

**AGENDA
CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSION MEETING**

**MONDAY, OCTOBER 20, 2014
CITY COUNCIL CHAMBERS @ 4:30 PM
2 E MAIN STREET**

1. Call to Order.
2. Roll Call.
3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on September 15, 2014.
4. Consideration of a recommendation of a new Class B Liquor License for the Shakou Restaurant to be located at 312 W Main Street, St. Charles (former MaGoo's location).
5. Recommendation to approve an Ordinance Amending Title 5, "Business Licenses and Regulations," Chapter 5.16, "Tobacco Dealers" of the St. Charles Municipal Code.
6. Recommendation to approve an Ordinance Amending Title 5, "Business Licenses and Regulations," Chapter 5.20, "Massage Establishments" of the St. Charles Municipal Code.
7. Other Business.
8. Executive Session (5 ILCS 120/2 (c)(4)).
9. Adjournment.

**MINUTES
CITY OF ST. CHARLES, IL
LIQUOR CONTROL COMMISSION MEETING
MONDAY, SEPTEMBER 15, 2014**

1. Opening of Meeting

The meeting was convened by Liquor Commissioner Rogina at 4:30 p.m.

2. Roll Call

Members Present: Liquor Commissioner Rogina, Robert Gehm, Ald. Payleitner, Ald. Lewis, and Chuck Amenta

Absent:

Others Present: Mark Koenen, Atty. John McGuirk, Police Chief Keegan, Deputy Chief Huffman, and Tina Nilles

3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on August 18, 2014.

Motion by Ald. Payleitner, second by Lewis to accept and place on file minutes of the Liquor Control Commission meeting held on August 18, 2014.

Voice Vote: Ayes: unanimous, Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

4. Recommendation of a new Class A5 liquor license for The Bend General Store to be located at 320 W Main Street, St. Charles.

Chrmn. Rogina: Tonight's presenter and overview of this plan for The Bend General Store is Tony Scheufler. Tony and his two colleagues are all home grown products – two are St. Charles High School graduates and one is a Valley Lutheran graduate. It does my heart good when local people come back to make a contribution to their city.

Tony Scheufler: I would like to introduce Jennifer Cook, my manager and her father had Rex's Cork n Fork for many years – so she has been in the restaurant business for many years. Adam Bosch, my financial partner. Started out with showing an old picture of Whiskey Bend which was from 1880 prohibition at about 2nd Street up past St. Patrick's was where Whiskey Bend was. The trolley would pick up the workers from all the factories along the riverfront and go west and make the turn; the time it would take for the trolley to make that turn, the workers would hop off, run into the bars, do a couple of shots of whiskey, and jump back on the trolley to head back home on the east side of town. Our first project we thought about doing was a high

end steak house but it was a large, ambitious project to start with and this store was secondary. The more we dug into it, the timing, and seeing where things were at financially, we decided to go with a bit smaller project and that's where The Bend General Store comes from and resonates with the story of the trolley.

This is something a little different. When you look at what's right downtown in the core, the majority of the establishments fall into one of two categories: either a pub/bar or they're a true proper sit down restaurant. There's not much right in that middle that captures foot traffic like they have in Geneva, Elmhurst, etc. This is our first establishment we want to open. There is a small portfolio with ideas behind that, but one step at a time. All of them fit into that mold but liquor/wine is secondary to our business model. We're looking at filling the gap of what are we? We are primarily a deli. The purveyors we are working with are straight out of the city, none of them have any accounts further than Oak Park. This will be the kind of place you find right downtown New York, Chicago. They are willing to partner with us and come all the way out here because of what our model is. We want to introduce excellent imported meat and cheeses, olive oil, etc. Half is going to a deli and half is going to be a grocer selling pastas olive oil and things of that nature. Although there is Blue Goose and Jewel, the product we're carrying you are not going to see anywhere else. You would have to go into the city to find something like this, such as Eataly, and in fact our purveyor supplies Eataly. That's the level of product we're going to be carrying. We are not a liquor store, not a bar, we're not a sit down dining establishment; we're an old school deli where you come down one side and get a sandwich for carryout and the other side you can shop for pastas, sauces, and a bottle of wine to take home.

We've worked with both of our purveyors on the alcohol and food sides and it's going to be somewhat similar as to the Wine Exchange but that business is wine and they have double down on that. We are not focusing so much on wine as we are on food, but the two go hand in hand and there's synergy there. On a percentage basis we anticipate revenues to be around 20-25% will be made up from alcohol sales. We are focusing on a box lunch program. We are already in negotiation with DuPage Airport for all the private jets, with Delnor, and other commercial entities like Q Center. That's where we want to take the business and evolving into a hybrid like DuLuca or Peapod, in getting a couple of delivery vehicles and really delivering to bring the food out to people but also offering tastings in-house. The impetus is all about the food; the wine is ancillary.

I don't think this will be the last time we are in front of you over the next few years and everything we come in front of you for will be food based. Our intent is to have hours of operation that are essentially 11:00 a.m. to capture the lunch crowd and close up around 7:00 p.m. We're toying with the idea and have talked with some of the bar owners as to how they would accept us in re-opening later at night on Friday/Saturdays around 10:00/11:00 p.m. because all of the bars' kitchens are closed at 10:00 p.m. You can get yogurt/ice cream but really can't get any food. We are also bringing pastrami and corn beef out from Manny's in the city so we'll be serving hot sandwiches and there would be absolutely no liquor sales at that time. That piece of business is completely shut off. We may actually look at some arrangements with the bars that we deliver 100 sandwiches to them because their kitchens are closed and that's get people eating.

We are hoping to be open by October 4 as we're really hoping to be open for Scarecrow Festival. We won't do so much this year because the parking lot is being used for the election campaign, but next year we're already talking with Kimmer's and hope to find some other local vendors that can fill our lot with us and we can have more of a family area because most of the food served at the festival is carnival food and out of town vendors.

Chrmn. Rogina: My solemn wish is to engage any of our local businesses more and the out-of-town vendors less. That means the money stays within our community. I hope you are successful and that you start a movement or trend for future years to get that accomplished.

Ald. Payleitner: Where is your location 320 W Main Street?

Tony: Right next to Eliza Jane.

Ald. Payleitner: You also mentioned something about this being an election year?

Tony: The building owner's wife is Senator McConnaughay and they set up in the lot to use it for that purpose. I'm setting up a small tent and we'll have food, but our timeline is so condensed – we'll do what we can but next year we'll have the whole lot to ourselves for Scarecrow Festival.

Ald. Payleitner: So there's no eat-in at your establishment?

Tony: It's a deli setup and we'll have a counter at the front window where you can stand dine maybe up to 10-15 people. As we evolve we would like to move in the direction to have space for a few tables but to start that's not our model right now.

Bob Gehm: My questions have already been answered by Rita's questions. I just want to say I think it's a great idea; when you want to grab a bite to eat but don't want to spend the time to sit down and be waited on.

Ald. Lewis: This is more of a question to our panel, but I thought restaurants had to stay open to serve food to have their liquor licenses? When you say there's no food at these establishments, I thought they had to have their kitchens open and serve limited food?

Deputy Chief Huffman: The B licenses – that's true. This is an A5 license. It's not a bar but packaged liquor and A5 is allowed to serve single servings of wine by the glass. There will be a standup counter for food consumption of sandwiches, but its not a bar. You can find food downtown at 1:00 a.m. but the bars are allowed to scale back their kitchen at 10:00 p.m. and serve hors d'oeuvres.

Tony: The only one putting out any food after 10:00 p.m. is Neo Pizzeria because he caters to all the bartenders, servers, bouncers when they get off work. There's not too many other areas where you can get a burger at midnight unless you drive to McDonald's.

Chrmn. Rogina: Back to our 1:00 and 2:00 a.m. crowd who have been drinking, to be able to go and get a Manny's corn beef sandwich, I think we are working towards our mission here.

Ald. Lewis: So your thinking is you'll be open until 3:00 a.m. in the morning serving sandwiches?

Tony: No, I don't see us being open any later than 2:00 a.m. Last call is 1:20 a.m. I don't want to be there until 3:30 a.m. It will be a 3:00 hour window from 11:00 p.m. – 2:00 a.m. There will be no liquor sales. When we close at dinner time (7:00 p.m.) liquor is done.

Ald. Lewis: But you could?

DC Huffman: No he can't. The hours for an A5 are from 10:00 a.m. to 10:00 p.m. Monday through Sunday.

Ald. Lewis: When you talked about delivery, it's just food? There wouldn't be any delivery of alcohol?

Tony: No.

Chrmn. Rogina: You said you are working with Delnor?

Tony: Yes we have a couple of people we know who work there, such as we know a dietician and we can offer something a little different than just the standard fare.

Ald. Lewis: Something else that struck me as a little high in your business plan is the average income is \$131K. Just last week in our housing presentation they said it was somewhere around \$70K. I was concern where you got your number from.

Tony: I've seen four or five different numbers over the last two years, but it's not relevant to this business model. When we did that research we were looking at doing a \$2M project and this is not. We want to be accessible to everyone, make a good margin, and be a good business.

Chuck Amenta: No questions from me. Everything seems to be in order. I spent my younger years working at a deli counter so it's kind of fun to see something like that to come back.

Chrmn. Rogina: I want to commend you on the menu. I think this is very exciting and will add some class to our city.

Ald. Payleitner: How is your store setup going to be – will it be two separate or one business site?

Tony: It will be one open area, it's about 2,000 square feet with one side being the deli counter and equipment, then a center isle for grocery and merchandise and wall of other things. There will be one check out site.

Ald. Lewis: Is there any problem with having a package liquor store right in the heart of our entertainment district? I know there used to be one there.

DC Huffman: This isn't really a packaged liquor store per se, this will be higher end gourmet beers and imported liquors.

Motion by Mr. Gehm, second by Mr. Amenta to recommend a new Class A5 liquor license for The Bend General Store to be located at 320 W Main Street, St. Charles to go before the Government Services Committee for further recommendation to City Council.

Roll Call: Ayes: Gehm, Payleitner, Lewis, and Amenta; Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

5. Discussion regarding possible expansion of Liquor Commission roles and responsibilities.

Chief Keegan: I would like to remind the Commission that this Wednesday we are having a Town Hall session with a guest speaker coming in from the Illinois Liquor Commission, Mr. Lee Roupas. We have 91 liquor licenses in St. Charles and have about 17-19 businesses that have RSVP and we should have some good dialogue.

Tobacco

We've had some discussion as a staff about expanding the roles of the Liquor Commission to include to potentially oversee tobacco and massage violations. I will talk about tobacco and Deputy Chief Huffman will talk about massage. We are in the process of working on some liquor expansions and enhancements to refine and streamline our liquor code into a more condense comprehensive code.

Right now with tobacco the state is ambiguous as far as the licensee holder of tobacco products. We currently have 31 tobacco retailers in the City of St. Charles that are licensed through the City. We conduct compliance checks with grant money we obtain through the State Liquor Commission and the person behind the counter is subject to possible violation and that person is held accountable through our ordinances and vetting process. The person who might be selling a product illegally is held responsible but there are not any provisions currently in place by the State of Illinois and our ordinances that hold the licensee accountable. What I propose is that we are looking to refine and enhance some of our tobacco ordinances. Not that tobacco is becoming more prevalent or problematic but we've seen a phenomenon of alternate nicotine products called the E-cigarettes. We've had a few establishments open in St. Charles. There are some laws that will be forthcoming in the State of Illinois. In January 2016 retailers that distribute tobacco products must obtain a license from the State of Illinois Department of Revenue which hasn't been done up until this law takes place. It's an annual \$75 fee and the Liquor Commission is going to start tracking violations. If they see four or more violations, the state can then revoke that license. Obviously with us being a home rule community, we can have laws more restrictive, just not less. Rather than sit back and let this take effect, I would like to talk about

potentially changing our ordinance and enhancing some of the tobacco stipulations.

In addition to the E-cigarettes, currently the State of Illinois is ambiguous on how they dictate alternative nicotine products. In January 2015 they are going to have a state law go into effect that protects children from the negative effects of E-cigarettes. That will entail that products such as these will have to be served from behind a counter and liquid refills can only be sold in special packaging. These products are battery operated cylinders that don't emit tobacco or smoke. They are smokeless and emit a vapor that contains nicotine. What I want to bring up for discussion is to address this in our ordinances, looking at not only the sale of these products to minors under the age of 18, but also their use inside of public buildings. Illinois is going to start looking at this with a law in January 2015 but they have not addressed the open air act and/or the sale of those products to minors.

In the packet I've listed the current tobacco state laws to minors and I also talk about our ordinances relative to tobacco. We are looking at three things: potentially the five of you asking the Liquor Commission to encompass tobacco violations as part of the auspice of what we pervue, second is the licensure of establishments within St. Charles that have any violations that take place to the licensee come before the commission, third is alternative nicotine products meaning the sale of these products to children under the age of 18, and possibly have a discussion before we take this any farther regarding the use of these products inside public buildings.

Chrmn. Rogina: We are in position to create ordinances to address violations which currently now is to send a minor in to buy some cigarettes. That's just a minimal fine which does not come before us. Now we are talking about them coming here to this commission and we can discuss what we want that fine to be.

Chief Keegan: Correct and not only with the person who sells the product illegally but also the business that holds the license. Right now there are no repercussions for the licensee; it is strictly the seller.

Chrmn. Rogina: So seeking input, you as the staff will come back and propose for our review ordinances for each of these three areas.

Chief Keegan: Yes.

Chuck: I think it is a group, whether it's this one or some other, to be responsible for this. It surprises me that we don't and more communities don't have a committee for tobacco. I'm in favor of this. I don't think there is enough information on the discharge of E-cigarettes and it's important to limit its use in public exposure for people who don't want to be exposed to that.

Ald. Lewis: I think this commission should take on the tobacco issue. I spent the better part of this afternoon at one of our establishments educating myself. I don't smoke and I identified myself when I went into talk to them. They were very knowledgeable, polite, and courteous. Most of their products are sold to smokers and they don't sell to anyone under 18 years of age.

They stated that the smoke that is inhaled by the E-cigarette vapor has a trace of nicotine they get but when they exhale there's no more nicotine that you might get from a person who is smoking outside. Is that true?

Chief Keegan: Let me read this into the record – Alternative nicotine products are defined by the proposed city code by the State of Illinois as a “product or device not consisting of or containing tobacco that provides for the ingestion of nicotine into the body by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing or by any other means.” Often referred to as E-cigarettes, these are battery powered devices that vaporize nicotine. E-cigarettes were created in China and first sold in 2003. Those who use E-cigarettes “vape” rather than smoke. Vaping utilizes a propylene glycol and vegetable glycerin-base liquid mixed with small amounts of nicotine and food grade flavoring that are then vaporized in a small battery powered atomizer, and is designed to simulate the experience of smoking.

You don't really smell an odor. I've gone into the shops and poked around and we haven't gotten any complaints from the general public and Illinois has been neutral on this. The City of Chicago has, in fact, enhanced their open air act, so I think it's a philosophical stance that the commission will have to take first, followed up by committee then council. It's more the appearance then it is the fact that people are bothered by it. We haven't any complaints about these other than people calling saying there is smoking going on in tavern A or restaurant B. It's an etiquette decision that most folks treat them like cigarettes and use the devices outside. If we stay neutral on it then it's up to interpretation of it than defined by ordinance.

Ald. Lewis: That's my concern in staying neutral. I see a whole another line of problems occurring. In my conversation with these gentlemen this afternoon, they demonstrated to me how you can inhale, and there was a cloud where I couldn't see their faces, or they would just give a small puff and nobody would even know they were doing it. That's how they vape in the bars until they are asked not to do that and all would be good. I don't follow that logic, so a conversation about the clean indoor act and putting some limitations would be beneficial.

Chief Keegan: In my experience as a police officer when the State of Illinois and many other states first went to seatbelts enforcement; it was such a taboo type of law. At first the legislators didn't think we would get voluntary compliance. The State of Illinois' compliance is in the high 90%. When you look back at smoking 15-20 years ago, smoking was compartmentalized in restaurants with smoking and non-smoking areas. With the clean air act that has evolved, you now cannot smoke indoors. It's an etiquette type situation where most folks police themselves or it falls back to the proprietor with his business making sure the folks don't use the cigarettes or tobacco products inside and it's almost like a socially accepted norm where people have grown accustomed to being good neighbors and they don't utilize tobacco products. With this being a neutral topic, I would concur it is at least prudent to talk about it. You look at the laws that are forthcoming in 2015 and 2016, they didn't talk about a change or even address the open air act. We are a home rule community and we can at least talk about this in this venue.

Ald. Lewis: I'm not sure I want to be in an indoor area where there is anything blowing in your face. There is a smell to them that could be offensive to some people.

Chief Keegan: You look at our current tobacco code and what some other municipalities have done, if you're at a retail establishment that is a specialty store, such as cigars/tobacco, the only people that are going to visit that business are people who use tobacco products – they are grandfathered in. The same goes for a hookah lounge or any kind of alternative tobacco use. We can do the same thing as a home rule community; we can pattern our ordinances after what other communities have done. If you visit a store that specializes in selling those tobacco products, you can use them and there is no violation of the open air act. But a Jewel/Walgreens/Target, for example, who sells other things in addition to these products cannot be used inside the establishment. We can craft our ordinances to make sure we are protecting the right sellers who want to experiment with their product if they are visiting an E-cigarette store, but yet if they go elsewhere they would be prohibited in using that product in those establishments.

Ald. Lewis: Would you have to have a separate type of license or ordinance to be able to have a lounge to use this product in?

Chief Keegan: In looking at our current tobacco licenses, we have a specialty store on Dean Street and you're allowed to utilize the products inside the proprietor's establishment. There are a couple of other ones and we could look at that as part of our ordinance and work with Council and keep everyone's interest in mind and try to be sensitive to both consumers and patrons' needs.

Bob: I agree with what Chuck and Ald. Lewis said. It's good not to be neutral in something like that and I heard that Chicago is looking at the use of E-cigarettes in public buildings. Getting into the neutral area could cause all kinds of havoc. Let's address now rather than wait for 2016.

Ald. Payleitner: Let me go on record that I would like us to take a stab on all three of the elements you've mentioned. Regarding Ald. Lewis' field trip today, one of the things I found alarming is that they mix their own. Is this not a regulated product?

Chief Keegan: It's newer to our region, it was developed overseas. I still don't know about the FDA regulations. It's becoming very prevalent. Most are very mindful in dealing with minors and are good neighbors. They do instruct people to use these the same as cigarette products and we haven't had one single complaint for any kind of public facility where someone has used these and offended someone.

Ald. Payleitner: It's still alarming to me that the content is not a regulated product. Because our businesses are conscientious and seem to be aware, I don't see they would object to us adding some nuisance laws. It keeps their business in good light as well.

Chief Keegan: Of the 31 cigarette licenses with the City, I don't think most of them are dispensing E-cigarettes currently. We've been neutral and void of what the product is. If we make this an all-encompassing ordinance we include them into the purview of tobacco retailers and they would be held to a licensure.

Ald. Lewis: I did ask that question of them being licensed and they welcome that because it would give their business legitimacy of what they are doing.

Ald. Payleitner: You don't necessarily have to be a health risk to be a nuisance and I believe that's where cigarettes came in with the second hand smoke and health ramifications of that.

Chrmn. Rogina: The staff will go back and work on the language for the ordinance as well as having the violations beefed up successively as there is a great disparity between violations of liquor compared to cigarette violations costs. With respect to licensing we could look at increasing the cost of the cigarette licenses. Having stand-alone establishments (lounge) where you can smoke to have a cigar, e-cigarette, I don't have an issue with them but definitely not in public places and want to memorialize not selling to under 18 years of age in our ordinance too.

Ald. Lewis: Do other stores sell E-cigarettes such as WalMart, for example? You can also buy them on-line.

Chuck: Yes I have seen them in grocery/convenience stores and others of the like; they have them pre-packaged.

Chief Keegan: In respect to the clean air act, I would only recommend the use be allowed in a specialty store that only sells the products (cigar store, E-cigarette store); if the products are co-mingled with other products such as Walgreens, I would not be advocating the use of these products indoors.

Ald. Payleitner: What is the price point on these products compared to cigarettes?

Chief Keegan: The initial capsule and the electronic device that vaporizes the capsule/catridges is quite expensive and the refills are cheaper. They are marketed to save money over the cigarettes as their prices have spiked considerably over the years. This also leaves an alternative to quit smoking. Its tobacco free but still has that nicotine product inside of the chemical used.

Ald. Lewis: I could of purchased a starter kit for \$70 that included two cartridges with batteries with some flavors of my choice and refills were \$7.00.

Chrmn. Rogina: Thank you for a very thorough presentation. We are moving along to get to an end result.

Massage

Deputy Chief Huffman: The number of stand-alone massage establishments in St. Charles has grown over the last several years. Currently we have four independent massage businesses and from 2010 to the current date, the Police Department has conducted up to 36 compliance checks resulting in seven arrests for prostitution. In the past the City of St. Charles licensed individual massage therapists; however, the State of Illinois now exclusively handles that; so we do no massage licensing currently. Is there a need for licensing outside from the seven arrests of

prostitution? Our experience has shown that the stand-alone establishments are transient in nature. They have female employees that are rotated to different establishments throughout the country. The employees often illegally reside in the businesses for which they are working and if employees are arrested for prostitution or other illegal acts, the person is usually sent to another establishment and often times they don't show up for court and we don't ever see them again.

Some of these operations are known to promote/facilitate prostitution, human trafficking, and money laundering. Licensing a massage establishment puts controls in place to prevent these illegal operations. It legitimizes businesses that are providing valuable services but whose reputations can be tarnished by illegal acts of the other establishments. In many jurisdictions the licensing process, in and of itself, often deters illegitimate operations from applying in the first place. Licensing through our research, we found other communities, such as, Orland Park, Champagne, Peru, Wheaton, and others; we've reached out to these communities and they all report that the business licensing of massage establishments is an effective tool in preventing the businesses from opening in the first place.

Some licensing considerations are in regulating establishment licenses, there is a due process that is required. Under the Liquor Commissioner with the advice and consent of the Liquor Commission is how we envision this due process to take place. On the hearing process for violations of the massage establishment license will be structured similar to liquor violations with fines and/or suspension with revocation of the license itself; of course progressive discipline would factor into that.

Licensing also puts code enforcement procedures in place. Code enforcement inspections prohibit the employees from actually residing within the establishment and to make sure that the businesses are in compliance with general guidelines that will be contained in our code.

We anticipate for providing exemptions in the licensing process and that would include physicians, athletic trainers, and license cosmetologists. Exempt status of whether businesses would be exempted will be vetted on the background process in the application of the license. The Police Department would be responsible for any background investigations similar to the requirements of liquor licensing. Most illegitimate businesses will not even apply once they know we have a licensing process in place.

We've reached out to businesses that provide legitimate services including Total Body Health, Athletically Physical Therapy, The Women's Touch Healthcare and also have reach out to the American Massage Therapy Association and National University of Health Science and all are in support of this licensing process whether or not they are exempt. It did not matter to them because it also legitimizes their profession.

Staff was directed by Council to work with legal counsel to research and compare massage business licensing ordinance. We are in the middle of that process and it is by the nature of the licensing a very complicated process; however we continue to work with legal counsel to propose a final ordinance. With that staff would recommend a request from you that massage

licensing follow with the Liquor Commission with advice and consent of the liquor commission as a whole.

Chrmn. Rogina: It seems to me that we should have two separate motions: one for the massage and one for the tobacco to move along to committee for the recommendation of approval to City Council.

Chuck: I guess I was naïve in this regard that I didn't realize this was more of a human rights issue than it is a business issue with the trafficking and prostitution. It would be very important for the City of St. Charles to take a very strong stand. You listed out four communities that have these licenses and it would be important for the City to step in and be very strong in that and to show the other communities that something like that is not acceptable here.

Bob: I fully agree with Chuck. Not realizing some of the things that can go in that particular industry; licensing would legitimize those for that is what their business is and would be a strong deterrent for other business of such a nature not to open up in St. Charles.

Ald. Payleitner: Thank you on all levels and appreciate your work.

Ald. Lewis: I agree with everyone completely; but what about people who have this business in their homes – will they need to be licensed or exempt from this?

DC Huffman: It would depend on the nature of what they are providing. Massage therapist could be exempt and we would work with code enforcement to make sure they're meeting the zoning requirements if they are operating out of their homes.

Chrmn. Rogina: As a runner I have undergone seeing massage therapy and they are a wonderful help to people for various purposes and I've thought of them more times than not any time you've made an arrest for prostitution. It's a smear to the entire profession, so the fact that we go forth to legitimize it by licensing is a major step in the right direction.

When these things happen and people ask what is going on in St. Charles; my response is the police are doing their job. At the end of the day when these things happen, we have the responsibility to stop them and that's what we are doing.

I entertain a first motion that this commission approve the recommendation by Chief Keegan to bring regulation of tobacco under the umbrella of this Liquor Commission; and then a second motion to endorse and approve a recommendation by Deputy Chief Huffman to bring regulation of massage licensing and due process of massage violations under the auspices of the Liquor Control Commission.

Motion by Ald. Payleitner, second by Amenta to recommend bringing regulation of tobacco licensing under the umbrella of the Liquor Control Commission.

Roll Call: Ayes: Gehm, Payleitner, Lewis, and Amenta; Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

Motion by Ald. Payleitner, second by Gehm to recommend bringing regulation of massage licensing under the umbrella of the Liquor Control Commission.

Roll Call: Ayes: Gehm, Payleitner, Lewis, and Amenta; Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**

6. Executive Session (5 ILCS 120/2 (c)(4)).

7. Other Business

8. Adjournment

Motion to adjourn by Mr. Gehm, second Mr. Amenta at 5:35 p.m.

Voice Vote: Ayes: Unanimous; Nays: none. Chrmn. Rogina did not vote as Chairman. **Motion carried.**



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Consideration of a Recommendation of a New Class B Liquor License for Shakou Restaurant to be located at 312 W Main Street, St. Charles (former MaGoo's location)
Presenter:	Mayor Rogina

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 Control Commission (10/20/14)

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

Executive Summary:

This is a request for a new Class B liquor license for Shakou Restaurant to be located at 312 W Main Street, St. Charles (former MaGoo's location). Paper work was just submitted and has been sent over to Police Department for them to run the background check – so it is currently pending.

In addition to this B license request, Shakou Restaurant is also submitting a request for a 1:00 a.m. late night permit. This restaurant will create some new employment for the City of St. Charles, so at the time of the hiring process employees will be asked for BASSET certification. Mr. Dupor is BASSET certified.

Attachments: (please list)

Liquor License Application (front page)
Background Check (pending)
Letter of Intent
Site Plan
Business Plan
Menu

Recommendation / Suggested Action (briefly explain):

Consideration of a recommendation of a new Class B Liquor License for Shakou Restaurant to be located at 312 W Main Street, St. Charles (former MaGoo's location).

For office use only:	Agenda Item Number: 4
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Date: _____
() New Application
() Renewal Application

CITY OF ST. CHARLES
LIQUOR CONTROL COMMISSIONER
TWO EAST MAIN STREET
ST. CHARLES, ILLINOIS 60174-1984



City Retail Liquor Dealer License Application (rev. 12/13) Non-Refundable

Ordinance 5.08.050.A1

Application must be completed in full

Incomplete applications will be rejected

Business Type: Circle one

☒ Individual

Partnership

☒ Corporation

Other LLC

Business Name SHAKO

Sales Tax # 4100-4051

Business Address 312 W. MAIN ST.

Business Phone # 224-433 6675

Contact Person ALEX DUBO

Title OWNER

Phone # [REDACTED]

If Corporation, Corporate Name SHAKO LLC

TEIN # 45-4078399

Corporation Address 625 NORTH MILWAUKEE AVE LIBERTYVILLE IL 60078

Corporate Officers, plus Manager of Establishment, Officers must include President, Vice President, Secretary and Treasurer
Or Sole Proprietor

Have you had a business within the City of St. Charles under any other corporate name: Yes ☒ No
If yes, list address of business _____

Full Name, include Middle Initial ALEXANDER DUBO

Title REGULATION AGENT-MEMBER

Birth Date [REDACTED] Birthplace WAKEFAN, IL

Driver's License # [REDACTED]

Home Phone # [REDACTED]

Home Address 204 Newberry

Libertyville, IL 60078

Full Name, include Middle Initial CHRISTY DUBO

Title MANAGER MEMBER

Birth Date [REDACTED] Birthplace WAKEFAN, IL

Driver's License # [REDACTED]

Home Phone # [REDACTED]

Home Address [REDACTED]

Full Name, include Middle Initial _____

Title _____

Birth Date _____ Birthplace _____

Driver's License # _____

Home Phone # _____

Home Address _____

Type of Establishment: () Package ☒ Restaurant () Tavern () Hotel/Banquet/
Arcade/Q-Center () Other _____

Check as Applicable to ☒ Holding Bar [5.08.010-F] ☒ Service Bar [5.08.010-O] () Live Entertainment [5.08.010-H]
Type of Establishment: ☒ Outside Dining [17.20.020-R]

Brief Business Plan Description based on type of establishment listed above:

FULL SERVICE RESTAURANT - SUSHI WITH MODERN JAPANESE
CUISINE - BRINGING THE CITY LIFE TO THE SUBURBS WITH
FOOD AND AMBIANCE

Initial: Liq Comm _____

Police Chief

October 14, 2014

Greg Trapani

T-Ventures

Re: Shakou St. Charles

LOI - LEASE TO
Follow /

Greg,

Here is a preliminary breakdown of terms for the LOI on the St. Charles location. We can fine tune the numbers once we have the trades out there and get their bids back.

Approximate Gross Square Footage:

7524 Sq ft 1st and 2nd floor

-Proposed removal of 650 Sq Ft for Mezzanine cutout from rent roll

-6,874 remaining square footage broken down as follows:

-6,274 sq ft at \$24/ft to be increased 3% annually

-Year 1 rent will be discounted 20% to \$19.20/ft (\$120,460)

-Approximate 600 sq ft (proposed storage) at discounted base rent of \$10/sq ft to be increased 3% annually

All industry standard CAM to be paid by tenant upon receipt of bills

Proposed TI money will be \$25/ft. with allocation of funds to be finalized upon receipt of trade bids/total costs

Landlord to deliver premises outside of any TI money allocation in line with standards for a high end restaurant inclusive of working mechanicals, and interior/exterior cleanup (Patio slab/gate).

Tenant will put (outside of Landlord financing) the lesser of 25% or \$75,000 towards tenant project renovation costs*

Landlord financing to tenants in the amount of "x" to be paid back on agreed simple interest schedule as loan repayment with Depreciation to be captured by tenant. Interest bracket graduation based solely on required repayment of \$75,000 principal allotments per year. Any repayment over the required \$75,000/year will be allocated to the next year's reduction requirement. If tenant does not meet the minimum annual pay down requirement, the interest will be recalculated at a 2% premium **on that year's unpaid funds.**

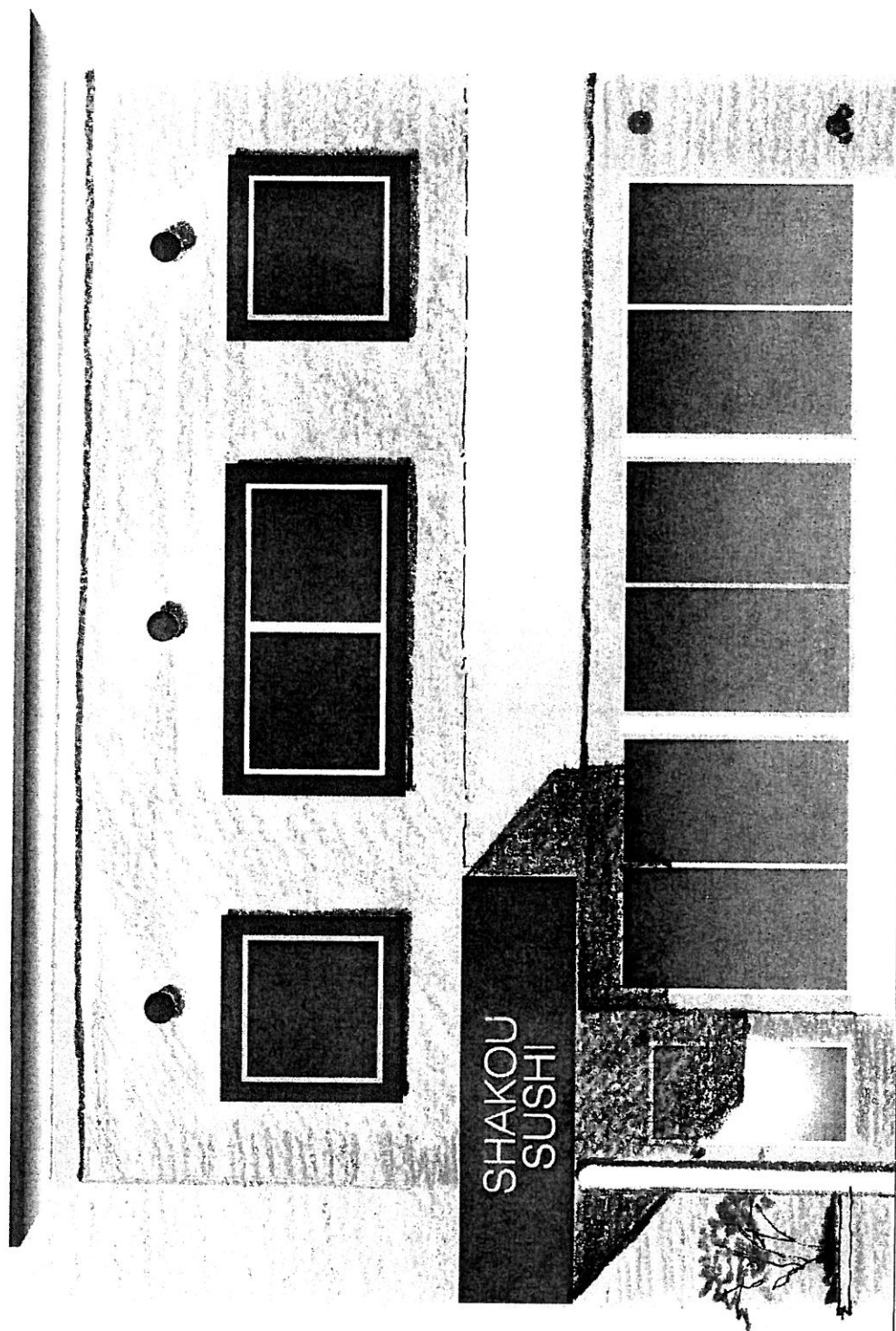
-Year 1- 9% interest on total outstanding balance (\$75,000 repayment)

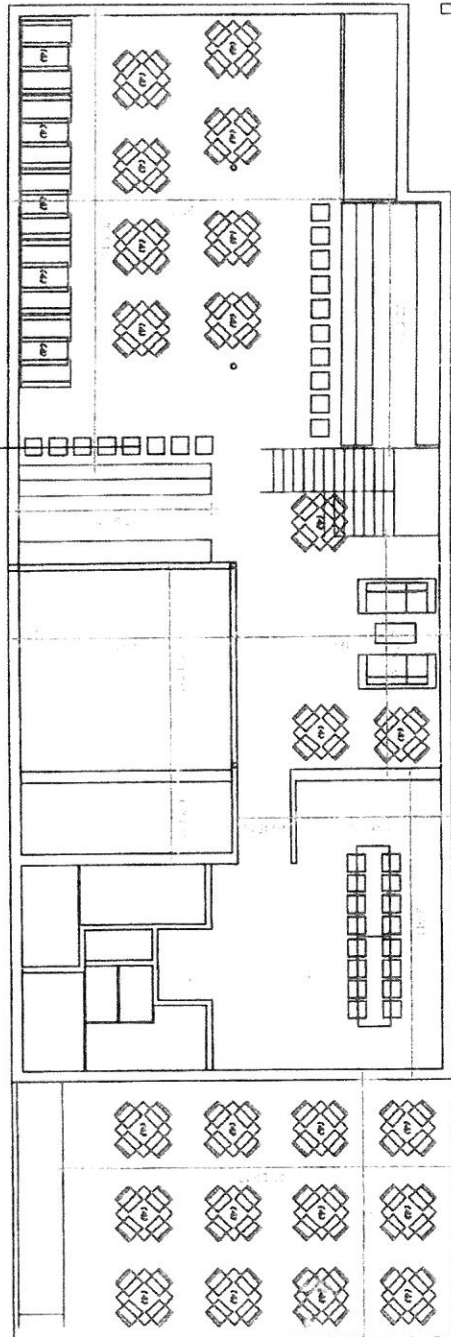
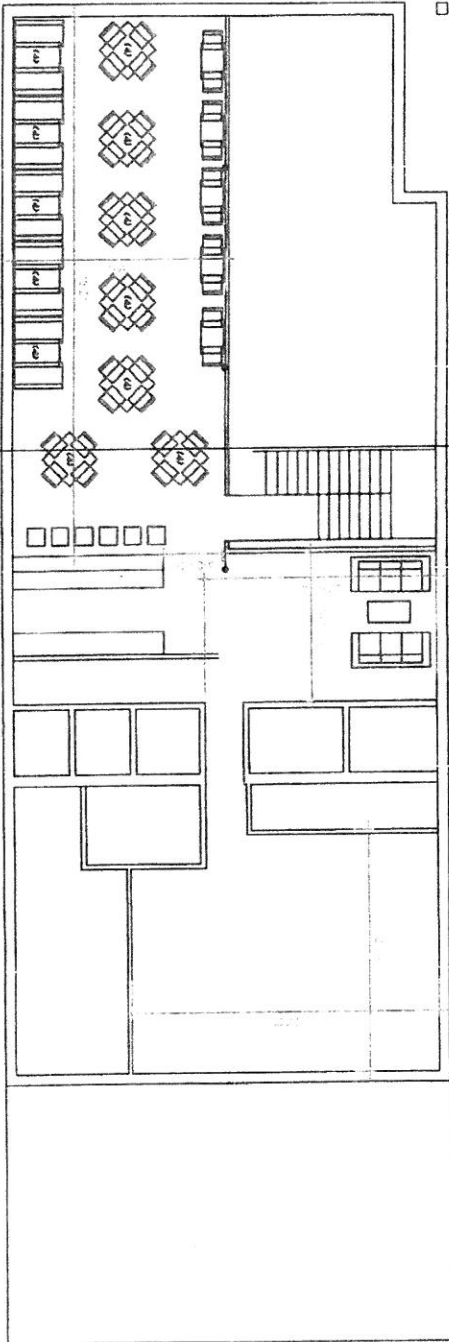
-Year 2- 11% interest on outstanding balance (\$75,000 repayment)

- Year 3- 10% interest on outstanding balance (\$75,000 repayment)
- Year 4- 9% interest on outstanding balance (\$75,000 repayment)
- Year 5- 8% interest on outstanding balance (\$75,000 repayment)
- Year 6- 7% interest on outstanding balance (\$75,000 repayment)
- If not fully repaid, balance of funds to be repaid at Prime rate (+) 2%

Aleksandar Dupor

Chrissy Dupor







OpenTable Diners' Choice

2014 Hot Spot Restaurants in America

As voted by OpenTable Diners

When looking for a place to dine out, why not snag a spot at the hottest place in town? Our Top 100 Hot Spot Restaurant list highlights hip (new) restaurants, celebrity chefs and avant-garde restaurateurs. We determined the list of honorees after analyzing more than five million reviews of nearly 19,000 restaurants across the country — all submitted by verified diners.

SHAKO
modern japanese cuisine

625 N Milwaukee Ave, Libertyville • shakousushi.com

SHAKOU
modern japanese cuisine

Shakou

Modern Japanese Cuisine

10.16.14

Mission Statement

“At Shakou Sushi, we are all about the guest! We are committed to delivering an unparalleled customer experience via our courteous, well trained staff. We offer the upbeat, VIP experience of the city with the prices and convenience of the suburbs. Our guests will leave feeling satisfied, entertained and most of all appreciated!”

Business Model

Shakou Modern Japanese Cuisine *will be* St. Charles newest hotspot. We pledge to bring you a relaxing atmosphere while offering amazing food, and tremendous service.

You do not want to miss experiencing this new spin on the casual sushi bar.

The Concept

しゃこう - shakou - 社交 - social life

Shakou simply wants to bring the “Social Life” to a growing upscale environment by offering big city elegance and amazing ambience coupled with spectacular food.

What Sets Us Apart

- Location, Location, Location
- Libertyville current, St. Charles and Barrington coming soon...
- Quality *plus* consistency
 - 30 years of operating restaurants with a "hands on" approach
- Structured training programs both on our menu and Aloha with qualification testing prior to any shifts
- Filling the void
 - Bringing the city feel to the suburbs
 - Examples include **Sunda** and **Pump Room**
 - Local owners that understand the demographic and who know their target audience
 - Aggressive marketing with ingenuity and a deep understanding of the "Social" aspect of marketing to ensure Shakou stays plugged into the community
- Forming a symbiotic relationship with a community that has proven with time they support their local businesses

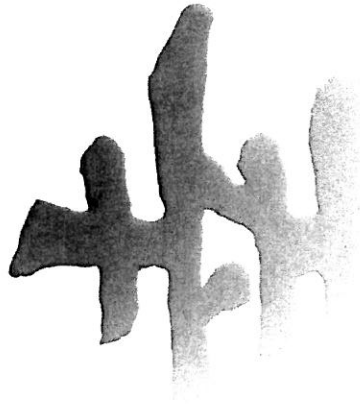
Service Style

- **No hard selling** for one time higher check averages
 - Frequency is key
- **Next time sales**....."if you enjoyed this, perhaps you should try this next time"
- **Relationship sales**....getting to know your customers



SHAKOU 幸

modern Japanese cuisine



CHICKEN

- Chicken Teriyaki** 18
Grilled chicken breast with teriyaki sauce and rice on a bed of sautéed vegetables
- Sweet & Chili Chicken Katsu** 18
Panko breaded chicken breast with sweet chili sauce and rice on a bed of sautéed vegetables
- Chicken Roulette** 18
Fried chicken breast stuffed with green onions, mushrooms and asparagus with sautéed vegetables and rice

SEAFOOD

- Chicken Sea Bass** 23
On top sea bass is served for lunch with sautéed vegetables topped with honey, ginger and chili sauce
- Salmon Teriyaki** 20
Sautéed with sautéed vegetables, carrots topped with teriyaki and pineapple slices
- Sambal Shrimp** 18
Lent in great sautéed shrimp, chili sauce and served with sautéed vegetables and rice
- Tuna** 18
Sautéed with onion, garlic, broccolini and soy sauce, served with sautéed vegetables and rice
- Lobster & Tofu** 19
Lobster is sautéed in butter, chili sauce and a top of mushrooms, sautéed vegetables and chicken products

STEAK/BEEF

- Tonyo Steak** 24
Grilled in teriyaki with green asparagus, sautéed vegetables and potato croquette
- Sapporo M.Y. Strip** 22
Grilled M.Y. strip with sautéed vegetables and potato croquette
- Braised Short Rib** 20
Sweet & spicy braised short rib with sautéed vegetables with rice
- Beef Bim Bam** 17
Sautéed beef, mushrooms, carrots and greens topped with ground beef beef, sunny side up egg, served over a bed of rice and chili sauce
- Beef On Gi** 18
Grilled for marinated beef with sautéed vegetables, green onions with bean sprouts and sweet corn rice

NOODLE

- Nabe Udon** 18
Hot pot with chicken, napa cabbage, onion, egg, mushrooms and soy cake in vegetable broth
- Tanpaku Udon** 17
Cold pot with shrimp, tempura in vegetable broth
- Yaki Udon** 18
Cold pot with shrimp, tempura and vegetables sautéed in a spicy sauce topped with bean sprouts

- Sashimi** 18
Chef's choice: 10 pieces of sashimi
- Kare** 20
Chef's choice: 10 pieces of sashimi
- Miso** 28
Chef's choice: 15 pieces of sashimi
- Ame** 35
Chef's choice: 20 pieces of sashimi

- Two Person Bowl** 60
Chef's choice: 5 pieces of sashimi, 1 signature meat and 1 base meal
- Four Person Bowl** 99
Chef's choice: 12 pieces of sashimi, 2 signature meat and 1 base meal

- Chirashi** 24
Chef's choice: 12 pieces of sashimi on a bed of seasoned sushi rice
- Tekka Don** 24
12 pieces of tuna sashimi on a bed of seasoned sushi rice
- Sake Don** 22
12 pieces of sake sashimi on a bed of seasoned sushi rice
- Ume-Ju** 22
10 pieces of salmon sashimi on a bed of rice and rice

- Sautéed Vegetables / 3**
- Chinese Broccoli / 3**
- Asparagus / 3**
- White Rice / 2**
- Brown Rice / 3**
- Couscous / 3**
- Assorted Mushrooms / 4**
- Potato Croquette / 3**
- Fries / 3**
- Vegetable Fried Rice / 6**
- Chicken or Beef Fried Rice / 8**

SIDES

PHONE: 224.433.6675

FOR MORE INFORMATION VISIT:

WWW.SHAKOUSUSHI.COM



Signature	
Shakou17	
Lightly battered soft, juicy, shrimp, avocado, sweet onion and spicy mayo wrapped in soft bean paper, topped with tangy sauce and sesame mayo	
Sunny Hill15	
Crisp, cucumber, avocado and spicy mayo topped with fresh salmon, sweet mango sauce, sesame seeds, and soy sauce	
Green Dragon15	
Shrimp tempura, crab, cucumber and spicy mayo topped with avocado, tangy sauce, asiatic mayo and sesame seeds	
Flaming Hanachi17	
Soft, juicy and cucumber topped with fresh jalapeno, hot, avocado, tobiko and spicy sauce	
Cornish Moll16	
Shrimp tempura, cucumber, avocado, spicy mayo and cream cheese topped with tempura crunch, tangy sauce and melted cheddar cheese	
Pink Cadillac17	
Shrimp tempura, avocado and spicy mayo topped with spicy salmon, tangy sauce, and marinated fish	
Ocean Dine18	
Tuna, yellow is, avocado, shrimp, green pepper and spicy mayo wrapped in soft bean paper and topped with tangy sauce and spicy mayo	
Urban Heat15	
Spicy tuna, avocado, spicy mayo, avocado and tempura crunch wrapped in soft bean paper, topped with tangy sauce	
Spicy Taki18	
Soft shell crab, cucumber, avocado, and spicy mayo topped with spicy tuna, spicy mayo, sauce and tobiko	
Yokano17	
Lightly battered fish with broiled salmon, crab, cucumber and cream cheese topped with tangy sauce, avocado mayo and spicy crab	
Dragon Fire17	
Butter soft salmon, crab, cucumber and avocado topped with spicy tuna, spicy mayo, cream mayo, tangy sauce and tangy sauce	
Gentleman16	
Beef, rice, shrimp tempura, spicy tuna, cucumber topped with spicy tuna and tobiko	
Black Widow20	
Beef, rice, lightly battered fish with oil, avocado topped with tempura crunch, sauce, sea urchin, tobiko and tangy sauce	
Cornish15	
Soft, crab, cucumber and avocado topped with spicy tuna, tangy sauce and tomato crunch	
Dragon14	
Shrimp tempura, cucumber, avocado, topped with fresh salmon, tangy sauce, sesame seeds and cream drizzle	
Rainbow14	
Soft, tuna, cucumber topped with assorted fish, fresh and tobiko	
Sunset Garden12	
Lightly battered fish with oil, avocado topped with tempura crunch, sea urchin, tobiko and tangy sauce	

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CHICKEN

Chicken Teriyaki18	
Grilled chicken breast with teriyaki sauce and rice on a bed of sautéed vegetables	
Sweet & Chili Chicken Katsu18	
Panko breaded chicken breast with sweet chili sauce and rice on a bed of sautéed vegetables	
Chicken Roulette18	
Fried chicken breast with spicy mayo, mushrooms and asparagus with sautéed vegetables and rice	
Chicken Sea Bass23	
Chicken sea bass with spicy sauce and sautéed vegetables topped with tangy sauce and rice	
Salmon Teriyaki20	
Salmon with sautéed vegetables, cucumber topped with teriyaki and fresh rice	
Samurai Shrimp19	
Lemon grass seasoned shrimp, chili sauce, and served with sautéed vegetables and rice	
Thiago18	
Sautéed fish with spicy mayo, green pepper, onion, garlic, tomato, onion, tomato, served with sautéed vegetables and rice	
Lochee & Fiel39	
Lochee & Fiel with spicy mayo, green pepper, onion, garlic, tomato, onion, tomato, served with sautéed vegetables and rice	
Taipei Steak24	
Grilled beef steak with spicy mayo, mushrooms and potato croquette	
Sapporo N.Y. Strip20	
Grilled NY strip with sautéed vegetables and potato croquette	
Brasted Short Rib20	
Sweet ginger soy sauce short rib with sautéed vegetables with rice	
Bi Bin Bao17	
Spicy beef, spicy mayo, mushrooms, broccoli, carrot and green pepper with potato croquette	
Bul Go Gi16	
Grilled beef, spicy mayo, mushrooms, broccoli, carrot and green pepper with potato croquette and sautéed rice	
Nabe Udon18	
Hot pot with chicken, nabe cabbage, onion, egg, mushrooms and soy sauce	
Tempura Udon17	
Hot pot with tempura, nabe cabbage, onion, egg, mushrooms and soy sauce	
Yaki Udon18	
Hot pot with tempura, nabe cabbage, onion, egg, mushrooms and soy sauce	

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CHEF'S PICKS SASHIMI / NIGIRI

Salmon18	
Kani20	
Chef's choice: 10 pieces of salmon	
Kuro28	
Chef's choice: 15 pieces of salmon	
Ahi35	
Chef's choice: 20 pieces of salmon	

SUSHI BOAT SELECTIONS

Two Person Boat60	
Chef's choice: 5 pieces of salmon, 10 pieces of salmon, 1 signature sushi roll	
Four Person Boat99	
Chef's choice: 12 pieces of salmon, 2 signature sushi rolls and 1 signature	

SUSHI ENTREES

Chirashi24	
Chef's choice: 12 pieces of salmon on a bed of seasoned sushi rice	
Toku Don24	
12 pieces of tuna sashimi on a bed of seasoned sushi rice	
Sake Don22	
12 pieces of salmon sashimi on a bed of seasoned sushi rice	
Unagi22	
10 pieces of unagi sashimi on a bed of white rice	

Sautéed Vegetables / 3	Assorted Mushrooms / 4
Chinese Broccoli / 3	Potato Croquette / 3
Asparagus / 3	Fries / 3
White Rice / 2	Veggie Fried Rice / 6
Brown Rice / 3	Chicken or Beef Fried Rice / 8
Couscous / 3	

SIDES


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Hot pot with chicken, nabe cabbage, onion, egg, mushrooms and soy sauce	
Tempura Udon17	
Hot pot with tempura, nabe cabbage, onion, egg, mushrooms and soy sauce	
Yaki Udon18	
Hot pot with tempura, nabe cabbage, onion, egg, mushrooms and soy sauce	

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STEAK/BEEF

Dragon Fire17	
Butter soft salmon, crab, cucumber and avocado topped with spicy tuna, spicy mayo, cream mayo, tangy sauce and tangy sauce	
Gentleman16	
Beef, rice, shrimp tempura, spicy tuna, cucumber topped with spicy tuna and tobiko	
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 ST. CHARLES SINCE 1834	AGENDA ITEM EXECUTIVE SUMMARY							
	Title:	Recommendation to Approve an Ordinance Amending Title 5, "Business Licenses and Regulations," Chapter 5.16" Tobacco Dealers" of the St. Charles Municipal Code						
	Presenter:	Chief Keegan						
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 (10/20/14)					
Estimated Cost:	See explanation below for details		Budgeted:	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>	
If NO, please explain how item will be funded:								
Executive Summary:								
<p>The City through the Police Department's efforts to improve and enhance both compliance and accountability of tobacco retailers is bringing forth the attached ordinance for consideration. Highlights include: the merger of tobacco oversight within the Liquor Commission, consolidation of alternative nicotine products within the aforementioned ordinance, licensee accountability, and a new license structure.</p> <p>This amended ordinance will provide a more defined tobacco and alternative nicotine products review process to be upheld within the City of St. Charles.</p> <p>Police Department is recommending consideration of approval of this ordinance by the Liquor Commission to be forward to the Government Operations Committee for recommendation to City Council for approval.</p>								
Attachments: <i>(please list)</i>								
Proposed Ordinance.								
Recommendation / Suggested Action <i>(briefly explain):</i>								
Recommendation to approve an Ordinance Amending Title 5, "Business Licenses and Regulations," Chapter 5.16" Tobacco Dealers" of the St. Charles Municipal Code.								
<i>For office use only:</i>		Agenda Item Number: 5						

**City of St. Charles, Illinois
Ordinance No. 2014-M-**

**An Ordinance Amending Title 5, "Business Licenses
and Regulations," Chapter 5.16, "Tobacco Dealers,"
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 5.16,
"Tobacco Dealers of the St. Charles Municipal Code, be and is hereby amended by deleting this
Chapter in its entirety and replacing the same and substituting the following therefore:

CHAPTER 5.16

TOBACCO

Sections:

5.16.010	Legislative findings and declaration.
5.16.020	Definitions.
5.16.030	License – Required.
5.16.040	Application.
5.16.050	Fee and Term.
5.16.060	Licensed premises – Sanitary condition required.
5.16.070	Prohibited sales, delivery.
5.16.080	Signs.
5.16.090	Minimum age to sell tobacco products.
5.16.100	Purchase by minors prohibited; penalty.
5.16.110	Possession by minors prohibited; penalty.
5.16.120	Proximity to certain institutions; penalty.
5.16.130	Certain free distributions prohibited; penalty.
5.16.140	Vending machines; locking devices.
5.16.150	Responsibility of licensee for agents and employees.
5.16.160	Smoke free areas.
5.16.170	Penalty.
5.16.180	Tobacco commissioner; tobacco commission; suspension, revocation of license; fines, costs.
5.16.190	Use of premises after license revocation.
5.16.200	Severability.
5.16.210	Repealer.

5.16.010 Legislative findings and declaration.

The mayor and city council find and declare that:

- A. Cigarette smoking is dangerous to human health;
- B. There exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease and various other medical disorders;
- C. The Surgeon General of the United States has declared that nicotine addiction from tobacco is similar to addiction to cocaine, and is the most widespread example of drug dependence in this country;
- D. The Director of the National Institute on Drug Abuse concluded that the majority of the three hundred twenty thousand (320,000) Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the age of legal consent;
- E. The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent illicit drug use;
- F. The present legislative scheme of prohibiting sales of tobacco products to persons under the age of eighteen (18) has proven ineffective in preventing such persons from using tobacco products; and
- G. The enactment of this chapter directly pertains to and is in furtherance of the health, welfare and safety of the residents of the city, particularly those residents under eighteen (18) years of age.

5.16.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

“Tobacco and tobacco products” means cigarettes cigars or tobacco intended for human use, including loose tobacco, pipe tobacco, chewing tobacco and snuff.

“Vending machine” means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products.

“Alternative nicotine products” means a product of device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. Alternative nicotine products excludes “tobacco products” as defined in this section and any product approved by the United States food and drug administration as a nontobacco product for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

5.16.030 License – Required.

It is unlawful to sell or vend through machines or to engage in other retail sales of tobacco, tobacco products or alternative nicotine products, without having first obtained a license therefor. Applications for such licenses shall be made to the clerk; and no such license shall be issued to any person who is not a person of good character, or to any corporation that is not represented in the city by a person of good character.

5.16.040 Application.

A. An Applicant shall be an individual or by a duly authorized agent of the Applicant if the Applicant is not a natural person. All information and statements made in the Application shall be made and verified by oath or affidavit. The Application shall contain the following information:

1. The name, address, date of birth, telephone number, and social security number of the Applicant if the Applicant is an individual; or the name, address, date of birth, telephone number, and social security number of (i) each partner if the Applicant is a partnership or (ii) each manager of the Applicant if the Applicant is an entity or other organization.
2. The location and description of the premises or place of business for which the license is being applied for.
3. A statement whether Applicant has made a similar application for a license on any premises other than the premises described in the Application.
4. A statement that Applicant or any manager has never been convicted of a felony or otherwise disqualified to receive a license by reason of any matter or thing contained in the laws of Illinois or the ordinances of the City.
5. A statement as to whether any previous license issued to Applicant by any State or other governmental unit or agency has been suspended or revoked and the reasons therefore.
6. A statement that the Applicant will not violate any of the laws of the state of Illinois or the provisions of this Ordinance in the conduct of business at the location for which the license is proposed.

B. Ineligible Person – No license shall be issued to the following persons:

1. A person who is not a citizen of the United States;
2. A person who has been convicted of a felony under any federal or state law;
3. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
4. A person whose license under this Ordinance, or any similar regulatory ordinance or statute, has been revoked for cause;
5. A person who at the time of application for renewal of any license issued

hereunder would not be eligible for such license upon a first application;

6. A person whose place of business is conducted by a manager or assistant manager or agent, unless said manager, assistant manager or agent possesses the same qualifications required by the licensee;
7. A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is issued.

5.16.050 Fee and Term.

The licensee fee, including each vending machine, shall be \$50.00. The license shall be effective for one (1) year commencing on May 1 and ending on April 30, annually.

5.16.060 Licensed premises – Sanitary condition required.

Premises and buildings used for the sale of tobacco, tobacco products or alternative nicotine products shall be kept in a clean and sanitary condition; the health officer shall investigate such places sufficiently often to insure compliance with the provisions of this section.

5.16.070 Prohibited sales, delivery.

It shall be unlawful for any person, including any licensee under this Chapter, to sell, offer for sale, give away, deliver, promote, or advertise tobacco, tobacco products or alternative nicotine products, to any person under the age of eighteen (18) years.

5.16.080 Signs.

- A. Signs informing the public of the age restrictions provided herein provided herein shall be posted by every licensee at or near every display of tobacco, tobacco products and alternative nicotine products, and on or upon every vending machine which offers tobacco, tobacco products or alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

**SALE OF TOBACCO ACCESSORIES, SMOKING HERBS, AND
ALTERNATIVE NICOTINE PRODUCTS TO PERSONS UNDER
EIGHTEEN YEARS OF AGE OR THE MISREPRESENTATION OF
AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW.**

- B. Signs informing the public of the U.S. surgeon general's health warning shall be posted by every licensee selling cigarettes or alternative nicotine products at or near every display of cigarettes or alternative nicotine products and on or upon every vending machine which offers cigarettes or alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

SURGEON GENERAL'S WARNING: SMOKING BY PREGNANT WOMEN MAY RESULT IN FETAL INJURY, PREMATURE BIRTH, AND LOW BIRTH WEIGHT.

The above signs shall be posted in a conspicuous place and shall be printed on white cards in red letters at least one-half inch (1/2") in height.

- C. Locations Restrictions: It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco, tobacco products or alternative nicotine products within one hundred feet (100') of any school, childcare facility or other building used for education or recreational programs for persons under the age of eighteen (18) years.
- D. Certain Free Distributions Prohibited: It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco, tobacco products or alternative nicotine products, or any employee or agent of any such licensee or person, in the course of such licensee's or person's business to distribute, give away or deliver tobacco, tobacco products or alternative nicotine products free of charge to any person on any right of way, park, playground or other property owned by the City, or any other public body, school district or unit of local government.

5.16.090 Minimum age to sell tobacco products.

- A. It shall be unlawful for any licensee and/or any officer, associate, member, representative, agent or employee of such licensee under this article to engage, employ or permit any person under 16 years of age to sell tobacco, tobacco products or alternative nicotine products in any licensed premises.
- B. If an agent or employee of a licensee under this article younger than 18 years of age sells tobacco, tobacco products or alternative nicotine products in any licensed premises, an officer, agent or employee of the licensee who is at least 21 years of age shall also be on the licensed premises at the time of such sale.

5.16.100 Purchase by minors prohibited.

It shall be unlawful for any person under the age of 18 years to purchase tobacco, tobacco products or alternative nicotine products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco, tobacco products or alternative nicotine products.

5.16.110 Possession by minors prohibited.

It shall be unlawful for any person under the age of 18 years to possess any tobacco, tobacco products or alternative nicotine products, provided that the possession by a person under the age of 18 years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

5.16.120 Proximity to certain institutions.

It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco, tobacco products or alternative nicotine products within 100 feet of any school, child care facility or other building used for education or recreational programs for persons under the age of 18 years.

5.16.130 Certain free distributions prohibited.

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting, advertising tobacco, tobacco products or alternative nicotine products or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, to distribute, give away or deliver tobacco, tobacco products or alternative nicotine products free of charge to any person on any right-of-way, park, playground or other property owned by the city, any school district, any park district, any public library or any location where distribution of tobacco, tobacco products or alternative nicotine products to minors cannot be adequately controlled.

5.16.140 Vending machines; locking devices.

- A. It shall be unlawful for any licensee under this article to sell or offer for sale, give away, deliver or to keep with the intention of selling, giving away or delivering tobacco products by use of a vending machine, unless such vending machine is equipped with a manual, electric or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age of 18 years.
- B. Any premises where access by persons under the age of 18 years is prohibited and where vending machines are strictly for the use of employees of the business located at such premises shall be exempt from the requirements of subsection (A) of this section.

5.16.150 Responsibility of licensee for agents and employees.

Every act or omission, or whatsoever nature, constituting a violation of any of the provisions of this article by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.

5.16.160 Smoke free areas.

It shall be unlawful for any person to use alternative nicotine products in any area within the City where smoking is prohibited under the provisions of the Smoke Free Illinois Act (410 ILCS 82-1 et seq.)

5.16.170 Penalty.

Any person, firm or corporation violating any provision of this chapter shall be fined not less than one hundred (\$100.00) nor more than five hundred dollars (\$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.

5.16.180 Tobacco commissioner; tobacco commission; suspension, revocation of license; fines, costs.

- A. The Local Liquor Control Commissioner shall serve as the tobacco commissioner and shall be charged with the administration of this article and of such other ordinances relating to tobacco sales and licensing as may be from time to time enacted by the city council. A tobacco 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 tobacco commissioner, after a hearing conducted by the tobacco 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 tobacco commissioner may instead levy a fine on the licensee. The fine imposed shall be in an amount not less than two hundred fifty (\$250.00) dollars and not more than one thousand (\$1,000.00) dollars for each violation. A separate violation of this Ordinance shall be deemed to have been committed on each day during which a violation occurs or is permitted to continue.
- 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 tobacco commission with a seven (7) days written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) days notice provision shall begin the day following delivery by certified mail or by personal service.
- D. If the tobacco commission determines after such hearing that the license under this Article should be revoked or suspended or that the licensee shall be fined, the tobacco commission shall recommend to the tobacco commissioner either the amount of the fine, the period of suspension or that the license be revoked.
- E. Any licensee determined by the tobacco commissioner to have violated any of the provisions of this article shall pay to the city the costs of the hearing before the tobacco commission on such violation. The tobacco 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 tobacco commissioner may allow.

The licensee shall pay such costs to the city within 30 days of notification of the costs by the tobacco 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 tobacco dealer's license and/or impose a monetary fine or other penalty, as provided for in this article.

5.16.190 Use of premises after license revocation.

When any license issued under this article shall have been revoked for any cause, no new license shall be granted to such licensee for a period of six months thereafter for the conduct of the business of selling tobacco, tobacco products or alternative nicotine products in the premises described in such revoked license.

5.16.200 Severability.

The various portions of this Ordinance are hereby expressly declared to be severable, and the invalidity of any such portion of this Ordinance shall not affect the validity of any other portions of this Ordinance, which shall be enforced to the fullest extent possible.

5.16.210 Repealer.

All ordinances or portions of ordinances previously passed or adopted by the City of St. Charles that conflict with or are inconsistent with the provisions of this Ordinance are hereby repealed.

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

Date: _____

 ST. CHARLES SINCE 1834		AGENDA ITEM EXECUTIVE SUMMARY					
		Title:		Recommendation to Approve an Ordinance Amending Title 5, "Business Licenses and Regulations," Chapter 5.20" Massage Establishments" of the St. Charles Municipal Code			
		Presenter:		Deputy Chief Huffman			
Please check appropriate box:							
		Government Operations				Government Services	
		Planning & Development				City Council	
		Public Hearing		X		Liquor Commission (10/20/14)	
Estimated Cost:		See explanation below for details		Budgeted:		YES	NO
						X	
If NO, please explain how item will be funded:							
Executive Summary:							
<p>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.</p> <p>The key points in this ordinance are as follows:</p> <ul style="list-style-type: none"> • An application process has been defined - licensing and application fees have yet to be determined, staff will provide recommendations. • Licensing restrictions. • Establishment conditions, rules and regulations; inspections through Code Enforcement and Police Department. • Due process for license violations through the local Liquor Commissioner/ Commission, including revocations, suspensions and fines. • Exemption to licensing requirements. <p>Staff requests and recommends approval to submit the proposed Massage Establishments ordinance to Committee and Council for consideration.</p>							
Attachments: (please list)							
Proposed Ordinance.							
Recommendation / Suggested Action (briefly explain):							
Recommendation to approve an Ordinance Amending Title 5, "Business Licenses and Regulations," Chapter 5.20" Massage Establishment" of the St. Charles Municipal Code.							
For office use only:		Agenda Item Number: 6					

**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

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 subbing 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 one of the following:
 - a. Active member status in a professional massage therapy organization whose minimum standards require graduation from a recognized school, as defined herein, or the passing of a competency test for active membership; or
 - b. Graduation and completion of a professional level entry program which consists of 500 hours or more of in-classroom study and 100 hours or more of clinical experience in a recognized school; or
 - c. 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.

MASSEUR. Any person who, for any consideration whatsoever, engages in the practice of massage as defined herein.

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 and Therapy Association, Inc. 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 masseur, 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.
 - a. Physicians, surgeons, chiropractors, osteopaths, podiatrists, or physical therapists who are duly licensed to practice their respective professions in the state.
 - b. 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.
 - c. Massage therapists who hold a degree, diploma or certificate in massage therapy from any recognized school or resident course of study of 500 hours approved by a nationally recognized massage therapy association or who is certified or otherwise recognized by such an association to practice massage therapy and is duly licensed by the State of Illinois.

- d. State-licensed practical nurses and registered nurses while administering massages in the normal course of their medical duties.
 - e. 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 and hands of the customer or client for cosmetic or beautifying purposes.
 - f. Hospitals, sanitariums, nursing homes, home health agencies, hospice programs and other such programs as defined and licensed by the state under ILCS Ch. 210.
 - g. Masseurs who administer massages only to the back and/or shoulder region of fully clothed patrons when such patrons sit in upright massage chairs.
 - h. Massages provided in the course of not-for-profit special events, such as corporate health and wellness days, fundraisers, and athletic events.
 - i. 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.
 - j. 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:
- a. The type of ownership of the business, i.e. individual, partnership, corporation, or otherwise.
 - b. The name under which the business is to be conducted.
 - c. A description of the services to be provided on the premises.
 - d. The location and description of the premises or place of business which is to be operated under such license.
 - i. 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.
 - ii. 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.
 - e. All telephone numbers and Internet addresses of the business.
 - f. 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 physical description of the applicant (including the height and weight and the color of hair and eyes).

- g. 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.
- h. In case of a corporation, the object for which the corporation was 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.
- i. 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.
- j. 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.
- k. The business, occupation, and employment history of the applicant for the three years preceding the date of the application.
- l. 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.
- m. 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.
- n. 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.
- o. Proof that the applicant is at least 18 years of age.
- p. 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 determination 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 May1, and ending on April 30 of the year of issuance.
- 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 \$ _____. 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 be provided separately for each sex.

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 advise 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:
 - a. 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
 - b. 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:
 - i. 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;
 - ii. Convicted of sex offense as defined in ILCS Ch. 720, or any equivalent law of any state; or
 - iii. Convicted of a violation of any provision of this chapter.
 - c. The applicant has had a massage business, masseur 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
 - d. 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.

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 valid 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 masseur 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.
- 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 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 person 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 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:
- a. The licensee has violated any provisions of this chapter;
 - b. 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;
 - c. Any applicant for a massage business license has made a false statement on the application;

- d. A licensee has refused to allow any duly authorized police officer or county enforcement officer or health inspector to inspect the massage establishment premises;
 - e. The premises of the massage establishment are at any time not in compliance with the City building, health or fire codes;
 - f. The premises of the massage establishment are not in compliance with any of the conditions and restrictions set forth in 5.20.130;
 - g. 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;
 - h. 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;
 - i. 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;
 - j. 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;
 - k. 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;
 - l. A license holder knowingly conducted massage activities in the city during a period of time when the license holder's license was suspended;
 - m. 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