

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

**TUESDAY, JANUARY 20, 2015
CITY COUNCIL CHAMBERS @ 4:30 PM
2 E MAIN STREET**

1. Call to Order.
2. Roll Call.
3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on December 15, 2014.
4. Discussion of propose code revisions for Title 5 “Business Licenses and Regulations” 5.08 “Alcoholic Beverages” to go before committee for recommendation to City Council.
5. Discussion of propose code revisions to Title 9 “Public Peace, Morals and Welfare” Chapter 9.09 “Fighting”, Chapter 9.16 “Profanity – Indecent Conduct”, Chapter 9.20 “Disorderly Conduct” and Chapter 9.65 “Administrative Adjudication” to go before Committee for recommendation to City Council.
6. Other Business.
7. Executive Session (5 ILCS 120/2 (c)(4)).
8. Adjournment.

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

1. Call to Order.

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

2. Roll Call

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

Absent:

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

3. Motion to accept and place on file minutes of the Liquor Control Commission meeting held on November 17, 2014.

Motion by Ald. Lewis second by Mr. Gehm to accept and place on file minutes of the Liquor Control Commission meeting held on November 17, 2014.

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

4. Discussion of propose code revisions for Title 5 “Business Licenses and Regulations” 5.08 “Alcoholic Beverages” to go before committee for recommendation to City Council.

Chrmn. Rogina: Tonight items 4 and 5 is one of our last phases of our long overhaul of liquor, tobacco, and more recently, massage ordinances as we move into the home stretch. Chief Keegan and Deputy Chief Huffman will take us through item 4 Title 5 “Business Licenses and Regulations” and item 5 will have a discussion of revisions to Title 9 “Public Peace, Morals, and Welfare”. One thing before Chief Keegan begins is that there is a lot of detail here and the Police Department has done a terrific job of research and proposals for our review. It’s not necessary tonight that we recommend something to City Council committee. If you see at the end of this conversation that you want to do that or you want to wait until the end of January to wrap it up, that is fine as well.

Chief Keegan: Purpose of this evening it twofold. One is to foster some discussion of these talking points. We wanted to bring these updates to the commission first. We’re going to go

through some of these proposed talking points one by one. If there are questions, please interject with advice or direction. Deputy Chief Huffman and I worked on this together, so we'll both be presenting material that we researched.

It is through collaboration and cooperation that we provide an inviting social experience to those who patronize St. Charles and its establishments. Our primary goal is to make our community a destination point for residents, visitors, and business owners alike. The revision recommendations of codes and ordinances in front of you this evening is a reflection of these efforts. We want to be firm but fair in our resolve of not only codifying the ordinances, but also enforcing them. We hope to accomplish the following goals:

1. clean up some inconsistent ordinance language,
2. provide clear direction and definitions of outdated language and practices, and
3. we want to follow industry standards and best practices in regards to our rules and regulations pertaining to the issues of licenses, enforcement of code regulations and stance of zero tolerance on certain violations of liquor code infractions. Specifically the fine increases for fighting in public, public urination and intoxication, and any violation pertaining to underage consumption and possession of alcohol by a minor.

Deputy Chief Huffman and I are not going to go through the entire code page by page, but rather are going to move to any page that is struck or modify and have an explanation on how we came up with that recommendation.

DC Huffman: Please turn to page 7 – any wording in blue is our proposed language change. We require that license fees be paid by certified bank check or cash. The reason for this is we've been put in situations several times over the last year where businesses paying for their licenses have had their checks bounced and we want to avoid that type of situation and required the fees be paid certified check or cash.

The second piece is any license that is issued in advance of the completion of fingerprints background investigation may be rescinded by the Liquor Commissioner if the results of the investigation did not comply with the previous section of this code. The intent behind that language oftentimes, through no control of our own but through the state, the current information from the fingerprints does not come back in a timely manner. This can complicate the process if we find out through the background check that they're not actually eligible for the license when one has been issued. This language didn't exist prior.

Pages 9 and 10 – Class B Restaurant licenses – the intent of changing this licensing language is that the Class B licensing was very confusing and a lot of it was repetitive on what they could serve, so we are proposing to get rid of all the Class B1, B2, B3, etc. and put everything into a Class B license in the language that is proposed here. We also incorporated language directly from the state Illinois liquor code in reference to patrons taking home partially consumed bottles of wine and the regulations that go with that, such as, it has to be with meal service and the partially consumed bottle of wine has to be packaged in a tampered proof bag (showed example of bag). On page 10 language pertains to site diagrams that we still require for Class B licenses including if they are going to have an outdoor patio area.

Chief Keegan: The purpose of this bag is if we're going to allow alcohol to leave a premise and it goes into an automobile, we definitely don't want the misnomer of allowing an open container of alcohol to be transported. This bag is an industry standard bag that is sold by restaurant supply houses and all the alcohol distributors sell these; that would be mandated as part of this code change.

Ald. Lewis: Are you thinking wine or beer can be brought out, or is this just for wine?

Chief Keegan: Wine only.

Ald. Lewis: Clarify for me what's the difference between the restaurants if we get rid of all these classes, than can any restaurant serve a bottle of wine and we can take it home – any of them?

DC Huffman: Yes, if it's in the parameters of the language. In other words they have to have a full meal service, the wine has to accompany the meal, then they can take it home if its packaged in the sealable bag.

It is confusing when you look at our definitions. We didn't want to confuse the definitions more but the definitions between a tavern, saloon, and restaurant all deal with food service and there are restrictions on taverns, Class C licensing, they have to provide a menu and it gets confusing; so we just allow this with a full meal service of the take home of a partially consumed bottle of wine.

Ald. Lewis: There's no time restriction on how long they have to keep open for a full meal service?

DC Huffman: Under a Class C license there is. It's until 11:00 p.m. and after that they have to serve appetizers.

Page 10 – Class C Tavern, Bar, Saloon licenses – Beyond a year or so we've been getting questions about live entertainment; can one have an acoustic guitar on a patio, have a band inside/outside; and what we found to be more consistent rather than relying on the former Class C language that stated only a Class C2 license could have entertainment. We were telling bar owners they could have live entertainment but would still have to comply with the zoning code with noise ordinances. That was a more clear definition of what they could do with live entertainment than anything a liquor license could authorize. So we change this language to standardize the live entertainment instead of restricting it to just Class C2 licenses and this language followed the code language already in place under zoning in Chapter 9.20 "Disorderly Conduct." Depending on where the establishment is would depend on what type of noise is prohibited. We also have the same language that we have in Class B licenses for partially consumed bottle of wine for Class C as well in accordance with the state Illinois liquor code and site plans required for indoor area as well as outdoor patio.

Page 12 – D3 licensing – this year we were approached by the Park District about alcohol service on the golf course. We looked at the language we had and discovered we had a discrepancy. That perhaps our other golf clubs, well intention, may have been violating the code unknowingly. To address this at the request of the Park District, we added language in D3 licensing that does allow for golf clubs (18-hole or 9-hole) golf courses to have cart service and halfway house for alcohol service on the golf course.

Ald. Lewis: So this would allow Pottawatomie Golf Course to have a golf cart that would drive and serve alcohol?

DC Huffman: We did research on this along with the Park District and this is an industry standard for golf courses.

Chrmn. Rogina: The council will have to approve this, but I for one do support this.

Mark Koenen: This does not obligate any one of these places to have a halfway house.

DC Huffman: Correct and this was on the request of the Park District and there is a representative here tonight from the Park District.

Under D5 we updated the language relating to the Arcada. The former language was during the exhibition of motion pictures for commercial profit that anyone under the age of 21, while alcohol is being served, must be accompanied by a parent or guardian. We eliminated that because they are not limited to motion picture shows.

Ald. Lewis: So 18/19 year olds cannot go to a concert because they are not there with a legal guardian where alcohol is being served? That happens all the time. Those concerts are full of young people and the bar is open. Are we not going to enforce that or put some other language in there?

DC Huffman: Looking at the language, it was outdated because of the motion picture shows. It is certainly up for discussion whether or not they continue to operate that way or they would need to change.

Chrmn. Rogina: We are certainly in position to give staff input as to whether or not you support the idea that 18, 19, 20-year olds can go to the Arcada for a performance and be in there without a guardian to attend the performance – they would not be buying alcohol. He is talking here about motion pictures, the language is outdated.

Ald. Lewis: So it doesn't pertain to concerts?

DC Huffman: It would.

Ald. Payleitner: If the Charlestowne movie theatre goes ahead and revamps and includes one of those dinner and a movie events that they have in other communities, where you can order a

cocktail while you watch the movie, should we include that or address it at the time if it comes up?

DC Huffman: Yes I would recommend waiting. As a staff we are not saying it should or shouldn't be that way; we are updating that language for purposes of discussion.

Chrmn. Rogina: Ald. Lewis would you like to have D5 for the language to reflect that you don't have a problem with 18 to 20-year olds attending a concert so long as they are not served alcohol? This would be a language change for D5 in order for that to happen.

Chuck Amenta: I would support that.

Ald. Lewis: We either change the language to support it or we enforce what we have. Having something labeled that we can't do and we don't do anything about it...

Chief Keegan: As a suggestion, if we were to have a co-mingle event, we can make a mandatory provision for people 21 and older are wristband. We can come up with language that if we're to have a mix aged crowd, we do something to designate those over 21 or they have to consume in a certain area that is segregated away from the rest of the establishment or do a wristband credential like we do at festivals – we can look at that and bring it back.

Chrmn. Rogina: I have no problem with just changing the language for 18 to 20-year olds to attend a concert at the Arcada – just for the Arcada which D5 refers to.

All: In agreement to reflect the language to state it's okay for 18 to 20-year olds to be in the Arcada.

DC Huffman: Page 14 – E5 licensing – we found we had a discrepancy in what is allowed under an E5 license relative to the number of events that can be held per calendar year. Originally the number of events was dictated to be four per calendar year and that was through the Zylstra PUD ordinance that was passed by Council on August 15, 2005. It was supposed to be four events per calendar year and each event could be up to two days in length. At some point in the liquor code we arrived at 20 different events per calendar year. We don't have a historical perspective on that so we have a discrepancy between four in the original PUD for Zylstra and 20 that was written into the liquor code.

There are representatives here today and they have voiced that reducing it to the original four events would have a harsh impact on their business, but we put this language in here for the purpose of discussion on whether or not it should be four as originally dictated in 2005, or the 20 events that are currently in the liquor code.

Jeff Smith, Paletine, IL for Fox River Harley Davidson: I am not prepared to speak tonight but these events are directly involved with the business we do. Motorcycles is a recreational sport and we like to be a destination for people to come to which is also City of St. Charles. We keep our events organized and orderly and most of our events are during the day. We're here to

find out what's going on; we are obviously very concerned and we want to work with the City to make this fair.

Ald. Payleitner: I appreciate your diligence in coming to us in the process as opposed to after the fact. How many events do you have between four and 20 annually?

Mr. Smith: Eight to ten.

Chrmn. Rogina: How long have you been with Harley?

Mr. Smith: I've been around in the business since 1994 and here in St. Charles I helped open it in May 2011 when we changed over to new ownership. I don't know how the original four events went – that was no doubt handle with our lawyer, owner, and the City.

Chrmn. Rogina: It seems that past practice here without incidence has been more than four, less than 20.

Mark Koenen: We have not had any incidents with Harley Davidson and their events, but having said that, we have an ordinance on the books passed in 2005 and that is still of record and active and alive today. So the intention of this is to make this align to what the code was approved back in 2005. They need to say the same thing, and having said that, these are four 2-day events; so those are really eight days a year. Is the 20 events now meant to be 20 days a year of four 5-day events or however it can be laid out? So the intention is to make the two documents match and if we want to do something other than what the 2005 documents says, then both documents need to be change.

Ald. Lewis: When they want to have an event, what is the process they go through?

DC Huffman: They contact Tina and fill out the E5 application for each event. That application comes to us to review it, decide if we need to put police services at the event (can't remember the last time we ever had to do that because we just don't have issues with their events). Our officers do drive by and stop in to say hello during these events. Once the application is approved by Chief or I signing off on it, they hold their event.

Ald. Lewis: It doesn't come before Council?

DC Huffman: No.

Tina: Harley Davidson actually pays a renewal fee of \$500 which allows them, at this point, to have 20 events per year.

Chrmn. Rogina: It needs to be clarified how many days 20 events signify. I went to an event at Harley Davidson recently for a cancer fundraiser and I commend them on that. There are businesses that give back to our community but Harley Davidson stands out quite a bit when it comes to these kinds of situations. I would like to see the staff work with Harley to get what is

really the past practice or intent here – if it's 8-10 days, four events two days a piece, or is it ten 1-day events. I agree that the code and what the practice is should be in sync.

Ald. Payleitner: The original language is an E5 license shall be issued solely for the conduct of not more than 20 days of events; so that can be any combination.

Ald. Lewis: Can anyone apply for an E5 license?

Tina: No this is strictly for Harley Davidson only. They pay a yearly license fee with a license issued to them for 20 events.

Ald. Lewis: Shouldn't we have them listed in the ordinance for the E5?

DC Huffman: I can discuss this with Atty. McGuirk. The language contained in the E5 right now is such that a license shall be issued solely for a specific premises that is open to the public and kept, used, and maintained..., and I think the ordinance in 2005 identifies that specific premise which is Harley Davidson.

Atty. McGuirk: There is a separate ordinance with Zylstra that was approved and had this provision about these events and that's always apparently been in conflict with this?

DC Huffman: Yes.

Ald. Lewis: So is it the whole PUD – would it include Discount Tires now too?

Atty. McGuirk: I need to look at it – it's been a while.

Mark: We need to go back and read the original language. These are all good questions and I certainly would endorse what the property is referring to.

Chrmn. Rogina: We should try to work with Harley with what their past practices have been to some extent so they feel that they are still equal and whole to what they had in the past.

Chief Keegan: Page 18 in the box there are two question marks as to what the alphanumeric is going to be if we do license Bring Your Own Beverage (BYOB). I broke this up into two categories. One would be for beer and wine only and the other would be beer, wine, and spirits.

Chief Keegan passed out a loose leaf handout to the commission that he referenced to the generic language which stated "at no time should the maximum number of licenses in each class exceed the actual number of licenses issued except as amended from time to time by action of the City Council." My recommendation for this is to have more of a boiler plate type, all encompassing, language in the code as opposed to every time our numbers fluctuate, which is frequently, and we have to go back in and amend our code. You see on pages 18/19 the exact number of licenses covered. My recommendation is to insert this language so we don't have to go back and

modify our code each and every time the number of licenses change. I will come back to BYOB momentarily.

On page 24 it talks about BASSET training. We've done some extensive BASSET training recently with Mr. Roupos from Illinois State License Commission. I would like to recommend not only having the pourer, server (person who delivers the alcohol) be BASSET certified, but also the persons that oversee the alcohol service – that meaning bouncers and doormen. There's a big component of BASSET which is the proper carding of age verification of people allowed in. We've had a couple of incidents in the last couple of months of underage people getting into our establishments and it's imperative as a commission that we have the doormen and bouncers also be BASSET certified.

Ald. Lewis: When you say all licensees, you mean package liquor also?

Chief Keegan: Yes, but a package liquor store would not employ a bouncer, but sellers would have to be BASSET certified.

Ald. Lewis: Is it only BASSET or are there other kinds of training accepted?

Chief Keegan: There are a couple of different variations such as TIPS, but the Illinois Liquor Commission only recognizes BASSET. All programs are similar, but BASSET is really an Illinois term but some of these other programs are taught in different states and a lot are online web based.

Tina: Questioned the validity of the other programs that she understood was accepted under BASSET.

Chief Keegan: I would prefer just to be straight BASSET certification. Maybe we write some code language to say moving forward this is what is required and grandfather the others. There is a movement afoot in Cook County that BASSET certifications only be issued for 3-year increments and that's going to start July 1, 2015. The other collar counties including Kane have not went to that but there's all kinds of talk on what counties should do and what state should do. The state has remained in keeping BASSET a one-time certification and does not expire, but it's something we can talk about as a commission especially when we have violations with a licensee that we may take constructive measures with a licensee to enforce they take BASSET training again. It's a good program that doesn't hurt to have people get refreshed on IDs and service.

I have been in consultation with Mr. Roupus of Illinois Liquor Commission and reached out to different program managers of the BASSET program, my recommendation and that of Deputy Chief Huffman is right now in our code it's 21 years old to pour or sell alcohol. There is a piece about delivering alcohol and that would be the waitresses under the supervision of the bar manager or a clerk at the local supermarket. Right now our recommendation is going to be from age 16 to age 18 with the thought we would like everyone to be BASSET certified and the threshold a lot of companies use is 18 years of age. Our recommendation would be to change the delivery of alcohol from age 16 to 18.

Ald. Lewis: I would like to say my preference would be 21 across the board and then 19, but I'm willing to accept 18 as a start and maybe try to move it up to 19 in the future.

Chief Keegan: Page 28 there is a little bit of verbiage change under Prohibited Sales. We added the words "or allow the consumption of" and that means if we go to a BYOB licensing, obviously those types of establishments aren't providing the alcohol but are allowing it on their establishment, so there are some code changes that need to be made here. So the term "or allow consumption" is to allow for a BYOB license since they are allowing that to take place in their establishment.

Page 29 we get into the two different subsections of BYOB. One is for wine and beer and two is for spirits as well. If we have BYOB establishments in St. Charles and right now from our research we found three. Two are restaurants and one is a social club – cigar and coffee establishment. If we don't license the establishments, the business owner/proprietor runs the risk of potential litigation on their part. If we don't enforce the fact that we require BASSET certification, and more importantly DRAM shop insurance – that's the piece that is really important here. In talking with two of the three proprietors they are very much in favor of going through not only BASSET certification but also acquiring DRAM shop insurance. One establishment is already BASSET certified and has DRAM shop insurance and is using the bags. He has signage in his establishment that does not allow spirits – just beer and wine that has to be in conjunction with purchase of a meal.

I separated the ordinance recommendation due to the spirit piece. The social club/cigar shop I'm speaking of has a locker component there and there is a membership component that allows for spirits to be brought in as well as smoke their cigars. This is up for discussion but if we do allow folks to bring in alcohol into establishments on a BYOB basis, we definitely need to mandate that they leave with sealed bags; they cannot get into an automobile with unsealed containers of alcohol and I don't know what that threshold is if it's strictly just wine or we talk about beer and spirits. I don't want to encourage that everything needs to be consumed on sight and then we're imploring people to drink in excess. If we're going to condone this as a city and license it, we got to make sure we are following best practices such as DRAM shop insurance which is basically liability insurance. Whether they deliver alcohol or not is irrelevant. If they're allowing someone into their establishment to consume alcohol they're going to be expected to follow our code, rules, and regulations of the state and city accordingly – meaning underage consumption of minors and making sure folks don't become intoxicated. Once they allow all this into their establishment there is some liability that goes with it.

Chrmn. Rogina: The issue here is beer, wine, spirits, the two-tier licensing of \$100 vs. \$250. I've been two of the places and they are model citizens and they're very supportive as the Chief indicated of this type of process.

Ald. Lewis: Is DRAM shop insurance expensive?

Chief Keegan: The one establishment I spoke with pays \$300 for an entire year. I think insurance agencies look at the size of the establishment and volume. I would not expect a BYOB license too expensive.

Atty. McGuirk: It's just a question of underwriting. If you have a small facility and don't serve much it would be less; if you're Pheasant Run it's quite hefty.

Ald. Lewis: I read "at the licensee's discretion," so he wouldn't have to open up your beer or wine. You can do that yourself?

Chief Keegan: That's called a corking fee. Some establishments don't want to touch the corks because then they think there are some liabilities; where others may provide the soda or juice that might accompany a mix drink. There is discussion on if they are allowing it, they're not charging for it, there might be an ancillary fee to package it or exit their facility. There are two trains of thought on this but this allows them to charge that fee if they so choose.

Ald. Lewis: I thought it might be better to have the owner of the establishment be involve in the opening of the bottle whether they choose to charge a fee or not. Ald. Lewis talked out a scenario of a party of six people each bringing in their own alcohol – what is the limit? You can have six different choices when there are six people in the party.

Chrmn. Rogina: Right now we have no rules in place but they can do this unless the house says no. I've actually been in one of these places and the house said no. They are not going to have a plethora of alcohol coming into their establishment.

Chief Keegan: Keep in mind this is a pretty pro-active ordinance because we have set rules for all liquor licensees to follow with the city and state for licenses with the exception of BYOB. This is a little different in the industry and it's because we want to have some oversight. I researched communities that do this and this is what I found to be an industry standard as far as the amount.

Ald. Lewis: It just seems the more people you have the more you can bring in. I would like to see this thought about a little bit more.

Chrmn. Rogina: When you say thought about, do you want the ordinance to limit the amount of alcohol any group or individual can bring in?

Ald. Lewis: We're training people not to over serve, but yet I and my husband can each bring in a bottle of whiskey – how can we not be over served?

Chrmn. Rogina: It would be controlled by the licensee in them saying ma'am/sir get out. A licensee can be very pro-active in not allowing what they want in their establishment. We've been silent on this subject and I thank the staff for bringing this forward and this way we can develop some degree of control.

Ald. Payleitner: Maybe it could be a per table allowance instead of per person.

Chuck: Different people like different types of alcohol such as wine vs. beer. I think it would be difficult to regulate that. There needs to be some control or restraint by the patrons as to what they're going to bring and how they're going to act. Then there needs to be some control by the manager of the establishment as well.

Ald. Lewis: I'm okay with the beer and wine but not okay with beer, wine, and spirits. I don't think spirits need to be brought into this.

Chief Keegan: I segregated this by the term social club because the spirits are stored on sight in the locker component. We can have further discussion on this. The social club piece – cigars and spirits are stored on sight and not departed from the establishment and we can discuss on what we allow or don't allow leaving with the sealed bag, but that is how I separated the two. These are really small businesses, two restaurants for example, told me the reason they didn't acquire a liquor license is because they didn't think they had the volume to support the fees of the license and more importantly the stock of the alcohol. They don't have the business to support outlaying the capital of the stock of beer and wine on hand.

Chuck: In talking about beer in an open container departing the establishment, is there language we should consider about a specialty beer being put into an aluminum bottle as opposed to a half drunk bottle of Bud Light? There are specialty beers that are more corked.

Chief Keegan: This is geared more towards wine. My initial blush as for example, a six-pack. You consume two beers and four are left; obviously we are not going to let you leave with a half drunk bottle of beer, but the ones intact and sealed you can depart with, but there has to be regulations whether they are sealed in a bag or there are instructions from a proprietor that it must be concealed in the trunk with a bag.

Chrmn. Rogina: My question is to do with the hours of operation which is a question mark. Is the proposal here to suggest keeping it in line with a midnight license which is consistent with our base liquor license except for package liquor which is 10:00 p.m. Two of three we know are restaurants and we wouldn't have to worry about late night permits unless they applied for one.

Chief Keegan: All three of the establishments I visited all closed between 9:00 and 11:00 p.m. Page 29 refers to what we just talked about. The spirit piece with the social club is something I want to further research and talk to council about after meeting with our attorney. It's a social setting like a club with the locker facilities and the availability right now is they currently, since we don't sanction/govern/oversee this particular part of liquor consumption; right now there are spirits that are consumed on sight and about 95% of the patrons that consume the spirits there have a locker where the spirits are stored on sight. There are a small number of people that usually leave with spirits and they bag it and put it in their trunk; but right now it's not regulated by the City.

Ald. Lewis: There are some suburban area restaurants that have liquor lockers; is there anything in our codes that pertain to that or is there anything stopping one of our restaurants from wanting to pursue that?

DC Huffman: I can think of nothing in our code that actually addresses that outside of the language that Chief has put out for BYOB.

Ald. Lewis: With these BYOBs, I hope we don't open ourselves to other sorts of entertainment by having BYOB places.

Chief Keegan: I specified in the first piece that food sales must take place in conjunction for beer and wine. The secondary piece is the social club and I haven't work with counsel yet because I wanted to get some direction from the Liquor Commission. There are some things I want him to research from a legal perspective in using best practices that I saw, but it hasn't gone through the prevue of our city attorney and we'll do that at the next steps.

DC Huffman: Turning to bottom of page 31, we've added "and Beer" to the section of Class A, Class D-1, and Class E-Licenses – Wine and Beer Tasting. We get asked all the time about beer tastings and we've not had any language to allow that. The beer is limited to 2 ounces of beer during a tasting. We removed the restriction from Liquor Commissioner to approve wine tastings under E licensing for St. Charles not-for-profit groups for fundraising. We felt that it allowed the Liquor Commissioner more authority in authorizing wine or beer tastings under an E license and that's actually consequent to many requests we've had from outside groups going to places like the Q Center or Pheasant Run who are actually fundraising, they are just not a St. Charles group; so we've been limited in that regard and we wanted to broaden that authority for the Liquor Commissioner.

Page 32 under Section D – this is for underage persons prohibited in license premises at certain times. We've received several inquiries about establishments where you can rent a private room; e.g., McNally's upstairs area where if an underage person was there, could they not be at the party if their guardian/parents weren't there. We've added the restriction shall not apply to private gatherings within the establishment where a location has been segregated from the general public.

Chief Keegan: Page 34 – this is the last piece of the language recommendations in the code and this dovetails into my opening remarks and what we are going to talk about in the following code recommendations. These are zero tolerance pieces of the ordinances. We are asking, on behalf of the Police Department, if there are certain alcoholic related offenses or violations that we want to take a strong stance on as a city and we want to set the tone. It starts with sometimes corrective behavior, whether it be a citation, fine, arrest. I am asking permission to make the minimum fine on any alcoholic related offense \$250. It currently sits at \$25. The maximum per ordinance, because a lot of these are adjudicated, is \$750 and can't exceed that threshold, but what I'm asking for is the authority to go before committee and then council where there are four/five violations that I will be talking about; but the bare minimum if you want to come to

St. Charles to socialize and have a good time, which we strongly encourage, but we are also going to mandate that you watch your “p’s & q’s” in an orderly fashion because we don’t want anyone’s behavior to take away the good fun that most people are here to do. This is the only piece of this ordinance that talks about some of the violations and if no one has any questions on this, I will just fast forward.

Chrmn. Rogina: Moving to item 5 on the agenda will address this in more detail, I just want to preface to your comments that lots of times we have licensees say we put the heavy hammer down on them, but what about the offender out in the street fighting, etc. To me, what you’ve done here, is to address this and we’re sending a message with respect to those individuals who can’t contain themselves, to put it bluntly.

5. Discussion of proposed code revision to Title 9” Public Peace, Morals and Welfare,” Chapter 909 “Fight”, Chapter 9.16 “Profanity – Indecent Conduct”, and Chapter 9.20 “Disorderly Conduct.”

Chief Keegan: We want St. Charles to be a destination point. We want our residents, business owners, and visitors to feel safe. When there is inappropriate behavior, albeit it fighting, public urination, public intoxication, anything related to the consumption use of alcohol, we want to be very strict and firm in our resolve.

The first ordinance we talk about is “Fighting Prohibited.” We didn’t make a recommendation to change the minimum fine/fee here because it currently sits at \$500. The maximum we’re allowed per city code because some of these are adjudicated is \$750; but I did change some language to state the following. The first violation will be a mandatory \$500 fine and any subsequent violation shall be no more than \$750. That says if you’re a first offender and we cite you, this can include mutual combatant – which means if we can’t differentiate who is the aggressor where two intoxicated people are involved in an altercation; whether or not we can determine who started it, they are both going to be accountable with a minimum \$500 fine. If we catch either of them again and we research their name and history every time we have contact with them, they are going to face at least a \$500 fine, but we would like the ability to go higher and go to the maximum. We want to take a strong stance on this and we don’t want this behavior in our city.

Next is profanity, indecent conduct which relates to public urination and defecation. This is another thing we don’t want in our city. We take a strong stance on this. Right now the ordinance currently reads that the first offense can start at \$100 and up to \$750. My recommendation, which is based upon research of reviewing ordinances of surrounding communities who are the strongest fines/fees in the area. Once again we want to make a strong statement, be firm, and be very clear and upfront that we don’t tolerate this in the City of St. Charles. The minimum fine would be \$250 first offender and subsequent violations can be no more than \$750, but the adjudication court has the availability to go anywhere from \$250 up to \$750.

Ald. Lewis: I support the fines but I'm curious if it does deter the behavior. Do you find that higher will help eliminate some of this behavior – is there any way to document that?

Chief Keegan: This is hard to quantify but I can say that if you're cited once in being caught doing this, I certainly hope you think twice before one tries to do it a second time. If we fine someone an extensive amount of money, I hope it would be the first and last time they ever try that type of behavior. Once we get some media coverage and some press articles out on this and people see what the fines are, that will curve some behavior.

Next "Disorderly Conduct" – This is the same recommendation for fines and subsequent violations, but there is also a piece under emergency treatment exemptions and this is an Illinois Compiled Statute (IOCS) regulation which is 20 IOCS 301-55-15 and this says that there has to be a qualifying event to cite anyone for being intoxicated in public. Laying in a curb or not having a behavior that may be alarming, albeit be fighting, use of profanity, public urination; if someone is intoxicated to the point where they are not in charge of their faculties, as public servants the first and foremost thing we need to do is make sure they are not in harm of themselves. That sometimes involve emergency treatment whether that's a ride home, ride to a treatment center, but to be drunk and intoxicated is not against the law; but if you're doing that in such a fashion of disturbing or alarming someone by the uses I've already listed, there would be a violation that would go along with that. Our first priority is their public wellbeing and to make sure they are not going to wander out in traffic, take a nap on a cold night and face the elements. We will approach those folks to make sure they're okay and if they are in need of intervention, we'll provide that for them. But if there is another component going along with that where they are disturbing others – there will be a penance and a consequence.

Ald. Payleitner: The title of Intoxication of Public Place Prohibited will be changed too?

Chief Keegan: I'll work with legal counsel on that. I have all the state language that regulates the modification of this ordinance and will consult with Atty. McGuirk.

Ald. Lewis: Going back to Item 4, page 7, under license restriction or issuance, no such license shall be issued to a person who is not a resident of the City of St. Charles.

Atty. McGuirk: Most of the businesses are listed as corporations and this has never come up before me. Most people create an entity and apply for a license.

Chrmn. Rogina: It seems that staff will go ahead with the necessary tweaking and adjustments from tonight and come back in January to this commission for us to put a stamp on all the changes for the purpose of moving along to Council Committee in February.

Chief Keegan: Reference to the loose leaf pamphlet he handed out to the commission – DRAM shop insurance. In my six months here it has come to my attention, on occasion, where DRAM shop has lapsed or there's been a question from a proprietor or insurance company. I've done research on this and will work with Atty. McGuirk. I added some language to the DRAM shop piece under 5.08.060 "that in addition a copy of such insurance policy must be made available at

all times for inspection and/or upon request of the Police Department.” Once again, our job is sometimes looking out for folks when they are not looking out for themselves, and some of these proprietors, if they’re letting their DRAM shop insurance lapse, it can really be a recipe for disaster.

There is a fine component that I’ve added into this and there is an inspection piece here that I would also like to address. Rather than doing compliance checks of sending in underage people into liquor establishments to make sure the proprietors are compliant with laws/ordinances with underage service; an inspection would be done by our officers going into establishments a few times a year to make sure their signs are in place, they have DRAM shop insurance and BASSET certification. This is a checklist that we want to start doing with your blessing to get out there and make sure that the i’s are dotted and t’s are crossed and DRAM shop insurance is a piece of that. We would like the availability for the language in our code to not only say show proof of DRAM shop insurance when they get their license and annually, but you need to have it posted upon inspection. Right now it says that your city and state licenses must be framed in an inconspicuous part of your facility. I would like to make sure that proprietors, just like BASSET cards, have their DRAM shop certificate on hand and ready for inspection.

Chrmn. Rogina: I believe I speak for myself and the rest of the commission that the checklist and DRAM shop is a great idea.

Ald. Lewis: In any of your research was there anything about DRAM shop insurance with businesses that give alcohol away or come in and shop and have champagne. What about DRAM shop insurance for that type of business and there’s concern that it’s violating state law.

Chief Keegan: You can’t bring alcohol into an establishment that has a liquor license, you can’t co-mingle products that are brought in and are sold there.

Ald. Lewis: I think there’s an impression out there that if I don’t have a license, I can give it away and they’re not violating anything.

Chrmn. Rogina: This is a concern and there’s activity like this going on in our community whether it be an open house or a ribbon cutting, etc., so it’s a question we have to find out and put them on high alert that if you do this – this is the risk you run.

Chief Keegan: The insurance agent I spoke with equated this to like having homeowner’s insurance and putting a pool in your backyard but not putting the pool under your homeowner’s umbrella.

Chrmn. Rogina: A question to Ald. Lewis’ point, would a regular community business that has sales and decides, as part of a sales promotion, to have liquor served – would their own regular liability insurance cover something like this; but this may be moot since it’s not covered under the state code.

Chief Keegan: I’ll do some research on this for the January meeting.

Chrmn. Rogina: Thanks to both Chief Keegan and DC Huffman on a tremendous overview on this subject matter.

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

7. Other Business
None.

8. Adjournment

Motion to adjourn by Mr. Gehm, second by Ald. Payleitner to adjourn meeting at 5:55 p.m.

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

:tn



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Discussion of Propose Code Revisions for Title 5 "Business Licenses and Regulations", Chapter 5.08 "Alcoholic Beverages" to go Before Committee for Recommendation to City Council
Presenter:	Chief Keegan

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input type="checkbox"/>	Government Services
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input checked="" type="checkbox"/>	Liquor Control Commission (01/20/15)

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

Executive Summary:

The Police Department, along with city staff, have been working on revisions for Title 5 "Business Licenses and Regulations", Chapter 5.08 "Alcoholic Beverages" of the Municipal City Code to address changes that have occurred since the last overall revision.

The first pass of these revisions was presented at the December 15, 2014 Liquor Control Commission meeting and staff was asked to make further revisions based on discussion from that meeting. City staff is here tonight seeking a recommendation to bring this ordinance to the next committee meeting for recommendation to City Council for final approval.

Attachments: (please list)

Ordinance

Recommendation / Suggested Action (briefly explain):

Discussion of propose code revisions for Title 5 "Business Licenses and Regulations", Chapter 5.08 "Alcoholic Beverages" to go before Committee for recommendation to City Council.

For office use only: Agenda Item Number: 4.

ALCOHOLIC BEVERAGES²

Sections:

I. GENERAL PROVISIONS

- 5.08.010 Definitions
- 5.08.020 Local Liquor Control **Commission** - Designated
- 5.08.030 Local Liquor Control **Commission** - Powers, Duties and Functions
- 5.08.035 Local Liquor Control Commissioner - Powers and Duties

II. LICENSES - LICENSING

- 5.08.040 License - Required - Term
- 5.08.050 License - No Issuance to Debtor
- 5.08.060 License - Dram Shop Insurance Required Prior to Issuance
- 5.08.070 License - Application Requirements
- 5.08.080 License - Restrictions on Issuance
- 5.08.090 License Classifications
- 5.08.095 License - Late Night Permit
- 5.08.100 License Fees; Late Night Permit Fees; Fees Established
- 5.08.110 Number of Licenses
- 5.08.120 Temporary License
- 5.08.130 License - Hours of Sale
- 5.08.140 License Renewal - Deadline
- 5.08.150 License - Cessation of Business - Revocation of Licenses - Reduction in Licenses
- 5.08.160 License - Licensed Premises - Change of Location
- 5.08.170 License - Change in Name
- 5.08.180 License - Licensed Premises - Change in Personnel
- 5.08.190 License - Transfer
- 5.08.200 License - Use of Licensed Premises After Revocation
- 5.08.210 License - Display of License Required
- 5.08.220 License - Multiple Locations
- 5.08.230 License - Location Restrictions
- 5.08.240 Stores Selling School Supplies or Food to Underage Persons

III. REGULATIONS APPLICABLE TO LICENSEES/LICENSED PREMISES

- 5.08.250 Regulations Applicable Generally
- 5.08.260 Regulations Applicable to Certain Licenses Only

IV. OTHER REGULATIONS

- 5.08.270 Underage Persons
- 5.08.280 Peddling Alcoholic Liquor in City Prohibited
- 5.08.290 Possession of Alcoholic Liquor in Motor Vehicle
- 5.08.300 Sale, Delivery, Consumption and Possession of Alcoholic Liquor on Public Property
- 5.08.310 Responsibility of the Owner or Occupant of Premises

V. LICENSE-REVOCATION/SUSPENSION/FINE

- 5.08.320 License - Revocation or Suspension - Hearing Procedure
- 5.08.330 List of Licenses and Revocations

	5.08.340	Forfeiture of Fees Upon License Revocation
	5.08.350	Owner of Premises Permitting Violation
	5.08.360	Acts of Agent or Employee; Liability of Licensee; Knowledge
VI.	VIOLATION/PENALTY	
	5.08.370	Violation - Penalty

5.08.010 Definitions

All words and phrases used in this chapter and not otherwise defined herein, which are defined in the Liquor Control Act of 1934, approved January 31, 1934, as amended (235 ILCS 5/1-1 et seq.) ("Liquor Control Act"), shall have the meanings accorded to such words and phrases in said Act. Unless the context otherwise requires, the following terms as used in this chapter shall be construed according to the following definitions:

- A. "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.
- B. "Alcoholic liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being. The provisions of this chapter shall not apply to any liquid or solid containing one-half of one percent, or less, of alcohol by volume.
- C. "Beer" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like.
- D. "Club" means a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sales or consumption of alcoholic liquors, which conforms to the definition of a club in the Liquor Control Act, as amended.
- E. "Halfway House" means premises located on a golf course in proximity of the ninth hole of an eighteen-hole golf course, where alcoholic liquor sales are incidental to the sale of food and snacks. All alcoholic liquors shall be served in other than glass containers.
- F. "Holding Bar" means an area within a restaurant where patrons awaiting food service may consume alcoholic liquors served by a bartender. The holding bar area shall be separated from the dining area by means of a partition wall. Food service tables are permitted in the holding bar area. A counter shall separate the bartender and patrons.
- G. "Hotel" or "Motel" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and such guests and having one or more public dining rooms, where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings, in connection therewith and such building or buildings, structures being provided with adequate and sanitary kitchen and dining room equipment and capacity.
- H. "Intoxication" or "intoxicated" means that as a result of drinking alcoholic liquor there is an impairment of a person's mental or physical faculties so as to diminish the ability to think and act with ordinary care.
- I. "Live Entertainment" means the playing of live music by a person or persons using string, brass, reed, woodwind, percussion, electronic or digital instruments not to exceed a volume as provided for in the zoning code of St. Charles, and performances by individuals and/or groups which may involve acting, singing, dancing, comedy and/or the recital of poetry.
- J. "Private function" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function, or event.

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- K. "Resort Hotel" or "Resort Motel" means a hotel or motel, as described in Paragraph G above, which provides golfing and swimming.
- L. "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. The intent of this definition is that the primary business conducted on premises to be licensed as a restaurant shall be the service of meals. No restaurant licensed as such shall sell alcoholic liquor unless its full kitchen, kitchen staff and serving staff are in operation providing the restaurant's full menu to its guests. Alcoholic liquor may be served from a service bar or in a holding bar. (Ord. 2012-M-30 § 1.)
- M. "Restaurant and Tavern" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. The intent of this definition is that the primary business conducted on premises to be licensed as a restaurant and tavern shall be the service of meals. Provided, all tables at which food is served shall only be served alcoholic liquor by waitpersons from a service bar. Alcoholic liquor may be served from a holding bar, provided, a full menu, including entrees and appropriate side dishes, shall be available at all times liquor sales are being conducted until eleven o'clock (11) p.m. Sunday through Thursday, and eleven o'clock (11) p.m. Friday and Saturday. After such times, in the event a full menu is not provided, a reduced menu, which includes only appetizers, sandwiches, snacks, hors d'oeuvres or other similar foods, shall be available, however provided in no event shall the kitchen cease operating sooner than one hour before closing.
- N. "Sale" means any transfer, exchange or barter in any manner, or by any means whatsoever, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee.
- O. "Sell at retail" and "Sale at retail" refer to and mean sales for use or consumption and not for resale in any form.
- P. "Service bar" means a permanent or portable bar from which waitpersons pick up alcoholic beverages for delivery to food service tables or other locations away from the bar. A service bar shall not have seats or stools or other places for patrons to sit or stand while drinking alcoholic beverages. Patrons shall not be served from a service bar.
- Q. "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin, or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.
- R. "Tavern," "Bar" or "Saloon" means any place that engages in the retail sale of alcoholic liquor for consumption on the premises. No tavern, bar or saloon shall sell alcoholic liquor unless food/menu items are offered to its guests. In the event a full menu is not provided a reduced menu, which includes appetizers, sandwiches, snacks, hors d'oeuvres or other similar foods, shall be available. (Ord. 2012-M-30 § 2.)
- S. "To sell" includes to keep or expose for sale and to keep with intent to sell.
- T. "Wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits."

(Ord. 2014-M-24 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1996-M-53 § 13; Ord. 1977-M-28 § 1; Ord. 1976-M-5 (part): prior code § 24.001.)

5.08.020 Local Liquor Control Commission – Designated

- A. Local Liquor Control Commission – Purpose and Creation: A Local Liquor Control Commission is hereby created. The Commission shall be composed of five (5) members. The Local Liquor Control Commissioner shall be a member and shall be the Chairman of the Local Liquor Control Commission for purposes of presiding over its meetings. The other four (4) members of the Commission shall be appointed by the Local Liquor Control Commissioner. The creation of the Local Liquor Control Commission shall not be construed to grant any substantive authority to the Commission, which shall act as an advisory and hearing commission only.
- B. Local Liquor Control Commission – Membership and Team: Two (2) members of the Local Liquor Control Commission shall be members of the St. Charles City Council and two (2) members shall be residents of the City of St. Charles. Appointments shall be made to coincide with the term of the Mayor. Members shall hold office for their designated terms or until their successors have been appointed. No member of the Local Liquor Control Commission shall have any ownership interest in, or be employed by, any licensed establishment. No person shall be appointed to, or remain a member of the Local Liquor Control Commission if a spouse, parent, sibling, or child has, or acquires any ownership interest in, or is employed by, any licensed establishment.

(Ord. 2013-M-40 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1996-M-53 § 14; Ord. 1976-M-5 (part): prior code § 24.003 (part).)

5.08.030 Local Liquor Control Commissioner – Powers, Duties and Functions

The Local Liquor Control Commissioner shall have the following powers, duties and functions with respect to local liquor licenses:

- A. To grant and/or suspend for not more than thirty days or revoke for cause, all local liquor licenses issued to persons or entities for premises within the City, and to impose fines as authorized in this chapter;
- B. To enter or to authorize any law enforcing officer to enter, at any time, upon any premises licensed hereunder to determine whether any of the provisions of the Liquor Control Act or City ordinance or any rules or regulations adopted by the City or by the Illinois Liquor Control Commission have been or are being violated, and at such time to examine the premises of the licensee in connection therewith. Any person or persons appointed by the Local Liquor Control Commissioner pursuant to Section 5.08.020 shall have the powers given to the Local Liquor Control Commissioner by this subsection;
- C. To receive complaints from any citizen within the City that any provision of the Liquor Control Act or of this chapter have been or are being violated and to act upon such complaints in the manner provided by law;
- D. To receive local liquor license fees and pay same to the City. The Local Liquor Control Commissioner also has the duty to notify the Secretary of State of any convictions or dispositions of court supervision for violation of Section 6-20 of the Liquor Control Act;
- E. To examine or cause to be examined, under oath, any applicant for a local liquor license or for a renewal thereof, or any licensee upon whom notice of revocation, suspension or fine has been served, or any licensee against whom a citation proceeding has been instituted by the State of Illinois Liquor Control Commission; to examine or cause to be examined, the books and records of any such applicant or licensee; and to hear testimony and take evidence for his information in the performance of his duties, and for such purposes to issue subpoenas which shall be effective in any part of this State. For the purposes of obtaining any information desired by the Local Liquor Control Commissioner, he may authorize his agent to act on his behalf;
- F. To notify the Secretary of State of Illinois where a club incorporated under the General Not for Profit Corporation Act of 1986 (805 ILCS 105/101.01 et seq., as amended) or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated

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this chapter by selling or offering for sale at retail alcoholic liquors without a local liquor license pursuant to this chapter.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.003(A).)

5.08.035 Local Liquor Control Commission – Powers and Duties

The Local Liquor Control Commission shall perform such functions and duties as directed or requested by the Local Liquor Control Commissioner in relation to the regulation of license activities including but not limited to the following:

- A. Upon the request of the Local Liquor Control Commissioner, the Local Liquor Control Commission shall review the applications and the investigations of applicants for liquor licenses, and submit its findings and recommendations to the Local Liquor Control Commissioner.
- B. Conduct disciplinary hearings and submit findings and recommendations to the Local Liquor Control Commissioner setting forth its conclusions with respect to the existence and nature of any violation of this Chapter and the appropriate disciplinary action to be taken, if any.
- C. Review and recommend changes in this Chapter to the Local Liquor Control Commissioner.
- D. Keep written records of its meetings and proceedings, which shall be open for public inspection in accordance with the Freedom of Information Act (5 ILCS 140/1 *et seq.*)
- E. Hold regular meetings at times and on days as designated by the Chairman of the Commission.

(Ord. 2013-M-40 § 2.)

5.08.040 License – Required – Term

It is unlawful to sell or offer for sale at retail in the City any alcoholic liquor without a local retail liquor license (“local liquor license”), or in violation of the terms of such license. Each local liquor license issued under this chapter shall terminate on April 30 following date of issuance.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.006.)

5.08.050 License – No Issuance to Debtor

No local liquor license shall be authorized for issuance and no initial local liquor license or renewal local liquor license shall be issued if the applicant, or any sole proprietor, partner, co-partner, member, officer, manager, director, or any stockholder or stockholders owning in the aggregate more than 5% of the stock thereof (either individually or in the foregoing capacities) is a debtor to the City for any reason whatsoever, regardless of whether the debt has been discharged such that the City can no longer collect such debt in any legal proceeding and regardless of whether such debt is owed by any of the foregoing:

- A. individually/personally; or
- B. in the capacity as a sole proprietor, partner, co-partner, member, officer, manager, director, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of any other legal entity, other than the applicant, that is a debtor to the City for any reason whatsoever, and regardless of whether the debt has been discharged such that the City can no longer collect such debt in any legal proceeding.

(Ord. 2010-M-29 § 1.)

5.08.060 License – Dram Shop Insurance Required Prior to Issuance

No local liquor license shall be granted to an applicant until such applicant shall furnish evidence satisfactory to the Local Liquor Control Commissioner that such applicant is covered by a policy of dram shop insurance issued by a responsible insurance company authorized and licensed to do business in the state insuring such applicant against liability which such applicant may incur under the provisions of 235 ILCS 5/6-21. The insurance policy shall have a May 1st renewal date. The City shall be given at least ten days’ written notice from such insurance carrier prior to cancellation, termination or amendment of any such dram shop insurance. In addition, a copy of said insurance policy must be made available at all times for inspection and filed with the City Clerk.

Every licensee shall be required to provide the Local Liquor Commissioner with a copy of each renewal/new policy of dram shop insurance when applying for either a new or renewal license.

Any licensee failing to provide a copy of the renewal/new policy of dram shop insurance pursuant, shall pay a late filing fee in the amount of \$50.00. Further, said licensee shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) for their first offense of operating without Dram Shop insurance nor more than seven hundred fifty dollars (\$750.00) for each subsequent offense. Further, said license shall be subject to a fine, license suspension or license revocation as provided by this Chapter 5.08.

(Ord. 2012-M-30 § 3; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1996-M-53 § 15; Ord. 1979-M-54 § 1(a); Ord. 1976-M-5 (part): prior code § 24.008.)

5.08.070 License – Application Requirements

- A. Applications for a local liquor dealer's license shall be made to the Local Liquor Control Commissioner, in writing, 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 contain the following statements and information:
1. In the case of an individual, the full name, age and address of the applicant; in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which it is organized, the names and addresses of the officers and directors, and if five percent or more in interest in the stock of such corporation is owned by a person or his nominee or nominees, the name and address of each such person or persons;
 2. The citizenship of the applicant, his date and place of birth and, if a naturalized citizen, the time and place of his naturalization;
 3. The character of business of the applicant;
 4. The length of time said applicant has been in business of that character;
 5. The amount of goods, wares and merchandise on hand at the time application is made;
 6. 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 as required and shall be for a term of sufficient length to encompass the period of the license sought.
 - b. The name and address of the owner or owners of the premises and the names and addresses of all the owners of the beneficial interest of any trust if said premises is held in trust;
 7. A statement whether applicant has made similar application for a similar other license on premises other than described in this application, and the disposition of such application;
 8. A statement that applicant has never been convicted of a felony, or a misdemeanor opposed to decency or morality, and is not disqualified to receive a license by reason of any matter or thing contained in the laws of the state or the ordinances of the City;
 9. Whether a previous license by any state or subdivision thereof or by the federal government has been issued; if so, where and when; or if any such license has been revoked, the reason therefor;
 10. The date of incorporation if an Illinois corporation, or the date of becoming qualified under the Illinois Business Corporation Act to transact business in Illinois if a foreign corporation;
 11. A statement that the applicant will not violate any of the laws of the state, or of the United States, or any ordinance of the City in the conduct of his place of business;
 12. Any applicant for a newly created city liquor license or any applicant for a renewal of a city liquor license is to be fingerprinted whether said applicant is an individual or a partnership. Should the applicant be a corporation, the Local Liquor Control Commissioner may, within

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his discretion, require the following to be fingerprinted: the officers, manager or director thereof, or any stockholder or stockholders owning the aggregate of more than five percent of the capital stock of said corporation. The City police department shall do all such fingerprinting. There shall be a fingerprint fee of fifty (\$50) dollars per application to be paid at time of application and non-refundable.

B. The Local Liquor Control Commissioner shall issue a written acceptance or rejection of such application within sixty days of its receipt by the Local Liquor Control Commissioner or city clerk in his behalf with the advice and consent of the City Council.

C. There shall be an application fee of two hundred (\$200) dollars, which shall be non-refundable and if a license is granted applied to the first license fee. All monies paid to the City shall be delivered via a certified, bank check or cash. City will not accept credit cards or personal checks. At the discretion of the City Clerk, corporate checks may be accepted.

Any license that is issued in advance of the completion of the fingerprint background investigation may be rescinded by the Liquor Commissioner if the results of the investigation do not comply with section 5.08.080 of this Code.

(Ord. 2014-M-4 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1999-M-21 § 1; Ord. 1980-M-25 § 1(a); Ord. 1976-M-5 (part): prior code § 24.004.)

5.08.080 License – Restriction on Issuance

No such license shall be issued to:

- A. A person who is not a resident of the City of St. Charles;
- B. A person who is not of good character and reputation in the community in which he resides or in St. Charles;
- C. A person who is not a citizen of the United States;
- D. A person who has been convicted of a felony under any Federal or State law, unless the Local Liquor Control Commissioner determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- E. A person who has been convicted of being the keeper or is keeping a house of ill fame;
- F. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- G. A person whose license under this chapter or the Liquor Control Act has been revoked for cause;
- H. 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;
- I. A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than 5% of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence in the City, unless residency is required by local ordinance;
- J. A corporation or limited liability company, if any member, officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the City;
- K. A corporation or limited liability company unless it is incorporated or organized in Illinois, or unless it is a foreign corporation or foreign limited liability company which is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois. The Local Liquor Control Commissioner shall permit and accept from an applicant for a license under this Act proof prepared from the Secretary of State's website that the corporation or limited liability company is in good standing and is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois;

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- L. A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required by the licensee;
- M. A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, or who shall have forfeited his bond to appear in court to answer charges for any such violation;
- N. A person who does not beneficially 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 to be issued;
- O. An elected public official, law enforcing officer, the Mayor or member of the City Council of the City, or employee, or member of any City board or commission, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor;
- P. Any person, firm or corporation not eligible for a state retail liquor dealer's license;
- Q. Any applicant who fails to obtain a state liquor license;
- R. A person who is not a beneficial owner of the business to be operated by the licensee;
- S. A person who has been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, approved July 18, 1961, or as proscribed by a statute replacing any of the aforesaid statutory provisions;
- T. A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Illinois Raffles Act or the Illinois Pull Tabs and Jar Games Act;
- U. A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in the Liquor Control Act;
- V. A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Local Liquor Control Commissioner shall determine if all provisions of this subsection (V) have been met before any action on the corporation's license is initiated;
- W. In addition to other grounds specified in this chapter, the Local Liquor Control Commissioner shall refuse the issuance or renewal of a local liquor license, or suspend or revoke such license, for any of the following violations of any Tax Act administered by the Illinois Department of Revenue:
 - 1. Failure to make a tax return,
 - 2. The filing of a fraudulent return,
 - 3. Failure to pay all or any part of any tax or penalty finally determined to be due,
 - 4. Failure to keep books and records,
 - 5. Failure to secure and display a certificate or sub-certificate of registration, if required,
 - 6. Willful violation of any rule or regulation of the Department relating to the administration and enforcement of tax liability.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.005.)

5.08.090 License – Classifications

Local liquor licenses for the retail sale of alcoholic liquor shall be divided into the following classes and sub-classes:

A. Class A – Packaged Alcoholic Liquor Licenses

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Class A licenses shall authorize the retail sale of alcoholic liquor in original packages only and not for consumption on the premises, except as permitted for the Class A-4 license. Class A licenses are divided into the following sub-classes:

- A-1. Class A-1 licenses shall authorize the retail sale of alcoholic liquors in original packages only and not for consumption on the premises. Such licenses shall not be authorized for gasoline filling stations. The primary purpose of the premises shall be the retail sale of alcoholic liquor. The premises shall have a minimum gross area of two thousand square feet (2,000'). (Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- A-2. Class A-2 licenses shall authorize the retail sale of alcoholic liquors in original packages only and not for consumption on the premises. The primary purpose of the premises shall be for retail sales other than the retail sales of alcoholic liquor, such as food store, drug store or mass merchandiser. The premises shall have a minimum gross area of ten thousand square feet (10,000'), and provided the square footage devoted to the retail sale of alcoholic liquor is ten percent (10%) or less, of the gross square footage. (Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1; Ord. 2008-M-71 § 1.)
- A-2B. Class A-2B licenses shall authorize the retail sale of beer and wine only in original packages only and not for consumption on the premises. The primary purpose of the premises shall be for retail sales other than the retail sales of beer and wine, such as food store, drug store or mass merchandiser. The premises shall have a minimum gross area of ten thousand square feet (10,000'), and provided the square footage devoted to the retail sale of beer and wine is ten percent (10%) or less, of the gross square footage. (Ord. 2012-M-30 § 4.)
- A-3. Deleted in its entirety. (Ord. 2012-M-30 § 5; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- A-4. Class A-4 licenses shall authorize the retail sale of beer for consumption on or off the premises, where brewed on the premises, provided the retail sale of beer for consumption off the premises shall be in original packages only. Class A-4 licenses shall also authorize the retail sale of wine in original packages only and not for consumption on the premises where fermented on the premises. (Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
- A-5. Class A-5 licenses shall authorize the retail sale of domestic and imported wines, champagne, imported alcoholic liquor and gourmet beer in original packages only and not for consumption on the premises. The retail sale of alcoholic liquor shall be incidental to non-alcoholic liquor retail sales and shall not exceed twenty-five percent (25%) of the annual gross sales of said licensee. Class A-5 licenses shall also authorize the retail sale of wine, by the glass only, for consumption on the premises. (Ord. 2010-M-52 § 1; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

B. Class B – Restaurant Licenses

Class B licenses shall authorize the retail sale of alcoholic liquors, beer or wine, for consumption on the premises of a restaurant or tavern, whose primary purpose is that of a restaurant or restaurant and tavern as defined in this chapter. Live entertainment may be permitted as otherwise provided in this chapter. A restaurant licensed to sell alcohol under this Section may permit a patron to remove one, unsealed and partially consumed bottle of wine for off-premise consumption, provided that the patron has purchased a meal and consumed a portion of the bottle of wine with the meal on the restaurant premises. A partially consumed bottle of wine that is to be removed from the premises shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises and placed in a transparent, one-time use tamperproof bag. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine that is sealed in accordance with the provisions of this section and not tampered with shall not be in violation of section 5.08.290 while being transported in a motor vehicle.

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B-1 Class B-1 licenses shall authorize the retail sale of alcoholic beverages for consumption on the premises of a restaurant and tavern.

B-2. Class B-2 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of a restaurant and tavern. Class B-2 licenses shall also authorize the retail sale of wine in original packages only and not for consumption on the premises, in conjunction and solely with a carry out order of one or more meals. The following additional application requirements apply to all Class B licenses:

1. Every application for a Class B license, whether an initial application or a renewal application, shall have attached thereto a site drawing of the proposed licensed premises, drawn to scale showing the following:
 - a. the location of all rooms, segregated areas, including outdoor seating areas and the square footage thereof;
 - b. the designated use of each room or segregated area (e.i. dining room, holding bar, service bar, kitchen, rest rooms, outdoor seating areas, all rooms and segregated areas, including outdoor areas, where alcoholic liquor may be served or consumed and all locations where live entertainment may be provided.
 - c. the seating capacity of rooms or segregated areas where the public is permitted to consume food and/or alcoholic beverages and/or live entertainment may be provided.
2. The site drawing is subject to the approval of the Local Liquor Control Commissioner. The Local Liquor Control Commissioner may impose such restrictions as he deems appropriate on any licensee by noting same on the approved site drawing or as provided on the of the licensee.
(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)
3. A copy of the approved site drawing shall be attached to the approved license and is made a part of said license.
4. It shall be unlawful for any Class B licensee to operate and/or maintain the licensed premises in any manner inconsistent with the approved site drawing.

C. Class C – Tavern; Bar; Saloon Licenses

Live entertainment may be permitted as otherwise provided in this chapter for Class C licenses. A tavern, bar or saloon licensed to sell wine under this Code may permit a patron to remove one, unsealed and partially consumed bottle of wine for off-premise consumption, provided that the patron has purchased a meal and consumed a portion of the bottle of wine with the meal on the restaurant premises. A partially consumed bottle of wine that is to be removed from the premises shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises and placed in a transparent, one-time use tamperproof bag. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine that is resealed in accordance with the provisions of this section and not tampered with shall be in violation of section 5.08.290 while being transported in a motor vehicle. Class C licenses are divided into the following sub-classes:

C-1. Class C-1 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of a tavern, bar or saloon. Class C-1 licenses may authorize the sale of alcoholic liquor in outdoor sales areas provided such sales are in conjunction with food service, if approved by the Local Liquor Control Commissioner.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

C-2. Class C-2 licenses shall authorize the retail sale of beer and wine only for consumption on the premises of a tavern, bar or saloon.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

C-3. Class C-3 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of a tavern, bar or saloon. Class C-3 licenses may authorize the sale of alcoholic liquor in outdoor sales areas provided such sales are in conjunction with food service, if

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approved by the Local Liquor Control Commissioner. Class C-3 licenses shall also authorize the retail sale of wine in original packages only and not for consumption on the premises. (Ord. 2010-M-52 § 5.)

The following additional application requirements apply to all Class C licenses:

1. Every application for a Class C license, whether an initial application or a renewal application, shall have attached thereto a site drawing of the proposed licensed premises, drawn to scale, showing the following:
 - a. the location of all rooms, segregated areas, including outdoor seating areas and the square footage thereof,
 - b. the designated use of each room or segregated area (e.g. dining room, holding bar, service bar, kitchen, restrooms, outdoor seating areas, all rooms and segregated areas, including outdoor areas, where alcoholic liquor may be served or consumed and all locations where live entertainment may be provided (Class C-2 only with Local Liquor Control Commissioner approval), etc.).
 - c. the seating capacity of rooms or segregated areas where the public is permitted to consume food and/or alcoholic beverages and/or live entertainment may be provided.
2. The site drawing is subject to the approval of the Local Liquor Control Commissioner. The Local Liquor Control Commissioner may impose such restrictions as he deems appropriate on any licensee by noting same on the approved site drawing or as provided on the face of the license.
3. A copy of the approved site drawing shall be attached to the approved license and is made a part of said license.
4. It shall be unlawful for any Class C licensee to operate and/or maintain the licensed premises in any manner inconsistent with the approved site drawing.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

D. Class D – Specific Alcoholic Liquor Sales and Site Specific Licenses

Class D licenses are divided into the following sub-classes:

D-1. Class D-1 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of any resort hotel or motel only and shall be issued only to the operator of said resort hotel or motel. The licensee shall be permitted sales of alcoholic liquors as permitted by Class B and C licenses. Additionally, each of the residence rooms of the resort hotel or motel may have a mini-bar that may be accessed only by a special key obtained from the hotel management by a patron that may be served alcoholic liquors. Class D-1 licenses shall authorize the sale of alcoholic liquors from one (1) halfway house and from two (2) motorized food and beverage cars operating on the eighteen (18) hole golf course for consumption on said golf course only, subject to the following restrictions: all alcoholic liquors shall be served in other than glass containers; all cars shall only operate on designated golf cart paths.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

D-2. Class D-2 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of any hotel or motel only and shall be issued only to the operator of said hotel or motel. Additionally, each of the residence rooms of the hotel or motel may have a mini-bar that may be accessed only by a special key obtained from the hotel management by a patron that may be served alcoholic liquors.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

D-3. Class D-3 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of a golf club or any banquet hall at a golf club in conjunction with the service of sit down meals. One (1) or more portable or permanent bars are permitted, when the person who

operates the banquet hall makes such retail sale of alcoholic liquor. Class D-3 licenses shall authorize the sale of alcoholic liquors from one (1) halfway house and from two (2) motorized food and beverage cars operating on eighteen (18) hole and nine (9) hole golf courses for consumption on said golf course only, subject to the following restrictions: all alcoholic liquors shall be served in other than glass containers; all cars shall only operate on designated golf paths.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

- D-4. Class D-4 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises only, of any club, provided, that such club shall have been in existence for at least six (6) months prior to the filing of an application for a license under this chapter and shall have maintained clubrooms for such period of time immediately preceding the filing of its application.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

- D-5. Class D-5 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises only, of the theater premises located at 105 East Main St. The sale of alcoholic liquors shall be from one (1) permanent location in the vestibule, one (1) service bar in the balcony, and up to two (2) other service bars as dictated by the event.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

- D-6. Class D-6 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises only in conjunction with the operation of the Q Center, located on the premises at 1405 North Fifth Ave. Alcoholic liquor sales are limited to individuals and their guests who are participating in events under the direct control of the licensee. The license shall not be removed from the location at 1405 North Fifth Ave. without the approval of the City Council and consent of the Local Liquor Control Commissioner.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

- D-7. Deleted in its entirety. (Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

E. **Class E – Temporary Licenses**

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

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

(Ord. 2012-M-30 § 6; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

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

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1. A Class E-2 license may be issued only in the event the principal street access in front of the licensed premises is blocked due to road closure resulting from a festival taking place during said October period;
 2. In addition to all other conditions and restrictions applicable to Class E-2 licenses, the Local Liquor Control Commissioner may impose such additional conditions and/or restrictions as he deems necessary; and
 3. The Local Liquor Control Commissioner may, with the advice and consent of the City Council waive or vary any conditions and/or restriction applicable to a Class E-2 license, if deemed appropriate under the circumstances.
(Ord. 2012-M-30 § 6; Ord. 2010-M-29 § 1; Ord. 2009-M-60 § 1; Ord. 2008-M-80 § 1.)
- E-3. The Class E-3 license shall authorize the retail sale of beer and wine for consumption on the premises only. The Class E-3 license shall be issued solely to the Kane County Fair Board for the conduct of the annual Kane County Fair during July of each year. The Class E-3 license shall be valid only for the scheduled dates of the Kane County Fair as determined by the Local Liquor Control Commissioner.
(Ord. 2010-M-29 § 1.)
- E-4. Class E-4 licenses shall authorize at the Local Liquor Control Commissioner's discretion, and subject to prior approval by the City Council, either the sale or delivery of beer and wine, or alcoholic liquors, for consumption on City owned property, including but not by way of limitation, 1st Street Plaza. There shall be no Class E-4 licenses issued during the second full week of October, beginning 12:00 a.m. Friday and ending 12:00 a.m. Monday.
(Ord. 2010-M-29 § 1.)
- E-5. Class E-5 licenses shall authorize, at the Local Liquor Control Commissioner, with advice and consent of the City Council, either the sale or delivery of beer and wine or alcoholic liquors, for consumption on the premises only. The Class E-5 license shall be issued solely for the conduct of not more than fourteen (14) days of events that the Local Liquor Control Commissioner, City Council and Chief of Police deem licensable per calendar year at specific premises. Each of the events may not be more than one day in duration. The schedule of such events shall be subject to approval by the Chief of Police so as to avoid conflicts between said events and major festivals or events occurring in the City, including, but not limited to, Flea Market held at the Kane County Fairgrounds, Riverfest, Scarecrow Festival, and the St. Patrick's Day Parade. Such license shall be issued solely for specific premises that is open to the public and kept, used, maintained, advertised and held out to the public as a place where retail business activities or operations are conducted, other than the sale of alcoholic liquor. Events shall be permitted solely on such dates and during such times as are set forth in any Class E-5 license issued.
(Ord. 2012-M-30 § 6.)
- E-6. Class E-6 Temporary License Permits shall authorize the retail sale of beer and wine or the retail sale of alcoholic liquor for consumption on the premises only until 1:00 a.m. or 2:00 a.m. on a specified date. This license shall be issued to Class B and C license holders only for special events or catered functions with the dispensing of food. The issuance of the Class E-6 Temporary License Permit shall be at the discretion of the Local Liquor Control Commissioner, with advice and consent of City Council. Application for a Class E-6 Temporary License Permit shall be submitted 45 days in advance of a scheduled date. No more than four (4) permits shall be issued to any licensee per fiscal year. A license permit is per event during a 24-hour period. There shall be no Class E-6 Temporary License permits issued during the second full week of October beginning 12:00 a.m. on Friday and ending 12:00 a.m. on Monday.
(Ord. 2014-M-5 § 1.)

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- E-7. Class E-7 Temporary License Permits shall authorize the retail sale of beer and wine for consumption on the premises only. Class E-7 licenses shall be issued to only Class A-2 and A-2B liquor licensees for special events or catered functions where the dispensing of food predominates. The issuance of the Class E-7 Temporary License Permit shall be at the discretion of the local Liquor Control Commissioner, with advice and consent of City Council. No more than four (4) permits shall be issued to any one licensee per fiscal year. Application for a Class E-7 Temporary License Permit shall be submitted at least 45 days prior to a scheduled event. The hours of service for beer and wine under the E-7 Temporary License Permit shall be restricted to the hours of 12:00 p.m. – 9:00 p.m., Monday through Sunday.”

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

1. The license shall rope off or fence the licensed premises.
2. A sign limiting beer and wine (or alcoholic liquors if permitted by a Class E-1 or Class E-4 license) consumption to the roped off or fenced area shall be prominently displayed by licensee at all times.
3. The license shall provide for the pickup of all litter and trash.
4. The Local Liquor Control Commissioner, with the advice and consent of the City Council, in consultation with the Chief of Police, shall designate on each license issued the number of St. Charles police personnel and/or adult members of the licensee required to be present on the licensed premises at all times beer and wine (or alcoholic liquors if permitted by Class E-1 license) is being served, to supervise liquor sales and check identification of persons. The licensee shall be responsible for any and all compensation of police personnel at the then current overtime rate. The licensee shall be required to post a cash deposit to secure the payment of such estimated compensation. If said deposit does not cover actual amount due, licensee is responsible for any balance due.
5. A tamper proof wrist band, of a design and in a color (a separate color must be used for each day) approved by the Chief of Police, or his designee, shall be placed on the wrist of each person eligible to purchase beer or wine (or alcoholic liquors if permitted by a Class E-1 license) prior to that person being given access to the licensed premises. Minors shall not be permitted in any licensed premises. Notwithstanding the foregoing, the Local Liquor Control Commissioner may, with the advice and consent of the City Council, and as designated in any license, permit minors to be present in a licensed premises where food is also served.
(Ord. 2012-M-30 § 6.)

- F-1 Class F-1 Carry In License shall authorize the carry in of beer or wine to a commercial business or place of public accommodation that does not sell alcoholic beverages in which food preparation and service of food is the principal business conducted for consumption on the premises subject to the following limitations:

1. The beer or wine is carried in unopened;
2. No more than one bottle of wine not exceeding seven hundred fifty milliliters (750 ml) and no more than a 6-pack of beer may be carried in per patron;

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3. At the licensee's discretion, the licensee may require the beer or wine to be opened and served by the licensee, and the licensee may charge a corkage or setup fee for that service;
4. The beer or wine may only be consumed by persons who are served a meal;
5. The beer or wine may be served only during the hours that food is being served;
6. Proof of dramshop insurance;
7. Carry in alcohol may only be consumed outside if the licensee has also obtained an outside adjunct license;
8. Carry in licensees is prohibited from storing alcohol on the premises, unless the licensee also has an appropriate license allowing the retail sale of alcoholic liquors on the premises;
9. Patrons may remove one, unsealed and partially consumed bottled of wine for off-premise consumption and any sealed bottles/cans of beer provided that the patron has purchased a meal and consumed a portion of the bottle of wine/beers with the meal on the restaurant premises. A partially consumed bottle of wine or sealed beer bottles/cans that is to be removed from the premises shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises and placed in a transparent, one-time use tamperproof bag.
10. Carry in licensees shall be liable for violations of this chapter in the same manner as the holder of any other classification of liquor license, including, but not limited to, violations for service to minors and the overserving of patrons;
11. Illinois BASSET alcohol seller/server certification or equivalent training is required for at least one person who is on duty at all times that alcoholic liquor is allowed to be carried into the premises;
12. The hours of operation for a class F-1 license holder are the same as those prescribed for a Class A license holder in Section 5.08.130A of this chapter.

F-2 Class F-2 Carry In-Store on Premise License shall authorize the carry in of beer, wine or spirits into a commercial business or place of public accommodation in which social interaction takes place (social club) that does not sell alcoholic beverages and the aforementioned items can either be securely stored on the premises or carried away subject to the following limitations:

1. The beer, wine or spirits are carried in unopened;
2. No more than one bottle of wine/spirits not exceeding seven hundred fifty milliliters (750 ml) and no more than a 6-pack of beer may be carried in per patron at any one time;
3. At the licensee's discretion, the licensee may require the beer, wine or spirits to be opened and served by the licensee, and the licensee may charge a corkage or setup fee for that service;
4. Proof of dram shop insurance;
5. Carry in alcohol may only be consumed outside if the licensee has also obtained an outside adjunct license;
6. Patron may remove one, unsealed and partially consumed bottled of wine/spirits for off-premise consumption and any sealed bottles/cans of beer. Partially consumed bottles of wine/spirits or sealed bottles/cans of beer must be removed

from the premises securely sealed by the licensee or an agent of the licensee prior to removal from the premises and placed in a transparent, one-time use tamperproof bag or stored away in a secured locker and not for public distribution or consumption.

7. Carry in/store licensees shall be liable for violations of this chapter in the same manner as the holder of any other classification of liquor license, including, but not limited to, violations for service to minors and the over serving of patrons;
8. Illinois BASSET alcohol seller/server certification or equivalent training is required for at least one person who is on duty at all times that alcoholic liquor is allowed to be carried into the premises;
9. The hours of operation for a Class F-2 license holder are the same as those prescribed for a Class A license holder in Section 5.08-130A of this chapter.

The Local Liquor Control Commissioner may, with the advice and consent of the City Council, and as designated in any license, impose such other and further conditions, as the Local Liquor Control Commissioner and City Council deem necessary. The Local Liquor Control Commissioner may, with the advice and consent of the City Council, permit entertainment as specifically authorized with the issuance of any Class E license.

(Ord. 2012-M-30 § 6; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

(Ord. 2012-M-30 § 6; Ord. 2011-M-37 § 1; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

F. Deleted. (Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1; Ord. 2008-M-16 § 1; Ord. 2007-M-46 § 1; Ord. 2007-M-27 § 1; Ord. 2006-M-67 § 1; Ord. 2006-M-37 § 1; Ord. 2006-M-28 § 1; Ord. 2004-M-23 § 1; Ord. 2004-M-20 § 1; Ord. 2004-M-19 § 1; Ord. 2004-M-12 § 1; Ord. 2003-M-96 § 1; Ord. 2003-M-1 § 1; Ord. 2002-M-76 § 1; Ord. 2001-M-59 § 1; Ord. 2000-M-27 § 1; Ord. 1998-M-98 § 1; 1997-M-38 § 1 & 2; Ord. 1997-M-37 § 1; Ord. 1997-M-14 § 2; Ord. 1996-M-40 § 1; Ord. 1995-M-53 § 1; 1995-M-52 § 1; Ord. 1995-M-51 § 1; Ord. 1994-M-60 § 1; Ord. 1994-M-42 § 1; Ord. 1994-M-19 § 1; Ord. 1993-M-10 § 1; Ord. 1992-M-35 § 1; Ord. 1992-M-14 § 1; Ord. 1991-M-82 § 1; Ord. 1991-M-67 § 1; Ord. 1991-M-51 § 1; Ord. 1991-M-30 § 1; 1990-M-94 § 1 & 2; Ord. 1990-M-51 § 1; Ord. 1989-M-20 § 1; Ord. 1988-M-71 § 1; Ord. 1988-M-70 § 1; Ord. 1987-M-34 § 1; Ord. 1985-M-81 § 1; Ord. 1985-M-32 § 1; Ord. 1984-M-36 § 1; Ord. 1984-M-37 § 1 and 2; Ord. 1984-M-2 § 1; Ord. 1981-M-36 § 1; Ord. 1981-M-30 § 1; Ord. 1981-M-7 § 1; Ord. 1981-M-6 § 1; Ord. 1981-M-3 § 1; Ord. 1980-M-25 § 1(b), h); Ord. 1979-M-54 § 1(b); Ord. 1978-M-1 § 1; Ord. 1977-M-39 § 1; Ord. 1977-M-28 § 2; Ord. 1976-M-42 (part); Ord. 1976-M-5 (part): prior code § 24.029.)

5.08.095 Late Night Permit

- A. The late night permit is issued as a condition of a Class B-Restaurant License and Class C-Tavern; Bar; Saloon Licenses and authorizes the holder of a Class B or Class C license to apply for either a 1:00 a.m. or 2:00 a.m. late night permit. The City Council may modify the number of Late Night Permits upon the application, revocation, surrender, expiration without renewal or abandonment of a Class B, Class C or Late Night Permit.
- B. The City Council may, but is not limited to, consider the following criteria in reviewing and recommending the issuance of the **late night permit** to the Liquor Control Commissioner.
 1. The surrounding land uses,
 2. The business concept,
 3. The proximity to other liquor establishments,
 4. The applicant's prior business experience,
 5. The public's health, safety and welfare,

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6. Public Safety resources,
 7. Market conditions,
 8. Any other criteria that is relevant to the issuance, establishment, and administration of a retail liquor license.
- C. Annually, the liquor license renewal process shall commence on the first city business day in February. Current license holders shall submit a renewal application and include any requested changes. For those license holders applying for a new or renewing a **late night permit**, they are required to specify whether they are applying for the 1:00 a.m. or the 2:00 a.m. permit. In addition, any new or renewal applications shall include a current business concept outlining the operations intended during the **late night permit** term of one year, in conjunction with the liquor license to be issued on May 1 of the same year. Failure to provide a timely renewal application or **late night permit** application may result in a delay in issuing said license and permit by May 1 of that year.
- D. Upon receipt of a new or renewal application, the Liquor Commissioner shall cause a review of the previous year license application to determine whether there have been any changes noted with regard to ownership, management or business concept. This application shall be forwarded to:
1. Chief of Police
 2. Fire Department
 3. Finance Department
 4. Community Development Department
- E. The city departments indicated in Section D will review any infractions of any city code, reflecting negatively on the license holder that should be taken into account by the Liquor Control Commission and City Council. That information shall be returned to the Liquor Commissioner for review. In addition, the Chief of Police shall cause a review of the police related activity which will support a recommendation from the Chief of Police on whether the **late night permit** shall be issued and whether a 1:00 a.m. or 2:00 a.m. closing is recommended based on the permit application. The Chief of Police shall forward the recommendation to the Liquor Commissioner.
- F. Any application and recommendation for a new or renewal of a **late night permit**, shall be reviewed by the Liquor Control Commission. Based on this review the Local Liquor Commissioner shall make a recommendation on issuance to City Council. An applicant for a **late night permit** shall have the opportunity to be present and provide input on said application, prior to the Liquor Control Commission making a recommendation. Late night permits and renewals of late night permits shall be issued by the Liquor Commissioner with the advice and consent of the City Council.
- G. Any new liquor license application where a new **late night permit** is also applied for shall follow the same review process as outlined in paragraphs B, C, D, E and F of this Chapter.
- H. **Notice of Violation Process-Late Night Permit.** If during a liquor license year, May 1 through April 30, where a liquor license holder has been issued a **late night permit** and a notice of violation is issued by the Liquor Control Commissioner, the Liquor Control Commission shall hold a hearing on the matter. The liquor licensee with the **late night permit** shall be given notice of the purpose, date, time and location of the hearing in a similar manner to a liquor license violation. The matter will be heard before the Liquor Control Commission in the same manner as any license violation. The Liquor Control Commission shall provide advice and consent to the Local Liquor Control Commissioner, who shall make a final decision on the matter.
- I. **Cause to Reduce Hours, Revoke Late Night Permit or Not Issue Late Night Permit.** In the event that a liquor license holder, has applied for or been issued a **late night permit**, and has demonstrated circumstances giving reason to review whether that **late night permit** shall be issued, reduced in hours or revoked, the Liquor Control Commission shall receive input from these city departments:
1. Finance Department as it relates to unpaid fees, utilities or city taxes;
 2. Fire Department as it relates to repetitive fire code violations affecting health and safety;

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3. Community Development Department, Building and Code Enforcement Division as it relates to building code violations;
 4. Police Department as it relates to repetitive calls for service that are indicative of underage patrons, over service of patrons, or liquor license violations affecting the safety of the general public where the licensee is not taking proactive measures to abate the problems;
 5. Other departments with applicable information.
- J. The license holder shall have the opportunity to respond to information in a public hearing prior to any action being taken, by the Liquor Control Commission before sending any recommendation to City Council.
- K. The Liquor Control Commission may recommend the issuance or denial of a requested **late night permit** for 1:00 a.m. or 2:00 a.m., or reduction in hours based on cause to the City Council for final decision.
- L. In the event a late night permit, due to a violation, is revoked or the hour for closing is reduced, there shall be no reimbursement of the later night permit fee.
- (Ord. 2014-M-4 § 2.)

5.08.100 License Fees; Late Night Permit Fees; Fees Established

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

Class License	Annual License Fee	Comments
A-1	\$1,600.00	Package Liquor Stores Only
A-2	1,600.00	Grocery Stores
A-2B	1,600.00	Wine/Beer Sales Only
A-4	1,600.00	Brewery Sales
A-5	1,800.00	Wine by Glass & Bottle Sales
B-1	1,200.00	Basic Restaurant Liquor License
B-2	1,800.00	Purchase Wine w/Takeout
C-1	1,200.00	Basic Tavern Liquor License
C-2	1,200.00	Beer/Wine Only
C-3	1,800.00	Sale of Bottled Wine
D-1	4,000.00	Pheasant Run
D-2	2,000.00	Hotels
D-3	2,000.00	Banquet Halls/Country Clubs
D-4	1,000.00	Moose/Clubs
D-5	2,000.00	Arcada
D-6	2,000.00	Q-Center
E-1	50.00 per day	Not for Profit
E-2	100.00 per day	Special Events B/C licensees
E-3	50.00 per day	Kane County Fair
E-4	100.00 per day	City Owned Premises
E-5	500.00 annual	Harley Davidson 20 events
E-6	100.00 per day	Special Late Night Permit Event
E-7	100.00 per day	Special Events A-2/A-2B licensees
F-1	100.00	BYOB Beer Wine Only
F-2	250.00	BYOB Beer, Wine, and Spirits

NOTE: Initial license fee is doubled for all first time Class A, B, C, D license applicant fees.

(Ord. 2014-M-25 § 2; Ord. 2014-M-5 § 2; Ord. 2014-M-4 § 3; Ord. 2012-M-30 § 7; Ord. 2010-M-52 § 7.)

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Late Night Permit	Fee	Renewal
Late Night Permit – 1 (1:00 a.m.)	\$800.00	\$800.00
Late Night Permit – 2 (2:00 a.m.)	\$2,300.00	\$2,300.00

(Ord. 2014-M-25 § 2; Ord. 2014-M-4 § 3.)

- B. Proration: There shall be no proration of local liquor license fees or late night permit fees for any reason. Notwithstanding the foregoing, if an initial license is issued after November 1, the initial license fee shall be one-half (1/2) of the “Initial License Fee” set forth above.
- C. Forfeiture of License Fee: Whenever any local liquor license hereunder has been revoked as provided for in this chapter, the licensee shall incur a forfeiture of all monies that have been paid for said local liquor license.

(Ord. 2014-M-4 § 3; Ord. 2011-M-37 § 2; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1; Ord. 2008-M-16 § 1; Ord. 2007-M-46 § 1; Ord. 2007-M-27 § 1; Ord. 2006-M-67 § 1; Ord. 2006-M-37 § 1; Ord. 2006-M-28 § 1; Ord. 2004-M-23 § 1; Ord. 2004-M-20 § 1; Ord. 2004-M-19 § 1; Ord. 2004-M-12 § 1; Ord. 2003-M-96 § 1; Ord. 2003-M-1 § 1; Ord. 2002-M-76 § 1; Ord. 2001-M-59 § 1; Ord. 2000-M-27 § 1; Ord. 1998-M-98 § 1; 1997-M-38 § 1 & 2; Ord. 1997-M-37 § 1; Ord. 1997-M-14 § 2; Ord. 1996-M-40 § 1; Ord. 1995-M-53 § 1; 1995-M-52 § 1; Ord. 1995-M-51 § 1; Ord. 1994-M-60 § 1; Ord. 1994-M-42 § 1; Ord. 1994-M-19 § 1; Ord. 1993-M-10 § 1; Ord. 1992-M-35 § 1; Ord. 1992-M-14 § 1; Ord. 1991-M-82 § 1; Ord. 1991-M-67 § 1; Ord. 1991-M-51 § 1; Ord. 1991-M-30 § 1; 1990-M-94 § 1 & 2; Ord. 1990-M-51 § 1; Ord. 1989-M-20 § 1; Ord. 1988-M-71 § 1; Ord. 1988-M-70 § 1; Ord. 1987-M-34 § 1; Ord. 1985-M-81 § 1; Ord. 1985-M-32 § 1; Ord. 1984-M-36 § 1; Ord. 1984-M-37 § 1 and 2; Ord. 1984-M-2 § 1; Ord. 1981-M-36 § 1; Ord. 1981-M-30 § 1; Ord. 1981-M-7 § 1; Ord. 1981-M-6 § 1; Ord. 1981-M-3 § 1; Ord. 1980-M-25 § 1(b), h); Ord. 1979-M-54 § 1(b); Ord. 1978-M-1 § 1; Ord. 1977-M-39 § 1; Ord. 1977-M-28 § 2; Ord. 1976-M-42 (part); Ord. 1976-M-5 (part): prior code § 24.029.)

5.08.110 Number of Licenses

At no time shall the maximum number of licenses in each class exceed the actual number of licenses issued except as amended from time to time by actions of the City Council.

(Ord. 2014-M-25 § 3; Ord. 2014-M-5 § 2. Ord. 2013-M-27 § 1; Ord. 2012-M-31 § 1; Ord. 2011-M-37 § 3; Ord. 2010-M-29 § 1; Ord. 2010-M-1 § 1; Ord. 2009-M-66 § 1; Ord. 2009-M-42 § 1; Ord. 2009-M-39 § 2; Ord. 2008-M-65 § 1; Ord. 2008-M-18 § 1; Ord. 2008-M-12 § 1; Ord. 2006-M-23 § 1; Ord. 2004-M-74 § 1; Ord. 2004-M-72 § 1; Ord. 2004-M-60 § 1; Ord. 2004-M-50 § 1; Ord. 2004-M-30 § 1; Ord. 2004-M-12 § 1; Ord. 2003-M-89 § 1; Ord. 2003-M-86 § 1; Ord. 2003-M-69 § 1; Ord. 2003-M-57 § 1; Ord. 2003-M-47 § 1; Ord. 2003-M-35 § 1; Ord. 2002-M-89 § 1; Ord. 2002-M-85 § 1; Ord. 2002-M-77 § 1; Ord. 2002-M-23 § 1; Ord. 2001-M-47 § 1; Ord. 2001-M-16 § 1; Ord. 2001-M-1 § 1; Ord. 2000-M-100 § 1; Ord. 2000-M-82 § 1; Ord. 2000-M-78 § 1; Ord. 2000-M-23 § 1; Ord. 1998-M-66 § 1; Ord. 1998-M-45 § 1; Ord. 1997-M-120 § 1; 1997-M-109 § 1; 1997-M-97 § 1; 1997-M-88 § 1; 1997-M-81 § 1; 1997-M-38 § 3; 1997-M-14 § 1; 1997-M-13 § 1; 1996-M-61 § 1; 1996-M-39 § 1; 1995-M-53 § 4; 1995-M-11 § 1; 1993-M-29 § 1; 1992-M-40 § 1; 1992-M-35 § 2; 1991-M-70 § 1; 1991-M-51 § 2; 1991-M-30 § 2; 1991-M-16 § 1; 1991-M-8 § 1; 1991-M-8 § 1; 1990-M-94 § 3; 1990-M-51 § 1; 1989-M-61 § 1; 1989-M-20 § 2; 1988-M-74 § 1; 1984-M-34 § 2; 1984-M-37 § 3; 1982-M-23 § 1; 1982-M-18 § 1; 1981-M-30 § 1; 1981-M-7 § 2; 1980-M-49 § 1; 1979-M-54 § 1(c); 1979-M-14 § 1; 1978-M-36 § 1; 1978-M-11 § 1; 1977-M-41; 1977-M-3; 1976-M-10; 1976-M-9; 1976-M-5: prior code § 24.030.)

5.08.120 Temporary License

Notwithstanding any provision of this chapter to the contrary, and provided that an applicant has otherwise fully complied with the requirements of this chapter and is eligible to receive a local liquor license, including the payment of the applicable local liquor license fee, the Local Liquor Control Commissioner may issue a temporary local liquor license, pending a receipt of the results of the fingerprint(s) record search for said applicant.

A temporary local liquor license shall be valid for a period of two (2) months, unless sooner terminated, as hereinafter provided.

A temporary local liquor license shall terminate upon the first of the following to occur:

1. The expiration of two (2) months after the issuance of such temporary local liquor license;
2. The receipt of satisfactory results with respect to the fingerprint(s) record search for the applicant and the issuance of the local liquor license otherwise provided for by this chapter;
3. The receipt of results with respect to the fingerprint(s) record search for the applicant which would give the Local Liquor Control Commissioner grounds not to issue the local liquor license otherwise provided for by this chapter.

The Local Liquor Control Commissioner may issue no more than two (2) temporary local liquor licenses with respect to a particular application. Any applicant requesting and receiving a temporary local liquor license does so at his own risk. Under no circumstances shall the local license fee paid be prorated or refunded, even if no local liquor license is issued.

(Ord. 2010-M-29 § 1.)

5.08.130 License – Hours of Sale

- A. It shall be unlawful for any person holding a Class A-1, A-2, A-2B, A-4 or A-5 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises any alcoholic liquor prior to the hour of 7:00 a.m. and after the hour of 10:00 p.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday; and prior to the hour of 10:00 a.m. and after the hour of 10:00 p.m. on Sunday except where December 24 or December 31 occurs on a Sunday, then alcoholic liquor sales shall be unlawful prior to the hour of 8:00 a.m. and after the hour of 10:00 p.m.
(Ord. 2012-M-30 § 8.)
- B. It shall be unlawful for any person holding a Class B-1 or B-2 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 12:00 midnight and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday; and between the hours of 12 midnight and 10:00 a.m. on Sunday.
(Ord. 2013-M-55 § 1; Ord. 2012-M-30 § 8.)
- C. It shall be unlawful for any person holding a Class B-1, B-2, C-1, C-2, or C-3 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 12:00 midnight and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday; and between the hours of 12:00 midnight and 10:00 a.m. on Sunday.
(Ord. 2014-M-4 § 4; Ord. 2013-M-55 § 2; Ord. 2012-M-30 § 8.)
- D. It shall be **lawful** for any person holding a B-1, B-2, C-1, C-2 or C-3 license issued pursuant to this chapter to sell, offer for sale, in or upon any licensed premises, any alcoholic liquor until 2:00 a.m. on January 1.
(Ord. 2014-M-5 § 3; Ord. 2014-M-4 § 4.)
- E. It shall be unlawful for any person holding a Class D-1 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday; between the hours of 3:00 a.m. and 7:00 a.m. on Saturday; and between the hours of 3:00 a.m. and 10:00 a.m. on Sunday.

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- (Ord. 2012-M-30 § 8.)
- F. It shall be unlawful for any person holding a Class D-2, D-4, D-5 or D-6 license issued pursuant to this liquor chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2:00 a.m. and 10:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday.
(Ord. 2012-M-30 § 8.)
- G. It shall be unlawful for any person holding a Class D-3 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 2:00 a.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday; and between the hours of 2:00 a.m. and 10:00 a.m. on Sunday.
(Ord. 2012-M-30 § 8.)
- H. It shall be unlawful for any person holding a Class E-1 or E-3 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 11:00 p.m. and 7:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday, except as otherwise authorized by the City Council.
(Ord. 2012-M-30 § 8.)
- I. It shall be unlawful for any person holding a Class E-2 license or E-4 license issued pursuant to this chapter to sell, offer for sale or to give away, in or upon any licensed premises, any alcoholic liquor between the hours of 12:00 midnight and 10:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday.
(Ord. 2012-M-30 § 8.)
- J. It shall be unlawful for any person holding a Class E-5 license issued pursuant to this chapter to sell or deliver, in or upon any licensed premises, any alcoholic liquor, except during those hours as specifically set forth in said Class E-5 license.
(Ord. 2012-M-30 § 8.)
- K. It shall be **lawful** for any person holding a Class E-6 Temporary License Permit issued pursuant to this chapter to sell, offer for sale in or upon any licensed premises, any alcoholic liquor until 1:00 a.m. or 2:00 a.m. (on specified date as stated on approved permit by City Council).
(Ord. 2014-M-5 § 3.)
- L. It shall be unlawful for any person holding a Class E-7 Temporary License Permit issued pursuant to this chapter to sell, offer for sale, or give away for consumption on the licensed premises any beer or wine between the hours of 9:01 p.m. – 11:59 a.m. on the specified date as stated on approved permit by City Council.
(Ord. 2014-M-25 § 4)

(Ord. 2014-M-25 § 4; Ord. 2014-M-5; Ord. 2014-M-4 § 4; Ord. 2011-M-37 § 4; Ord. 2010-M-52 § 8; Ord. 2010-M-29 § 1.)

5.08.140 License – Renewal Deadline

Any licensee may renew his local liquor license at the expiration thereof; provided, that he is then qualified to receive a local liquor license and the premises for which such renewal local liquor license is sought are suitable for such purpose; provided further, that the renewal privilege provided for in this section shall not be construed as a vested right which shall in any case prevent the City Council from decreasing the number of local liquor licenses to be issued within the City. A liquor licensee shall file an application for renewal of a local liquor license, accompanied by the applicable local liquor license fee and all required documentation, including dram shop insurance coverage, on or before April 1, in any given year. There shall be a late payment fee of fifty dollars (\$50) for failure to comply with the foregoing.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.012.)

5.08.150 License – Cessation of Business – Revocation of Licenses – Reduction in Licenses

In the event the licensee ceases to do business at the licensed premises, whether voluntarily or involuntarily (including revocation of licensee's local liquor license), other than temporarily for a period of not to exceed thirty (30) successive days, for purposes of remodeling, or for purposes other than remodeling but with the prior written approval of the Local Liquor Control Commissioner, the local liquor license of such licensee shall be deemed forfeited and the number of authorized local liquor licenses in the particular class shall automatically be reduced by one as of the date the licensee ceases to do business. If any licensee desires to close the business or place of business for more than thirty (30) successive days, said licensee shall so notify the Local Liquor Control Commissioner in writing, including the reasons therefore and requesting an extension, and the Local Liquor Control Commissioner may grant such an extension on a showing of good cause. The Local Liquor Control Commissioner shall notify in writing the City Clerk and City Council of any cessation of business by a licensee, in excess of thirty (30) days.

(Ord. 2010-M-29 § 1.)

5.08.160 License – Licensed Premises – Change of Location

A local liquor license issued under this chapter shall permit the sale of alcoholic liquor only in the premises described in the application and local liquor license. Such location may be changed only when and upon the written permit to make such change is issued by the Local Liquor Control Commissioner. No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this chapter.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.011.)

5.08.170 License – Change in Name

A liquor licensee that changes the name of the establishment but does not change the location or ownership shall within 30 days of the change notify the Local Liquor Control Commissioner and pay a fee of \$50. The Local Liquor Control Commissioner shall issue a local liquor license in the new name, cause the new local liquor license to be available, and shall take possession of the local liquor license made out in the old name upon the turning over of the new local liquor license to the licensee.

(Ord. 2010-M-29 § 1.)

5.08.180 License – Licensed Premises – Change in Personnel

- A. Any changes in partnerships, officers, directors, persons holding directly or beneficially more than five percent of the stock or ownership interest, or managers of establishments licensed under this chapter, shall be reported in writing to the Local Liquor Control Commissioner within ten days of the change. All new personnel shall meet all the standards of this chapter and must otherwise qualify to hold a local liquor license. All such changes in personnel shall be subject to review by the Local Liquor Control Commissioner within thirty days of the change.
- B. When a license has been issued to a partnership and a change of ownership occurs resulting in a partnership interest by one who is not eligible to hold a liquor license, said license shall terminate.
- C. When a license has been issued to a corporation and a change takes place in officers, directors, managers, or shareholders of more than five percent of the stock, resulting in the holding of office or such shares of stock by one who is not eligible for a license, said license shall terminate.
- D. When a license has been issued to an individual who is no longer eligible for a license, said license shall terminate.
- E. All owners and managers in charge of a local liquor licensed establishment shall at all times be declared with such person(s) or entity(s) names being on record with the Local Liquor Control Commissioner and Chief of Police.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1980-M-25 § 1(e); Ord. 1976-M-5 (part): prior code § 24.010.)

5.08.190 License – Transfer

A license shall be purely a personal privilege, good for a period not to exceed one year after issuance, unless sooner revoked as in this chapter provided, and shall not constitute property; nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon death of the licensee, provided that executors or administrators of the estate of any deceased licensee, and the trustee of any insolvent or bankrupt licensee when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture of alcoholic liquor under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license, but no longer than six months after the death, bankruptcy, or insolvency of such license. No refund shall be made of that portion of the local liquor license fee paid for any period in which the licensee shall be prevented from operating under such local liquor license in accordance with provisions of this section. (Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1980-M-25 § 1(c); Ord. 1976-M-5 (part): prior code § 24.009.)

5.08.200 License – Use of Licensed Premises After Revocation

When any license shall have been revoked for any cause, no local liquor license shall be granted to any person for the period of one year thereafter for the conduct of the business of selling alcoholic liquor in the premises described in the revoked license unless the revocation order has been vacated or unless the revocation order was entered as to the licensee only and the new licensee is not related to the revoked licensee. (Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.026.)

5.08.210 License – Display of License Required

Every licensee shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. (Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.028.)

5.08.220 License – Multiple Locations

Where two (2) or more locations, places or premises are under the same roof or at one street address, a separate local liquor license shall be obtained for each such location, place or premise; provided that nothing herein contained shall be so construed as to prevent any hotel or motel operator licensed under the provisions of this chapter from serving alcoholic liquor to his registered guests in any room or part of his hotel or motel, if such liquor so served shall be kept in and served from a licensed location, place or premises in said hotel or motel. (Ord. 2010-M-29 § 1.)

5.08.230 Licensed Premises - Location Restrictions

No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted currently holds a local liquor license issued by the City; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where such church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or education programs and not to property boundaries. Nothing in this section shall prohibit the

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issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1990-M-69 § 1; Ord. 1976-M-5 (part): prior code § 24.016.)

5.08.240 Stores Selling School Supplies or Food to Underage Persons

No license shall be issued to any person for the sale of any alcoholic liquor at any store or other place of business where the majority of customers are persons under the age of 21 years or where the principal business transacted consists of school books, school supplies, food, lunches, dancing, games or other amusements or drinks for such persons under the age of 21 years.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.017.)

5.08.250 Regulations Applicable Generally

A. False Statement.

It shall be a violation of this chapter for any licensee or any officer, associate, member, representative, agent, or employee of any licensee to make a false statement of fact to the Local Liquor Control Commissioner, his agent or any police officer with respect to any application for a local liquor license or investigation of any alleged violation of this chapter or law.

B. Compliance with law.

All licenses, licensees and licensed premises shall be subject to all of the provisions of the Liquor Control Act, all applicable federal and state statutes, and ordinances of the City.

C. Compliance with State Liquor Commission Rules.

All licensees shall be subject to the Rules and Regulations of the Illinois Liquor Control Commission, as amended (11 Ill. Admin. Code Part 100), specifically including, but not limited to the following:

1. No licensee, individual, partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.
2. No licensee, individual, partnership or corporation shall advertise or promote in any way, whether on or off licensed premises, any of the practices prohibited under subsection (1) of this section. This includes, but is not limited to, advertisements using the words "free" or "complimentary" with alcoholic liquor.
3. Subsection (1) shall not apply to wine tasting when permitted by this chapter.

D. BASSET Training.

It shall be the duty of every licensee to require their officers, associates, members, representatives, agents or any employee who sells, gives, **oversees (bouncers/doormen)** or delivers alcoholic liquor or beverages to be trained and certified by the Beverage Alcohol Sellers and Servers Education and Training Program (BASSET) licensed and administered by the State of Illinois Liquor Control Commission (ILCC). Further, BASSET training and certification shall be a prerequisite to the issuance of local liquor licenses. It shall be the duty of the City of St. Charles Liquor Control Commissioner to notify all present licensed holders and persons making application for a liquor license of this requirement.

Furthermore, Basset verification must be made available upon request and files indicating Basset training shall be maintained on-site of every licensee.

Any not-for-profit corporation who applies for a Class E temporary license shall be exempt from the BASSET training and certification requirements under the following conditions:

1. That the applicant has not been found in violation of any of the ordinances of the City of St. Charles within the past three years;
2. That uniformed St. Charles police officers are present during all times that alcohol is

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being served. The Local Liquor Control Commissioner shall determine the required number of officers which shall be present;

3. That at least one representative of the applicant organization is BASSET trained and certified;
4. That the BASSET certified representative provide and instruct BASSET training principles to all persons who will be serving alcohol pursuant to the Class E license.
5. That the Class E license holder is required to provide a bond, letter of credit or some type of surety to the City in the amount of \$1,000 prior to issuance of the license. The surety will be returned to the license holder within 30 days after the event, provided no offenses occurred during the event. In the event the license holder is charged with any type of violation during the course of the event, the surety will be retained by the City and used to cover hearing and other related costs.

(Ord. 2010-M-29 § 1; Ord. 2004-M-44 § 1; Ord. 2004-M-12 § 1; Ord. 2003-M-97 § 1; Ord. 2001-M-56 § 1; Ord. 1980-M-25 § 1(f).)

E. Warning to Underage Persons.

Every licensee shall display at all times a printed sign, which shall read substantially as follows:

“WARNING TO UNDERAGE PERSONS –

You are subject to a fine of up to seven hundred fifty (\$750) dollars under the Ordinances of the City of St. Charles if you purchase alcoholic liquor or misrepresent your age for the purposes of purchasing or obtaining alcoholic liquor.”

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 2003-M-95 § 1; Ord. 1976-M-5 (part): prior code § 24.031.)

F. Warning to Pregnant Women.

Every licensee shall display at all times a printed sign, which shall be framed and hung in plain view reading as follows:

“Government Warning: According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.”

G. Sanitary Conditions.

All premises used for the retail sale of alcoholic liquor, or for the storage of such liquor or such sale, shall be kept in a clean and sanitary condition, and shall be kept in full compliance with all applicable laws and ordinances regulating the condition of premises used for the storage or sale of food for human consumption.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.014.)

H. Athletic Amusements, Contests, Demonstrations, Entertainment, Activities, Events and Exhibitions on the Licensed Premises Prohibited – Exceptions.

1. The following athletic amusements, contests, demonstrations, entertainment, activities, events and exhibitions are prohibited at all establishments licensed by this chapter:
 - i. Races between persons, animals or vehicles.
 - ii. Baseball games.
 - iii. Boxing, kickboxing, wrestling, hand-to-hand combat and martial arts.
 - iv. Ultimate fighting, including, without limitation, physical combat between two (2) or more individuals who attempt to defeat the opponent by using elbow strikes, kicking, choking, bare knuckles, boxing, wrestling, martial arts techniques or any combination thereof.
 - v. Any other such athletic amusement, contest, demonstration, entertainment, activity, event and/or exhibition.
2. Notwithstanding the foregoing, the Local Liquor Control Commissioner, in his sole discretion, may approve, in writing, any athletic amusement, contest, demonstration,

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entertainment, activity, event and/or exhibition prohibited by this section, subject to the prior consent of the City Council pursuant to a resolution. In the event of approval, as provided herein, the licensee shall secure a permit for such athletic amusement, contest, demonstration, entertainment, activity, event and/or exhibition, as appropriate and as required by this Code.

3. The licensee shall provide sufficient members and equipment of the police department and the fire department, including paramedic personnel, as the City Council determines necessary in its resolution consenting to such athletic amusement, contest, demonstration, entertainment, activity, event and/or exhibition. The licensee shall be responsible for all fees, payments and salaries of such members and personnel. The licensee shall be required to post a cash deposit to secure the payment of estimated fees, payments and salaries of such members and personnel. If said deposit does not cover the actual amount due, licensee is responsible for any balance due.

(Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

I. Gambling on Licensed Premises Prohibited.

It is unlawful to permit any gambling except, as may be authorized by the state, on any premises licensed to sell alcoholic liquor.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.021.)

J. Refilling Original Packages.

No person licensed under this chapter shall fill or refill, in whole or in part, any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor; and it is unlawful for any person to have in his possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor, except in original packages.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.022.)

K. Solicitation on Licensed Premises Prohibited.

It is unlawful for any licensee, his manager, or other person in charge of any licensed premises where alcoholic liquor is sold or offered for sale for consumption thereon, to engage, employ or permit the engagement or employment of any person, nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or non-alcoholic liquor for said person, or any other person therein; nor shall any person, whether employee, entertainer, or otherwise, solicit any patron or customer therein to purchase alcoholic or non-alcoholic liquor for herself or himself or any other person therein; provided, however, that nothing contained in this section shall prohibit any adult manager, bartender or waitress who shall be regularly employed therein from accepting and serving the order of a patron or customer in the regular course of employment as such manager, bartender or waitress.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.023.)

L. Quantity Sales for On Premises Consumption.

It is unlawful for any licensee, other than a hotel offering restaurant service or regularly organized club or restaurant within the meaning of that term as defined in the Illinois act entitled "An Act Relating to Alcoholic Liquors," approved January 31, 1934, as amended, to sell, give away or permit to be sold, served or given away for consumption on the licensed premises any distilled spirits, except by the glass in individual servings not exceeding thirteen fluid ounces.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.024.)

M. Election Days.

Licensees may sell at retail any alcoholic liquor on the day of any national, state, county or municipal election, including primary election, including hours the polls are open, within the political area in which such election is being held.

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(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.018.)

N. Happy Hour Regulations.

No licensee shall violate the “happy hour” regulations set forth in 235 ILCS 5/6-28, as amended from time to time. Notwithstanding the foregoing, the following further and more restrictive prohibitions shall apply to all licensees:

1. No licensee, employee or agent shall serve more than one (1) drink of alcoholic liquor at one (1) time to one (1) person for consumption by that one (1) person.
2. No licensee, employee or agent shall serve more than two (2) drinks of alcoholic liquor at one (1) time to one (1) person for consumption by that one (1) person and one (1) other person; and
3. No licensee, employee or agent shall serve more than two (2) drinks of alcoholic liquor at one (1) time to one (1) person for consumption by that one (1) person and two (2) or more other persons.

(Ord. 2010-M-29 § 1; Ord. 2008-M-16 § 2; Ord. 2004-M-12 § 1.)

O. After Hour Occupancy of Establishment.

1. It is unlawful for any person to sell or offer for sale, at retail, or to give away, in or upon any licensed premises, any alcoholic liquor during the hours in which sale of such alcoholic liquors is prohibited. It is unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic liquor in or upon any premises in which sale of such alcoholic liquor is prohibited. Establishments at which the primary purpose of the premises shall be for retail sales other than the sale of alcoholic liquors, such as food store, drug store mass merchandiser, clubs, hotels and motels may remain open for business during such hours, but no alcoholic liquor may be sold or consumed during such hours. The licensee and any of its employees and no other persons shall be allowed to remain on or about the licensed premises to clean up or perform maintenance on the premises.
2. All premises in which alcoholic liquors are sold at retail for consumption on the premises and which are located below ground level shall have visible access to the interior for purposes of police inspection and the after hours safety of the occupants. Such visible access may be through an exterior door with a window measuring not less than eight inches by eight inches.
3. It is unlawful for any person to consume any alcoholic liquor on any premises licensed under the provisions of this chapter during the hours when the sale of such alcoholic liquor is prohibited by this chapter, including, but not limited to the licensee, its officers, agents and employees.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1 ; Ord. 2000-M-104 § 1; Ord. 1995-M-53 § 5 & 6; Ord. 1995-M-22 § 1; Ord. 1988-M-73 § 1; Ord. 1988-M-72 § 1; Ord. 1987-M-34 § 2; Ord. 1986-M-32 § 1; Ord. 1985-M-32 § 2; Ord. 1984-M-69 § 1; Ord. 1984-M-36 § 3; Ord. 1984-M-37 § 4; Ord. 1982-M-49 § 1; Ord. 1976-M-42 (part); Ord. 1976-M-14 § 2; Ord. 1976-M-5 (part): prior code § 24.033 & 24.034.)

P. Employment of Underage Persons.

1. It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under the age of twenty-one (21) years to attend bar and/or to draw, pour or mix any alcoholic liquor in any licensed premises; provided, that the provisions of this subsection shall not be construed to prevent the employment of persons who are at least **eighteen (18)** years of age as waiters or waitresses for the purpose of serving food and alcoholic liquor on the licensed premises.
2. It shall be unlawful for any licensee, or any officer, associate, member,

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representative, agent or employee of such licensee, to engage, employ or permit any person under twenty-one (21) years of age to sell any alcoholic liquor in any licensed premises.

(Ord. 2010-M-29 § 1; Ord. 2004-M-43 § 1; Ord. 2004-M-12 § 1.)

Q. Licenses – Curb/Drive-Through Service.

No license issued under this chapter authorizes the sale, gift or delivery of alcoholic liquor utilizing curb service, drive-through window, or any other similar methodology. All such sales, gifts or deliveries are prohibited.

R. Harboring Intoxicated Persons.

No licensee under the provisions of this chapter, either individually or through agents or employees, shall harbor or permit any intoxicated person or persons to loiter on the premises, or to permit any conduct, which shall tend to disturb the peace and quiet of the neighborhood.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.036.)

S. Prohibited Sales.

1. No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver **or allow the consumption of** alcoholic liquor to any person under the age of twenty-one (21) years, or to any intoxicated person or to any person known by him or her to be under legal disability or in need of mental treatment.
2. For the purpose of preventing the violation of this section, any licensee, or his agent or employee, shall refuse to sell, deliver or serve **or allow the consumption of** alcoholic liquor to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is twenty-one (21) years of age or older.
3. Adequate written evidence of age and identity of the person is a document issued by a federal, state, county, or municipal government, or a subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the Armed Forces. Proof that the licensee, or his employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this section is an affirmative defense in any proceeding to enforce this section or to any proceedings for the suspension or revocation of any local liquor license based thereon.
4. It is unlawful for any holder of a liquor license, or his or her agent or employee, to suffer or permit any person under the age of 21 years to be or remain in any room or any compartment adjoining or adjacent to or situated in the room or place where such licensed premise is located; provided, that this subsection shall not apply to any such person under the age of 21 years who is accompanied by his or her agent or guardian; or
 - a. That portion of any licensed premise which derives its principal business from the sale of service or commodities other than alcoholic liquor; or
 - b. Any public place that engages in the retail sale of alcoholic liquors for consumption on the premises where the sale and consumption of food predominates the sale and consumption of alcoholic liquor except as otherwise prohibited for Class B and Class C licenses, as hereinafter provided in this chapter; or
 - c. A picnic, bazaar, fair, festival, wedding or similar assembly where food is dispensed and only where the dispensing of food predominates for a period from 12:00 noon to midnight and subject to the other applicable provisions as set forth in this Code; or

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- d. Any licensed premise which, for a period of at least 30 minutes prior to the admission of minors and for at least 30 minutes after the departure of minors, does not dispense or sell any alcoholic liquor to any person on the premise.
(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1995-M-1 § 1; Ord. 1988-M-14 § 1; Ord. 1987-M-81 § 1; Ord. 1980-M-25 § 1(g); Ord. 1976-M-5 (part): prior code § 24.020.)
- T. B.Y.O.B. (Bring Your Own Bottle) Prohibited in Licensed Premises.
It is unlawful for any licensee, or his or her agent or employee, to permit any person to consume any alcoholic liquor on the licensed premises that was not purchased from the licensee.
- U. Prohibited Entertainment.
It shall be unlawful to permit the following conduct on licensed premises:
1. Performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or other sexual acts.
 2. The actual or simulated touching caressing or fondling of the breasts, buttocks, pubic hair, anus or genitals.
 3. The actual or simulated display of the breasts, buttocks, pubic hair, anus, vulva, or genitals.
 4. Permitting any person to remain upon licensed premises who exposes to public view any portion of his or her breasts, buttocks, pubic hair, genitals, vulva or anus.
- V. Teen Club/Teen Dance Club Prohibited.
It is unlawful to permit or operate a teen club/teen dance club at any time on any premises licensed to sell alcoholic liquor. For purposes of this subsection V, a teen club/teen dance club is defined as follows:
Any premises open to the public, all or any constituent part of which is restricted to the admission of, and which caters and/or is promoted to, patrons between the ages of thirteen (13) and twenty (20), inclusive, irrespective of whether admission is with or without an admission fee or charge, where patrons enjoy dancing, live and recorded music and entertainment, video or arcade games or other games or devices related to amusement or entertainment, or where videotape presentations are shown. "Teen Club/Teen Dance Club" does not include places operated by government entities, schools, religious institutions or any other non-commercial organization which might occasionally host or sponsor entertainment or activities for teenagers incidental to the organization's principle purpose.
(Ord. 2012-M-30 § 9.)
- W. Payment of Taxes, Fees, Charges and Other Monies to City when Due.
It is the obligation of every licensee to pay to the City, **ON OR BEFORE THE DUE DATE**, each and every tax (including, but not limited to the St. Charles Alcohol Tax), fee, charge or other monetary obligation imposed by and/or owed to the City by said licensee.
The failure of a licensee to make any required payment, **ON OR BEFORE THE DUE DATE**, shall subject the licensee to a Citation being issued to determine if the licensee shall be fined or having its license suspended or revoked.
THERE IS A ZERO TOLERANCE POLICY. THE CITATION SHALL BE PROSECUTED TO ITS CONCLUSION, REGARDLESS OF WHETHER THE PAYMENT IS SUBSEQUENTLY MADE AFTER THE DUE DATE.
(Ord. 2012-M-30 § 9.)
(Ord. 2010-M-29 § 1.)

5.08.260 Regulations Applicable to Certain Licenses Only**A. Class A Licenses - Single Serving Sales Prohibited.**

Beer in containers of 16 ounces or less shall not be sold to any person in quantities of less than six cans or bottles for consumption. The above provision shall not be applicable to the permitted sale of beer for consumption on the premises when brewed on the premises of a Class A-4 license.

B. Class A, Class D-1 and Class E Licenses - Wine and Beer Tasting.

Class A and D-1 local liquor license holders may conduct on-premise wine and beer tasting, but only in connection with the bona fide sale of wines or beer in the original package for consumption not on the premises. Wine and beer tasting shall be confined to samples of not more than one ounce (1 oz.) of wine and two ounces (2 oz.) of beer in conjunction with the anticipated sale of wine and beer. The sample shall be provided without compensation. Class E local liquor license holders may conduct such wine and beer tasting, but only with the written approval of the Local Liquor Control Commissioner.

C. Class B, Class C, Class D-1 and Class E Licenses - Live Entertainment.

Class B, C and D-1 local liquor licenses may permit live entertainment as defined in this chapter and as regulated by this chapter and the City's zoning ordinance. Live entertainment may be permitted during the hours that alcoholic liquor may be sold. Notwithstanding the foregoing, outdoor live entertainment is expressly prohibited every day between the hours of 10:00 p.m. and noon the following day. Further the sound level of any amplified outdoor entertainment shall not exceed sixty (60) decibels at the property line of any residential district.

Class E licenses shall permit live entertainment only as expressly permitted in the approval of any such Class E license.

D. Class B and Class C Licenses – Underage Persons Prohibited in Licensed Premises at Certain Times.

Notwithstanding any provision of this chapter to the contrary, no Class B or Class C licensee shall permit any person under the age of twenty-one (21) years to enter or remain upon the licensed premises after the hour of 11:00 p.m., unless such person is accompanied by his or her parent or legal guardian at all times.

From and after the hour of 11:00 p.m. until closing, every Class B and Class C licensee shall verify that each person entering or remaining on the licensed premises is at least twenty-one (21) years of age, unless such person is accompanied by his or her parent or legal guardian at all times. This restriction shall not apply to private gatherings within an establishment, the location of which has been segregated from the general public within said establishment.

From and after the hour of 11:00 p.m. until closing, every Class B and Class C licensee shall have an employee or agent posted, at all times, at each entrance to the licensed premises who shall be responsible for verifying that each person entering the licensed premises is at least twenty-one (21) years of age, unless accompanied by his or her parent or legal guardian.

Notwithstanding the foregoing, the provisions of this subsection D shall not be applicable to any person under the age of twenty-one (21) years lawfully employed at the licensed premises, provided that such person is on duty, working and being compensated therefore. (Ord. 2010-M-52 § 9.)

E. Class B and Class C Licenses – Sale/Consumption of Alcoholic Liquor on Licensed Premises Only – Defined.

Class B and Class C licenses authorize the retail sale of alcoholic liquor for consumption solely on the licensed premises. Class B and Class C licenses shall not engage in the sale of alcoholic liquor nor suffer or permit the consumption of alcoholic liquor, except on the

licensed premises. For purposes of this prohibition, “premises” means the interior of the building governed by a Class B or C license. “Premises” specifically excludes sidewalks, streets, parking areas and grounds adjacent to any such building, regardless of whether such sidewalks, streets, parking areas and grounds adjacent to any such building are under the ownership or control of the licensee.

Notwithstanding the foregoing, a patio, deck or similar area may be specifically authorized and designated as being included in a Class B or Class C licensee’s licensed premises, if the Local Liquor Control Commissioner, in his sole discretion, approves the sale and/or consumption of alcoholic liquor, in such patio, deck or similar area, on the site plan required for each Class B and Class C license.

F. Class B Licenses – Holding Bar

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

(Ord. 2012-M-30 § 10.)

(Ord. 2010-M-29 § 1.)

5.08.270 Underage Persons

A. A. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one (21) years, except in the performance of a religious ceremony or service.

B. No person shall sell, give, or furnish to any person under the age of twenty-one (21) years any false or fraudulent written, printed, or photostatted evidence of the age and identity of such person nor shall anyone sell, give or furnish to any person under the age of twenty-one (21) years evidence of age and identification of any other person.

C. No person under the age of twenty-one (21) years shall present or offer to any licensee, his agent or employee, any written, printed, or photostatted evidence of age and identity which is false, fraudulent or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic liquor, nor shall any person have in his possession any false or fraudulent written, printed, or photostatted evidence of age and identity.

D. No person under the age of twenty-one (21) years shall have any alcoholic liquor in his possession nor shall any such person consume any alcoholic liquor. This section does not apply to possession by a person under the age of twenty-one (21) years or consumption in the performance of a religious ceremony or service.

E. This section does not apply to possession by a person under the age of twenty-one (21) years making a delivery of alcoholic liquor in pursuance of the order of his or her parent or in pursuance of his or her employment.

Any person violating this section shall be fined two-hundred fifty dollars (\$250.00) for the first offense nor more than seven hundred fifty dollars (\$750.00) for each subsequent offense.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1995-M-1 § 1; Ord. 1988-M-14 § 1; Ord. 1987-M-81 § 1; Ord. 1980-M-25 § 1(g); Ord. 1976-M-5 (part); prior code § 24.020.)

5.08.280 Peddling Alcoholic Liquor in City Prohibited

It is unlawful to peddle alcoholic liquor in the City.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part); prior code § 24.013.)

5.08.290 Possession of Alcoholic Liquor in Motor Vehicle

No person shall transport, carry, possess or have any alcoholic liquor within the passenger

area of any motor vehicle, except in the original package and with the seal unbroken.
(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5(part): prior code § 24.027.)

5.08.300 Sale, Delivery, Consumption and Possession of Alcoholic Liquor on Public Property

It is unlawful for any person to sell, deliver, consume or possess, except in original packages with seals unbroken, any alcoholic liquor upon any streets, sidewalk, alley or other public right-of-way and City property. However, upon approval of the City Council and the consent of the Local Liquor Control Commissioner, this section shall not apply to the premises of a Class E license issued pursuant to this chapter.

Notwithstanding the foregoing, alcoholic liquor may be sold, delivered, consumed and possessed on the public right-of-way adjacent to Class B licensed premises located within the First Street TIF District (described below), subject to: (a) approval of the City Council, (b) the premises obtaining a Sidewalk Café permit pursuant to Section 12.04.102 of this Code and (c) strict compliance with the site drawing (including conditions imposed by the Local Liquor Control Commissioner thereon) approved in conjunction with the issuance of the Class B license for said premises.

The First Street TIF District is described as follows: That part of the Northwest Quarter and the Southwest Quarter of Section 27, Township 40 North, Range 8, East of the Third Principal Meridian in the City of St. Charles, Kane County, Illinois described as follows: Beginning at the northeast corner of Block 44 in Original Town of St. Charles, said point also being the intersection of the south right-of-way line of Main Street (Illinois Route 64) and the westerly right-of-way line of 2nd Street (Illinois Route 31); thence easterly along said southerly right-of-way line to the west bank of the Fox River; thence southerly along said west bank to the southerly right-of-way line of Indiana Street; thence westerly along said southerly right-of-way line to the easterly right-of-way of 1st Street; thence southerly along the easterly right-of-way line of 1st Street to the northerly right-of-way line of Prairie Street; thence easterly along said northerly right-of-way line of Prairie Street to the northerly extension of the west line of Lot 5 in the Piano Factory of St. Charles Subdivision; thence southerly along the west line of said Lot 5 and the northerly extension thereof to the most southerly corner of said Lot 5; thence southwesterly along the extension of the southeasterly line of said Lot 5 to the westerly right-of-way line of 2nd Street (Illinois Route 31); thence northerly along said westerly right-of-way line of 2nd Street to the Point of Beginning.

Any person violating this section shall be fined not less than two hundred fifty dollars (\$250.00) for the first offense and up to seven hundred fifty dollars (\$750.00) for each subsequent offense.

(Ord. 2010-M-67 § 1; Ord. 2010-M-36 § 1; Ord. 2010-M-29 § 1; Ord. 2008-M-43 § 1; Ord. 2007-M-75 § 1; Ord. 2004-M-12 § 1; Ord. 1982-M-62 § 1; Ord. 1976-M-5 (part): prior code § 24.039.)

5.08.310 Responsibility of the Owner or Occupant of Premises

Except under the direct supervision and approval of the parents or parent, it is unlawful for any owner or occupant of any premises located within the City to knowingly allow a person under the age of twenty-one (21) years to remain on such premise while in the possession of alcoholic liquor or while consuming alcoholic liquor in violation of this chapter.
(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1995-M-1 § 1; Ord. 1982-M-48 § 1.)

5.08.320 License – Revocation or Suspension – Hearing Procedure

A. The Local Liquor Control Commissioner may, in accordance with the law and the provisions of the Liquor Control Act of 1934 (235 ILCS 5/1-1 et seq.), as amended,

revoke or suspend any license issued under his authority if he determines that the licensee has violated any of the provisions of said Act or of any ordinance or resolution enacted by the corporate authorities of the City or any applicable rule or regulation established by the Local Liquor Control Commissioner or the Illinois Liquor Control Commission which is not inconsistent with law. In addition to or in lieu of a suspension, the Local Liquor Control Commissioner may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand (\$1,000) Dollars for a first violation within a twelve (12) month period, One Thousand Five Hundred (\$1,500) Dollars for a second violation within a twelve (12) month period, and Two Thousand Five Hundred (\$2,500) Dollars for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand (\$15,000) Dollars in fines under this section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the City Treasury. However, no such license shall be so revoked or suspended and no license shall be fined except after a public hearing by the Local Liquor Control Commissioner with a three-day written notice to the licensee, affording the licensee an opportunity to appear and defend. Further, in the event that the Local Liquor Control Commissioner shall find a licensee guilty of violating any provision of this chapter, he may order the licensee to pay to the City the following: 1) reasonable attorney's fees incurred by the City, the Chief of Police and the Local Liquor Control Commissioner; and 2) reasonable costs, including but not limited to the costs of court reporter fees and witness fees incurred by reason of the hearing.

- B. If the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusions and without notice of hearing, order the licensed premises closed for not more than seven days, giving the licensee an opportunity to be heard during that period; except, if the licensee is also engaged in another business on the licensed premises, such order shall not be applicable to such other business.
- C. The Local Liquor Control Commissioner shall within five (5) days after such hearing, if he determines after such hearing that the license should be revoked or suspended, or that the licensee should be fined, state the reason for such determination in a written order of revocation or suspension and serve a copy of such order within the five (5) days upon the licensee.
- D. Review of decisions of the Local Liquor Control Commissioner shall be as provided for in Section 5/7-9 of Chapter 235 of the Illinois Compiled Statutes.

(Ord. 2010-M-29 § 1; Ord. 2007-M-72 § 1; Ord. 2004-M-12 § 1; Ord. 2001-M-23 § 1; Ord. 1995-M-53 § 7; Ord. 1976-M-5 (part): prior code § 24.003(B).)

5.08.330 List of Licenses and Revocations

The Local Liquor Control Commissioner shall keep or cause to be kept a complete record of all licenses issued by him and shall furnish the clerk, treasurer and Chief of Police a copy thereof; upon the issuance of any new license, or the revocation of any old license, the Local Liquor Control Commissioner shall give written notice of such action to each of said officers, and in case of revocation a written notice shall be given to the licensee whose license has been revoked. All notices provided for in this section shall be given forty-eight (48) hours from the time of any such action or actions. Notice shall also be given to the Illinois Liquor Control Commission of the revocation of any and all such licenses.

(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.007.)

5.08.340 Forfeiture of Fees Upon License Revocation

Whenever any license under this chapter has been revoked, as provided for in this chapter, the license shall incur a forfeiture of all moneys that have been paid for said license.
(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.025.)

5.08.350 Owner of Premises Permitting Violation

If the owner of the licensed premises or a person from whom the license derives the right to possession of such premises, or the agent of such owner or person, shall knowingly permit the licensee to use said licensed premises in violation of the terms of this chapter, said owner, agent or other person shall be deemed guilty of a violation of this chapter to the same extent as said licensee and be subject to the same punishment.
(Ord. 2010-M-29 § 1.)

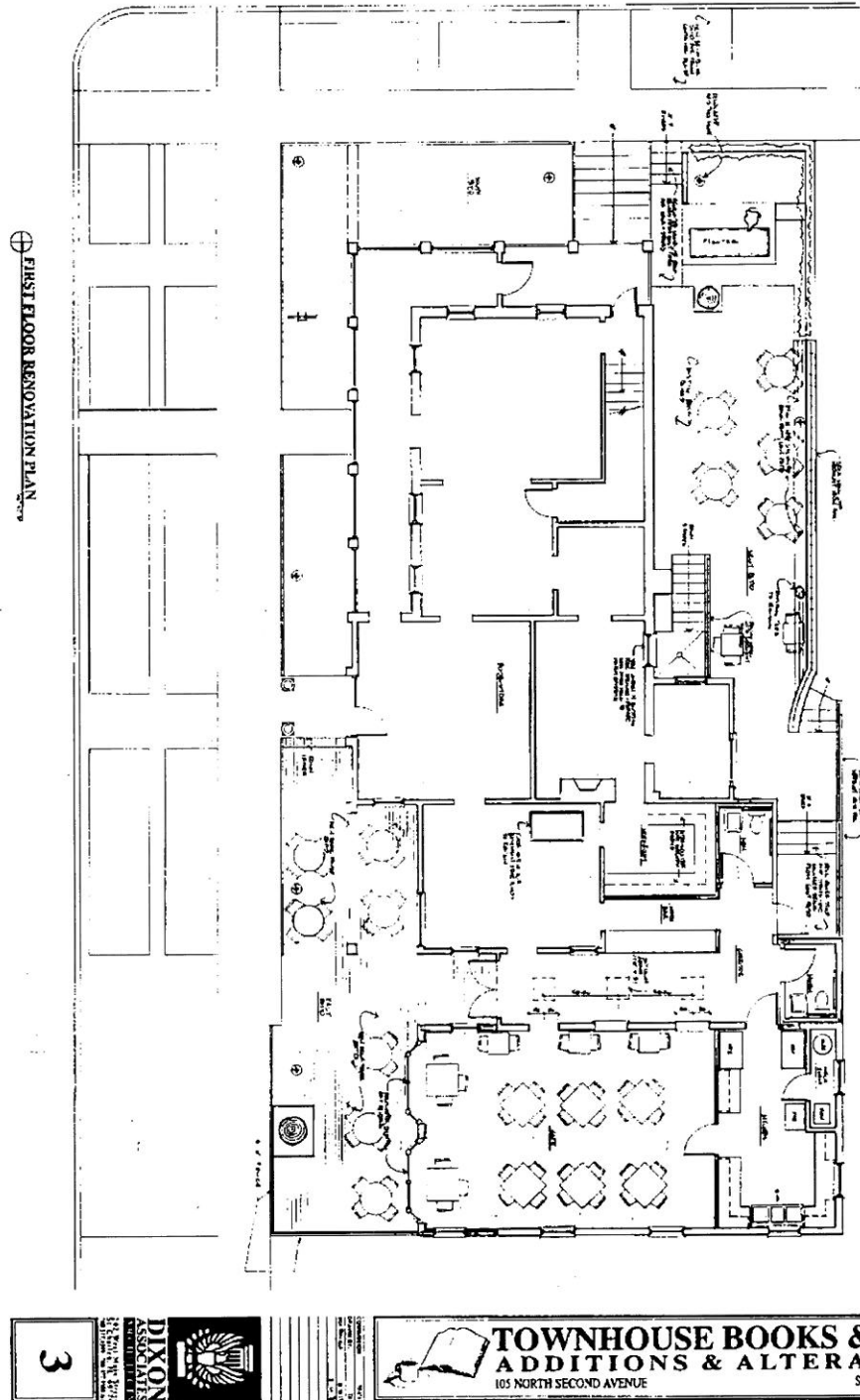
5.08.360 Acts of Agent or Employee; Liability of Licensee; Knowledge

Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee, shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally.
(Ord. 2010-M-29 § 1.)

5.08.370 Violation - Penalty

Any person, firm, or corporation violating any provision of this chapter shall, upon conviction, be fined not less than two hundred fifty dollars (\$250.00) for the first offense and up to seven hundred and fifty dollars (\$750.00) for each subsequent offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
(Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1982-M-62 § 2.)

ALCOHOLIC BEVERAGES



(Ord. 1997-M-14 § 2.)



ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title: Discussion of Propose Code Revisions to Title 9 "Public Peace, Morals and Welfare" Chapter 9.09 "Fighting", Chapter 9.16 "Profanity – Indecent Conduct", Chapter 9.20 "Disorderly Conduct", and Chapter 9.65 "Administrative Adjudication"

Presenter: Chief Keegan

Please check appropriate box:

<input type="checkbox"/>	Government Operations	<input type="checkbox"/>	Government Services
<input type="checkbox"/>	Planning & Development	<input type="checkbox"/>	City Council
<input type="checkbox"/>	Public Hearing	<input checked="" type="checkbox"/>	Liquor Control Commission (01/20/15)

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

Executive Summary:

The Police Department, in tandem with working on Chapter 5.08 "Alcoholic Beverages", have made changes to the following ordinances in Title 9 "Public Peace, Morals and Welfare": Chapter 9.09 "Fighting", Chapter 9.16 "Profanity – Indecent Conduct", and Chapter 9.20 "Disorderly Conduct".

The first pass of these revisions was presented at the December 15, 2014 Liquor Control Commission meeting and staff was asked to make further revisions based on discussion from that meeting. City staff is here tonight seeking a recommendation to bring these ordinances to the next committee meeting for recommendation to City Council for final approval.

Attachments: (please list)

Ordinances

Recommendation / Suggested Action (briefly explain):

Discussion of propose code revisions to Title 9 "Public Peace, Morals and Welfare" Chapter 9.09 "Fighting", Chapter 9.16 "Profanity – Indecent Conduct", Chapter 9.20 "Disorderly Conduct" and Chapter 9.65 "Administrative Adjudication to go before Committee for recommendation to City Council.

For office use only:

Agenda Item Number: 5.

FIGHTING

Chapter 9.09

FIGHTING

Sections:

9.09.10 Fighting Prohibited

9.09.010 Fighting Prohibited

No person shall physically fight with another person without legal justification. Any person violating this Section shall be punished by a fine of not less than five hundred dollars (\$500.00) for their first related offense nor more than seven hundred fifty dollars (\$750.00) for each subsequent offense. (Ord. 2012-M-48 § 1; Ord. 2011-M-14 § 1.)

PROFANITY – INDECENT CONDUCT

Chapter 9.16

PROFANITY - INDECENT CONDUCT⁴

Sections:

- | | |
|----------|--|
| 9.16.010 | Bathing or swimming in public place. |
| 9.16.020 | Public urination, defecation prohibited. |

9.16.010 Bathing or swimming in public place.

It is unlawful for any person to swim or bathe at any public place or in a place open to public view unless such person is adequately garbed in a bathing suit or other suitable garment to protect his person from exposure.

(Ord. 1978-M-45 § 1: prior code § 28.017.)

9.16.020 Public urination, defecation prohibited.

It shall be unlawful for any person to urinate or defecate:

- A. in or on a public street, alley, sidewalk, yard, park, building, structure, plaza, public or utility right-of-way, or other public place other than a restroom; or
- B. in public view.

Any person violating this Section shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) for their first offense nor more than seven hundred fifty dollars (\$750.00) for each subsequent offense.

(Ord. 2012-M-48 § 2; Ord. 2009-M-70 § 1.)

DISORDERLY CONDUCT

Chapter 9.20

DISORDERLY CONDUCT⁵

Sections:

9.20.010	Disorderly conduct - Designated - Prohibited.
9.20.020	Intoxication in public place prohibited.
9.20.030	Disturbing lawful assemblages prohibited.
9.20.040	Unlawful assemblages.

9.20.010 Disorderly conduct - Designated - Prohibited.

It is unlawful for a person to commit disorderly conduct. A person commits disorderly conduct when he knowingly:

- A. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or
- B. With intent to annoy another, makes a telephone call, whether or not conversation thereby ensues; or
- C. Enters upon the property of another for a lewd or unlawful purpose; deliberately looks into a dwelling on the property through any window or other opening.

(Ord. 1969-M-3 § 1: prior code § 28.002.)

9.20.020 Intoxication in public place prohibited.

It is unlawful for any person to be in an intoxicated condition and disorderly on or in any street, alley or other public place in the City. Any person violating this Section shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) for their first offense nor more than seven hundred fifty dollars (\$750.00) for each subsequent offense.

(Ord. 2012-M-48 § 3; Ord. 2008-M-47 § 1; Prior code § 28.003.)

Emergency Treatment (Exemptions to 9.20.020)

A person who appears to be intoxicated in a public place and who may be in danger to himself or others may be assisted to his home, a treatment facility or other health/public facility either directly by the police or through an intermediary person. Such person shall be detained for protective custody purposes only, and shall not be cited and/or arrested. Being intoxicated shall not be the sole basis for the offense of Public intoxication (20 ILCS 301/25-15; 20 ILCS 301/55-15).

9.20.030 Disturbing lawful assemblages prohibited.

It is unlawful for any person to disturb any lawful assemblage or gathering in this city.
(Prior code § 28.009.)

9.20.040 Unlawful assemblages.

DISORDERLY CONDUCT

It is unlawful to collect, gather, or be a member of any disorderly crowd, or any crowd gathering together for any unlawful purpose.
(Prior code § 28.014.)

ADMINISTRATIVE ADJUDICATION

Chapter 9.65 ADMINISTRATIVE ADJUDICATION

Sections:

- 9.65.010 Administrative Adjudication of Municipal Code Violations
- 9.65.020 Administrative Adjudication Procedures Not Exclusive
- 9.65.030 Code Hearing Units; Powers of Hearing Officers
- 9.65.050 Rules of Evidence Shall Not Govern
- 9.65.060 Judicial Review
- 9.65.070 Enforcement of Judgment
- 9.65.080 Impact on Existing Administrative Adjudication Systems
- 9.65.090 Severability
- 9.65.010 Administrative Adjudication of Municipal Code Violations

A. The City of St. Charles hereby provides for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution and as expressly authorized by the Illinois Municipal Code, 65 ILCS 5/1-2.1-1 et seq., as amended. As used in this ordinance, a "system of administrative adjudication" shall include the adjudication of any violation of the City of St. Charles municipal ordinances, except for:

1. proceedings not within the statutory or the home rule authority of municipalities; and
2. any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and
3. any reportable offense under Section 6-204 of the Illinois Vehicle Code; and
4. proceedings governed by Chapter 2.19 and Title 17 of the St. Charles Municipal Code.

(Ord. 2013-M-67 § 1.)

B. The "system of administrative adjudication" shall also include offenses under the Criminal Code which may, at the discretion of the Chief of Police or his sworn officers, be filed as a Municipal Code violation, with the following exceptions:

1. Any felony or crime of moral turpitude.

9.65.020 Administrative Adjudication Procedures Not Exclusive

A. The adoption by the City of a system of administrative adjudication does not preclude the City from using other methods to enforce municipal ordinances, including but not limited to, relief in the Circuit

Court for the Sixteenth Judicial Circuit, Kane County, Illinois, the Eighteenth Judicial Circuit, DuPage County, Illinois, or any other court of competent jurisdiction.

B. The adoption by the City of a system of administrative adjudication does not preclude the City from using other methods to enforce the laws of the State of Illinois.

ADMINISTRATIVE ADJUDICATION

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9.65.030 Code Hearing Units; Powers of Hearing Officers

A. There is hereby established a Code Hearing Unit in the City of St. Charles municipal government. The Code Hearing Unit shall have jurisdiction to adjudicate any violation of the City of St. Charles Municipal Ordinances (hereinafter referred to from time to time as "Code Violations") except for the following:

1. proceedings not within the statutory or the home rule authority of municipalities; and
2. any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and
3. any reportable offense under Section 6-204 of the Illinois Vehicle Code; and
4. proceedings governed by Chapter 2.19 and Title 17 of the St. Charles Municipal Code.

(Ord. 2013-M-67 § 2.)

B. Hearing Officers shall preside over all administrative adjudication hearings. The powers and duties of Hearing Officers shall include the following:

1. hearing testimony and accepting evidence that is relevant to the existence of the code violation;
2. issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
3. preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;
4. issuing a determination, based on the evidence presented at the hearing, of whether a code violation exists. The determination shall be in writing and shall include a written finding of fact, decision, and order including the fine, penalty, or action with which the defendant must comply;
5. imposing penalties as set forth below, and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the Hearing Officer have authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$50,000, or at the option of the municipality, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the judicial circuit

in which the municipality is located. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the municipality's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City; and

6. the amount of penalty imposed shall be as set forth in this Paragraph. Said penalties shall not, in any way, modify the amount or type of penalty applicable to any code violation filed in the Circuit Court. Regardless of whether a party requests a hearing pursuant to this Chapter, the penalty for citations issued in accordance herewith shall be as follows:

- a. Section 13.16.205, Water Conservation, \$50;
- b. Section 8.24.070, Deposits on Streets, \$50;
- c. Section 12.04.185, Snow Removal, \$50;
- d. Section 9.32.010, Unauthorized Posting, \$50;
- e. Section 9.24.010 et seq., Noise Prohibitions, \$75;
- f. Section 8.20.010, Prohibition of Fireworks, \$75;
- g. Section 5.16.060(A), Prohibited Sale of Tobacco to Minors, \$75;
- h. Section 10.06.010, Automated Traffic Law Enforcement System violation, as set forth in Section 10.06.010; and,
- i. all other code violations fines within the jurisdiction of this system of administrative adjudication are listed under their own specific code title.

C. Prior to conducting administrative adjudication proceedings, administrative Hearing Officers shall have successfully completed a formal training program which includes the following:

ADMINISTRATIVE ADJUDICATION

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- 1. instruction on the rules of procedure of the administrative hearings which they will conduct;
- 2. orientation to each subject area of the code violations that they will adjudicate;
- 3. observation of administrative hearings; and
- 4. participation in hypothetical cases, including ruling on evidence and issuing final orders.

In addition, every administrative Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least three (3) years.

D. A proceeding before a code hearing unit shall be instituted upon the filing of a written pleading by an authorized official of the municipality.

9.65.050 Rules of Evidence Shall Not Govern

The formal and technical rules of evidence shall not apply in an adjudicatory hearing permitted under this Division. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

9.65.060 Judicial Review

Any final decision by a Code Hearing Unit shall constitute a final determination for purposes of judicial review, and shall be subject to the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

9.65.070 Enforcement of Judgment

A. Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the City and may be collected in accordance with applicable law.

B. After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

C. In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a municipality to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a Hearing Officer, shall be a debt due and owing the municipality and may be collected in accordance with applicable law. Prior to any expenses being fixed by a Hearing Officer pursuant to this subsection (c), the municipality shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative Hearing Officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than seven (7) days from the date that notice is served. If notice is served by mail, the seven (7) day period shall begin to run on the date that the notice was deposited in the mail.

D. Upon being recorded in the manner required by Article XII of the Code of Civil Procedure (735 ILCS 5/12-101 et seq.) or by the Uniform Commercial Code (810 ILCS 5/1-101 et seq.) a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the City under this Ordinance. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

E. A Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the Hearing Officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the municipality did not provide proper service of process. If any judgment is set aside pursuant to this subsection (e), the Hearing Officer shall have authority to

ADMINISTRATIVE ADJUDICATION

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enter an order extinguishing any lien which has been recorded for any debt due and owing the municipality as a result of the vacated default judgment.

9.65.080 Impact on Existing Administrative Adjudication Systems

This ordinance shall not affect the validity of systems of administrative adjudication that were authorized by State law, including home rule authority, and in existence prior to the effective date of this ordinance.

9.65.090 Severability

Should a court of competent jurisdiction determine that one or more sections or subsections of this ordinance is, or are invalid, the remaining sections or subsections hereof shall remain in full force and effect.

(Ord. 2007-M-53 § 2.)