



**AGENDA ITEM EXECUTIVE SUMMARY**

**Agenda Item Number: 5b**

**Title:**

Recommendation to approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Chapter 5.20 “Massage Establishments”, of the St. Charles Municipal Code.

**Presenter:**

Police Chief Keegan

**Meeting:** Government Operations Committee

**Date:** September 21, 2020

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted:

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

City staff asked legal counsel to review all of our associated codes pertaining to alcohol, massage, tobacco and video gaming. This review was an “audit” of sorts with the assistance of Tom Bastian from Storino, Ramello and Durkin. Mr. Bastian has extensive experience in these areas of law and worked with staff to ensure each of the respective codes were in compliance with both state and local mandates.

Please see the attached document for the proposed changes to the City of St. Charles City Code.

*Pursuant to this item being presented at the Government Operations Committee Meeting on September 21, 2020 to seek approval; it will be brought before the Liquor Control Commission at a meeting scheduled for 4:30 pm, the same day, to process and move it forward to this Committee. This item will then continue on to the City Council Meeting scheduled on October 5, 2020 for final approval.*

**Attachments** *(please list):*

Changes highlighted in ordinance format

**Recommendation/Suggested Action** *(briefly explain):*

Recommendation to modify City Code with the listed revisions to Title 5 “Business Licenses and Regulations”, Chapter 5.20 “Massage Establishments”, of the St. Charles Municipal Code.

## Recommended Changes to City Massage Code August 2020

### 5.20.060 – Terms of License: License Fees: License Renewal

- A. The term of licenses issued under this chapter is for one year beginning May1, and ending on April 30.
- B. All license fees shall be paid at the time that the application is made. The license application fee and the annual license renewal fee for a massage business license shall be \$250, plus a \$50 fingerprint fee. In addition to said annual fee, the applicant shall provide evidence to the City that a qualified Massage Therapist, as defined in §5.20.010 of this chapter will be present on the premises to comply with the requirements of §5.20.030. All applicable license fees and any other required fees, including costs of fingerprinting, shall be paid prior to the issuance of any license.
- C. A license may be revoked for failure to pay the license fees and for those grounds stated in 5.20.180. Such revocation may be in addition to any fine imposed.
- ~~G.D.~~ No license shall be issued or renewed if the license, its officers, directors, or shareholders are in arrears of any debt owed to the City.

### 5.20.150 – Massage Business Commissioner; Massage Business Commission; Suspension, Revocation of License; Fines, Costs

- A. The Local Liquor Control Commissioner shall serve as the massage commissioner and shall be charged with the administration of this article and of such other ordinances relating to massage sales and licensing as may be from time to time enacted by the city council. A massage commission is created, which shall be composed of the same five members of the city's local liquor commission. Accordingly, the terms and provisions of Sections 5.08.020, 5.08.030 and 5.08.035 of this Code are incorporated into this article as though fully set forth in this article, as being specifically applicable to the creation, enforcement, and administration of this article.
- B. The massage commissioner, after a hearing conducted by the massage commission, may suspend or revoke any license issued under the provisions of this article if ~~he~~ they determines that the licensee has violated any of the provisions of this article. In lieu of suspension or revocation of the license, the massage commissioner may instead levy a fine on the licensee. The fine imposed shall not exceed \$500.00 for each violation. Each day on which a violation continues shall constitute a separate violation.
- C. No license issued under this article shall be suspended or revoked and no licensee shall be fined except after a public hearing by the massage commission ~~with a seven-day written notice to the licensee~~ affording the licensee an opportunity to appear and defend against the charges ~~contained in such notice. The seven-day notice provision shall begin the day following delivery by certified mail or by personal service.~~
- D. If the Massage Commission determines after such hearing that the license under this Article should be revoked or suspended or that the licensee shall be fined, the Massage

Commission shall recommend to the Massage Commissioner either the amount of the fine, the period of suspension or that the license be revoked. ~~The massage commissioner shall review the findings of the massage commission and serve the licensee with his findings and order within 14 days of the massage commission's hearing.~~

- E. Any licensee determined by the massage commissioner to have violated any of the provisions of this article shall pay to the city the costs of the hearing before the massage commission on such violation. The massage commissioner shall determine the costs incurred by the city for such hearing, including but not limited to, attorneys' fees, court reporter's fees, fees incurred by the City, Chief of Police and the local Liquor Control Commissioner, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses incurred by the City or such lesser sum as to the massage commissioner may allow.

The licensee shall pay such costs to the City within 30 days of notification of the costs by the massage commissioner. Failure to pay such costs within 30 days of notification is a violation of this article and may be cause for license suspension or revocation, or the levy of a fine.

- F. ~~The terms and provisions of the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.) shall apply to all orders of the City which revoke or suspend any massage dealer's license and/or impose a monetary fine or other penalty, as provided for in this article. All decisions of the massage commissioner are appealable in the manner provided by law.~~

### **5.20.190 – Penalty for Violation**

Any person, corporation, firm or partnership found ~~guilty of in~~ violation, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than \$500.00, nor more than \$1,500.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any other penalty, a license holder violating any provision of this article may be subject to having their license revoked, suspended or not renewed.

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**City of St. Charles, Illinois**  
**Ordinance No. 2020-M-\_\_\_\_\_**

**An Ordinance Amending Title 5 “Business Licenses and Regulations”;  
Chapter 5.20 “Massage Establishments”; Sections 5.20.060 “Terms of  
License: License Fees: License Renewal”, 5.20.150 “Massage Business  
Commissioner; Massage Business Commission; Supervision, Revocation of  
License; Fines, Costs”, and 5.20.190 “Penalty of Violation”, 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 5.20 “Massage Establishments,” Section 5.20.050 “Terms of License: License Fees: License Renewal” of the St. Charles Municipal Code, be and is hereby amended by adding the following:

- D. No license shall be issued or renewed if the license, its officers, directors, or shareholders are in arrears of any debt owed to the City

SECTION TWO: That Title 5 “Business Licenses and Regulations,” Chapter 5.20 “Massage Establishments,” Section 5.20.150 “Massage Business Commissioner; Massage Business Commission; Suspension, Revocation of License; Fines, Costs” of the St. Charles Municipal Code, be and is hereby amended by replacing it with the following:

- A. The Local Liquor Control Commissioner shall serve as the massage commissioner and shall be charged with the administration of this article and of such other ordinances relating to massage sales and licensing as may be from time to time enacted by the city council. A massage commission is created, which shall be composed of the same five members of the city’s local liquor commission. Accordingly, the terms and provisions of Sections 5.08.020, 5.08.030 and 5.08.035 of this Code are incorporated into this article as though fully set forth in this article, as being specifically applicable to the creation, enforcement, and administration of this article.
- B. The massage commissioner, after a hearing conducted by the massage commission, may suspend or revoke any license issued under the provisions of this article if they determine that the licensee has violated any of the provisions of this article. In lieu of suspension or revocation of the license, the massage commissioner may instead levy a fine on the licensee. The fine imposed shall not exceed \$500.00 for each violation. Each day on which a violation continues shall constitute a separate violation.
- C. No license issued under this article shall be suspended or revoked and no licensee shall be fined except after a public hearing by the massage commission affording the licensee an opportunity to appear and defend against the charges
- D. If the Massage Commission determines after such hearing that the license under this Article should be revoked or suspended or that the licensee shall be fined, the Massage Commission shall recommend to the Massage Commissioner either the amount of the fine, the period of suspension or that the license be revoked.
- E. Any licensee determined by the massage commissioner to have violated any of the provisions of this article shall pay to the city the costs of the hearing before the massage commission on such

violation. The massage commissioner shall determine the costs incurred by the city for such hearing, including but not limited to, attorneys’ fees, court reporter’s fees, fees incurred by the City, Chief of Police and the local Liquor Control Commissioner, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses incurred by the City or such lesser sum as to the massage commissioner may allow.

The licensee shall pay such costs to the City within thirty (30) days of notification of the costs by the massage commissioner. Failure to pay such costs within thirty (30) days of notification is a violation of this article and may be cause for license suspension or revocation, or the levy of a fine.

F. All decisions of the massage commissioner are appealable in the manner provided by law.

SECTION THREE: That Title 5 “Business Licenses and Regulations,” Chapter 5.20 “Massage Establishments,” Section 5.20.190 “Penalty for Violation” of the St. Charles Municipal Code, be and is hereby amended by replacing it with the following:

Any person, corporation, firm or partnership found in violation, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than \$500.00, nor more than \$1,500.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any other penalty, a license holder violating any provision of this article may be subject to having their license revoked, suspended or not renewed.

SECTION FOUR: 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 FIVE: 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 \_\_\_\_\_, 2020.

PASSED by the City Council of the City of St. Charles, Illinois this \_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED by the Mayor of the City of St. Charles, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Raymond P. Rogina, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

COUNCIL VOTE:

Ayes : \_\_\_\_\_

Nays : \_\_\_\_\_

Absent : \_\_\_\_\_