the late penalty would be \$50 or 5% of the tax due, whichever is greater. For the second offense, the penalty would be \$100 or 5% of the tax due, whichever is greater, and for the third and subsequent offenses, the penalty would be \$150 or 5% of the tax due, whichever is greater. City staff spends a number of hours each month following up late alcohol tax payers that may only have a \$10 penalty, based on the amount of tax remitted. We are hopeful that that having minimum penalties of \$50, \$100 and \$150 in place will incentivize these businesses to file their alcohol taxes by the due date.

City staff seeks direction from the Liquor Control Commission to draft an ordinance amending Title 3, “Revenue and Finance” to go before committee for recommendation to City Council.

Attachments: *(please list)*

Draft Ordinance

Recommendation / Suggested Action *(briefly explain):*

Discuss amendments to Title 3, “Revenue and Finance”, Chapter 3.42 “Alcohol Tax”, Section 3.42.090 “Late payment and/or Filing; Failure to Pay and/or File” of the City Municipal Code,

<i>For office use only:</i>	<i>Agenda Item Number: 5</i>
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City of St. Charles, Illinois
Ordinance No. 2014-M-__

**An Ordinance Amending Title 3, “Revenue and Finance”, Chapter 3.42
“Alcohol Tax”, Section 3.42.090 “Late Payment and/or Filing; Failure
to Pay and/or File” 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:

Section 1. That Title 3, “Revenue and Finance”, Chapter 3.42 “Alcohol Tax”, of the St. Charles Municipal Code be and is hereby amended to Section 3.42.090 “Late Payment and/or Filing; Failure to Pay and/or File” be deleted in its entirety and replace with the following language:

3.42.090 Late payment and/or filing; failure to pay and/or file.

~~A. If for any reason a tax imposed under this chapter is not paid when due, a penalty of five percent (5%) on the amount of tax which remains unpaid shall be added and collected. Whenever any person shall fail to pay any tax as provided in this chapter, the city attorney upon the request of the finance director shall bring or cause to be brought an action to enforce the payment of the tax on behalf of the city in any court of competent jurisdiction.~~

3.42.090 Late payment and/or filing; failure to pay and/or file.

A. If for any reason a tax imposed under this chapter is not paid when due, a penalty shall be added and collected as follows. For the first offense, \$50.00 or five percent (5%) on the amount of tax which remains unpaid, whichever is greater; for the second offense, \$100.00 or five percent (5%) on the amount of tax which remains unpaid, whichever is greater; and for the third and subsequent offenses, \$150.00 or five percent (5%) on the amount tax which remains unpaid, whichever is greater.

Whenever any person shall fail to pay any tax as provided in this chapter, the city attorney, upon the request of the Finance Director, shall bring or cause to be brought an action to enforce the payment of the tax on behalf of the city and reasonable attorney’s fees incurred in bringing such action in any court of competent jurisdiction.

Section 2. That after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the City Council of the City of St. Charles, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with general circulation within the City of St. Charles.

Section 3. That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication as provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois this _____ day of _____, 2014.

PASSED by the City Council of the City of St. Charles, Illinois the _____ day of _____, 2014.

APPROVED by the Mayor of the City of St. Charles, Illinois this _____ day of _____, 2014.

Mayor Raymond P. Rogina

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Abstain:

Absent:

APPROVED AS TO FORM:

City Attorney

DATE: _____



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Motion to Approve an Ordinance Amending Title 5
"Business Licenses and Regulations," Chapter 5.08
"Alcoholic Beverages" Sections 5.08.090, 5.08.100,
and 5.08.130

Presenter: Mayor Rogina

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input type="checkbox"/>	Government Services
<input type="checkbox"/>	Planning & Development	<input checked="" type="checkbox"/>	City Council (2/18/14)
<input type="checkbox"/>	Public Hearing	<input checked="" type="checkbox"/>	Liquor Control Commission (2/18/14)

Estimated Cost:	N/A	Budgeted:	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
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If NO, please explain how item will be funded:

Executive Summary:

At the February 3, 2014 Government Services Committee Mayor Rogina discussed the proposal of an amendment to Title 5 "Business Licenses and Regulations", Chapter 5.08 "Alcoholic Beverages" of the City Code to established late night permit fees for Class B and C licensees to allow them an option to stay open later then midnight for a fee connected to a 1:00 a.m. or 2:00 a.m. closing time.

Based on that discussion the attached ordinance is being brought before Council tonight for approval to allow for late night permit fees for Class B and C licensees to allow them an option to stay open later then midnight for a fee connected to a 1:00 a.m. or 2:00 a.m. closing time.

Attachments: *(please list)*

Ordinance

Recommendation / Suggested Action *(briefly explain):*

Motion to approve an Ordinance Amending Title 5 "Business Licenses and Regulations," Chapter 5.08 "Alcoholic Beverages" Sections 5.08.090, 5.08.100, and 5.08.130.

For office use only:

Agenda Item Number: 6

City of St. Charles, Illinois
Ordinance No. 2014-M-__

**An Ordinance Amending Title 5, “Business Licenses and Regulations”,
Chapter 5.08 “Alcoholic Beverages”, Section 5.08.090 “License-
Classifications”, Section 5.08.100 “License Fees; Fees Established”, and
Section 5.08.130 “License – Hours of Sale” 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:

Section 1. That Title 5, “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages” of the St. Charles Municipal Code be and is hereby amended to Section 5.08.090 “License Classifications” by adding the following paragraph E-6 to the end of “Section E. Class E – Temporary License” with the following language:

“E-6. Class E-6 Temporary License Permits shall authorize the retail sale of beer and wine or the retail sale of alcoholic liquor for consumption on the premises only until 1:00 am or 2:00 am on a specified date. This license shall be issued to Class B and C license holders only for special events or catered functions with the dispensing of food. The issuance of the Class E-6 Temporary License Permit shall be at the discretion of the Local Liquor Control Commissioner, with advice and consent of City Council. Application for a Class E-6 Temporary License Permit shall be submitted 45 days in advance of a scheduled date. No more than four (4) permits shall be issued to any licensee per fiscal year. A license permit is per event during a 24-hour period. There shall be no Class E-6 Temporary License permits issued during the second full week of October beginning 12:00 a.m. on Friday and ending 12:00 a.m. on Monday.”

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Section 2. That Title 5, “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages” of the St. Charles Municipal Code be and is hereby amended to Section 5.08.100 “License Fees; Fees Established” by adding the following entry into the License Fees table:

E-6	\$100.00 per day	Special Late Night Permit Event
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Section 3. That Title 5, “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages” of the St. Charles Municipal Code be and is hereby amended to Section 5.08.130 “License – Hours of Sale” by deleting phrase *“or to give away.”* from paragraph D. :

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D. It shall be lawful for any person holding a B-1, B-2, B-3, B-4, B-5, B-6, C-1, C-2, C-3, or C-4 license issued pursuant to this chapter to sell, offer for sale *or to give away*, in or upon any licensed premises, any alcoholic liquor until 2:00 a.m. on January 1.

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Also adding the following paragraph K to Section 5.08.130 "License – Hours of Sale" with the following language:

"K. It shall be lawful for any person holding a Class E-6 Temporary License Permit issued pursuant to this chapter to sell, offer for sale in or upon any licensed premises, any alcoholic liquor until 1:00 a.m. or 2:00 a.m. (on specified date as stated on approved permit by City Council)."

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Section 4. That after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the City Council of the City of St. Charles, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with general circulation within the City of St. Charles.

Section 5. That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication as provided by law.

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PRESENTED to the City Council of the City of St. Charles, Illinois this _____ day of _____, 2014.

PASSED by the City Council of the City of St. Charles, Illinois the _____ day of _____, 2014.

APPROVED by the Mayor of the City of St. Charles, Illinois this _____ day of _____, 2014.

Mayor Raymond P. Rogina

ATTEST:

City Clerk

Ordinance No. 2014-M-_____
Page 3

COUNCIL VOTE:

Ayes:

Nays:

Abstain:

Absent:

APPROVED AS TO FORM:

City Attorney

DATE: _____