



ST. CHARLES  
SINCE 1834

### AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.010 “Definitions” of the City of St. Charles Municipal Code (Intoxicated)
Presenter:	Deputy Chief Huffman

*Please check appropriate box:*

<input type="checkbox"/>	Government Operations	<input type="checkbox"/>	Government Services
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input checked="" type="checkbox"/>	Liquor Commission (7/21/14)

Estimated Cost:	\$N/A	Budgeted:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
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If NO, please explain how item will be funded:

**Executive Summary:**

See the attached memo.

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

Memo  
Resolution

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

Recommendation to approve an Ordinance Amending Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.010 “Definitions” of the City of St. Charles Municipal Code (Intoxicated).

*For office use only:*      *Agenda Item Number:* 6



# Memo

Date: 7/16/2014  
To: Liquor Commission  
From: Deputy Chief Huffman  
Re: Amending Chapter 5.08, Alcoholic Beverages to include the definition of “intoxicated” under 5.08.010 – “Definitions”

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Recent discussions with St. Charles bar owners and managers regarding the illegal activity of their patrons have brought to light a disparity and disconnect in the definition of “intoxicated”. Most have or would agree that the illegal activity is a bi-product of the over indulgence of alcoholic liquor, with patrons being served by the establishments beyond the point of intoxication.

In an effort to address this, staff has discussed the offenses of “Harboring an Intoxicated Person” (5.08.250 (R)) and “Prohibited Sales to an Intoxicated Person” (5.08.250 (S) (1)) as contained within our Municipal Code. Currently the code does not specifically define intoxication, which leaves the business owners and servers to rely on the definition they received during BASSET (Beverage Alcohol Sellers and Servers Education and Training) training. We have reviewed the BASSET program, and have discovered that “intoxicated” as defined by the program is far less a standard than is acceptable in practice. BASSET fails to give specific language, but rather describes intoxicated as “slurred speech”, “falling off a bar stool”, “slumped over the bar”, etc.

Additionally, the lack of a definition of “intoxicated” presents a challenge in education and enforcement efforts with regard to the offenses of “Harboring an Intoxicated Person” and “Prohibited Sales to an Intoxicated Person”.

Legal counsel has researched the definition of “intoxicated” as it would relate to our code, and has provided the following definition, which has been previously approved as jury instruction by the Illinois Supreme Court:

“A person is intoxicated when as a result of drinking alcoholic liquor there is an impairment of his or her mental or physical faculties so as to diminish the ability to think and act with ordinary care.”<sup>i</sup>

Staff is respectfully requesting consideration in amending Chapter 5.08, “Alcoholic Beverages” to include the above definition of “intoxicated” under 5.08.010 – “Definitions”.

SGH/sgh

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<sup>i</sup> This instruction was approved in *Navarro v. Lerman*, 48 Ill.App.2d 27, 36, 198 N.E.2d 159, 162-163 (1<sup>st</sup> Dist. 1964). See also *Woolley v. Hafer's Wagon Wheel, Inc.*, 22 Ill.2d 413, 420; 176 N.E.2d 757, 760-761 (1961).

5.08.010 Definitions

*H. "Intoxication" or "intoxicated" means that as a result of drinking alcoholic liquor there is an impairment of a person's mental or physical faculties so as to diminish the ability to think and act with ordinary care.*

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**H.I** "Live Entertainment" means the playing of live music by a person or persons using string, brass, reed, woodwind, percussion, electronic or digital instruments not to exceed a volume as provided for in the zoning code of St. Charles, and performances by individuals and/or groups which may involve acting, singing, dancing, comedy and/or the recital of poetry.

**I.J** "Private function" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function, or event. **ALCOHOLIC BEVERAGES 5.08-3**

**J.K** "Resort Hotel" or "Resort Motel" means a hotel or motel, as described in Paragraph G above, which provides golfing and swimming.

**K.L** "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.  
(Ord. 2012-M-30 § 1.)

**L.M** "Restaurant and Tavern" 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 and tavern shall be the service of meals. Provided, all tables at which food is served shall only be served alcoholic liquor by waitpersons from a service bar. Alcoholic liquor may be served from a holding bar, provided, a full menu, including entrees and appropriate side dishes, shall be available at all times liquor sales are being conducted until eleven o'clock (11) p.m. Sunday through Thursday, and eleven o'clock (11) p.m. Friday and Saturday. After such times, 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, however provided in no event shall the kitchen cease operating sooner than one hour before closing.

**M.N** "Sale" means any transfer, exchange or barter in any manner, or by any means whatsoever, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee.

**N.O** "Sell at retail" and "Sale at retail" refer to and mean sales for use or consumption and not for resale in any form.

**O.P** "Service bar" means a permanent or portable bar from which waitpersons pick up alcoholic beverages for delivery to food service tables or other locations away from the bar. A service bar shall not have seats or stools or other places for patrons to sit or stand while drinking alcoholic beverages. Patrons shall not be served from a service bar.

**P.Q** "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin, or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

**Q.R** "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'oeuvres or other similar foods, shall be available.  
(Ord. 2012-M-30 § 2.)

**R.S** "To sell" includes to keep or expose for sale and to keep with intent to sell.

**S.T** "Wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits.