



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve an Ordinance Amending Title 5, “Business Licenses and Regulations,” Chapter 5.20 “Massage Establishments”
Presenter:	Deputy Chief Huffman

Please check appropriate box:

	Government Operations	X	Government Services 11.24.2014
	Planning & Development		City Council
	Public Hearing		Liquor Commission

Estimated Cost:	See explanation below for details	Budgeted:	YES		NO	X
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If NO, please explain how item will be funded:

Executive Summary:

City staff has been working with legal counsel in developing language for an ordinance to implement massage business licensing. City Code 5.20 – “Massage Establishments” has been prepared for your review and discussion.

The key points in this ordinance are as follows:

- An application process has been defined. Licensing and application fees have been recommended at \$250, with an additional \$50 charge for fingerprinting.
- Licensing restrictions.
- Establishment conditions, rules and regulations; inspections through Code Enforcement and the Police Department.
- Due process for license violations through the local Liquor Commissioner/Commission, including revocations, suspensions, and fines.
- Exemption to licensing requirements.

Staff requests and recommends approval and implementation of an ordinance amending Title 5, “Business Licenses and Regulations,” Chapter 5.20 “Massage Establishments.”

Attachments: *(please list)*

Proposed Ordinance

Recommendation / Suggested Action *(briefly explain):*

Recommendation to approve the Ordinance amending Title 5, “Business Licenses and Regulations,” Chapter 5.20 “Massage Establishments.”

<i>For office use only:</i>	<i>Agenda Item Number: 5.b</i>
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**City of St. Charles, Illinois
Ordinance No. 2014-M-**

**An Ordinance Amending Title 5, "Business Licenses
and Regulations," Chapter 5.20, "Massage Establishments,"
of the St. Charles Municipal Code**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES,
KANE AND DU PAGE COUNTIES, ILLINOIS, AS FOLLOWS:**

SECTION 1: That Title 5," Business Licenses and Regulations," Chapter 5.20,
"Massage Establishments" of the St. Charles Municipal Code, be and is hereby amended by
adding this Chapter as following therefore:

CHAPTER 5.20

5.20: MASSAGE ESTABLISHMENTS

- 5.20.010 Definitions
- 5.20.020 Massage business license required
- 5.20.030 Massage therapist required
- 5.20.040 Exemptions
- 5.20.050 Application for massage business license
- 5.20.060 Terms of license; license fees; license renewal
- 5.20.070 Sanitation and safety requirements
- 5.20.080 Issuance and denial of licenses
- 5.20.090 Display of licenses
- 5.20.100 Register and regulation of employees
- 5.20.110 Conditions and restrictions of licenses
- 5.20.120 Sale, transfer, or change of location
- 5.20.130 Prohibited acts and conditions
- 5.20.140 Enforcement
- 5.20.150 Massage Business Commissioner; Massage Business Commission; Suspension,
Revocation of License; Fines and Costs
- 5.20.160 Complaint of violation
- 5.20.170 Notice
- 5.20.180 Revocation or suspension of licenses
- 5.20.190 Penalty for Violation

§ 5.20.010 DEFINITIONS.

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

EMPLOYEE. Any person over 18 years of age, other than a massage therapist, who renders any service in connection with operation of a massage establishment and receives compensation from the owner or operation of the establishment or from its patrons.

LICENSEE. The owner and/or operator of massage establishment.

MASSAGE or PRACTICE OF MASSAGE. Any method of applying pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, touching or stimulating, the external parts of the body, by another individual, with the hands, any body part, or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams lotions, ointments or similar preparations.

MASSAGE ESTABLISHMENT. Any establishment having a fixed place of business where any person, firm, association, or corporation engages in, or carries on, or permits to be engaged in or carried on, any of the acts of massage as defined herein.

MASSAGE THERAPIST.

(1) Any person who, for any consideration, engages in the practice of massage as defined herein and provides proof of the following:

(a) Evidence of a professional license issued by the State of Illinois authorizing the practice of massage therapy under the Massage Licensing Act (225 ILCS 57/1 et seq.)

(2) The persons described in 5.20.040 shall not be considered to be massage therapists for purposes of this chapter, when practicing massage within the scope of their vocation, employment, course of study or volunteer services.

OUTCALL MASSAGE SERVICE. Any business, the function of which is to engage in or carry on massages for compensation at a location designation by the customer or client rather than at a massage establishment.

PATRON. Any person who receives a massage under such circumstances that is reasonably expected that he or she would pay money or give any other form of consideration therefore.

PERSON. Any individual, partnership, firm association, limited liability company, joint stock company, corporation or combination of individuals of whatever form or character.

RECOGNIZED SCHOOL. A recognized school means any school or educational institution licensed to do business as a school or educational institution in the state in which it is located, or any school recognized by or approved by or affiliated with the American Massage Therapy Association, the National Certification Board for Therapeutic Massage and Bodywork, or the Federation of State Massage Therapy Boards, and which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

SEXUAL OR GENITAL AREA. The genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

§ 5.20.020 MASSAGE BUSINESS LICENSE REQUIRED.

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the business of massage, or otherwise provide a massage in return for compensation, in the City, without first having obtained a massage business license issued by the City pursuant to the provisions of this chapter for each and every premises used for the business of conducting a massage business or otherwise providing massages for compensation by such person. The applicant for such business license must be at least 18 years of age.

§ 5.20.030 MASSAGE THERAPIST REQUIRED.

No person shall provide a massage to another person as a massage therapist, employee or otherwise, on the premises for which a business license has been issued or is required under §5.20.020 of this chapter unless he or she is a massage therapist.

§ 5.20.040 EXEMPTIONS.

(A) The provisions of this chapter shall not apply to the following individuals while engaged in the performance of the duties of their respective professions, and to the following businesses and entities.

(1) Physicians, surgeons, chiropractors, osteopaths, podiatrists, or physical therapists who are duly licensed to practice their respective professions in the state.

(2) Athletic trainers for any athletic program of a private or public school, college or university or for any athletic team regularly organized and engaging in competition.

(3) State-licensed practical nurses and registered nurses while administering massages in the normal course of their medical duties.

(4) Barbers and cosmetologists who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, back, face, scalp, hair, hands and feet of the customer or client for cosmetic or beautifying purposes.

(5) Hospitals, sanitariums, nursing homes, home health agencies, hospice programs and other such programs as defined and licensed by the state under ILCS Ch. 210.

(6) Massage therapists who administer massages only to the back and/or shoulder region of fully clothed patrons when such patrons sit in upright massage chairs.

(7) Massages provided in the course of not-for-profit special events, such as corporate health and wellness days, fundraisers, and athletic events.

(8) Massages provided by massage therapy students enrolled in a recognized school during the course of clinical externships, practicums or community services, provided that such massage services are part of the curricular requirements of the recognized school and are conducted under the supervision of the school's faculty and/or a massage therapist who is licensed under this chapter.

(9) Where massage services are actually performed at the patron's premises, including the patron's place of business or residence, a Massage Establishment License shall not be required for such patron's premises.

(B) No provision contained in this chapter shall be construed to apply to any person, business, or conduct regulated by the provisions of the State Physical Therapy Registration Act, 225 ILCS 90/1 et seq.

§ 5.20.050 APPLICATION FOR MASSAGE BUSINESS LICENSE.

(A) An application for a massage business license shall be filed with the City. The application shall be made upon a form provided by the City Clerk and shall be completed in full and signed by the applicant, if an individual, or by a duly authorized agent thereof, if not an individual, verified by oath or affidavit, and shall set forth:

(1) The type of ownership of the business, i.e. individual, partnership, corporation, or otherwise.

(2) The name under which the business is to be conducted.

(3) A description of the services to be provided on the premises.

(4) The location and description of the premises or place of business which is to be operated under such license.

(a) If a leased premises, a copy of the lease shall be provided. The term of such lease must not end until after the expiration date of the license for which application is being made.

(b) The name and address of the owner of the premises, and, if the premises are held in trust, the names and addresses of all the owners of the beneficial interest of the trust.

(5) All telephone numbers and Internet addresses of the business.

(6) In case of an individual, the full name, home address with zip code, Social Security number, driver's license number, date of birth, sex and a copy of a photo identification issued by a federal, state, county or municipal government, or a subdivision or agency thereof.

(7) In case of a partnership, the full name, home address with zip code, Social Security number, driver's license number, date of birth, sex and a physical description (including the height and weight and the color of hair and eyes) of all partners and any other persons entitled to share in the profits thereof.

(8) In case of a corporation, the object for which the corporation as organized, the names, home addresses with zip codes, driver's license numbers, dates of birth, Social Security numbers, sex and physical descriptions (including height and weight and the color of hair and eyes) of all officers, directors, and all persons owning directly or beneficially more than 10% of the stock of such corporation and the persons acting as managers or assistant managers or other persons principally in charge of the operation of the business.

(9) the date of formation of the partnership, if a partnership, the date of incorporation, if a state corporation, the date of organization if a limited liability company (LLC), or the date of becoming qualified under the State Business Corporation Act, ILCS Ch. 805, to transact business in the state, if a foreign corporation, the date of organization, if a limited liability company.

(10) A complete list of the names (and any aliases) and residence addresses of all massage therapists and employees employed by the business and the names (and any aliases) and residence addresses of all managers, assistant managers or other persons principally in charge of the operation of the business.

(11) The business, occupation, and employment history of the applicant for the three years preceding the date of the application.

(12) Whether the applicant ever made an application for license under this chapter, or a massage business license or similar license to a state, county, city, village or other unit of local government, and if so, where and when, and if such application was granted or denied, the reasons for the denial.

(13) Whether a license was ever issued to the applicant under this chapter or a massage business license or similar license was ever issued by any state, county, city or village or other unit of local government, and if so where and when, and if such license has ever been suspended or revoked and the reasons for the suspension or revocation.

(14) Whether the applicant has ever been convicted of a violation of any of the provisions of this chapter or any ordinance of any state municipality which regulates massage parlors or the provisions of massages, or any state statute regulating massage establishments.

(15) Proof that the applicant is at least 18 years of age.

(16) Proof that the applicant currently carries or will secure a commercial general liability policy reflecting limits of no less than one million (\$1,000,000) dollars per occurrence and two million (\$2,000,000) dollars in the aggregate for covered claims arising out of but not limited to, bodily injury, property damage, personal and advertising injury, and contractual liability in the course of the license holder's business. The insurance policy must allow for written notice to the City thirty (30) days before a policy is cancelled, will expire or will be reduced in coverage.

(B) The applicant shall submit a written authorization for the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for a license.

(C) The applicant shall submit such other information, documentation and identification of the applicant as the Local Liquor Control Commissioner and/or Chief of Police shall deem necessary to determine the identity of the applicant or to process the application.

(D) The applicant shall notify the Local Liquor Control Commissioner of each change in any data required to be furnished by this section with ten days after such change occurs.

§ 5.20.060 TERMS OF LICENSE; LICENSE FEES; LICENSE RENEWAL.

(A) The term of licenses issued under this chapter is for one year beginning May 1, 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.

§ 5.20.070 SANITATION AND SAFETY REQUIREMENTS.

All licensed premises shall be periodically inspected by the Building Commissioner or his or her duly authorized representative for safety of the structure and adequacy of plumbing ventilation, heating, illumination and fire protection. In addition, the premises shall comply with the following regulations.

(A) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given.

(B) Floors shall be free from any accumulation of dust, dirt or refuse.

(C) All equipment used in the massage establishment shall be maintained in a clean and sanitary condition.

(D) Soaps, towels, linens and laundered sheets must be provided. All such towels, linens and items for the personal use of operators and patrons shall be clean and freshly laundered after each use thereof and stored in a sanitary manner.

(E) Towels, linens and sheets shall not be used for more than one patron. However, heavy white paper may be substituted for sheets, provided that such paper is changed for every patron.

(F) All massage services or practices are prohibited in any cubicle, room, booth or other area within a massage establishment which is fitted with a door capable of being locked.

(G) Toilets, dressing room facilities, lockers, steam baths, tubs or showers, if provided, shall not be utilized by more than one patron and/or staff member at any one time.

§ 5.20.080 ISSUANCE AND DENIAL OF LICENSES.

(A) The Local Liquor Control Commissioner shall act to approve or deny an application for a license under this chapter within a reasonable period of time, and in no event shall the Local Liquor Control Commissioner act to approve or deny the fully completed license later than 60 days from the date that the application was accepted by the City.

(B) In the case of an application for massage business license, the Building Commissioner shall cause the premises to be licensed to be inspected to assure that the proposed operation complies with all applicable laws, including the building, electrical, plumbing, health, housing, zoning, and fire codes of the City, and any other regulations of the city relating to the public health, safety and welfare. The Building Commissioner shall make written verification to the Local Liquor Control Commissioner concerning compliance with the codes and ordinances of the City.

(C) Upon receipt of a properly completed application for massage business license, the Local Liquor Control Commissioner shall submit the completed application to the Chief of Police for an investigation into the applicant's personal and criminal history.

(D) The Local Liquor Control Commissioner, with the advice and consent of the City Council, shall either issue a license, or notify the applicant in writing that the application has been denied. The license shall be denied if the applicant fails to comply with the requirements of this chapter or with the requirements of any other provision of this code which is applicable to the business and/or activities of the applicant. In addition, no license shall be issued to any applicant if:

(1) The proposed operation does not comply with all applicable laws, including, but not limited to, the building, electrical, plumbing, health, housing, zoning and fire codes of the City; or

(2) The applicant, if an individual; or any of the officers, directors or any other person owning directly or beneficially more than 10% of the stock of the corporation, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager, assistant manager or any other person principally in charge of the operation of the business; has been:

(a) Convicted of a felony under the laws of the state of any other state, or under the federal laws of the United States, within five years of the date of the application;

(b) Convicted of sex offense as defined in ILCS Ch. 720, or any equivalent law of any state; or

(c) Convicted of a violation of any provision of this chapter.

(3) The applicant has had a massage business, massage therapist or similar license denied, suspended or revoked by the City, by a state or by a unit of local government within five years of the date of the application; or

(4) The applicant has knowingly made false, misleading or fraudulent statements of fact in the license application or in any document required by the City in conjunction with the license application.

(E) In the event that the license is denied for failure to comply with the requirements of this chapter, the Local Liquor Control Commissioner shall immediately notify the applicant in writing or by telephone of the reasons for the proposed denial. If the failure is not cured within ten days after the date on which the Local Liquor Control Commissioner denies the issuance of the license, the denial shall become final.

(F) The Local Liquor Control Commissioner is authorized to make any rules and regulations necessary to implement this chapter which are not inconsistent with or prohibited by this chapter.

§ 5.20.090 DISPLAY OF LICENSES.

Every person licensed as a massage business under this chapter shall display such license in a prominent place in the public reception area of the massage establishment.

§ 5.20.100 REGISTER AND REGULATION OF EMPLOYEES.

(A) The licensee or person designated by the licensee of a licensed massage establishment shall maintain a register of the names and addresses of all persons employed at the time as massage therapists or other employees. Such registers shall be available at the massage establishment for inspection by representatives of the City during regular business hour.

(B) It shall be unlawful for such a business to allow a massage therapist to practice other than as permitted by this chapter and Illinois statute.

§ 5.20.110 CONDITIONS AND RESTRICTIONS OF LICENSES.

(A) *Supervision.* A licensee of a licensed massage establishment shall have the premises supervised at all times when open for business. Any business rendering massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the massage business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.

(B) *Sanitary conditions.* Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition as required by §5.20.070.

(C) *Price rates.* Price rates for all services shall be prominently posted on a framed placard no small than 8" x 10" in the reception area in a location visible and available to all prospective customers. This placard must also state the following: "No services other than those listed shall be provided for any compensation whatsoever. There shall be no bargaining or solicitation for services between patrons, massage therapists, or employees."

(D) *Employee dress code.* All employees, including massage therapists, shall be clean, and wear clean, nontransparent outer garments, covering at least the entire torso and the sexual and genital areas as defined within.

(E) *Separate license for each premises.* Licenses shall apply only to the premises described in the application, and the license issued thereon, and only one location shall be so described in each license.

(F) *Transfer of license.* A license shall be a purely personal privilege, effective for a period not to exceed one year after issuance unless sooner revoked as provided in this chapter, and shall not constitute property. No massage business license is transferrable, separate or divisible, and such authority as license confers shall be conferred only on the licensee named therein.

(G) *Minors prohibited.* No person licensed under the provisions of this chapter shall permit any person under the age of 18 to come or remain on the premises of any massage establishment as a massage therapist or employee.

(H) *Alcoholic beverages prohibited.* No person shall sell, give, dispense, provide, keep or consume, or cause to be sold, given dispensed, provided, kept or consumed, any alcoholic beverage on the premises of any massage establishment.

(I) *Solicitations prohibited.* No massage establishment shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture, or statement which is known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage services.

(J) *Hours of operation.* No portion of any business premises used in any way for or by a massage establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

(K) *Inspections.* The Local Liquor Control Commissioner or his or her authorized representative shall from time to time make inspection of each massage establishment for the purposes of determining that the provisions of this chapter are fully complied with. It shall be unlawful for any licensee to fail to allow any such inspection officer access to the premises or hinder such officer in any manner.

§ 5.20.120 SALE, TRANSFER, OR CHANGE OF LOCATION.

Upon the sale, transfer or relocation of massage establishment, the license therefore shall be null and void and a new license shall be required. Upon the death or incapacity of the licensee or any co-licensee of the massage establishment, any heir or beneficiary of a deceased licensee, or any guardian of an heir or beneficiary of a deceased licensee, may continue the business of the massage establishment for a reasonable period of time not to exceed 60 days to allow for an orderly transfer of the license.

§ 5.20.130 PROHIBITED ACTS AND CONDITIONS.

(A) No person shall conduct or operate a massage business without first obtaining and maintaining a massage business license as required by this chapter.

(B) No person shall operate or conduct any massage establishment which does not conform to the sanitary provisions required by this chapter.

(C) No person having a license under this chapter shall operate under any name or conduct business under any designation not specified in that license or permit.

(D) No person shall advertise, promote, or refer to himself or herself as a massage therapist as herein defined without being a massage therapist as provided in this chapter or Illinois statute.

(E) A patron's sexual and genital areas, as defined herein, must be covered by towels, cloths or similar nontransparent garments, including undergarments, when in the presence of a massage therapist or employee.

(F) No person, knowingly, in a massage establishment, shall expose or fail to conceal his or her sexual and genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, knowingly, in a massage establishment, to expose the sexual or genital parts, or any portion thereof, of any other person.

(G) No person, knowingly, in a massage establishment, shall place his or her hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of another person.

(H) No massage therapist or employee shall perform or offer or agree to perform any act, whether or not for compensation of any form, which would require the touching of the patron's sexual or genital area.

(I) No massage therapist shall administer a massage to an area of the body of a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption, unless a physician duly licensed by the state certifies in writing that such area of the body may be safely massaged and prescribes the conditions thereof.

(J) No person, owning, operating or managing a massage establishment, shall knowingly cause, allow or permit in or about such massage establishment, any agent, employee, or any other person under his or her control or supervision to perform any acts prohibited by this chapter.

(K) No person or business licensed under this chapter shall operate or conduct an outcall massage service as defined in this chapter.

§ 5.20.140 ENFORCEMENT.

The Local Liquor Control Commissioner shall have the duty to enforce the provisions of this chapter.

§ 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 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.

§ 5.20.160 COMPLAINT OF VIOLATION.

Any complaint that any person, corporate or private, or any licensee, has been or is violating the provisions of this chapter shall be made to the Local Liquor Control Commissioner or the City Clerk. Complaints may be made by any person, including employees and representatives of the City.

§ 5.20.170 NOTICE.

No license shall be revoked, suspended, or refused until the applicant or license holder has received written notice of violation from the Chief of Police. The notice shall set forth the allegations of why the applicant or license holder should be revoked, suspended, or refused. Said notice shall be served upon an applicant or license holder by delivering the same personally or by delivery to the place of business or residence of the applicant or license holder. All applicants or license holders shall notify the City within 24 hours of any change of address. If the service of such notice cannot be made in the manner provided herein, a copy of such notice shall be sent by regular mail, postage prepaid, to the last known address of the applicant or license holder contained in the City's files. The revocation or suspension of license shall be deemed effective three business days after personal service or after the mailing of the written notice as provided herein.

§ 5.20.180 REVOCATION OR SUSPENSION OF LICENSES.

(A) The license of a massage business may be revoked or suspended, in addition to the fines provided for in Section 5.20.190, upon one of the following grounds:

(B) A massage business license may be revoked or suspended after a public hearing if it is found that:

- (1) The licensee has violated any provisions of this chapter;
- (2) Any employee of the licensee, including a massage therapist, has engaged in any conduct at the licensee's premises which violates any provision of this chapter and the licensee knew or by due diligence should have known of such conduct;
- (3) Any applicant for a massage business license has made a false statement on the application;

(4) A licensee has refused to allow any duly authorized police officer or county enforcement officer or health inspector to inspect the massage establishment premises;

(5) The premises of the massage establishment are at any time not in compliance with the City building, health or fire codes;

(6) The premises of the massage establishment are not in compliance with any of the conditions and restrictions set forth in §5.20.130;

(7) The license holder has committed an act(s) of fraud or deceit in the application for license, or renewal thereof, submitted to the Chief of Police;

(8) The license holder is engaged in the practice of massage under a false or assumed name, or is impersonating another massage therapist of a like or different name;

(9) The license holder has committed an act of fraudulent, false, misleading or deceptive advertising, or prescribing medicines, drugs, or practices any other licensed profession without legal authority therefore;

(10) The license holder permits acts of prostitution or solicitations for acts of prostitution to be performed within the premises or elsewhere or permits any procedure during the performance of services within or off the premises that are performed for the purpose of sexual arousal or gratification of any patron, or should be reasonably be expected to cause such result, or permits the use of trafficking of controlled substances or cannabis on the premises;

(11) The license holder performs an act of prostitution within the premises or without the premises or solicits an act or prostitution on or off the premises or performs services within or without the premises in such a manner for the purpose of sexual arousal or gratification of a patron, or should reasonably be expected to cause such result, or the licensee uses or is trafficking in controlled substances or cannabis;

(12) A license holder knowingly conducted massage activities in the city during a period of time when the license holder's license was suspended;

(13) A license holder is delinquent in payment to the City for ad valorem taxes or other taxes related to the massage therapy business.

(C) If a massage business license is revoked for any cause, no such license shall be granted to such person for a period of one year after the date of the revocation that will allow a massage establishment to be operated on the premises described in the revoked license unless the revocation order has been vacated by court order.

§ 5.20.190 PENALTY FOR VIOLATION.

Any person, corporation, firm or partnership found guilty of 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 2. 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 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 3. This Ordinance shall be in full force and effect from and after its passage by a vote of the majority of the Corporate Authorities now holding office and approval in the manner provided by law.

PRESENTED to the City Council of the city of St. Charles, Illinois, this day of _____, 2014.

PASSED by the City Council of the city of St. Charles, Illinois, this day of _____, 2014.

APPROVED by the Mayor of the city of St. Charles, Illinois, this day of _____, 2014.

Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

APPROVED AS TO FORM:

City Attorney