

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: 5d

Title:

Recommendation to approve an Ordinance Amending Title 5, Entitled “Business Licenses and Regulations” Chapter 5.08, “Alcoholic Beverages”, 5.08.230, “Licensed Premises – Location Restrictions” of the St. Charles Municipal Code

Presenter:

Chief Keegan, Police Department

Meeting: Government Operations Committee

Date: August 21, 2017

Proposed Cost: \$ 0

Budgeted Amount: N/A

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

We have had trouble at times interpreting the “100 Foot Rule” as it pertains to our downtown business district. Our current ordinance states:

**5.08.230 – Licensed Premises - Location Restrictions (Existing Language)**

*No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted currently holds a local liquor license issued by the City; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where such church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or education programs and not to property boundaries. Nothing in this section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.*

Pursuant to a change in the state law (235 ILCS 5/6-11) that was passed on February 24<sup>th</sup>, 2017, I would recommend in favor of following and stipulating to the provisions of the Illinois Liquor Control Act. This would allow for both a clear and consistent basis for establishments looking to occupy retail space that might otherwise been left to interpretation. Please see the Attachment 1.

I recommend the following ordinance language in lieu of our existing stipulations under:

**5.08.230 – Licensed Premises – Location Restrictions (Proposed Language)**

**The provisions of The Illinois Liquor Control Act (235 ILCS 5/6-11) are expressly adopted in its entirety by this reference and incorporated herein as though a part of this Act.**

Pursuant to posting this item on the Government Operations Committee agenda, the Liquor Commission meeting is scheduled at 4:30 p.m., August 21 (same day) to process and move it forward before this committee. Final approval will be sought at the September 5, 2017 City Council meeting.

**Attachments (please list):**

Ordinance with amendments

Memo

235 ILCS 5/6-11

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

Recommendation to approve an Ordinance Amending Title 5, Entitled “Business Licenses and Regulations” Chapter 5.08, “Alcoholic Beverages”, 5.08.230, “Licensed Premises – Location Restrictions” of the St. Charles Municipal Code



# Memo

Date: August 11, 2017  
To: Mark Koenen, City Administrator  
From: James Keegan, Chief of Police  
CC: Raymond Rogina, Mayor/Liquor Commissioner  
Re: Ordinance Modification - 5.08.230, "Licensed Premises – Location Restrictions"  
(Liquor Code)

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## Introduction

The purpose of this memorandum is to explain in greater detail the proposed liquor code modification of the following:

### 5.08.230 – Licensed Premises - Location Restrictions (Existing Language)

We have had trouble at times interpreting the "100 Foot Rule" as it pertains to our downtown business district. Our current ordinance states:

*No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted currently holds a local liquor license issued by the City; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where such church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or education programs and not to property boundaries. Nothing in this section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.*

Pursuant to a change in the state law (235 ILCS 5/6-11) that was passed on February 24<sup>th</sup>, 2017, I would recommend in favor of following and stipulating to the provisions of the Illinois Liquor Control Act. This would allow for both a clear and consistent basis for establishments looking to occupy retail space that might otherwise been left to interpretation. Please see the Attachment 1.

I recommend the following ordinance language in lieu of our existing stipulations under:

5.08.230 – Licensed Premises – Location Restrictions (Proposed Language)

**The provisions of The Illinois Liquor Control Act (235 ILCS 5/6-11) are expressly adopted in its entirety by this reference and incorporated herein as though a part of this Act.**

I recommend in favor of the aforementioned ordinance modification, subject to City Council approval. Thank you in advance for your cooperation in this matter.

5/6-11. Sale near churches, schools, and hospitals, IL ST CH 235 § 5/6-11

KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 235. Liquor

Act 5. Liquor Control Act of 1934 (Refs & Annos)

Article VI. General Provisions

235 ILCS 5/6-11

5/6-11. Sale near churches, schools, and hospitals

Effective: February 24, 2017

Currentness

§ 6-11. Sale near churches, schools, and hospitals.

(a) No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on if the place of business so exempted is not located in a municipality of more than 500,000 persons, unless required by local ordinance; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where the church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

(b) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor to a restaurant, the primary business of which is the sale of goods baked on the premises if (i) the restaurant is newly constructed and located on a lot of not less than 10,000 square feet, (ii) the restaurant costs at least \$1,000,000 to construct, (iii) the licensee is the titleholder to the premises and resides on the premises, and (iv) the construction of the restaurant is completed within 18 months of July 10, 1998 (the effective date of Public Act 90-617).

(c) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor incidental to a restaurant if (1) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food and the applicant is a completely new owner of the restaurant, (2) the immediately prior owner or operator of the premises where the restaurant is located operated the premises as a restaurant and held a valid retail license authorizing the sale of alcoholic liquor at the restaurant for at least part of the 24 months before the change of ownership, and (3) the restaurant is located 75 or more feet from a school.

(d) In the interest of further developing Illinois' economy in the area of commerce, tourism, convention, and banquet business, nothing in this Section shall prohibit issuance of a retail license authorizing the sale of alcoholic beverages to a

**City of St. Charles**  
**Ordinance No. 2017-M-\_\_\_\_\_**

**Ordinance Amending Title 5, Entitled “Business Licenses and Regulations”  
Chapter 5.08, “Alcoholic Beverages”, 5.08.230, “Licensed Premises – Location  
Restrictions” 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”, 5.08.230, “Licensed Premises – Location Restrictions” of the St. Charles  
Municipal Code, be amended as follows:

5.08.230 – Licensed Premises – Location Restrictions (Proposed Language)

**The provisions of The Illinois Liquor Control Act (235 ILCS 5/6-11) are expressly adopted  
in its entirety by this reference and incorporated herein as though a part of this Act.**

**SECTION TWO:** That after the adoption and approval hereof, this Ordinance shall (i)  
be printed or published in book or pamphlet form pursuant to the authority of the City Council,  
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 THREE:** 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  
\_\_\_\_\_, 2017.

PASSED by the City Council of the City of St. Charles, Illinois this \_\_\_\_ day of  
\_\_\_\_\_, 2017.

APPROVED by the Mayor of the City of St. Charles, Illinois, this \_\_\_\_ day of  
\_\_\_\_\_, 2017.

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

ATTEST:

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

COUNCIL VOTE:

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

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DATE: \_\_\_\_\_