

**AGENDA  
CITY OF ST. CHARLES, IL  
GOVERNMENT SERVICES COMMITTEE MEETING  
JAMES MARTIN, CHAIRMAN**

**MONDAY, NOVEMBER 24, 2014, 7:00 P.M  
CITY COUNCIL CHAMBERS  
2 E. MAIN STREET, ST. CHARLES, IL 60174**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. ADMINISTRATIVE**
  - a. Electric Reliability Report – Information only.
- 4. PUBLIC WORKS DEPARTMENT**
  - a. Presentation of a Proclamation in Recognition of Pat Boyle’s Leadership Role for the St. City of St. Charles Municipal Electric Utility.
  - b. Presentation of IMEA Honors St. Charles with Member Municipality of the Year.
  - c. Recommendation to approve and accept Easement at 3620 Swenson Avenue (Chicago Mold & Tool).
  - d. Recommendation to approve Purchase of Return Activated Sludge Pump from Xylem Water Solutions USA, Inc.
  - e. Recommendation to approve Change Order No. 1 for Royal Fox 1 Lift Station Rehabilitation Project.
  - f. Recommendation to approve Change Order No. 1 for the Illinois Street Siphon Rehabilitation Project.
  - g. Recommendation to approve Change Order No. 9 for the Biosolids Building Construction Project.

**5. POLICE DEPARTMENT**

- a. Recommendation to approve Ordinance Amendments to Title 5, “Business Licenses and Regulations,” Chapter 5.16 “Tobacco.
- b. Recommendation to approve an Ordinance Amending Title 5, “Business Licenses and Regulations,” Chapter 5.20 “Massage Establishments”.
- c. Recommendation to rescind the approved changes to the City of St. Charles City Code 10.40.040 – No Parking Places Designated – Prohibited Parking, Exhibit 33 in August 2014.

**6. ADDITIONAL BUSINESS**

**7. EXECUTIVE SESSION**

- Personnel
- Pending Litigation
- Probable or Imminent Litigation
- Property Acquisition
- Collective Bargaining

**8. ADJOURNMENT**



ST. CHARLES  
SINCE 1834

## AGENDA ITEM EXECUTIVE SUMMARY

Title: Electric Reliability Report – Information Only

Presenter: Tom Bruhl

*Please check appropriate box:*

<input checked="" type="checkbox"/>	Government Operations	X	Government Services 11.24.14
<input type="checkbox"/>	Planning & Development		City Council
<input type="checkbox"/>	Public Hearing		

Estimated Cost: \$ Budgeted: YES NO

If NO, please explain how item will be funded:

### Executive Summary:

For information only.

### Attachments: *(please list)*

October 2014 Outage Report.

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

For information only.

*For office use only:* Agenda Item Number: 3.a





ST. CHARLES  
SINCE 1834

## AGENDA ITEM EXECUTIVE SUMMARY

Title: Presentation of a Proclamation in Recognition of Pat Boyle's Leadership Role for the City of St. Charles Municipal Electric Utility

Presenter: Tom Bruhl

*Please check appropriate box:*

<input type="checkbox"/>	Government Operations	<input checked="" type="checkbox"/>	Government Services 11.24.14
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	

Estimated Cost: \$0 Budgeted: YES NA NO

If NO, please explain how item will be funded:

### Executive Summary:

Pat Boyle was the Director of the St. Charles Municipal Electric Utility from 1966 to 1997. Mr. Boyle was a founding member of IMEA and made countless contributions to our electric utility.

### Attachments: (please list)

None

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

Information Only

*For office use only:*

*Agenda Item Number: 4.a*



City of St. Charles  
ILLINOIS

# Proclamation

**PATRICK BOYLE**

**WHEREAS,** From 1966 to 1997, **Pat Boyle** led the St. Charles Municipal Electric Utility. Pat had much passion for the utility being cost effective, reliable, and safe. Over his 31 years of leadership, the City of St. Charles and our electric utility grew quite a bit. The substations that we have today at Dunham Road, Prairie Street, and Dukane Drive were all constructed, and City Hall Sub was modernized during the Boyle era. The assets that were built during those days continue to serve the residents and businesses today, thanks in large part to the strategic planning of Pat Boyle. Pat was known to have created and updated a 30 year plan for the Electric Utility; and

**WHEREAS,** the strict adherence to contingency planning and reserve capacity strategies continues to carry through the organization today, and has direct impact on our strong electric reliability performance; and

**WHEREAS,** on a more broad scope, **Pat Boyle** was a pioneer on Illinois legislation that would allow municipal electric utilities to form joint action agencies. It took four years of work to get the legislation through and it was finally passed in 1983. Such was instrumental in giving the City leverage to negotiate with ComEd for a contract that served the City until 2006. The legislation to allow for joint action agencies for the procurement of power was also critical in the founding of the Illinois Municipal Electric Agency, which was founded in 1984 and subsequently the City has contracted with IMEA on a long term contract that started in 2006. Through this 30-year contract, the City is able to buy power at stable and competitive rates.

**NOW, THEREFORE,** I, Raymond P. Rogina, Mayor of the City of St. Charles and on behalf of the City Council, would like to recognize **Patrick Boyle** for his long dedicated service and acknowledge his instrumental role in making the St. Charles Municipal Electric Utility a leader in reliability, safety, and value.

SEAL:

A handwritten signature in black ink that reads "Raymond P. Rogina". The signature is written in a cursive style and is positioned above a horizontal line.

Raymond P. Rogina, Mayor



ST. CHARLES  
SINCE 1834

**AGENDA ITEM EXECUTIVE SUMMARY**

Title: Presentation of IMEA Honors St. Charles with Member Municipality of the Year

Presenter: Tom Bruhl

*Please check appropriate box:*

<input type="checkbox"/>	Government Operations	<input checked="" type="checkbox"/>	Government Services 11.24.14
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	

Estimated Cost:	\$0	Budgeted:	<input type="checkbox"/> YES	<input type="checkbox"/> NA	<input type="checkbox"/> NO	<input type="checkbox"/>
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If NO, please explain how item will be funded:

**Executive Summary:**

At the IMEA Annual Conference, IMEA President and CEO named St. Charles as Member Municipality of the Year. The Electric Utility would like to present the award to the Mayor and City Council.

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

None

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

Information Only

*For office use only:*

*Agenda Item Number: 4.b*



ST. CHARLES  
SINCE 1834

## AGENDA ITEM EXECUTIVE SUMMARY

Title: Recommendation to Approve and Accept Easement at 3620 Swenson Avenue (Chicago Mold)

Presenter: Tom Bruhl

*Please check appropriate box:*

<input checked="" type="checkbox"/>	Government Operations	X	Government Services 11.24.14
<input type="checkbox"/>	Planning & Development		City Council
<input type="checkbox"/>	Public Hearing		

Estimated Cost: \$0 Budgeted: YES NA NO

If NO, please explain how item will be funded:

### Executive Summary:

As part of the building addition done by Chicago Mold at 3620 Swenson Avenue, the electric utility system was extended to provide a new service. The owner has provided an easement allowing the City to own and maintain our infrastructure on their property. The easement document also contains a storm water easement.

### Attachments: *(please list)*

None

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

Recommendation to approve and accept an Easement at 3620 Swenson Avenue and Authorization of Mayor and City Clerk to Execute Same.

*For office use only:*

*Agenda Item Number: 4.c*



ST. CHARLES  
SINCE 1834

## AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve Purchase of Return Activated Sludge Pump from Xylem Water Solutions USA, Inc.
Presenter:	John Lamb

*Please check appropriate box:*

	Government Operations	X	Government Services 11.24.14
	Planning & Development		City Council
	Public Hearing		

Estimated Cost:	\$40,000	Budgeted:	YES	X	NO	
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If NO, please explain how item will be funded:

**Executive Summary:**

The Wastewater Division has budgeted for the replacement of three return activated sludge pumps over several fiscal years due to age of the pumps. These will be installed at the Main Treatment Plant. The first of the three replacements is in the current fiscal year.

Staff requested proposals from four vendors and received two submittals. The proposals are attached and summarized below.

Xylem Water Solutions USA, Inc	\$29,294.38
Flow Technics, Inc.	\$28,090.00

Although Xylem is the higher of the two proposals staff is recommending this pump be purchased as it can be installed without any modifications. The Flow Technics pump will require modifications at an additional cost, plus labor and shutdown to install.

Staff is also requesting that the formal bid process be waived since requests for proposals, competitive pricing was used in lieu of.

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

Bid Waiver  
Proposals

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

Recommendation to purchase wastewater pump from Xylem Water Solutions at a cost of \$29,294.38 and a Resolution Authorizing the Mayor and Clerk to execute the same.

<i>For office use only:</i>	<i>Agenda Item Number: 4.d</i>
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**Xylem Water Solutions USA, Inc.  
Flygt Products**

October 16, 2014

8402 183rd Street Suite A  
Tinley Park, IL 60487  
Tel (708) 342-0484  
Fax (708) 342-0491

CITY OF ST CHARLES  
200 DEVEREAUX ST  
IL 60174

Quote # 2014-CHI-0619

Attn: Mike Grandt

Re: RAS Pump Replacement

Xylem Water Solutions USA, Flygt Products is pleased to provide our Complete Scope Letter with Pricing for the project referenced above. The equipment noted as follows has been designed in strict accordance to the Engineers Specifications and meets the project requirements 100%. We greatly appreciate your consideration and opportunity to be of service.

**RAS Pump Replacment**

Qty	Description	Extended Price
1	Flygt Model NP-3301.095 10" volute Submersible pump equipped with a 460 Volt / 3 phase / 60 Hz 70 HP 1150 RPM motor, 636 impeller, 1 x 50 Ft. length of submersible cable, FLS leakage detector, volute is prepared for Flush Valve	\$ 28,978.80
1	MINI-CASII/FUS 120/24VAC,24VDC	\$ 273.42
1	SOCKET,11-PIN BACK MOUNTING	\$ 42.16
<b>Total Project Price</b>		<b>\$ 29,294.38</b>
	Freight Charge	\$ 450.00
<b>Total Project Price</b>		<b>\$ 29,744.38</b>

**Incoterm:** 14 FOB@O - FOB Origin

**Named Placed:** 02 - US WH/ Factory

Incoterms 2010 clarify responsibility for costs, risks, & tasks associated with the shipment of goods to the named place.

**Terms of delivery:** Freight PP/Line Item

**Time of delivery:** Approx. 10-12 working weeks after receipt of order.

**Validity:** This Quote is valid for thirty (30) days.

Thank you for the opportunity to provide this quotation. Please contact us if there are any questions.

Sincerely,

Ram Anchan  
Tech. Sales Representative  
Phone: 7087811072  
Cell: 708-603-0282  
ram.anchan@xylem.com



# FLOW-TECHNICS, INC.

## PROPOSAL

City of St. Charles WWTP  
1405 S. 7<sup>th</sup> Avenue  
St. Charles, IL. 60174  
Attn.: Mike Burnett

February 13, 2013

Re: Flygt RAS Replacement

### ABS Pumps

We are pleased to offer the following proposal for your consideration:

1- ABS model XFPD250JC-CB2-PE630/6J pump with a 84 HP motor, 460V, 3 phase, 1750 RPM capable of delivering 3648 GPM AT 60' TDH. The pump has a cooling jacket and is explosion-proof and comes complete with 49' of power cable. The pump has a 10" discharge.

- 1- Flygt adapter bracket
- 1- ABS module and socket to adapt to MiniCAS unit for seal leak and thermal protection
- 1- Lot of labor to install control relay in panel

**Price \$ 28,090.00 (plus freight)**

**The ABS pump is 84 HP with 93.7 FLA. The Flygt pump is rated at 91A. Please confirm that the existing VFD can handle the additional 3 Amps.**

#### TERMS & CONDITIONS:

- Payment: Net 30 Days; no startup will be performed without 100% payment.  
Prices: Valid for 30 days from date of this proposal.  
Taxes: Sales taxes are NOT included.  
F.O.B.: Factory – Prepaid & Added  
Delivery: 12 – 16 weeks  
Notes: - Offloading by others.  
- Installation IS NOT included.

Respectfully submitted,  
FLOW-TECHNICS, INC.

*Michael E. Carney*

Michael E. Carney

*This ABS pump will require a single rail system at an additional cost plus labor and shut down of RAS/WA to install.*

*MB*





**AGENDA ITEM EXECUTIVE SUMMARY**

Title: Recommendation to approve Change Order No. 1 for Royal Fox I Lift Station Rehabilitation Project

Presenter: John Lamb

*Please check appropriate box:*

<input type="checkbox"/>	Government Operations	<input checked="" type="checkbox"/>	Government Services 11.24.14
<input type="checkbox"/>	Planning & Development		City Council

Estimated Cost:	\$24,637.27	Budgeted:	YES	<input checked="" type="checkbox"/>	NO	
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If NO, please explain how item will be funded:

**Executive Summary:**

The Royal Fox Lift Station is located on Dunham Road and Royal Fox Drive. The rehabilitation project was approved by committee in April 2014. Currently City staff does not have the ability to access or clean out the approximately 2,500 feet of force main connected with this lift station. The lift station and main receives fats, oil and greases that build up and constricts the flow of the main. Therefore staff is requesting approval for this work and associated costs which will allow regular maintenance of the main.

Change order for the work is itemized on the attachment titled Summary of Change Order No.1. There are adequate funds remaining in the project budget to cover the Change Order amount.

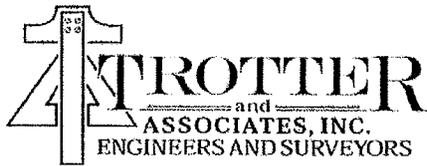
**Attachments:** *(please list)*

Change Order Form

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

Recommendation to approve Change Order No. 1 in the amount of \$24,637.27 for Royal Fox I Lift Station Rehabilitation Project and a Resolution Authorizing the Mayor and Clerk to execute the same.

<i>For office use only</i>	<i>Agenda Item Number: 4.e</i>
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**City of St. Charles - Royal Fox Lift Station No. 1 Rehabilitation  
Summary of Change Order #1**

CMR No.	Description	Amount	Days
1	Furnish and Install Five Cleanout Structures on Discharge Forcemain	\$ 33,176.27	14
2	Furnish Additional Odor Control Valve for City Inventory	\$ 1,006.25	0
3	Furnish and Install Traffic-Rated Electrical Junction Box (12"x12")	\$ 455.28	0
4	Electrical Service Work Allowance	\$ (5,000.00)	0
5	Steel Repairs Allowance	\$ (5,000.00)	0
<b>TOTAL FOR CHANGE ORDER #1</b>		<b>\$ 24,637.80</b>	<b>14</b>

Original Contract Price	\$ 309,950.00
Previous Change Orders	\$ -
Current Contract Price adjusted by Previous Change Orders	\$ 309,950.00
Contract Price due to this Change Order will be adjusted by	\$ 24,637.80
Contract Price including this Change Order	\$ 334,587.80

	Substantial Completion	Final Completion
Original Completion Dates	November 6, 2014	December 6, 2014
Previous Contract Time Adjustment	0	0
Current Completion Dates adjusted by Previous Change Orders	November 6, 2014	December 6, 2014
Contract Time due to this Change Order to be Adjusted by	14	14
Completion Dates including this Change Order	November 20, 2014	December 20, 2014

RECOMMENDED:

*John Lee* 11/6/14  
Environmental Services Manager Date

APPROVED:

\_\_\_\_\_  
Finance Director Date

\_\_\_\_\_  
Contractor Date



## AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to approve Change Order No. 1 for Illinois Street Siphon Rehabilitation Project
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Presenter:	John Lamb
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*Please check appropriate box:*

	Government Operations	X	Government Services 11.24.14
	Planning & Development		City Council

Estimated Cost:	\$45,062	Budgeted:	YES	X	NO	
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If NO, please explain how item will be funded:

**Executive Summary:**

The Illinois Street Siphon Rehabilitation Project was approved by committee in May 2014. The Illinois Street siphon is the last phase of the three phase project and is located on Illinois Street with vaults on both the east side and west side of the river. During the inspection of the vaults, it was discovered that modifications must be made to accommodate clearance for removal and replacement of valves. In addition, televising of the siphon discovered integrity issues with the pipes.

Therefore, staff is requesting approval of this Change Order for the work and associated costs which improves the integrity of the siphon line and allows access for maintenance in the vault on a regular basis.

The Change Order for the work is itemized on the attachment titled “Summary of Change Order No.1”. There are adequate funds remaining in the project budget to cover the Change Order amount.

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

Change Order Form

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

Recommendation to approve Change Order No. 1 in the amount of \$45,062 for Illinois Street Siphon Rehabilitation Project and a Resolution Authorizing the Mayor and Clerk to execute the same.

*For office use only*

*Agenda Item Number: 4.f*



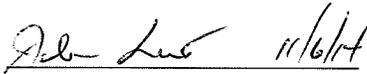
**City of St. Charles - Illinois Street Siphon Rehabilitation  
Summary of Change Order #1**

CMR No.	Description	Amount	Days
1	Modify East Siphon Chamber to Allow Installation of Proposed Valves	\$ 15,778.00	0
2	Clean, Repair Leaks, Seal and Line Both Siphons with CIPP	\$ 29,274.00	140
<b>TOTAL FOR CHANGE ORDER #1</b>		<b>\$ 45,052.00</b>	<b>140</b>

Original Contract Price	\$ 99,125.00
Previous Change Orders	\$ -
Current Contract Price adjusted by Previous Change Orders	\$ 99,125.00
Contract Price due to this Change Order will be adjusted by	\$ 45,052.00
Contract Price including this Change Order	\$ 144,177.00

	Substantial Completion	Final Completion
Original Completion Dates	August 7, 2014	August 22, 2014
Previous Contract Time Adjustment	0	0
Current Completion Dates adjusted by Previous Change Orders	August 7, 2014	August 22, 2014
Contract Time due to this Change Order to be Adjusted by	140	140
Completion Dates including this Change Order	December 25, 2014	January 9, 2015

RECOMMENDED:

  
Environmental Services Manager      Date

APPROVED:

\_\_\_\_\_  
Finance Director      Date

\_\_\_\_\_  
Contractor      Date



## AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to approve Change Order No. 9 for Biosolids Building Construction Project
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Presenter:	John Lamb
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*Please check appropriate box:*

	Government Operations	X	Government Services 11.24.14
	Planning & Development		City Council

Estimated Cost:	\$17,405.66	Budgeted:	YES	X	NO	
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If NO, please explain how item will be funded:

**Executive Summary:**

Staff is requesting approval of Biosolids Building Project Change Order #9 in the amount of \$17,405.66. Change order is for the work itemized on the attachment titled "Summary of Change Order No. 9". There are miscellaneous items listed.

The Change Order amount will be taken out of project contingency funds and be included in the low interest loan that is funding the project.

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

Change Order Form

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

Recommendation to approve Change Order No. 9 in the amount of \$17,405.66 for Biosolids Construction Project and a Resolution Authorizing the Mayor and Clerk to execute the same.

*For office use only*

*Agenda Item Number: 4.g*

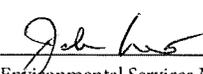
**City of St. Charles - 2012 Main & Sludge Handling Building Improvements  
Summary of Change Order #9**

CMR No.	Description	Amount	Days
72	Revise Plaque Detail for Final City Officials	\$ 621.00	0
73	Miscellaneous Time and Material Work	\$ 1,684.00	0
74	Weld 4" Stainless Steel Vents to Centrifuge Diverter Gate Discharges	\$ 1,178.00	0
76	Replace EHH-3 with Structure Rated for Heavy Traffic	\$ 5,711.00	2
77	Additional Performance Testing by Alfa Laval for Centrifuges	\$ 7,868.00	2
78	Furnish and Install Astragal at Door 11-110A to Auxiliary Storage Room	\$ 307.00	0
79	Install Additional Stud Wall Above Ceiling at S. End of Operations Building	\$ 1,419.00	3
80	Install Additional Pavement and Type B Curb W. of Sludge Handling Building	\$ 10,877.17	4
81	Furnish and Install SS Collector and Drain System for Centrifuge Div. Gates	\$ 3,982.49	0
83	Furnish and Install Piping at S/O Separator Vent	\$ 1,580.00	1
84	Install Additional Sidewalk to Reduce Slope of Concrete NW of Ops. Bldg.	\$ 1,664.50	1
86	Change the Function of Four Doors in the Operations Building to "Storeroom"	\$ 1,402.00	0
88	Replace WP Receptacles in SHB so they are Weatherproof While In Use	\$ 624.00	1
90	Additional Painting of Water Meter Conduit, RAS Valve & TWAS Mixing Syst.	\$ 1,666.00	0
91	Credit for Incorrect Ductwork Materials in Operations Building	\$ (2,304.00)	0
93	Furnish and Install Mop Basin in Inventory	\$ 3,116.00	1
94	Furnish and Install Two (2) 18" Grab Bars per Building Department	\$ 198.00	0
95	Electrical Service Work Allowance	\$ (5,703.50)	0
96	Unforeseen Electrical Conflicts Allowance	\$ (20,000.00)	0
97	Additional Solenoid Valve for ACCU-1101	\$ 1,515.00	0
<b>TOTAL FOR CHANGE ORDER #9</b>		<b>\$ 17,405.66</b>	<b>15</b>

Original Contract Price	\$ 8,897,150.00
Previous Change Orders	\$ 158,690.99
Current Contract Price adjusted by Previous Change Orders	\$ 9,055,840.99
Contract Price due to this Change Order will be adjusted by	\$ 17,405.66
Contract Price including this Change Order	\$ 9,073,246.65

	Substantial Completion	Final Completion
Original Completion Dates	February 7, 2014	May 8, 2014
Previous Contract Time Adjustment	36	36
Current Completion Dates adjusted by Previous Change Orders	March 15, 2014	June 13, 2014
Contract Time due to this Change Order to be Adjusted by	15	15
Completion Dates including this Change Order	March 30, 2014	June 28, 2014

RECOMMENDED:

 11/6/14  
Environmental Services Manager Date

APPROVED:

\_\_\_\_\_  
Finance Director Date

\_\_\_\_\_  
Contractor Date



## AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve Request Ordinance Amendments to Title 5, “Business Licenses and Regulations,” Chapter 5.16 “Tobacco
Presenter:	Chief Keegan

*Please check appropriate box:*

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

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

**Executive Summary:**

As part of both the City and Police Department’s efforts to improve and enhance both compliance and accountability of tobacco retailers, the attached ordinance is being brought forward 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.

These proposals as presented will solidify our ordinances and City Code and provide both the City and Police Department a more defined tobacco and alternative nicotine products review process.

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

Proposed Ordinance

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

Recommendation to approve Ordinance amendments to Title 5, “Business Licenses and Regulations,” Chapter 5.16 “Tobacco.”

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

**An Ordinance Amending Title 5, "Business Licenses  
and Regulations," Chapter 5.16, "Tobacco Dealers,"  
of the St. Charles Municipal Code**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES,  
KANE AND DUPAGE 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**

**5.16: TOBACCO**

Sections:

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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:

“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 (commonly known as e-cigarettes). Alternative tobacco or nicotine products includes synthetic tobacco products which are intended to replicate tobacco and tobacco products. 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.

“Hookah Lounge” means an establishment where patrons share shisha (flavored tobacco) from a communal hookah or nargile which is placed at each table. Typically a disposable mouthpiece is provided for each user for hygiene reasons. Some Hookah Bars offer traditional shisha or herbal shisha (contains no tobacco/nicotine) but herbs produce tar when they burn and for the purposes of this ordinance, shall be treated the same as tobacco/alternative nicotine products in reference to their use and/or sale.

“Retail tobacco dealer” means any person selling, offering for sale, exposing for sale or keeping with the intention of selling or exchanging at retail, tobacco products, alternative nicotine products or tobacco accessories in the city. “Retail” means the sale of commodities in small quantities directly to the ultimate consumer. For example: The sale of tobacco in a grocery store, convenience store, gas station, tavern, restaurant, billiard or bowling alley.

“Tobacco Accessories” means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed primarily for the smoking or ingestion of tobacco products.

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

“Tobacco product sample” means a tobacco product distributed to members of the general public at no cost or at nominal cost for product promotional purposes. Examples include tobacco shop, e-cigarette shops or cigar shop.

“Tobacco product sampler” means any person engaged in the business of tobacco product sampling, alternative nicotine or other than a retail tobacco dealer.

“Tobacco product sampling” means the distribution of tobacco product samples to members of the general public.

“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.

“Wholesale tobacco dealer” means any person making, manufacturing of jobbing cigars, or selling, offering for sale, exposing for sale, or keeping with the intention of selling or exchanging or delivering at wholesale, any tobacco, snuff, cigars, cigarettes or cigarette papers, including leaf tobacco, alternative nicotine products or any preparations containing tobacco. “Wholesale” means the sale of commodities in quantity usually for resale (as by a retail merchant); no sales directly to the ultimate consumer.

#### **5.16.030 License – Required.**

(A) 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.

(B) There shall be three (3) categories of tobacco licenses:

1. Retail Tobacco Dealer – over the counter. It shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with intention of selling at retail, giving away or delivering tobacco, alternative tobacco devices or tobacco products within the City without first obtaining a retail tobacco license. No smoking, sampling or testing is permitted on the premises.

2. Retail Tobacco Dealer – product sampler. (Specialty Store) It shall be unlawful to permit smoking on the premises at an establishment that also sells tobacco, alternative tobacco devices or tobacco related devices without first obtaining a retail tobacco dealer – product sampler license. The sale, sampling or testing of alternative tobacco products or smoking tobacco shall be permitted on the premises.

3. Wholesale Tobacco Dealer. It shall be unlawful to offer for sale at wholesale, give away, deliver, or keep with the intent of selling at wholesale, giving away

or delivering tobacco, alternative tobacco devices or tobacco products within the City without first obtaining a wholesale tobacco dealer license. A wholesale tobacco dealer who also conducts retail sales shall be required to obtain a retail tobacco dealer license in addition to the wholesale tobacco dealer license. No smoking, sampling or testing is permitted on the premises.

**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.**

(A) The license fee for a Retail Tobacco Dealer – over the counter as well as vending machines shall be \$50.00.

(B) The license fee for a Retail Tobacco Dealer – product sampler shall be \$100.00.

(C) The license fee for a Wholesale Tobacco Dealer shall be \$250.00.

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 and is assisting the employee younger than 18 in the sale process.

**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



## AGENDA ITEM EXECUTIVE SUMMARY

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

*Please check appropriate box:*

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

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

**Executive Summary:**

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

The key points in this ordinance are as follows:

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

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

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

Proposed Ordinance

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

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

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

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

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

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

**CHAPTER 5.20**

**5.20: MASSAGE ESTABLISHMENTS**

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

**§ 5.20.010 DEFINITIONS.**

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

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

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

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

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

**MASSAGE THERAPIST.**

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

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

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

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

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

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

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

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

**§ 5.20.020 MASSAGE BUSINESS LICENSE REQUIRED.**

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

**§ 5.20.030 MASSAGE THERAPIST REQUIRED.**

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

**§ 5.20.040 EXEMPTIONS.**

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

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

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

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

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

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

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

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

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

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

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

**§ 5.20.050 APPLICATION FOR MASSAGE BUSINESS LICENSE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) The applicant shall submit such other information, documentation and identification of the applicant as the Local Liquor Control Commissioner and/or Chief of Police shall deem necessary to 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 May 1, and ending on April 30.

(B) All license fees shall be paid at the time that the application is made. The license application fee and the annual license renewal fee for a massage business license shall be \$250, plus a \$50 fingerprint fee. In addition to said annual fee, the applicant shall provide evidence to the City that a qualified Massage Therapist, as defined in §5.20.010 of this chapter will be present on the premises to comply with the requirements of §5.20.030. All applicable license fees and any other required fees, including costs of fingerprinting, shall be paid prior to the issuance of any license.

(C) A license may be revoked for failure to pay the license fees and for those grounds stated in § 5.20.180. Such revocation may be in addition to any fine imposed.

**§ 5.20.070 SANITATION AND SAFETY REQUIREMENTS.**

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

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

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

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

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

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

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

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

**§ 5.20.080 ISSUANCE AND DENIAL OF LICENSES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 5.20.090 DISPLAY OF LICENSES.**

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

**§ 5.20.100 REGISTER AND REGULATION OF EMPLOYEES.**

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

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

**§ 5.20.110 CONDITIONS AND RESTRICTIONS OF LICENSES.**

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

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

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

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

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

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

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

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

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

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

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

#### **§ 5.20.120 SALE, TRANSFER, OR CHANGE OF LOCATION.**

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

#### **§ 5.20.130 PROHIBITED ACTS AND CONDITIONS.**

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

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

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

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

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

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

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

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

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

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

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

**§ 5.20.140 ENFORCEMENT.**

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

**§ 5.20.150 MASSAGE BUSINESS COMMISSIONER; MASSAGE BUSINESS COMMISSION; SUSPENSION, REVOCATION OF LICENSE; FINES, COSTS.**

(A) The Local Liquor Control Commissioner shall serve as the massage commissioner and shall be charged with the administration of this article and of such other ordinances relating to massage sales and licensing as may be from time to time enacted by the city council. A massage commission is created, which shall be composed of the same five members of the city's local liquor commission. Accordingly, the terms and provisions of Sections 5.08.020, 5.08.030 and 5.08.035 of this Code are incorporated into this article as though fully set forth in this article, as being specifically applicable to the creation, enforcement, and administration of this article.

(B) The massage commissioner, after a hearing conducted by the massage commission may suspend or revoke any license issued under the provisions of this article if he determines that the licensee has violated any of the provisions of this article. In lieu of suspension or revocation of the license, the massage commissioner may instead levy a fine on the licensee. The fine imposed shall not exceed \$500.00 for each violation. Each day on which a violation continues shall constitute a separate violation.

(C) No license issued under this article shall be suspended or revoked and no licensee shall be fined except after a public hearing by the massage commission with a seven-day written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven-day notice provision shall begin the day following delivery by certified mail or by personal service.

(D) If the Massage Commission determines after such hearing that the license under this Article should be revoked or suspended or that the licensee shall be fined, the Massage Commission shall recommend to the Massage Commissioner either the amount of the fine, the period of suspension or that the license be revoked.

The massage commissioner shall review the findings of the massage commission and serve the licensee with his findings and order within 14 days of the massage commission's hearing.

(E) Any licensee determined by the massage commissioner to have violated any of the provisions of this article shall pay to the city the costs of the hearing before the massage commission on such violation. The massage commissioner shall determine the costs incurred by the city for such hearing, including but not limited to, attorneys' fees, court reporter's fees, fees incurred by the City, Chief of Police and the local Liquor Control Commissioner, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses incurred by the City or such lesser sum as to the massage commissioner may allow.

The licensee shall pay such costs to the City within 30 days of notification of the costs by the massage commissioner. Failure to pay such costs within 30 days of notification is a violation of this article and may be cause for license suspension or revocation, or the levy of a fine.

(F) The terms and provisions of the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.) shall apply to all orders of the City which revoke or suspend any massage dealer's license and/or impose a monetary fine or other penalty, as provided for in this article.

**§ 5.20.160 COMPLAINT OF VIOLATION.**

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

**§ 5.20.170 NOTICE.**

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

**§ 5.20.180 REVOCATION OR SUSPENSION OF LICENSES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 5.20.190 PENALTY FOR VIOLATION.**

Any person, corporation, firm or partnership found guilty of violation, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than \$500.00, nor more than \$1,500.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any other penalty, a license holder violating any provision of this article may be subject to having their license revoked, suspended or not renewed.

SECTION 2. That after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the Council, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage by a vote of the majority of the Corporate Authorities now holding office and approval in the manner provided by law.

**PRESENTED** to the City Council of the city of St. Charles, Illinois, this day of \_\_\_\_\_, 2014.

**PASSED** by the City Council of the city of St. Charles, Illinois, this day of \_\_\_\_\_, 2014.

**APPROVED** by the Mayor of the city of St. Charles, Illinois, this day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor

ATTEST:  
  
\_\_\_\_\_

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

**APPROVED AS TO FORM:**

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City Attorney



## AGENDA ITEM EXECUTIVE SUMMARY

<b>Title:</b>	Recommendation to Rescind the Approved Changes to the City of St. Charles City Code 10.40.040 – No Parking Places Designated – Prohibited Parking, Exhibit 33 in August 2014
<b>Presenter:</b>	Chief Keegan

*Please check appropriate box:*

Government Operations	<input checked="" type="checkbox"/>	Government Services 11.24.14
Planning & Development	<input type="checkbox"/>	City Council
Public Hearing	<input type="checkbox"/>	

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

**Executive Summary:**

Earlier this year, the owners of Fox Run Apartments on Walnut Drive contacted the Police Department and requested that the City consider a change to the current parking restrictions on Walnut Drive. Parking, at that time, was prohibited on both sides of Walnut Drive from 19<sup>th</sup> Street to Oak Street. The request to allow on-street parking along the west side of Walnut Drive between the entrance to the rental office and Oak Street, a distance of approximately 1000 ft., was approved by Council in August 2014.

Since this decision in August, the Police Department has been monitoring the parking situation. Substantial negative feedback has been received from the single-family homes along Walnut Drive. Parking availability will continue to be monitored by the Police Department and City staff concerning Fox Run residents and their guests.

Approval is requested to rescind the approved changes to STC Exhibit 33.

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

10.40.040 – No Parking Placed Designated – Prohibited Parking, Exhibit 33, with revisions; memo

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

Recommendation to rescind the approved changes for the City of St. Charles City Code 10.40.040 –No Parking Placed Designated – Prohibited Parking, Exhibit 33, which were approved by City Council in August 2014.

<i>For office use only:</i>	<i>Agenda Item Number: 5.c</i>
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# Memo

Date: 11/14/2014  
To: Chief Keegan  
From: Cmdr. Mahan  
CC: Dep. Chief Huffman, Traffic File  
Re: Parking on Walnut Drive

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As you are aware, an ordinance change was approved by City Council in August 2014 to approve on-street parking for a distance of approximately 1000 ft. in the 100-200 blk. of Walnut Drive. The parking was originally intended as supplemental parking for both Fox Run Apartments as well as for the single family homes on Walnut Drive. Since the change, it has been observed that the on-street parking has been used predominantly by residents and guests of Fox Run Apartments. It has been observed that the on-street parking is filled at times when the Fox Run lots are not. Complaints have been received about the following issues:

- Manner of parking (i.e., left wheel to curb, more than 12" from the curb, etc.)
- Duration of parking (violation of the 24 hour parking time limit)
- Garbage left on the roadway amongst the parked cars.
- Inability for deliveries near the front entrances to the two south Fox Run buildings (155 and 225 Walnut Drive) by USPS, FedEx, UPS, etc.
- Double parking near those front entrances.
- Social gatherings taking place in and around the cars parked on the street.
- Difficulty for residents of the single-family homes to pull in and out of their driveways.

This area was monitored by Patrol and the Traffic unit. However many of these complaints were received by letter or email and did not result in 911 calls or calls for service at the time of the observed offense.

There were also complaints of traffic only being able to pass in one direction at times and similar issues which are common experiences for a road of this width which normally has on-street parking.

As a result of the letters and emails, I had several conversations with residents of Walnut Drive and with the ownership/management of Fox Run Apartments. I found the ownership/management team of Fox Run to be very responsive. After receiving initial complaints they sent letters to all of their residents as well as the residents of the single-family homes. They also advised that their maintenance team would make daily checks for garbage amongst the parked cars, and they would take measures to ensure their residents used the parking lots first.

Complaints continued, and you and I met with the ownership/management team and developed some possible resolutions. Eventually a meeting was held at the Fox Run Clubhouse on 111214 with the residents of the single-family homes. Options for resolution were presented and discussed. It was clear from those residents present that a majority of the single-family home residents wished for the parking to return to how it had been prior to the change.

Alderman Turner, who was present at the meeting, indicated that a request to rescind the change could be brought before Committee/Council.

It should be noted, that Fox Run has previously worked with the City to make changes to add parking on their property but had encountered obstacles. They advised they will likely make further attempts to work toward that end.

With the issues presented and the additional issues that will likely arise with snow and ice removal, I would recommend that a formal request be made for the changes made to the parking ordinance regarding Walnut Drive to be rescinded.

City of St. Charles, Illinois

ORDINANCE NO. 2014-M-\_\_\_\_\_

An Ordinance amending title 10 "Vehicles and Traffic", Section 10.40.040 "No Parking Places Designated – Prohibited Parking" of the St. Charles Municipal Code

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

SECTION ONE: That Title 10 "Vehicles and Traffic", Section 10.40.040 "No Parking Places Designated – Prohibited Parking", of the St. Charles Municipal Code, be and is hereby amended as follows:

A. That Exhibit STC 33 be removed and replaced with the amended Exhibit STC 33.

SECTION TWO: 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 City Council of the City of St. Charles, 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 THREE: This Ordinance shall be in full force and effect ten (10) days from and after its passage by a vote of the majority of the corporate authorities now holding office, approval and publication in the manner provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 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.

\_\_\_\_\_  
Ronald P. Rogina, Mayor

ATTEST:

\_\_\_\_\_  
Nancy Garrison  
City Clerk

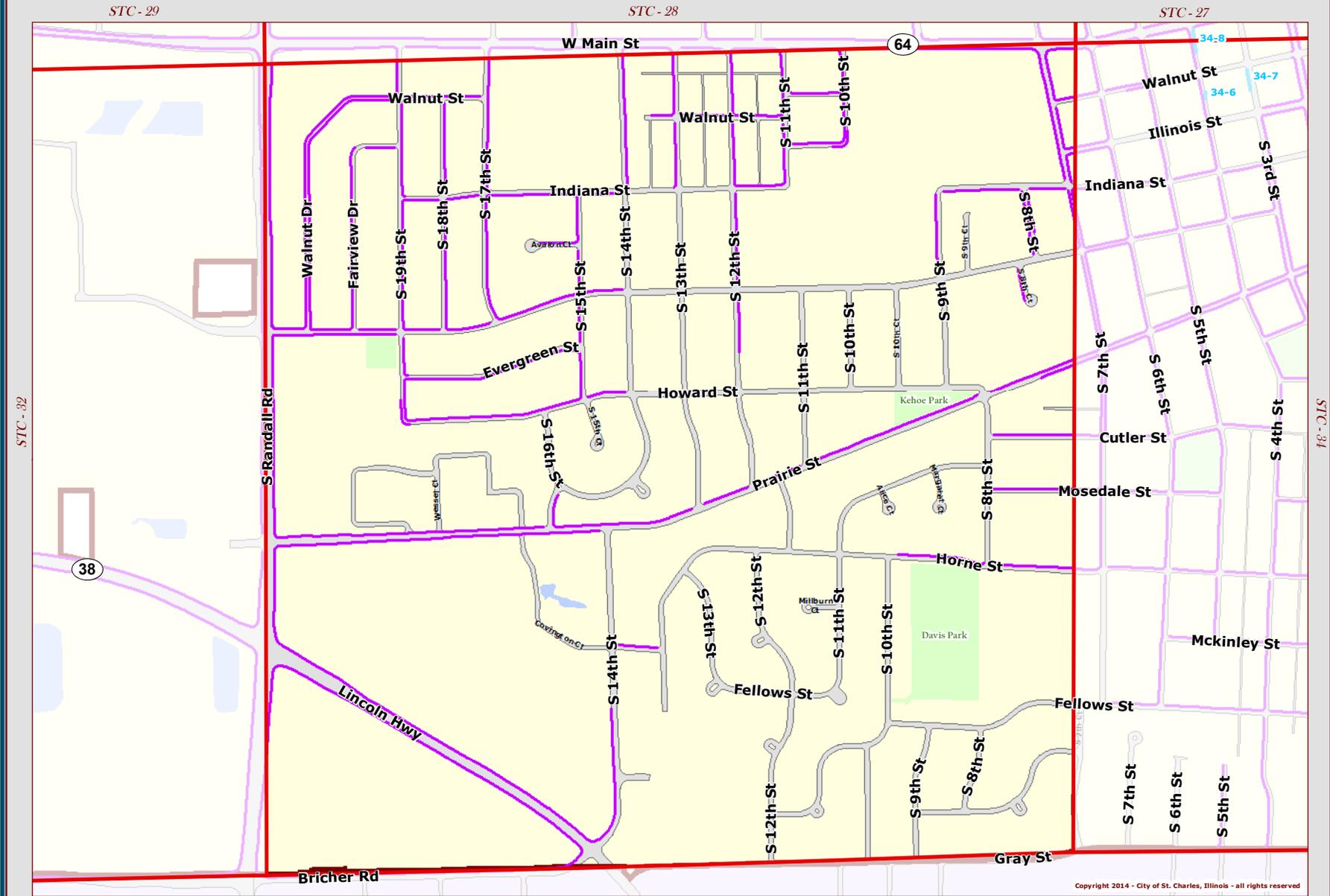
COUNCIL VOTE:

Ayes : \_\_\_\_\_  
Nays : \_\_\_\_\_  
Absent : \_\_\_\_\_



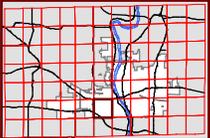
Ordinance & Special Case Numbers

- Ord. 1994-M-23
- Ord. 1995-M-10
- Ord. 1995-M-43
- Ord. 1996-M-21
- Ord. 1996-M-43
- Ord. 2000-M-25
- Ord. 2000-M-68
- Ord. 2004-M-17
- Ord. 2004-M-38
- Ord. 2009-M-17



33

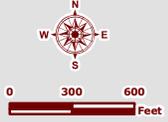
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Publication Date:  
November 14, 2014

Data Source:  
City of St. Charles, Illinois  
Madison County, Illinois  
Dupage County, Illinois

Projection: Transverse Mercator  
Coordinate System: Illinois State Plane East  
North American Datum 1983



- Parks
- Bodies of Water
- Rivers and Creeks
- Railroads
- Section

- Parking Designation
- No parking this side of the street
  - No parking on Sundays or Holidays
  - Special Case

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