

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 5b

Title:

For Discussion Only: Suggested Code Revisions to Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code (Alcohol Delivery)

Presenter:

Police Chief Keegan

Meeting: Government Operations Committee

Date: September 17, 2018

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted: **Executive Summary** (if not budgeted please explain):

In an effort to be both business and customer friendly, the attached code revision recommendations to Title 5 have been suggested for consideration by the Liquor Commission. Recently, we have fielded several calls from entrepreneurs and business proprietors looking to offer these services. Both Downers Grove and Wheeling recently adopted ordinances closely resembling what we are proposing. Staff is looking for feedback on whether or not we should advance this recommendation to committee and then on to City Council.

Pursuant to this item being presented at the Government Operations Committee meeting for approval; it will be brought before the Liquor Control Commission at a meeting scheduled at 4:30 p.m., the same day, September 17, 2018, to process and move it forward to this Committee. This item will then continue on to the City Council meeting scheduled on October 1, 2018 for final approval.

Attachments (please list):

Section of Ordinance with suggested revisions.

Recommendation/Suggested Action (briefly explain):

For Discussion Only: Suggested Code Revisions to Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code.

5.08.250 – Regulations Applicable Generally

1. False Statement. - It shall be a violation of this chapter for any licensee or any officer, associate, member, representative, agent, or employee of any licensee to make a false statement of fact to the Local Liquor Control Commissioner, his agent or any police officer with respect to any application for a local liquor license or investigation of any alleged violation of this chapter or law.
2. Compliance with law - All licenses, licensees and licensed premises shall be subject to all of the provisions of the Liquor Control Act, all applicable federal and state statutes, and ordinances of the City.
3. Compliance with State Liquor Commission Rules - All licensees shall be subject to the Rules and Regulations of the Illinois Liquor Control Commission, as amended (11 Ill. Admin. Code Part 100), specifically including, but not limited to the following:
 1. No licensee, individual, partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.
 2. No licensee, individual, partnership or corporation shall advertise or promote in any way, whether on or off licensed premises, any of the practices prohibited under subsection (1) of this section. This includes, but is not limited to, advertisements using the words “free” or “complimentary” with alcoholic liquor.
 3. Subsection (1) shall not apply to wine tasting when permitted by this chapter.
4. BASSET Training - It shall be the duty of every licensee to require their officers, associates, members, representatives, agents or any employee who sells, gives, oversees (bouncers/doormen), or delivers alcoholic liquor or beverages to be trained and certified by the Beverage Alcohol Sellers and Servers Education and Training Program (BASSET) licensed and administered by the State of Illinois Liquor Control Commission (ILCC). Further, BASSET training and certification shall be a prerequisite to the issuance of local liquor licenses. It shall be the duty of the City of St. Charles Liquor Control Commissioner to notify all present licensed holders and persons making application for a liquor license of this requirement. Furthermore, BASSET verification must be made available upon request and files indicating BASSET training shall be maintained on-site of every licensee. Any not-for-profit corporation who applies for a Class E temporary license shall be exempt from the BASSET training and certification requirements under the following conditions:
 1. That the applicant has not been found in violation of any of the ordinances of the City of St. Charles within the past three years;
 2. That uniformed St. Charles police officers are present during all times that alcohol is being served. The Local Liquor Control Commissioner shall determine the required number of officers which shall be present;
 3. That at least one representative of the applicant organization is BASSET trained and certified;
 4. That the BASSET certified representative provide and instruct BASSET training principles to all persons who will be serving alcohol pursuant to the Class E license.
 5. That the Class E license holder is required to provide a bond, letter of credit or some type of surety to the City in the amount of \$1,000 prior to issuance of the license. The surety will be returned to the license holder within 30 days after the event, provided no offenses occurred during the event. In the event the license holder is charged with any type of violation during the course of the event, the surety will be retained by the City and used to cover hearing and other related costs.
(Ord. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-44 § 1; Ord. 2004-M-12 § 1; Ord. 2003-M-97 § 1; Ord. 2001- M-56 § 1; Ord. 1980-M-25 § 1(f).)
5. Warning to Underage Persons - Every licensee shall display at all times a printed sign, which shall read substantially as follows:
“WARNING TO UNDERAGE PERSONS –
You are subject to a fine of up to seven hundred fifty (\$750) dollars under the Ordinances of the City

of St. Charles if you purchase alcoholic liquor or misrepresent your age for the purposes of purchasing or obtaining alcoholic liquor.”

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 2003-M-95 § 1; Ord. 1976-M-5 (part):prior code § 24.031.)

6. Warning to Pregnant Women - Every licensee shall display at all times a printed sign, which shall be framed and hung in plain view reading as follows: “Government Warning: According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.”
7. Sanitary Conditions - All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor or such sale, shall be kept in a clean and sanitary condition, and shall be kept in full compliance with all applicable laws and ordinances regulating the condition of premises used for the storage or sale of food for human consumption.
(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.014.)
8. Athletic Amusements, Contests, Demonstrations, Entertainment, Activities, Events and Exhibitions on the Licensed Premises Prohibited – Exceptions.
 1. The following athletic amusements, contests, demonstrations, entertainment, activities, events and exhibitions are prohibited at all establishments licensed by this chapter:
 1. Races between persons, animals or vehicles.
 2. Baseball games.
 3. Boxing, kickboxing, wrestling, hand-to-hand combat and martial arts.
 4. Ultimate fighting, including, without limitation, physical combat between two (2) or more individuals who attempt to defeat the opponent by using elbow strikes, kicking, choking, bare knuckles, boxing, wrestling, martial arts techniques or any combination thereof.
 5. Any other such athletic amusement, contest, demonstration, entertainment, activity, event and/or exhibition.
 2. Notwithstanding the forgoing, the Local Liquor Control Commissioner, in his sole discretion, may approve, in writing, any athletic amusement, contest, demonstration, entertainment, activity, event and/or exhibition prohibited by this section, subject to the prior consent of the City Council pursuant to a resolution. In the event of approval, as provided herein, the licensee shall secure a permit for such athletic amusement, contest, demonstration, entertainment, activity, event and/or exhibition, as appropriate and as required by this Code.
 3. The licensee shall provide sufficient members and equipment of the police department and the fire department, including paramedic personnel, as the City Council determines necessary in its resolution consenting to such athletic amusement, contest, demonstration, entertainment, activity, event and/or exhibition. The licensee shall be responsible for all fees, payments and salaries of such members and personnel. The licensee shall be required to post a cash deposit to secure the payment of estimated fees, payments and salaries of such members and personnel. If said deposit does not cover the actual amount due, licensee is responsible for any balance due.
(Ord. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
9. Gambling on Licensed Premises Prohibited - It is unlawful to permit any gambling except, as may be authorized by the state, on any premises licensed to sell alcoholic liquor.
(Ord. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.021.)
10. Refilling Original Packages - No person licensed under this chapter shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor; and it is unlawful for any person to have in his possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor, except in original packages.

(Ord. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.022.)

11. solicitation on Licensed Premises Prohibited - It is unlawful for any licensee, his manager, or other person in charge of any licensed premises where alcoholic liquor is sold or offered for sale for consumption thereon, to engage, employ or permit the engagement or employment of any person, nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or non-alcoholic liquor for said person, or any other person therein; nor shall any person, whether employee, entertainer, or otherwise, solicit any patron or customer therein to purchase alcoholic or non-alcoholic liquor for herself or himself or any other person therein; provided, however, that nothing contained in this section shall prohibit any adult manager, bartender or waitress who shall be regularly employed therein from accepting and serving the order of a patron or customer in the regular course of employment as such manager, bartender or waitress.

(Ord. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.023.)

12. Quantity Sales for On Premises Consumption - It is unlawful for any licensee, other than a hotel offering restaurant service or regularly organized club or restaurant within the meaning of that term as defined in the Illinois act entitled "An Act Relating to Alcoholic Liquors," approved January 31, 1934, as amended, to sell, give away or permit to be sold, served or given away for consumption on the licensed premises any distilled spirits, except by the glass in individual servings not exceeding thirteen fluid ounces.

(Ord. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.024.)

13. Election Days - Licensees may sell at retail any alcoholic liquor on the day of any national, state, county or municipal election, including primary Election, including hours the polls are open. within the political area in which such election is being held.

(Ord. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.018.)

14. Happy Hour Regulations -No licensee shall violate the “happy hour” regulations set forth in 235 ILCS 5/6-28, as amended from time to time.

15. After Hour Occupancy of Establishment.

1. It is unlawful for any person to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic liquor during the hours in which sale of such alcoholic liquors is prohibited. It is unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic liquor in or upon any premises in which sale of such alcoholic liquor is prohibited. Establishments at which the primary purpose of the premises shall be for retail sales other than the sale of alcoholic liquors, such as food store, drug store mass merchandiser, clubs, hotels and motels may remain open for business during such hours, but no alcoholic liquor may be sold or consumed during such hours. The licensee and any of its employees and no other persons shall be allowed to remain on or about the licensed premises to clean up or perform maintenance on the premises.
2. All premises in which alcoholic liquors are sold at retail for consumption on the premises and which are located below ground level shall have visible access to the interior for purposes of police inspection and the after-hours safety of the occupants. Such visible access may be through an exterior door with a window measuring not less than eight inches by eight inches.
3. It is unlawful for any person to consume any alcoholic liquor on any premises licensed under the provisions of this chapter during the hours when the sale of such alcoholic liquor is prohibited by this chapter, including, but not limited to the licensee, its officers, agents and employees.

(Ord. 2015-M-14 § 1; Ord. 2010-M-29 §1; Ord. 2004-M-12 § 1 ; Ord. 2000-M-104 § 1; Ord. 1995-M-53 § 5& 6; Ord. 1995-M-22 § 1; Ord. 1988-M-73 § 1; Ord. 1988-M-72 § 1; Ord. 1987-M-34 § 2; Ord. 1986-M-32 § 1; Ord. 1985-M-32 § 2; Ord. 1984-M-69 § 1; Ord. 1984-

M-36 § 3; Ord. 1984-M-37 § 4; Ord. 1982-M-49 § 1; Ord. 1976-M-42 (part); Ord. 1976-M-14 § 2; Ord. 1976-M-5 (part): prior code § 24.033 & 24.034.)

16. Employment of Underage Persons.

1. It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under the age of twenty-one (21) years to attend bar and/or to draw, pour or mix any alcoholic liquor in any licensed premises; provided, that the provisions of this subsection shall not be construed to prevent the employment of persons who are at least eighteen (18) years of age as waiters or waitresses for the purpose of serving food and alcoholic liquor on the licensed premises.
2. It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under twenty-one (21) years of age to sell any alcoholic liquor in any licensed premises.

17. Licenses – Curb/Drive-Through Service -No license issued under this chapter authorizes the sale, gift or delivery of alcoholic liquor utilizing curb service, drive-through window without City Council approval, or any other similar methodology unless said delivery is part of a catering package and the associated liquor order is made in conjunction with said food order or the alcohol delivered was purchased at the sales location and is part of a special order/special event delivery. ~~All other such sales, gifts or deliveries are prohibited.~~

For properties where Title 17 of the Municipal Code(The Zoning Ordinance) requires the granting of a Special Use for a Drive-Through Facility, such Special Use approval must be granted prior to the establishment of any drive-through service. The ordinance approving the establishment of the Special Use must specifically identify that the Drive-Through Facility is to be utilized for the sale of alcoholic beverages. The drive-through service shall only be operated in conformance with the approved site plan and any conditions contained in the ordinance granting the Special Use."

18. Harboring Intoxicated Persons - No licensee under the provisions of this chapter, either individually or through agents or employees, shall harbor or permit any intoxicated person or persons to loiter on the premises, or to permit any conduct, which shall tend to disturb the peace and quiet of the neighborhood.

19. Prohibited Sales.

1. No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give, deliver, or allow the consumption of alcoholic liquor to any person under the age of twenty-one (21) years, or to any intoxicated person or to any person known by him or her to be under legal disability or in need of mental treatment.
2. For the purpose of preventing the violation of this section, any licensee, or his agent or employee, shall refuse to sell, deliver, serve, or allow the consumption of alcoholic liquor to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is twenty-one (21) years of age or older.
3. Adequate written evidence of age and identity of the person is a document issued by a federal, state, county, or municipal government, or a subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the Armed Forces. Proof that the licensee, or his employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this section is an affirmative defense in any proceeding to enforce this section or to any proceedings for the suspension or revocation of any local liquor license based thereon.

4. It is unlawful for any holder of a liquor license, or his or her agent or employee, to suffer or permit any person under the age of 21 years to be or remain in any room or any compartment adjoining or adjacent to or situated in the room or place where such licensed premise is located; provided, that this subsection shall not apply to any such person under the age of 21 years who is accompanied by his or her agent or guardian; or
 1. That portion of any licensed premise which derives its principal business from the sale of service or commodities other than alcoholic liquor; or
 2. Any public place that engages in the retail sale of alcoholic liquors for consumption on the premises where the sale and consumption of food predominates the sale and consumption of alcoholic liquor except as otherwise prohibited for Class B and Class C licenses, as hereinafter provided in this chapter; or
 3. A picnic, bazaar, fair, festival, wedding or similar assembly where food is dispensed and only where the dispensing of food predominates for a period from 12:00 noon to midnight and subject to the other applicable provisions as set forth in this Code; or
 4. Any licensed premise which, for a period of at least 30 minutes prior to the admission of minors and for at least 30 minutes after the departure of minors, does not dispense or sell any alcoholic liquor to any person on the premise.

20. B.Y.O.B. (Bring Your Own Bottle) Prohibited in Licensed Premises - It is unlawful for any licensee, or his or her agent or employee, to permit any person to consume any alcoholic liquor on the licensed premises that was not purchased from the licensee.

21. Prohibited Entertainment - It shall be unlawful to permit the following conduct on licensed premises:
 1. Performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or other sexual acts.
 2. The actual or simulated touching caressing or fondling of the breasts, buttocks, pubic hair, anus or genitals.
 3. The actual or simulated display of the breasts, buttocks, pubic hair, anus, vulva, or genitals.
 4. Permitting any person to remain upon licensed premises who exposes to public view any portion of his or her breasts, buttocks, pubic hair, genitals, vulva or anus.

22. Teen Club/Teen Dance Club Prohibited - It is unlawful to permit or operate a teen club/teen dance club at any time on any premises licensed to sell alcoholic liquor. For purposes of this subsection V, a teen club/teen dance club is defined as follows:

Any premises open to the public, all or any constituent part of which is restricted to the admission of, and which caters and/or is promoted to, patrons between the ages of thirteen (13) and twenty (20), inclusive, irrespective of whether admission is with or without an admission fee or charge, where patrons enjoy dancing, live and recorded music and entertainment, video or arcade games or other games or devices related to amusement or entertainment, or where videotape presentations are shown. "Teen Club/Teen Dance Club" does not include places operated by government entities, schools, religious institutions or any other non-commercial organization which might occasionally host or sponsor entertainment or activities for teenagers incidental to the organization's principle purpose.

23. Payment of Taxes, Fees, Charges and Other Monies to City when Due - It is the obligation of every licensee to pay to the City, ON OR BEFORE THE DUE DATE, each and every tax (including, but not limited to the St. Charles Alcohol Tax), fee, charge or other monetary obligation imposed by and/or owed to the City by said licensee. The failure of a licensee to make any required payment, ON OR BEFORE THE DUE DATE, shall subject the licensee to a Citation being issued to determine if the licensee shall be fined or having its license suspended or revoked.

THERE IS A ZERO TOLERANCE POLICY. THE CITATION SHALL BE PROSECUTED TO ITS CONCLUSION, REGARDLESS OF WHETHER THE PAYMENT IS SUBSEQUENTLY MADE AFTER THE DUE DATE.

24. Delivery Service - Alcoholic liquor delivered to any address located within the corporate limits of the City of St. Charles which does not hold a valid liquor license is subject to the following restrictions:
1. Alcoholic liquor must be delivered by an individual at least twenty-one (21) years of age or older.
 2. Deliveries must be made during the prescribed hours of 7:00 a.m. to 10:00 p.m.
 3. The express company, common carrier, or contract carrier or agent of a liquor license holder that carries or transports alcoholic liquor into or within the City shall not deliver or leave such deliveries without first requiring a signature of an individual twenty-one (21) years of age or older.
 4. Adequate evidence for proof of age should be produced to the delivery agent in all instances of delivery.
 5. A record shall be kept by the express company, common carrier, or contract carrier or agent of a liquor license holder who delivers alcoholic liquor into or within the City indicating the purchaser's name, address, driver's license/state identification number, time, date, place of delivery, and the individual deliverer's identity.
 6. All persons delivering alcoholic liquor within the City shall be trained and certified by the Beverage Alcohol Sellers and Servers Education and Training Program (BASSET). Furthermore, BASSET verification must be made available upon request.

Any person violating this section shall be fined not less than one hundred dollars (\$100.00) for the first offense nor more than seven hundred fifty dollars (\$750.00) for each subsequent offense.

(2015-M-48: § 1; 2015-M-38: § 1; 2015-M-14: § 1; 2012-M-30: § 9; 2010-M-29: § 1; 2004-M-12: § 1; 2003-M-97: § 1; 2001-M-56: § 1; 1980-M-25: § 1(f); 2003-M-95; 1976-M-5: (part); 2008-M-16: § 1; 2000-M-104: § 1; 1995-M-53: § 5 & 6; 1995-M-22: § 1; 1988-M-73: § 1; 1988-M-72: § 2; 1987-M-34: § 1; 1987-M-37: § 4; 1989-M-49: § 1; 1976-M-42: (part); 1976-M-14: § 2; 1976-M-14: § 2; 1976-M-5: (part); Prior code: § 24.033 & 24.034; 2015-M-46: §1)

City of St. Charles, Illinois
Ordinance No. 2018-M- _____

**An Ordinance Amending Title 5 “Business Licenses and Regulations”,
Chapter 5.08 “Alcoholic Beverages”, Section 5.08.250 “Regulations Applicable
Generally” 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 ONE: That Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code, be and is hereby amended by deleting the following verbiage from 17 “Licenses – Curb/Drive-Through Service”:

All other such sales, gifts or deliveries are prohibited.

SECTION TWO: That Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.250 “Regulations Applicable Generally” of the St. Charles Municipal Code, be and is hereby amended by adding the following:

24. Delivery Service - Alcoholic liquor delivered to any address located within the corporate limits of the City of St. Charles which does not hold a valid liquor license is subject to the following restrictions:
 1. Alcoholic liquor must be delivered by an individual at least twenty-one (21) years of age or older.
 2. Deliveries must be made during the prescribed hours of 7:00 a.m. to 10:00 p.m.
 3. The express company, common carrier, or contract carrier or agent of a liquor license holder that carries or transports alcoholic liquor into or within the City shall not deliver or leave such deliveries without first requiring a signature of an individual twenty-one (21) years of age or older.
 4. Adequate evidence for proof of age should be produced to the delivery agent in all instances of delivery.
 5. A record shall be kept by the express company, common carrier, or contract carrier or agent of a liquor license holder who delivers alcoholic liquor into or within the City indicating the purchaser's name, address, driver's license/state identification number, time, date, place of delivery, and the individual deliverer's identity.
 6. All persons delivering alcoholic liquor within the City shall be trained and certified by the Beverage Alcohol Sellers and Servers Education and Training Program (BASSET). Furthermore, BASSET verification must be made available upon request.

Any person violating this section shall be fined not less than one hundred dollars (\$100.00) for the first offense nor more than seven hundred fifty dollars (\$750.00) for each subsequent offense.

SECTION THREE: 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 a general circulation within the City of St. Charles.

SECTION FOUR: This Ordinance shall be in full force and effect ten (10) days from and after its passage by a vote of the majority of the corporate authorities now holding office, approval and publication in the manner provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2018.

PASSED by the City Council of the City of St. Charles, Illinois this ____ day of _____, 2018.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2018.

Raymond P. Rogina, Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes : _____

Nays : _____

Absent : _____