ST. CHARLES
SINCE 1834

# AGENDA ITEM EXECUTIVE SUMMARY

| | |
|---|---|
| Title: | Recommendation to approve ordinance modifying various provisions of Section 5.08 of the City of St. Charles Municipal Code – Alcoholic Beverages |
| Presenter: | Brian Townsend |

*Please check appropriate box:*

| | | | |
|---|---|---|---|
| | Government Operations | | Government Services |
| | Planning & Development | X | City Council (5/7/12) |
| | Public Hearing | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| Estimated Cost: | | Budgeted: | YES | | NO | |

If NO, please explain how item will be funded:

**Executive Summary:**

On February 6th, the Government Operations Committee unanimously endorsed several changes to Section 5.08 of the City Code (Alcoholic Beverages). The most significant change proposed was to modify the license classes to better define the various types of establishments that serve alcohol beverages – (1) Restaurant, (2) Restaurant/Tavern, and (3) Tavern/Bar. In addition, the hours of operation were modified, depending on the type of establishment. A holder of a Restaurant class-license will be required to terminate liquor service at 11:59 pm. A holder of a Restaurant/Tavern class-license or a Tavern/Bar class-license will be required to terminate liquor service at 1:59 am.

As a result of feedback from some license holders, a change to the proposal is being submitted to maintain the provision of the current ordinance to allow Restaurant/Tavern class licenseholders to provide a limited food menu after 11 pm. This will address concerns about incurring the costs associated with offering the full menu for all hours of operation. This is what is permitted under the ordinance today.

In addition, the A-3 license classification for package sales is being proposed for elimination. There is only 1 such license holder now (Blue Goose Market) and that establishment would like to convert to an A-2 license, which will permit the sale of all types of alcoholic beverages, rather than being limited to the sale of "domestic and imported wines, champagne, imported alcoholic liquor and gourmet beer in original packages only and not for consumption on the premises."

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

List summarizing proposed changes.
Revised ordinance amending Section 5.08 of City Code.

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

Recommend that the City Council approve an Ordinance Amending Title 5, Chapter 5.08, of the St. Charles Municipal Code.

| | |
|---|---|
| *For office use only:* | *Agenda Item Number:* TN |

Proposed changes to Section 5.08 of City Code:

1. Create new license (similar to A-1 class) that authorizes 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 alcoholic liquor, 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 alcoholic liquor is ten percent (10%) or less, of the gross square footage. Fee to remain the same as A-1 class.

2. Prohibit the operation of any "teen club" or "teen dance club" in any liquor license establishment.

3. Modify Class E-1 license to allow private, for-profit establishments to apply/hold license.

4. Modify Class E-2 license language to indicate that "There shall be no Class E-2 licenses issued beginning at 12:00 a.m. Friday before Columbus Day and ending 12:00 a.m. Monday on Columbus Day."

5. Eliminate the Class A-3 license class that authorizes 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.

6. For "Restaurant" licensed under B-1, B-4, and B-5 classes, establishment must terminate alcohol service no later than 11:59 pm. Also, require that establishment operate the full kitchen and provide the full menu of items to patrons for hours that alcohol is served.

7. For "Restaurant and Tavern" licensed under B-2, B-3, and B-6, alcohol may be served until 2 am. Establishment must operate the kitchen and provide the full menu of items to patrons until 11 pm. After 11 pm, a limited menu may be offered.

8. For all Class B licensed establishments, a "Holding Bar" is permitted, provided that it shall not exceed 20% of the total number of seats in the establishment.

9. For all Class C licensed establishments, food/menu items shall be available at all times liquor sales are being conducted. In the event a full menu is not provided, a reduced menu, which includes only appetizers, sandwiches, snacks, hors d'oeuvres or other similar foods, shall be available.

10. Add ability for Liquor Commissioner to impose fee, in addition to penalties, for failure to provide evidence of current dram shop insurance coverage in accordance with 5.08.060.

11. Eliminate additional hour of service on New Year's Eve that allows establishments to stay open until 3 am.

12. Change fee structure as follows:

| Class | Current Fee | New Fee |
|---|---|---|
| B-1 | $2,400/$1,200 | SAME |
| B-2 | $3,200/$1,600 | SAME |
| B-3 | $5,200/$2,600 | SAME |
| B-4 | $2,400/$1,200 | SAME |
| B-5 | $2,400/$1,200 | SAME |
| B-6 | $3,400/$1,800 | $3,600/$1,800 |
| C-1 | $3,200/$1,600 | $4,000/$2,000 |
| C-2 | $5,200/$2,600 | $6,000/$3,000 |
| C-3 | $3,200/$1,600 | $4,000/$2,000 |
| C-4 | $3,400/$1,800 | $4,400/$2,200 |

# City of St. Charles, Illinois
# Ordinance No. 2012-M-_

## An Ordinance Amending Title 5 "Business Licenses and Regulations," Chapter 5.08 "Alcoholic Beverages, of the St. Charles Municipal Code – Various Provisions

**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 5.08.010, "Definitions", of the St. Charles Municipal Code, be and the same is hereby amended by amending the definition for the term "Restaurant", to read as follows:

..." K. "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. The intent of this definition is that the primary business conducted on premises to be licensed as a restaurant shall be the service of meals. No restaurant licensed as such shall sell alcoholic liquor unless its full kitchen, kitchen staff and serving staff are in operation providing the restaurant's full menu to its guests. Alcoholic liquor may be served from a service bar or in a holding bar."...

**SECTION TWO:** That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.010, "Definitions", of the St. Charles Municipal Code, be and the same is hereby amended by deleting the definition for the term "Tavern, Bar or Saloon" in its entirety, and in lieu thereof the new definition shall be inserted:

... "Q. "Tavern," "Bar" or "Saloon" means any place that engages in the retail sale of alcoholic liquor for consumption on the premises. No tavern, bar or saloon shall sell alcoholic liquor unless food/menu items are offered to its guests. In the event a full menu is not provided a reduced menu, which includes appetizers, sandwiches, snacks, hors d'oeuvrs or other similar foods, shall be available."...

**SECTION THREE:** That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.060, "License – Dram Shop Insurance Required Prior to Issuance", of the St. Charles Municipal Code, be and the same is hereby amended by adding thereto the following additional language:

... "Every licensee shall be required to provide the Local Liquor Commissioner with a copy of each renewal/new policy of dram shop insurance when directed to do so and in accordance with written notice from the Local Liquor Control Commissioner's office.

Any licensee failing to file a copy of the renewal/new policy of dram shop insurance pursuant to such written notice, or prior to the deadline set forth in said written notice, shall pay a late filing fee in the amount of $50.00. Further, said licensee shall be subject to a fine, license suspension or license revocation as provided by this Chapter 5.08."

**SECTION FOUR:** That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.090(A), "License – Classifications; Class A – Packaged Alcoholic Liquor Licenses", of the St. Charles Municipal Code, be and the same is hereby amended by adding thereto a new Class A-2B license as follows:

... "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."...

**SECTION FIVE**: That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.090(A), "License – Classifications; Class A-Packaged Alcoholic Liquor Licenses", of the St. Charles Municipal Code, be and the same is hereby amended by deleting the Class A-3 license in its entirety.

**SECTION SIX:** That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.090(E), "License – Classifications; Class E – Temporary Licenses", of the St. Charles Municipal Code, be and the same is hereby deleted in its entirety, and in lieu thereof the following language shall be substituted:

**"E. Class E – Temporary Licenses**

Class E licenses shall authorize the retail sale of beer and wine (or alcoholic liquors if permitted by a Class E-1, E-4 or E-5 license) for consumption on the premises only and only for special events or catered functions where the dispensing of food predominates. In his discretion, the Local Liquor Control Commissioner may issue two (2) or more Class E licenses so as to authorize and delineate two (2) or more licensed premises to operate in conjunction with any such special event or catered function. Class E licenses are divided into the following sub-classes:

E-1. Class E-1 licenses shall authorize, at the Local Liquor Control Commissioner's sole discretion, either the retail sale of beer and wine or the retail sale of alcoholic liquors for consumption on the premises only. Class E-1 shall be issued for special events or catered functions, where the dispensing of food predominates. Applicants for Class E-1 licenses shall be limited to St. Charles organizations or groups, unless the Local Liquor Control Commissioner in his sole discretion approves otherwise. There shall be no Class E-1 licenses issued beginning at 12:00a.m. Friday before Columbus Day and ending 12:00a.m. Monday, on Columbus Day.

E-2. Class E-2 licenses shall authorize the retail sale of beer and wine for consumption on the premises only. Class E-2 licenses shall be issued to only Class B and Class C liquor licensees for special events or catered functions where the dispensing of food predominates. There shall be no Class E-2 licenses issued beginning at 12:00a.m. Friday before Columbus Day and ending 12:00a.m. Monday, on Columbus Day. Notwithstanding the restrictions on the issuance of Class E-2 licenses in the preceding sentence, Class E-2 licenses may be issued during said period subject to the following provisions:

1. A Class E-2 license may be issued only in the event the principal street access in front of the licensed premises is blocked due to road closure resulting from a festival taking place during said October period;
2. In addition to all other conditions and restrictions applicable to Class E-2 licenses, the Local Liquor Control Commissioner may impose such additional conditions and/or restrictions as he deems necessary; and
3. The Local Liquor Control Commissioner may, in his sole discretions waive or vary any conditions and/or restriction applicable to a Class E-2 license, if deemed appropriate under the circumstances.

E-3. The Class E-3 license shall authorize the retail sale of beer and wine for consumption on the premises only. The Class E-3 license shall be issued solely to the Kane County Fair Board for the conduct of the annual Kane County Fair during July of each year. The Class E-3 license shall be valid only for the scheduled dates of the Kane County Fair as determined by the Local Liquor Control Commissioner.

E-4. Class E-4 licenses shall authorize at the Local Liquor Control Commissioner's discretion, and subject to prior approval by the City Council, either the sale or delivery of beer and wine, or alcoholic liquors, for consumption on City owned property, including but not by way of limitation, 1st Street Plaza. There shall be no Class E-4 licenses issued during the second full week of October, beginning 12:00 a.m. Friday and ending 12:00 a.m. Monday.

E-5. Class E-5 licenses shall authorize, at the Local Liquor Control Commissioner's sole discretion, either the sale or delivery of beer and wine or alcoholic liquors, for consumption on the premises only. The Class E-5 license shall be issued solely for the conduct of not more than twenty (20) days of events that the Local Liquor Control Commissioner and Chief of Police deem licensable per license year at a specific premises. Such license shall be issued solely for a specific premises that is open to the public and

kept, used, maintained, advertised and held out to the public as a place where retail business activities or operations are conducted, other than the sale of alcoholic liquor. Events shall be permitted solely on such dates and during such times as are set forth in any Class E-5 license issued.

In the event any Class E license (with respect to any Class E-5 license, if required in whole or in part by the Local Liquor Control Commissioner or Chief of Police) is for an out of doors special event or catered function, the following shall apply, in addition to all other requirements:

1. The license shall rope off or fence the licensed premises.
2. A sign limiting beer and wine (or alcoholic liquors if permitted by a Class E-1 or Class E-4 license) consumption to the roped off or fenced are shall be prominently displayed by licensee at all times.
3. The license shall provide for the pickup of all litter and trash.
4. The Local Liquor Control Commissioner, in consultation with the Chief of Police, shall designate on each license issued the number of St. Charles police personnel and/or adult members of the licensee required to be present on the licensed premises at all times beer and wine (or alcoholic liquors if permitted by Class E-1 license) is being served, to supervise liquor sales and check identification of persons. The licensee shall be responsible for any and all compensation of police personnel at the then current overtime rate. The licensee shall be required to post a cash deposit to secure the payment of such estimated compensation. If said deposit does not cover actual amount due, licensee is responsible for any balance due.
5. A tamper proof wrist band, of a design and in a color (a separate color must be used for each day) approved by the Chief of Police, or his designee, shall be placed on the wrist of each person eligible to purchase beer or wine (or alcoholic liquors if permitted by a Class E-1 license) prior to that person being given access to the licensed premises. Minors shall not be permitted in any licensed premises. Notwithstanding the foregoing, the Local Liquor Control Commissioner may, in his sole discretion and as designated in any license, permit minors to be present in a licensed premises where food is also served.

The Local Liquor Control Commissioner may, in his sole discretion and as designated in any license, impose such other and further conditions, as the Local Liquor Control Commissioner deems necessary. The Local Liquor Control Commissioner may permit entertainment as specifically authorized with the issuance of any Class E license."

**SECTION SEVEN:** That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.100(A), "License Fees; Fees Established", of the St. Charles Municipal Code, be and the same is hereby deleted in its entirety, and in lieu thereof the following language shall be substituted:

**"A.** Fees Established. The fees for the various classes of local liquor licenses authorized in this chapter shall be as follows:

| Class License | Initial License Fee | Annual Renewal Fee |
|---|---|---|
| A-1 | $3,200.00 | $1,600.00 |
| A-2 | 3,200.00 | 1,600.00 |
| A-2B | 3,200.00 | 1,600.00 |
| A-4 | 3,200.00 | 1,600.00 |
| A-5 | 3,400.00 | 1,800.00 |
| B-1 | 2,400.00 | 1,200.00 |
| B-2 | 3,200.00 | 1,600.00 |
| B-3 | 5,200.00 | 2,600.00 (live entertainment may be permitted) |
| B-4 | 2,400.00 | 1,200.00 |
| B-5 | 2,400.00 | 1,200.00 |
| B-6 | 3,600.00 | 1,800.00 |
| C-1 | 4,000.00 | 2,000.00 |
| C-2 | 6,000.00 | 3,000.00 (live entertainment may be permitted) |
| C-3 | 4,000.00 | 2,000.00 |
| C-4 | 4,400.00 | 2,200.00 |
| D-1 | 8,000.00 | 4,000.00 |
| D-2 | 4,000.00 | 2,000.00 |
| D-3 | 4,000.00 | 2,000.00 |
| D-4 | 2,000.00 | 1,000.00 |
| D-5 | 4,000.00 | 2,000.00 |
| D-6 | 4,000.00 | 2,000.00 |
| E-1 | 50.00 | 50.00 |
| E-2 | 100.00 | 100.00 |
| E-3 | 50.00 | 50.00 |
| E-4 | 100.00 | 100.00 |
| E-5 | 500.00 | 500.00 |

**SECTION EIGHT:** That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.130, "License – Hours of Sale", of the St. Charles Municipal Code, be and the same is hereby deleted in its entirety and in lieu thereof the following language shall be substituted:

**"5.08.130 License – Hours of Sale.**

A. It shall be unlawful for any person holding a Class A-1, A-2, A-2B, A-4 or A-5 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises any alcoholic liquor prior to the hour of 7:00 a.m. and after the hour of 10:00 p.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday; and prior to the hour of 10:00 a.m. and after the hour of 10:00 p.m. on Sunday except where December 24 or December 31

occurs on a Sunday, then alcoholic liquor sales shall be unlawful prior to the hour of 8:00 a.m. and after the hour of 10:00 p.m.

B. It shall be unlawful for any person holding a Class B-1, B-4 and B-5 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 12:00 midnight and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday; and between the hours of 12:00 midnight and 10:00 a.m. on Sunday.

C. It shall be unlawful for any person holding a Class B-2, B-3, 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 between the hours of 2:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday; and between the hours of 2:00 a.m. and 10:00 a.m. on Sunday.

D. It shall be unlawful for any person holding a Class D-1 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; between the hours of 3:00 a.m. and 7:00 a.m. on Saturday; and between the hours of 3:00 a.m. and 10:00 a.m. on Sunday.

E. It shall be unlawful for any person holding a Class D-2, D-4, D-5 or D-6 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2:00 a.m. and 10:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday.

F. It shall be unlawful for any person holding a Class D-3 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday; and between the hours of 2:00 a.m. and 10:00 a.m. on Sunday.

G. It shall be unlawful for any person holding a Class E-1 or E-3 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 11:00 p.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday, except as otherwise authorized by the City Council.

H. It shall be unlawful for any person holding a Class E-2 license or E-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 between the hours of 12:00 midnight and 10:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday.

I. It shall be unlawful for any person holding a Class E-5 license issued pursuant to this chapter to sell or deliver, in or upon any licensed premises, any alcoholic liquor, except during those hours as specifically set forth in said Class E-5 license."

**SECTION NINE:** 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 the same is hereby amended by adding thereto new Sections 5.08.250(V) and 5.08.250(W) as follows:

"V. 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 teen-agers incidental to the organization's principle purpose.

W. 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."**

**SECTION TEN:** That Title 5, "Business Licenses and Regulations", Chapter 5.08, "Alcoholic Beverages", Section 5.08.260, "Regulations Applicable to Certain Licenses Only", of the St. Charles Municipal Code, be and the same is hereby amended by adding thereto a new Section 5.08.260(F) as follows:

"F. Class B Licenses – Holding Bar.

Class B licensed premises are permitted to have a holding bar on said premises, provided that said holding bar shall not contain seating in excess of 20% of the total number of seats approved for said premises."

**SECTION ELEVEN:** 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 TWELVE:** 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 _____, 2012.

**PASSED** by the City Council of the City of St. Charles, Illinois this ____ day of _____, 2012.

**APPROVED** by the Mayor of the City of St. Charles, Illinois, this _____ day of _____, 2012.

_____
Donald P. DeWitte, Mayor

**ATTEST:**

_____
Nancy Garrison
City Clerk

**COUNCIL VOTE:**

Ayes :_____
Nays :_____
Absent :_____

**APPROVED AS TO FORM:**

_____
City Attorney

**DATE:**_____