



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item Number: 7b

Title: Discussion to consider the possibility of a change to the City of St. Charles Municipal Code that would allow Council Members to hold a Liquor License.

Presenter: City Administrator, Mark Koenen, Police Chief Keegan

Meeting: Government Operations Committee

Date: August 17, 2020

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted:

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

This discussion is to determine if the City Council would like to revise the City of St. Charles Municipal Code, Title 5, “Business Licenses and Regulations”, Section 5.08.080 “License – Restriction on Issuance” prohibiting public officials (including local liquor control commission members, mayor and city council members) from obtaining or holding a liquor license in the City of St. Charles. Current State Law (Liquor Control Act) allows an alderman or mayor to obtain a liquor license for a location in the City with restrictions 1) the sale of the alcoholic liquor pursuant to the license is incidental to the selling of food and 2) the official granted a license does not vote on alcoholic liquor issues pending before the committee or council to which the license holder is elected.

Attachments *(please list):*

- State Statute - Mayor and Council Members Holding Liquor Licenses (highlighted section)
- Survey of Local Communities
- Current City Code, Section 5.08.080 – License – Restriction on Issuance, Letter “O”

Recommendation/Suggested Action *(briefly explain):*

Staff is looking for guidance from the Committee Members regarding this discussion item.

State Statute- Mayor and Council Members Holding Liquor Licenses

(235 ILCS 5/6-2) (from Ch. 43, par. 120) Sec. 6-2. Issuance of licenses to certain persons prohibited. (a) Except as otherwise provided in subsection (b) of this Section and in paragraph (1) of subsection (a) of Section 3-12, no license of any kind issued by the State Commission or any local commission shall be issued to:

(14) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, any president of the village board of trustees, any member of village board of trustees, or any president or member of county board; and no such official shall have a direct interest in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and except that a license may be granted, in a city or village with a population of 55,000 50,000 or less, to any alderman, member of a city council, or member of a village board of trustees in relation to premises that are located within the territory subject to the jurisdiction of that official if:

(i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food,

(ii) the issuance of the license is approved by the State Commission,

(iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premise are located, and

(iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected.

Notwithstanding any provision of this paragraph (14) to the contrary, an alderman or member of a city council or commission, a member of a village board of trustees other than the president of the village board of trustees, or a member of a county board other than the president of a county board may have a direct

interest in the manufacture, sale, or distribution of alcoholic liquor as long as he or she is not a law enforcing public official, a mayor, a village board president, or president of a county board. To prevent any conflict of interest, the elected official with the direct interest in the manufacture, sale, or distribution of alcoholic liquor shall **not participate** in any meetings, hearings, or decisions on matters impacting the manufacture, sale, or distribution of alcoholic liquor.

Furthermore, the mayor of a city with a population of 55,000 50,000 or less or the president of a village with a population of 55,000 50,000 or less may have an interest in the manufacture, sale, or distribution of alcoholic liquor as long as the council or board over which he or she presides has made a local liquor control commissioner appointment that complies with the requirements of Section 4-2 of this Act.

Local Communities Survey- Mayor and Council Members Holding Liquor Licenses.

Geneva:

4-2-10: - RESTRICTIONS ON ISSUANCE:

Any law enforcing public official, including members of the local liquor control commission, the mayor or any member of the city council, interested directly or indirectly in the manufacture, sale or distribution of alcoholic liquor whether as an individual or under a corporate entity in such liquor related business, except:

1. A license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the state liquor control commission;
2. A license may be granted to any member of the city council in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the state commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected;

Naperville:

3-3-7: - ELIGIBILITY OF LIQUOR LICENSES:

No retail liquor license shall be issued or renewed to any person, corporation, or partnership who would not be eligible for a license under the provisions of the Illinois Liquor Control Act or in the local Liquor Commissioner's discretion to ensure the purpose of this code. For purposes of this Chapter, every licensee shall be deemed responsible for the acts and/or omission to act by his agents or employees whether or not such licensee knowingly permits or has actual knowledge of such unlawful acts or omissions.

(Ord. No. 16-140, § 1, 9-6-2016)

Wheaton:

Sec. 6-84. - Persons ineligible.

Any law enforcing public official of this city, including members of the city's local liquor commission, the mayor, or member of the city council; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor.

West Chicago:

Sec. 3-9. – Persons ineligible to be licensed

Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, any president of the village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises which are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the state liquor control commission.

Lisle:

3-2-10: PERSONS INELIGIBLE TO LICENSE:

Any law enforcing public official, any mayor of the village, any member of the village board of trustees, or any president or member of the county board; and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.

(Ord. 541, 11-19-1974)

Elburn:

804.03 LICENSE REQUIREMENTS

https://codelibrary.amlegal.com/codes/elburn/latest/elburn_il/0-0-0-3112

804.03 (b)(9) A statement that the applicant nor any of its members, officers or directors are not law enforcement officials, the Village President or a Village Trustee of the Village, and that no such official has any direct interest regarding the applicant's proposed business;

804.03 (c)(14) No such license shall be issued to: Any Village law enforcement official, the Village President or a Village Trustee;

Hampshire:

The Village of Hampshire prohibits liquor licenses for all "law enforcing public officials," including mayors, trustees, liquor control commissioners, etc. from any community including the county board. There is an exception is the business is not within the official's jurisdiction, and their license is approved by the state.

3-1-5: Restrictions on Licenses (item O)

https://codelibrary.amlegal.com/codes/hampshireil/latest/hampshire_il/0-0-0-2472

Batavia:

3-3-11: RESTRICTIONS ON ISSUANCE/RENEWAL:

Any law enforcing public official, including Members of local Liquor Control Commissions, any Mayor, Alderman, or Member of the City Council or Commission; and no such official shall have a direct interest in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of the City if the issuance of such license is approved by the State Liquor Control Commission and except that a license may be granted to any Alderman, Member of a City Council in relation to premises that are located within the City if:

1. The sale of alcoholic liquor pursuant to the license is incidental to the selling of food;
2. The issuance of the license is approved by the City Council;
3. The issuance of the license is in accordance with all applicable City ordinances; and
4. The official granted a license does not vote on alcoholic liquor issues pending before the City Council.

Notwithstanding any provision of this Section to the contrary, an Alderman or member of a City Council or Commission may have a direct interest in the manufacture, sale, or distribution of alcoholic liquor as long as he or she is not a law enforcing public official. To prevent any conflict of interest, the elected official with the direct interest in the manufacture, sale, or distribution of alcoholic liquor shall not participate in any meetings, hearings, or decisions on matters impacting the manufacture, sale, or distribution of alcoholic liquor. Further, the Mayor may have an interest in the manufacture, sale, or distribution of alcoholic liquor only if the City Council has made an alternative Local Liquor Control Commissioner appointment that complies with the requirements of Section 4-2 of the Act

5.08.080 – License – Restriction on Issuance

No such license shall be issued to:

- A. An elected public official, law enforcing officer, the Mayor or member of the City Council of the City, or employee, or member of any City board or commission, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.