

# BUSINESS LICENSES AND REGULATIONS

## Title 5

### BUSINESS LICENSES AND REGULATIONS<sup>1</sup>

#### Chapters:

5.04	Licenses and Permits
5.08	Alcoholic Beverages
5.12	Amusements
5.16	Tobacco
5.20	Massage Establishments
5.24	Handbills
5.28	Peddlers
5.32	Refuse Collectors
5.36	Solicitors
5.44	Secondhand and Junk Stores
5.48	Carnivals
5.50	Newspaper Dispensing Devices
5.52	Horse-Drawn Carriages

Chapter 5.04

**LICENSES AND PERMITS**

Sections:

- 5.04.010 Persons subject to license.
- 5.04.020 Application - Contents.
- 5.04.030 Forms kept on file by city clerk.
- 5.04.040 Signatures required.
- 5.04.050 Investigations.
- 5.04.060 Fees.
- 5.04.070 License year.
- 5.04.080 Annual licenses - Notice of expiration.
- 5.04.090 Revocation.
- 5.04.100 Posting license.
- 5.04.110 Change of location - Notification of city clerk.
- 5.04.120 Premises and building to comply with city requirements.
- 5.04.130 Nuisances.
- 5.04.140 Inspections.
- 5.04.150 Violation - Penalty.

**5.04.010 Persons subject to license.**

Whenever in this code a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the city. (Prior code § 21.002.)

**5.04.020 Application - Contents.**

Applications for all licenses and permits required by ordinance shall be made in writing to the city clerk in the absence of provision to the contrary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be needed for the permit or license applied for. (Prior code § 21.001.)

**5.04.030 Forms kept on file by city clerk.**

Forms for all licenses and permits, and applications therefor, shall be prepared and kept on file by the city clerk. (Prior code § 21.004.)

**5.04.040 Signatures required.**

Each license or permit issued shall bear the signatures of the mayor and the city clerk in the absence of any provision to the contrary. (Prior code § 21.005.)

**5.04.050 Investigations.**

Upon the receipt of an application for license or permit where ordinances of the city necessitate an inspection or investigation before the issuance of such permit or license, the city clerk shall refer such application to the proper officer for making such investigation within forty-eight hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report

## **LICENSES AND PERMITS**

thereon, favorable or otherwise, within ten days after receiving the application or a copy thereof. The city sanitarian shall make or cause to be made an inspection in regard to such license in the connection of the care and handling of food and the preventing of nuisances and the spread of disease and for the protection of health; the building inspector shall make or cause to be made any such inspections relative to the construction of buildings or other structures. All other investigations except where otherwise provided shall be made by the chief of police or by some other officer designated by the mayor. (Prior code § 21.006.)

### **5.04.060 Fees.**

In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the city clerk. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license fee shall not be prorated for any fraction of the license year, but the applicant shall be required to pay the full license fee. There shall be no refund for cancellation or termination of a license for any reason, unless otherwise provided. Except as otherwise provided, all license fees shall become a part of the general fund. A new applicant shall pay two times the annual license fee upon making application as and for the first year license fee. (Ord. 1979-M-44 § 2: prior code § 21.007.)

### **5.04.070 License year.**

The license year for the city shall begin on the first day of May and end on the last day of April of each year. (Prior code § 21.003.)

### **5.04.080 Annual licenses - Notice of expiration.**

- A. All annual licenses shall terminate on the last day of April, where no provision to the contrary is made.
- B. The city clerk shall mail to all licensees of the city a statement of the time of expiration of the license held by the licensee, if an annual, three weeks prior to the date of such expiration; provided that a failure to send out such notice, or failure of the licensee to receive it shall not excuse the licensee from a failure to obtain a new license, or a renewal thereof, nor shall it be a defense in an action for operation without a license.

(Prior code § 21.008.)

### **5.04.090 Revocation.**

Any license or permit for a limited time may be revoked by the mayor at any time during the life of such license or permit for any violation by the licensee or permittee of the ordinance provisions relating to the license or permit, the subject matter of the license or permit, or to the premises occupied; such revocation may be in addition to any fine imposed. (Prior code § 21.013.)

### **5.04.100 Posting license.**

It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times. (Prior code § 21.014.)

### **5.04.110 Change of location - Notification of city clerk.**

The location of any licensed business or occupation or of any permitted act, may be changed, provided ten days' notice thereof is given to the city clerk, in the absence of any provision to the contrary; provided, that the building and zoning requirements of the ordinances of the city are complied with. (Prior code § 21.010.)

### **5.04.120 Premises and building to comply with city requirements.**

## LICENSES AND PERMITS

No license shall be issued for the conduct of any business, and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of the city. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning ordinance of the city. (Prior code § 21.009.)

### **5.04.130 Nuisances.**

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact. (Prior code § 21.011.)

### **5.04.140 Inspections.**

- A. Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto, for the purpose of making the inspection, any officer or employee of the city who is authorized or directed to make such inspection at any reasonable time that admission is requested.
- B. Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee of the municipality whose business is governed by such provision to give to any authorized officer or employee of the city requesting the same sufficient samples of such material or commodity for such analysis upon request. In addition to any other penalty which may be provided, the mayor may revoke the license of any licensed proprietor of any licensed business in the city who refuses to permit any such officer or employee who is authorized to make such inspection or take such samples to make the inspection, or take an adequate sample of the said commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided, that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the city, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample.

(Prior code § 21.012.)

### **5.04.150 Violation - Penalty.**

Any person, firm or corporation violating any provision of this chapter shall be fined not less than two dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Prior code § 21.015.)

## ALCOHOLIC BEVERAGES

### Chapter 5.08

#### ALCOHOLIC BEVERAGES<sup>2</sup>

##### Sections:

	<b>I.</b>	<b>GENERAL PROVISIONS</b>
5.08.010		Definitions
5.08.020		Local Liquor Control Commission - Designated
5.08.030		Local Liquor Control Commissioner - Powers, Duties and
Functions		
5.08.035		Local Liquor Control Commissioner - Powers and Duties
	<b>II.</b>	<b>LICENSES - LICENSING</b>
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
5.08.085		Issuance of License and Restrictions
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
	<b>III.</b>	<b>REGULATIONS APPLICABLE TO LICENSEES/LICENSED PREMISES</b>
5.08.250		Regulations Applicable Generally
5.08.260		Regulations Applicable to Certain Licenses Only
	<b>IV.</b>	<b>OTHER REGULATIONS</b>
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
	<b>V.</b>	<b>LICENSE-REVOCATION/SUSPENSION/FINE</b>
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.
- 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,

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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 this chapter by selling or offering for sale at retail alcoholic liquors without a local liquor license pursuant to this chapter.

(Ord. 2015-M-14 § 1; 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



## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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 1<sup>st</sup> 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 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 licensee may be subject to a fine, license suspension or license revocation as provided by this Chapter 5.08.

(Ord. 2015-M-14 § 1; 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 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 (\$200.00) dollars, which shall be non-refundable and if a license is granted, applied to the first license fee. BYOB and Special Event license application fees shall be the cost of the license. Any outstanding fines and fees related said licensure owed to the City shall be satisfied before a license is granted. All monies paid to the City

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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;
- 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1976-M-5 (part): prior code § 24.005.)

### **5.08.085 Issuance of Licenses and Restrictions-Liquor Control Commissioner/City Council**

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 license.

### **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**

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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,

## ALCOHOLIC BEVERAGES

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.

**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 (i.e. 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. 2015-M-14 § 1; 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.

Class B-3 licenses shall authorize the retail sale of alcoholic liquors for consumption on the premises of a restaurant and tavern. Class B-3 shall also authorize the retail sale of wine in original packages only within the retail wine area of the premises. The retail wine area shall not exceed fifty percent (50%) of the total square footage of the premises. Further, wine and tasting bars shall be permitted in the retail wine area of said premises, and wine tasting may be conducted in accordance with St. Charles Municipal Code 5.08.260 (B).

(Ord. 2015-M-41 § 1)

### **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

## ALCOHOLIC BEVERAGES

Commissioner.

(Ord. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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 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. 2015-M-14 § 1; 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

## ALCOHOLIC BEVERAGES

liquors shall be served in other than glass containers; all cars shall only operate on designated golf cart paths.

(Ord. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

D-4. Class D-4-1 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2008-M-80 § 1.)

D-7 Class D7 licenses shall authorize the retail sale of wine and beer for consumption on the premises only for non-for-profit organization of such theatre located at 111 West Main Street. The sale of beer and wine shall be from one (1) permanent location in the vestibule and service will only be allowed when theatre events are being held on this premise.

### **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



## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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:

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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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, 1<sup>st</sup> 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. 2015-M-14 § 1; 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 twenty (20) 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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. 2015-M-14 § 1; Ord. 2014-M-5 § 1.)

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 licenses 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; Ord. 2012-M-30 § 6.)

F-1 Class F-1 Carry-In License shall authorize the carry-in of beer or wine (spirits are not permitted) 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 and 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;
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 dram shop insurance;
7. Carry-in alcohol may only be consumed outside if the licensee has also obtained an outside adjunct license;
8. Carry-in licensees are 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 are 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 over serving 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.

## ALCOHOLIC BEVERAGES

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 and 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 in a secured locker or carried away subject to the following limitations:

1. The beer, wine, or spirits are carried and 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.

(Ord. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. Class B and C licenses, absent a Class E-6 Temporary License Permit or Late Night Permit, will be permitted to operate until either 1:00 a.m. or 2:00 a.m. immediately following the day of the City of St. Charles sponsored St. Patrick's Day Parade, the Wednesday before Thanksgiving, and New Year's Eve.
- 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,
  - 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

## ALCOHOLIC BEVERAGES

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;
  - 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. 2015-M-14 § 1; 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

## ALCOHOLIC BEVERAGES

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
D-7	500.00	Steele Beam Theatre
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
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 and 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.)

<b>Late Night Permit</b>	<b>Fee</b>	<b>Renewal</b>
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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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.)

#### **5.8.120 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. 2015-M-14 § 1; Ord. 2010-M-29 § 1.)

#### **5.08.130 License – Hours of Sale**



## ALCOHOLIC BEVERAGES

- A. It shall be unlawful for any person holding a Class A-1, A-2, A-2B, A-4, A-5, F-1, & F-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 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 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.

(Ord. 2015-M-14 § 1; Ord. 2012-M-30 § 8.)

- F. It shall be unlawful for any person holding a Class D-2, D-4, D-5, D6 or D7 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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.

2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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 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. 2015-M-14 § 1; 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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 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.

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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 forgoing, the Local Liquor Control Commissioner, in his sole discretion, may approve, in writing, any athletic amusement, contest, demonstration, 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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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,

## ALCOHOLIC BEVERAGES

within the political area in which such election is being held.

(Ord. 2015-M-14 § 1; 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.

(Ord. 2015-M-46 § 1; Ord. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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



## ALCOHOLIC BEVERAGES

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, 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. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-43 § 1; Ord. 2004-M-12 § 1.)

### Q. Licenses – Curb/Drive-Through Service.

Class A- I license holders shall be authorized to sell alcoholic beverages through drive-through service, in accordance with all other regulations that are applicable to this license classification. In addition, the drive-through structure and operation shall comply with all other requirements of the City of St. Charles Municipal Code. All other curbside service or methodologies are prohibited. In addition, walk-up service through the drive-through structure is prohibited.

For properties where Title 17 of the Municipal Code( The Zoning Ordinance) requires the granting of a Special Use for a Drive-Through Facility, such Special Use approval must be granted prior to the establishment of any drive-through service. The ordinance approving the establishment of the Special Use must specifically identify that the Drive-Through Facility is to be utilized for the sale of alcoholic beverages. The drive-through service shall only be operated in conformance with the approved site plan and any conditions contained in the ordinance granting the Special Use."

(Ord. 2015-M-38 § 1;)

### 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. 2015-M-14 § 1; 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, 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, 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

## ALCOHOLIC BEVERAGES

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
- 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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, Class B-3, Class D-1 and local liquor license hold on premise wine and beer tasting, but only in connection with the bona fide sale of wine 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 (1oz.) 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.

(Ord. 2015-M-41 § 2)

**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

## ALCOHOLIC BEVERAGES

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. 2015-M-14 § 1; Ord. 2012-M-30 § 10.) (Ord. 2010-M-29 § 1.)

### **5.08.270 Underage Persons**

- 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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.

Any person violating this section shall be fined not less than one hundred dollars (\$100.00) for the first offense nor more than two hundred fifty dollars (\$250.00) for each subsequent offense.  
(Ord. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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

## ALCOHOLIC BEVERAGES

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 r e v o k e d 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; 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. 2015-M-14 § 1; Ord. 2010-M-29 § 1.)

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

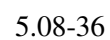
Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee, shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable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

(Ord. 2015-M-14 § 1; 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 one hundred dollars (\$100.00) 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. 2015-M-14 § 1; Ord. 2010-M-29 § 1; Ord. 2004-M-12 § 1; Ord. 1982-M-62 § 2.)

Architectural floor plan of the first floor of a building, showing a renovation plan. The plan includes a large central hall, several rooms, and a kitchen area. Key features include a 'REAR PORCH' at the top, a 'KITCHEN' at the bottom right, and a 'DINING ROOM' at thebottom left. The plan is labeled 'FIRST FLOOR RENOVATION PLAN' and includes a scale bar and a north arrow.





Chapter 5.12

**AMUSEMENTS<sup>3</sup>**

Sections:

- 5.12.010 Application of Section 5.12.010 through 5.12.130
- 5.12.020 Amusements - Licensing requirements.
- 5.12.030 Street shows - Restriction on permit issuance.
- 5.12.040 Athletic exhibitions - Licensing requirements.
- 5.12.050 Amusements - Conduct of audiences.
- 5.12.060 Amusements - Inspection by police and fire department.
- 5.12.070 Exhibition of criminals.
- 5.12.080 Promoting riots or disturbances.
- 5.12.090 Assembly hall - Smoking prohibited.
- 5.12.100 Assembly hall - No-smoking signs required.
- 5.12.110 Assembly hall - Exit lights.
- 5.12.120 Premises to comply with building regulations.
- 5.12.130 Penalty for violation of Sections 5.12.010 through 5.12.120.
- 5.12.140 Billiard license - Required - Application.
- 5.12.150 Billiard license - Fee.
- 5.12.160 Billiard hall - Minors prohibited.
- 5.12.170 Billiard hall - Hours of operation.
- 5.12.180 Penalty for violation of Sections 5.12.140 through 5.12.170.
- 5.12.190 Bowling alley - License required - Application.
- 5.12.200 Bowling alley - License fee.
- 5.12.210 Bowling alley - Hours of operation.
- 5.12.220 Bowling alley - Minors prohibited.
- 5.12.230 Bowling alley - Gambling prohibited.
- 5.12.240 Penalty for violation of Sections 5.12.190 through 5.12.230.
- 5.12.250 Motion picture or theatrical - License required.
- 5.12.260 Motion picture or theatrical - License application.
- 5.12.270 Motion picture or theatrical - Annual license fee.
- 5.12.280 Motion picture or theatrical - Fee for unlicensed premises.
- 5.12.290 Crowding in motion picture hall prohibited.
- 5.12.300 Use of nonflammable scenery required.
- 5.12.310 Building requirements.
- 5.12.320 Outdoor theaters.
- 5.12.330 Exits.
- 5.12.340 Penalty for violation of Sections 5.12.250 through 5.12.330.

**5.12.010 Application of Sections 5.12.010 through 5.12.130.**

The provisions of Sections 5.12.010 through 5.12.130 shall apply to all public shows, theatricals, circuses and other amusements in this city, whether specifically licensed in another section in this chapter or not. (Ord. 1979-M-44 § 3(a) (part): prior code § 22.101.)

**5.12.020 Amusements - Licensing requirements.**

- A. It is unlawful to conduct or operate any amusement which is open to the public and for admittance to which a fee is charged without having first obtained a license therefor; provided, that the provisions of this section shall not be held to apply to those amusements which are specifically licensed by any other ordinance of the city.
- B. Applications for such license shall be made to the clerk and shall comply with all of the general provisions of the ordinances relating to such application.

(Ord. 1979-M-44 § 3(a) (part): prior code § 22.102.)

**5.12.030 Street shows - Restriction on permit issuance.**

No permit shall be granted or given for any exhibition, show or other amusement to be given on any public street or sidewalk or in such place that the only main accommodation for the public or the audience will be a public place, except on order of the city council. (Prior code § 22.103.)

**5.12.040 Athletic exhibitions - Licensing requirements.**

- A. It is unlawful to conduct, operate or exhibit any race between persons, animals or vehicles, or any baseball game, boxing or wrestling matches or any other athletic contest or exhibition for admission to which a fee is charged without having first procured a license therefor. The city council shall have the power to waive any such license and fee charges for not-for-profit charitable organizations.
- B. The proprietor of such exhibition shall submit to the clerk a statement verified under oath of the gross receipts of each such game, contest or race, within one week after such exhibition. At the same time, the proprietor or person exhibiting or operating such exhibition shall pay to the clerk a sum equal to three percent of the gross receipts.
- C. Sufficient members of the police department shall be admitted free of charge to all such exhibitions for the purpose of preserving and maintaining order; and the city clerk may post a person or any number of persons at the box office of each such performance; and may examine all the books pertaining to such performance showing or tending to show the gross receipts.

(Prior code § 22.104.)

**5.12.050 Amusements - Conduct of audiences.**

The audience of any amusement show or theatrical must be orderly and quiet at all times, and it is unlawful for any person attending such amusement, show or theatrical to create a disturbance in the audience. It is unlawful to permit or gather such a crowd to witness any amusement or show as to create a dangerous condition because of fire or other risks. (Prior code § 22.105.)

**5.12.060 Amusements - Inspection by police and fire department.**

It shall be the duty of the chief of police and fire marshal to see that every exhibition, amusement, theatrical or other public show or amusement is inspected by a member of the police and fire department, and to insure conformity with the provisions concerning such amusements (Prior code § 22.106.)

**5.12.070 Exhibition of criminals.**

It is unlawful for any person, firm or corporation to exhibit any criminal or the body of any criminal or any person who shall have become notorious because of the commission of a crime, in any theatrical, exhibition, carnival, or other public place. (Prior code § 22.108.)

**5.12.080 Promoting riots or disturbances.**

It is unlawful to present any public amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance. (Prior code § 22.104.)

**5.12.090 Assembly hall - Smoking prohibited.**

It is unlawful to smoke or carry a lighted cigar, cigarette or pipe on or beneath the stage or in a dressing room or any building used as an assembly hall with seating accommodations for more than one hundred persons or in which theatricals, shows, amusements, lectures, or other entertainments are offered, presented, operated or exhibited. (Prior code § 22.110.)

**5.12.100 Assembly hall - No-smoking signs required.**

It shall be the duty of the owner of such premises as described in Section 5.12.090, or of the occupant in charge, to provide and place printed signs on which the words "no smoking" shall appear in letters at least four inches high, in conspicuous places, at least two signs being upon the stage or in the wing thereof and one in each dressing room. (Prior code § 22.111.)

**5.12.110 Assembly hall - Exit lights.**

It shall be the duty of the owner or occupant in charge of any building or hall used as an assembly hall with accommodations for one hundred persons or more in which theatricals, shows, amusements, lectures, and other entertainment is offered, operated or presented to provide and place a sign on which the word "exit" shall appear in letters at least six inches high, over every door or other opening from such hall to every means of egress therefrom, and a light shall be provided with a red globe and place at or over such sign, which light shall be kept burning during the entire period that the hall is open to the public and until the audience has left the hall. (Prior code § 22.112.)

**5.12.120 Premises to comply with building regulations.**

It is unlawful to operate or permit the operation of any amusement licensed in this chapter unless the premises in which such amusement is operated conforms with all the provisions or requirements in this code relating to public buildings and public gatherings. (Prior code § 22.113.)

**5.12.130 Penalty for violation of Sections 5.12.010 through 5.12.120.**

Any person, firm or corporation violating any of the provisions of Sections 5.12.010 through 5.12.120 shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Prior code § 22.114.)

**5.12.140 Billiard license - Required - Application.**

No person, firm or corporation shall operate, maintain or conduct a billiard or pool table open to the public without having first obtained a license therefor; provided, however, coin-operated billiard or pool tables shall be licensed as "amusement game devices" under Chapter 5.14, "Amusement Game Devices". All applications for such a license shall state thereon the intended location of the place of business and the number of tables to be used therein. (Prior code § 22.201.) (Ord. 1994-M-54 § 1.)

**5.12.150 Billiard license - Fee.**

The annual fee for any such license shall be twenty-five dollars for each table. (Ord. 1979-M-44 § 3(b); prior code § 22.202.)

**5.12.160 Billiard hall - Minors prohibited.**

Minors under the age of sixteen years shall not under any circumstances frequent, loiter, go or remain in any hall licensed under Section 5.12.140 at any time, unless it is upon some lawful errand and sent under the direction and with the consent of and knowledge of the parent, guardian or other person having the lawful custody of such minor; and it is unlawful for the proprietor of any hall so licensed to

allow or permit any such minor to frequent, loiter or remain within the hall in violation of this section. (Prior code § 22.203.)

**5.12.170 Billiard hall - Hours of operation.**

No billiard hall or other hall licensed under Section 5.12.140 shall be open for business or used between the hours of twelve midnight and six a.m. (Prior code § 22.204.)

**5.12.180 Penalty for violation of Sections 5.12.140 through 5.12.170.**

Any person, firm or corporation violating any provision of Sections 5.12.140 through 5.12.170 shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day or on which a violation occurs or continues. (Prior code § 22.205.)

**5.12.190 Bowling alley - License required - Application.**

No person, firm or corporation shall operate or maintain a bowling alley open to the public without having first obtained a license therefor; application for such license shall be made in writing to the city clerk and shall state thereon the intended location of the place of business and the number of alleys to be used. (Prior code § 22.301.)

**5.12.200 Bowling alley - License fee.**

The annual fee for such bowling alley licenses shall be \$25.00 for each alley. (Ord. 2001-M-4 § 1; Ord. 1979-M-44 § 3(c); prior code § 22.302.)

**5.12.210 Bowling alley - Hours of operation.**

No person shall keep open, operate or use any such alley between the hours of 1:00 a.m. and 6:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday. No person shall keep open, operate or use any such alley between the hours of 2:00 a.m. and 6:00 a.m. on a Saturday or Sunday. (Ord. 2001-M-4 § 1; Prior code § 22.303.)

**5.12.220 Bowling alley - Minors prohibited.**

Minors under the age of sixteen years shall not under any circumstances frequent, loiter, go or remain in any bowling alley licensed under this chapter at any time, unless it is upon some lawful errand and sent under the direction and with the consent of knowledge of the parent, guardian or other person having the lawful custody of such minor; and it is unlawful for the proprietor of any bowling alley so licensed to allow or permit any such minor to frequent, loiter, or remain within the bowling alley in violation of this section. (Prior code § 22.304.)

**5.12.230 Bowling alley - Gambling prohibited.**

It is unlawful for any person to gamble, bet or permit any form of gambling or betting in any premises used for a bowling alley, pin or ball alley. (Prior code § 22.305.)

**5.12.240 Penalty for violation of Sections 5.12.190 through 5.12.230.**

Any person, firm or corporation violating any provision of Sections 5.12.190 through 5.12.230 shall be fined not less than five dollars nor more than five hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Prior code § 22.306.)

**5.12.250 Motion picture or theatrical - License required.**

It is unlawful to give, present or conduct any motion picture, or theatrical, for admission to which a fee is charged, excepting performances given solely for the benefit of and under the supervision of a religious, educational or charitable organization, without having first secured a license therefor as is provided in this chapter. (Prior code § 22.401.)

**5.12.260 Motion picture or theatrical - License application.**

Applications for such licenses as required in Section 5.12.250 shall be made in conformance with the general provisions relating to such applications, and shall state in addition to the other information required the place of the intended performance and the seating capacity thereof. (Prior code § 22.402.)

**5.12.270 Motion picture or theatrical - Annual license fee.**

Any person securing an annual license for motion pictures, or theatricals, naming a specific place or building where the performances are to be presented, may present therein any number of performances, including theatricals, during the year for which the license was secured without having to pay any additional fee. The annual fee for such licenses shall be two hundred dollars, except if there is more than one theater screen in the building, in which case, the annual fee for such license shall be two hundred dollars per theater screen. (Ord. 1979-M-44 § 3(d): prior code § 22.403.)

**5.12.280 Motion picture or theatrical - Fee for unlicensed premises.**

For motion pictures or theatricals, which are to be presented in premises which are not covered by such license fee as provided for in Section 5.12.270, the fee to be paid shall be ten dollars per day; provided, that no such motion picture or theatrical shall be presented in or on any premises or building which does not fully comply with the requirements of the ordinances relating to public gatherings and to maintenance of buildings for this purpose. (Prior code § 22.404.)

**5.12.290 Crowding in motion picture hall prohibited.**

It is unlawful to permit any person, excepting users or other theater employees, to remain standing in a hall or room in which a motion picture is presented during the time of such performance; and it is unlawful to admit to any such hall more persons than can be accommodated by the seating arrangements for the premises. (Prior code § 22.406.)

**5.12.300 Use of nonflammable scenery required.**

It is unlawful to use any scenery in any theater other than nonflammable scenery of such as shall have been rendered nonflammable by the application of fire preventive coatings. (Prior code § 22.407.)

**5.12.310 Building requirements.**

It is unlawful to present any public motion picture in any building or structure which does not contain the number of exits required by the ordinances of the city or by statutes of the state concerning buildings or places intended for motion picture performances or in premises which do not comply with the provisions of this code relating to public gatherings, or in premises in which the electric wiring does not fully comply with the ordinances. All places used for the exhibition of theatricals must be kept adequately ventilated during the performance and for as long a time as the audience remains therein. (Prior code § 22.408.)

**5.12.320 Outdoor theaters.**

Outdoor theaters, where the audience is not housed in a building, shall be conducted in full compliance with the applicable provisions of Sections 5.12.250 through 5.12.340. Each outdoor theater shall be equipped with washrooms, separate for men and women. (Prior code § 22.409.)

**5.12.330 Exits.**

## AMUSEMENTS

It is unlawful to obstruct or permit the obstruction of any aisles, corridors or exits leading from the room or enclosures in which a motion picture performance or theatrical is being given or in which an audience for such a performance is gathered. (Prior code § 22.410.)

### **5.12.340 Penalty for violation of Sections 5.12.250 through 5.12.330.**

Any person, firm or corporation violating any of the provisions of Sections 5.12.250 through 5.12.330 shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during on or which a violation occurs or continues. (Prior code § 22.411.)

Chapter 5.14

AMUSEMENT GAME DEVICES

Sections:

5.14.010	Amusement Game Device.
5.14.015	Deleted
5.14.020	License - Required - Keeping or displaying machines for use - Display of license.
5.14.025	Deleted
5.14.030	License – Application.
5.14.040	License - Investigation – Denial.
5.14.050	License - Investigation – Issuance.
5.14.060	License - Fee - Keeping or displaying machines for use.
5.14.080	License – Transfer.
5.14.090	License - Suspension – Revocation.
5.14.100	Rules of operation – Designated.
5.14.110	Rules of operation - Noncompliance unlawful.
5.14.120	Violation – Penalty.

**5.14.010 Amusement Game Device.**

"Amusement game device" as used in this chapter means any machine which, upon the insertion of a coin, slug, token, plate or disc or upon payment of consideration by any other method may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It includes such devices as marble machines, pinball machines, electronic games, skill ball, mechanical grab machines, videogames, and all games, operations or transactions similar thereto under whatever name they may be known.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(b); Ord. 1979-M-38 § 1.)

**5.14.015 Deleted**

(Ord. 2015-Z-19 § 2; Ord. 1999-M-22 § 1; Ord. 1997-M-91 § 1.)

**5.14.020 License - Required - Keeping or displaying machines for use - Display of license.**

No person shall keep or provide any amusement game device for operating or patronage by the public within the city or be engaged in the business thereof, without having first obtained a license therefor from the city clerk, which license shall be in plain view in a conspicuous place on the machine or the premises.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1981-M-46 § 1 (part); Ord. 1979-M-38 § 2(a).)

**5.14.025 Deleted**

(Ord. 2015-Z-19 § 3; 1997-M-91 § 1.)

**5.14.030 License – Application.**

Applications for the licenses required in Section 5.14.020 shall be filed in triplicate and shall contain the following information:

## AMUSEMENT GAME DEVICES

- A. If the applicant is a corporation:
  - 1. Corporate name and address,
  - 2. Names, dates of birth, and addresses of corporate officers and directors,
  - 3. Statement of principal kind of business in which corporate engages,
  - 4. Statement of whether corporate business will be conducted by a manager, and the name, address and authority of any such manager or agent,
  - 5. Names, dates of birth, and addresses of all persons, firms, and organizations owning of record five percent or more of the corporation's stock,
  - 6. Statement of whether any officer, manager, director or shareholder owning five percent or more of the stock of the corporation has ever been convicted of a felony or has ever forfeited an appearance bond on a felony charge,
  - 7. The location of the place of business and the place where the amusement game device is to be kept or displayed,
- B. If the applicant is an individual or partnership:
  - 1. Name and address, and date of birth of applicant,
  - 2. Location of place of business,
  - 3. Principal kind of business engaged in,
  - 4. Statement of whether business will be conducted by a manager or agent, and the name and address and date of birth of any such manager or agent,
  - 5. The place where the amusement game devices are to be displayed and a description of the devices,

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1979-M-38 § 3(a).)

### **5.14.045 License - Investigation – Denial.**

No license shall be issued, nor shall a licensee be entitled to have a license continue in effect under any or all of the following conditions:

- A. Any individual, corporate officer or director, or any partner, as the case may be, has ever been convicted of a felony;
- B. Any information on the application is false;
- C. The applicant has not reached the age of majority (is an adult);
- D. The manager or agent has ever been convicted of a felony, or has not reached the age of majority (is an adult).

(Ord. 1991-M-39 § 1(a); Ord. 1981-M-46 § 1 (part).)

### **5.14.050 License - Investigation – Issuance.**

The city clerk, the chief of police and the building commissioner of the city shall investigate the information contained in the application, and shall determine if the premises designated by the applicant as the location of the business complies with the provisions of the zoning ordinance of the city. The report of such investigation and determination, together with a copy of the application, shall be transmitted to the mayor. Upon the compliance by the applicant with the requirements of this chapter and the zoning ordinance of the city, the mayor shall instruct the city clerk to issue the license and, upon payment by the applicant of the license fee required under this chapter, such license shall be issued. (Ord. 1997-M-91 § 1; Ord. 1979-M-38 § 3(b).)

### **5.14.060 License - Fee - Keeping or displaying machines for use.**

The annual fee for licenses required by Section 5.14.020 shall be:

- A. The fee for establishments with one (1) to five (5) Amusement Game Devices shall be \$100.00
- B. The fee for establishments with six (6) to fifty (50) Amusement Game Devices shall be \$250.00
- C. The fee for establishments with fifty-one (51) or more Amusement Game Devices shall be \$500.00



(Ord. 2015-Z-19 § 4; Ord. 2005-M-16 § 1; Ord. 1997-M-91 § 1; Ord. 1981-M-46 § 1 (part); Ord. 1979-M-38 § 4(a).)

**5.14.080 License – Transfer.**

Such license may be transferred from one device to another similar device upon application to the city clerk; such application is to include a description and serial number of the new device and the payment of a fee of three dollars.

(Ord. 1997-M-91 § 1; Ord. 1979-M-38 § 4(b).)

**5.14.090 License - Suspension – Revocation.**

Nothing in the provisions of this chapter shall preclude the right of the mayor to suspend or revoke the license of the licensee, as follows:

- A. The mayor may temporarily suspend any license issued under the terms of this chapter when he has reason to believe that the continued operation of a particular amusement game device or devices will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the premises containing the amusement game device(s) closed for not more than seven days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven-day period; and further provided, that if such licensee is also engaged in the conduct of other businesses on the licensed premises, such order shall not be applicable to such other businesses.
- B. The mayor may suspend or revoke any license issued under the terms of this chapter upon due notice to the licensee of the time and place of a public hearing, and if the mayor determines upon hearing that the licensee has failed or refused to comply with the terms of this chapter, has failed or refused to comply with other law applicable to the business of keeping or providing amusement game devices, or has been convicted by a court of competent jurisdiction of a violation of any provision of this chapter.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1979-M-38 § 6.)

**5.14.100 Rules of operation – Designated.**

In addition to any other condition or regulation contained in this chapter or in the statutes of the state, the following conditions and regulations shall be applicable to and shall govern and control the business of keeping or providing amusement game devices for public use within the city:

- A. No amusement game device shall be used for purposes of gambling as defined and prohibited under the laws of the state of Illinois.  
(Ord. 1991-M-39 § 1(c).)
- B. The Director of Finance of the city shall have the power, duty and function to enter or to authorize any law enforcing officer to enter, at any time, upon the premises licensed under this chapter, to determine whether any of the provisions of the state law or city ordinance or any rules or regulations adopted by the city or by the state 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 Director of Finance to assist him in the exercise of the powers and the performance of the duties provided in this subsection shall have the powers given to the Director of Finance by this subsection.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1 (c,f); Ord. 1982-M-22 § 1; Ord. 1981-M-46 § 2; Ord. 1979-M-38 § 5(a).)

**5.14.110 Rules of operation - Noncompliance unlawful.**

## **AMUSEMENT GAME DEVICES**

It is unlawful for any person licensed to engage in the business of keeping or providing amusement game devices for public use within the city to fail to comply with the conditions and regulations set forth in Section 5.14.100 of this chapter or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises.  
(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1979-M-38 § 5 (b).)

### **5.14.120 Violation – Penalty.**

Any person convicted of a violation of this chapter shall be subject to a fine of not less than ten dollars nor more than five hundred dollars. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.  
(Ord. 1997-M-91 § 1; Ord. 1981-M-46 § 1 (part); Ord. 1979-M-38 § 5(c).)

## Chapter 5.16

**TOBACCO**

## Sections:

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

**5.16.010 Legislative findings and declaration.**

The mayor and city council find and declare that:

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

**5.16.020 Definitions.**

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

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

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

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

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

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

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

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

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

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

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

**5.16.030 License – Required.**

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

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

1. Retail Tobacco Dealer – over the counter. It shall be unlawful to sell or offer for sale at retail, to give away, deliver or to keep with intention of selling at retail, giving away or delivering tobacco, alternative tobacco devices or tobacco products within the City without first obtaining a retail tobacco license. No smoking, sampling or testing is permitted on the premises.
2. Retail Tobacco Dealer – product sampler. (Specialty Store) It shall be unlawful to permit smoking on the premises at an establishment that also sells tobacco, alternative tobacco devices or tobacco related devices without first obtaining a retail tobacco dealer – product sampler license. The sale, sampling or testing of alternative tobacco products or smoking tobacco shall be permitted on the premises.
3. Wholesale Tobacco Dealer. It shall be unlawful to offer for sale at wholesale, give away, deliver, or keep with the intent of selling at wholesale, giving away or delivering tobacco, alternative tobacco devices or tobacco products within the City without first obtaining a wholesale tobacco dealer license. A wholesale tobacco dealer who also conducts retail sales shall be required to obtain a retail tobacco dealer license in addition to the wholesale tobacco dealer license. No smoking, sampling or testing is permitted on the premises.

**5.16.040 Application.**

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

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

provisions of this Ordinance in the conduct of business at the location for which the license is proposed.

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

1. A person who is not a citizen of the United States;
2. A person who has been convicted of a felony under any federal or state law;
3. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
4. A person whose license under this Ordinance, or any similar regulatory ordinance or statute, has been revoked for cause;
5. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
6. A person whose place of business is conducted by a manager or assistant manager or agent, unless said manager, assistant manager or agent possesses the same qualifications required by the licensee;
7. A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is issued.

**5.16.050 Fee and Term.**

- (A) The license fee for a Retail Tobacco Dealer – over the counter as well as vending machines shall be \$50.00.
- (B) The license fee for a Retail Tobacco Dealer – product sampler shall be \$100.00.
- (C) The license fee for a Wholesale Tobacco Dealer shall be \$250.00.

The license shall be effective for one (1) year commencing on May 1 and ending on April 30, annually.

**5.16.060 Licensed premises – Sanitary condition required.**

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

**5.16.070 Prohibited sales, delivery.**

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

**5.16.080 Signs.**

- (A) Signs informing the public of the age restrictions provided herein provided herein shall be posted by every licensee at or near every display of tobacco, tobacco products and alternative nicotine products, and on or upon every vending machine which offers tobacco, tobacco

products or alternative nicotine products for sale. Each such sign shall be plainly visible and shall state:

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

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

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

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

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

**5.16.090 Minimum age to sell tobacco products.**

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

**5.16.100 Purchase by minors prohibited.**

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

**5.16.110 Possession by minors prohibited.**

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

**§5.16.120 Proximity to certain institutions.**

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

**5.16.130 Certain free distributions prohibited.**

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

**5.16.140 Vending machines; locking devices.**

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

**5.16.150 Responsibility of licensee for agents and employees.**

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

**5.16.160 Smoke free areas.**

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

**5.16.170 Penalty.**

Any person, firm or corporation violating any provision of this chapter shall be fined not less than one hundred (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.



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

- (A) The Local Liquor Control Commissioner shall serve as the tobacco commissioner and shall be charged with the administration of this article and of such other ordinances relating to tobacco sales and licensing as may be from time to time enacted by the city council. A tobacco commission is created, which shall be composed of the same five members of the city's local liquor commission. Accordingly, the terms and provisions of Sections 5.08.020, 5.08.030 and 5.08.035 of this Code are incorporated into this article as though fully set forth in this article, as being specifically applicable to the creation, enforcement, and administration of this article.
- (B) The tobacco commissioner, after a hearing conducted by the tobacco commission may suspend or revoke any license issued under the provisions of this article if he determines that the licensee has violated any of the provisions of this article. In lieu of suspension or revocation of the license, the tobacco commissioner may instead levy a fine on the licensee. The fine imposed shall be in an amount not less than two hundred fifty (\$250.00) dollars and not more than one thousand (\$1,000.00) dollars for each violation. A separate violation of this Ordinance shall be deemed to have been committed on each day during which a violation occurs or is permitted to continue.
- (C) No license issued under this article shall be suspended or revoked and no licensee shall be fined except after a public hearing by the tobacco commission with a seven (7) days written notice to the licensee affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven (7) days notice provision shall begin the day following delivery by certified mail or by personal service.
- (D) If the tobacco commission determines after such hearing that the license under this Article should be revoked or suspended or that the licensee shall be fined, the tobacco commission shall recommend to the tobacco commissioner either the amount of the fine, the period of suspension or that the license be revoked.
- (E) Any licensee determined by the tobacco commissioner to have violated any of the provisions of this article shall pay to the city the costs of the hearing before the tobacco commission on such violation. The tobacco commissioner shall determine the costs incurred by the city for such hearing, including but not limited to, attorneys' fees, court reporter's fees, fees incurred by the City, Chief of Police and the local Liquor Control Commissioner, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses incurred by the City or such lesser sum as to the tobacco commissioner may allow.  
  
The licensee shall pay such costs to the city within 30 days of notification of the costs by the tobacco commissioner. Failure to pay such costs within 30 days of notification is a violation of this article and may be cause for license suspension or revocation, or the levy of a fine.
- (F) The terms and provisions of the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.) shall apply to all orders of the city which revoke or suspend any tobacco dealer's license and/or impose a monetary fine or other penalty, as provided for in this article.

**5.16.190 Use of premises after license revocation.**

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

**5.16.200 Severability.**

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

**5.16.210 Repealer.**

All ordinances or portions of ordinances previously passed or adopted by the City of St. Charles that conflict with or are inconsistent with the provisions of this Ordinance are hereby repealed.  
(Ord. 2014-M-41§1)

CHAPTER 5.20

5.20: MASSAGE ESTABLISHMENTS

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

**5.20.010 DEFINITIONS.**

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

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

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

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

## MASSAGE ESTABLISHMENTS

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

### **MASSAGE THERAPIST.**

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

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

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

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

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

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

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

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

### **5.20.020 MASSAGE BUSINESS LICENSE REQUIRED.**

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, the business of massage, or otherwise provide a massage in return for compensation,

## **MASSAGE ESTABLISHMENTS**

in the City, without first having obtained a massage business license issued by the City pursuant to the provisions of this chapter for each and every premises used for the business of conducting a massage business or otherwise providing massages for compensation by such person. The applicant for such business license must be at least 18 years of age.

### **5.20.030 MASSAGE THERAPIST REQUIRED.**

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

### **5.20.040 EXEMPTIONS.**

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

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

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

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

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

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

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

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

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

## MESSAGE ESTABLISHMENTS

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

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

### **5.20.050 APPLICATION FOR MESSAGE BUSINESS LICENSE.**

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

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

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

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

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

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

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

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

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

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

(8) In case of a corporation, the object for which the corporation as organized, the names, home addresses with zip codes, driver's license numbers, dates of birth, Social Security numbers, sex and physical descriptions (including height and weight and the color of

## MASSAGE ESTABLISHMENTS

hair and eyes) of all officers, directors, and all persons owning directly or beneficially more than 10% of the stock of such corporation and the persons acting as managers or assistant managers or other persons principally in charge of the operation of the business.

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

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

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

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

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

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

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

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

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

## **MASSAGE ESTABLISHMENTS**

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

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

### **5.20.060 TERMS OF LICENSE; LICENSE FEES; LICENSE RENEWAL.**

(A) The term of licenses issued under this chapter is for one year beginning May1, and ending on April 30.

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

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

### **5.20.070 SANITATION AND SAFETY REQUIREMENTS.**

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

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

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

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

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

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



## MASSAGE ESTABLISHMENTS

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

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

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

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

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

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

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

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

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

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

## MASSAGE ESTABLISHMENTS

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

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

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

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

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

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

### **5.20.090 DISPLAY OF LICENSES.**

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

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

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

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

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

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

## MASSAGE ESTABLISHMENTS

chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.

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

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

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

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

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

(G) *Minors prohibited.* No establishment or person licensed under the provisions of this chapter shall permit any person under the age of 18 to come or remain on the premises of any massage establishment to include massage therapists, employees and patrons. Persons under the age of 18 may patronize the establishment only with the presence of their parent or legal guardian. .

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

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

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

## MASSAGE ESTABLISHMENTS

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

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

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

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

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

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

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

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

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

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

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

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

## MESSAGE ESTABLISHMENTS

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

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

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

### **5.20.140 ENFORCEMENT.**

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

### **5.20.150 MESSAGE BUSINESS COMMISSIONER; MESSAGE BUSINESS COMMISSION; SUSPENSION, REVOCATION OF LICENSE; FINES, COSTS.**

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

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

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

(D) If the Massage Commission determines after such hearing that the license under this Article should be revoked or suspended or that the licensee shall be fined, the Massage

## **MASSAGE ESTABLISHMENTS**

Commission shall recommend to the Massage Commissioner either the amount of the fine, the period of suspension or that the license be revoked.

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

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

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

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

### **5.20.160 COMPLAINT OF VIOLATION.**

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

### **5.20.170 NOTICE.**

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

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

## MASSAGE ESTABLISHMENTS

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

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

- (1) The licensee has violated any provisions of this chapter;
- (2) Any employee of the licensee, including a massage therapist, has engaged in any conduct at the licensee's premises which violates any provision of this chapter and the licensee knew or by due diligence should have known of such conduct;
- (3) Any applicant for a massage business license has made a false statement on the application;
- (4) A licensee has refused to allow any duly authorized police officer or county enforcement officer or health inspector to inspect the massage establishment premises;
- (5) The premises of the massage establishment are at any time not in compliance with the City building, health or fire codes;
- (6) The premises of the massage establishment are not in compliance with any of the conditions and restrictions set forth in §5.20.130;
- (7) The license holder has committed an act(s) of fraud or deceit in the application for license, or renewal thereof, submitted to the Chief of Police;
- (8) The license holder is engaged in the practice of massage under a false or assumed name, or is impersonating another massage therapist of a like or different name;
- (9) The license holder has committed an act of fraudulent, false, misleading or deceptive advertising, or prescribing medicines, drugs, or practices any other licensed profession without legal authority therefore;
- (10) The license holder permits acts of prostitution or solicitations for acts of prostitution to be performed within the premises or elsewhere or permits any procedure during the performance of services within or off the premises that are performed for the purpose of sexual arousal or gratification of any patron, or should be reasonably be expected to cause such result, or permits the use of trafficking of controlled substances or cannabis on the premises;
- (11) The license holder performs an act of prostitution within the premises or without the premises or solicits an act or prostitution on or off the premises or performs services within or without the premises in such a manner for the purpose of sexual arousal or gratification of a patron, or should reasonably be expected to cause such result, or the licensee uses or is trafficking in controlled substances or cannabis;

## **MASSAGE ESTABLISHMENTS**

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

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

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

### **5.20.190 PENALTY FOR VIOLATION.**

Any person, corporation, firm or partnership found guilty of violation, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than \$500.00, nor more than \$1,500.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any other penalty, a license holder violating any provision of this article may be subject to having their license revoked, suspended or not renewed. (Ord. 2014-M-42 § 1; Ord. 2005-M-17 § 2; Ord. 1998-M-68 § 1; Ord. 1997-M-137 § 1.)



Chapter 5.24

**HANDBILLS<sup>5</sup>**

Sections:

5.24.010	Purpose.
5.24.020	Definitions.
5.24.040	Unauthorized posting on public property prohibited.
5.24.050	Depositing in public places prohibited.
5.24.060	Placing in vehicles prohibited - Exception.
5.24.070	Distribution on uninhabited or vacant private premises.
5.24.080	Distribution prohibited where properly posted.
5.24.090	Distribution on inhabited private premises.
5.24.100	Name and address of printer and distributor required.
5.24.110	Posting of objectional material prohibited.
5.24.120	Posting of handbills offensive to public morals prohibited.
5.24.130	Exemptions.
5.24.140	Violation - Penalty.

**5.24.010 Purpose.**

To protect the people against the nuisance of an incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as defined in Section 5.24.020, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof and to that end the purposes of this chapter are specifically declared to be as follows:

- A. To protect the people against the unlawful activities or operations of dissolute persons of criminal habits or tendencies, representing themselves as solicitors, canvassers or handbill distributors, by requiring the registration of all such solicitors, canvassers or handbill distributors, together with the names of their employers, and by regulating the business of handbill and advertising distribution through the imposition of reasonable license fees;
- B. To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents if they have given reasonable notice that they do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter;
- C. To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills;
- D. To preserve to the people their constitutional right to receive and disseminate information not restricted under the ordinary rules of decency and good morals and public order, by distinguishing between the nuisance created by the promiscuous distribution of advertising and commercial circulars and the right to deliver noncommercial handbills to all who are willing to receive the same.

(Ord. 1978-M-43 § 1 (part): prior code § 25.601.)

**5.24.020 Definitions.**

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Billposter" means and includes any person engaging in the business for hire or posting, fastening, nailing, or otherwise affixing any written, painted or printed matter of any kind, or other form or reproduction thereof, (hereinafter called "sign"), containing a message or information of any kind whatsoever, to any outdoor billboard, or to or upon any bridge, fence, pole, post, sidewalk, tree, or to or upon the exterior of any other structure except that the terms of this definition shall not apply to nor include any such sign mounted on, fastened to, or suspended from the outside of any building or other structure, in accordance with and authorized by any provisions of an ordinance or statute, either for any public convenience or use, or regulating the construction or use of so-called outdoor display signs, whether such display signs are illuminated or not.
- B. "Commercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:
  - 1. Which advertises for sale any merchandise, product, commodity, or things; or
  - 2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales; or
  - 3. Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this city; or
  - 4. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor; or
  - 5. Which is not covered by the definition of sign in subsection A of this section.
- C. "Handbill distributor" means and includes any person engaging or engaged in the business for hire or gain of distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, and any person receiving compensation directly or indirectly for the distribution of such handbills.
- D. "Newspaper" means and includes any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
- E. "Noncommercial handbill" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature not

included in the definition of a sign, or a commercial handbill, or a newspaper in subsection A of this section.

- F. "Person" means and includes any person, firm, partnership, association, corporation, company or organization of any kind.
  - G. "Private premises" means and includes any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.
  - H. "Public place" means and includes any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds and buildings.
  - I. Words singular in form may include the plural; any words plural in form may include the singular; and words in the masculine gender shall include the feminine and neuter genders.
- (Ord. 1978-M-43 § 1 (part): prior code § 25.602.)

**5.24.040 Unauthorized posting on public property prohibited.**

No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone, or any other portion or part of any public way or public place, or any lamppost, electric light, telegraph, telephone or trolley line pole, or railway structure, hydrant, shade tree or treebox, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct, or other public structure or buildings, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or state, and the ordinances of the city. (Ord. 1978-M-43 § 1 (part): prior code § 25.603.)

**5.24.050 Depositing in public places prohibited.**

It is unlawful for any person to deposit, place, throw, scatter or cast any commercial handbill in or upon any public place within this city; and it is also unlawful for any person to hand out or distribute or sell any commercial handbill in any public place; provided, however, that it is not unlawful for any person to hand ut or distribute, without charge to the receiver thereof, any noncommercial handbill in any public place to any person willing to accept such noncommercial handbill. (Ord. 1978-M-43 § 1 (part): prior code § 25.604.)

**5.24.060 Placing in vehicles prohibited - Exception.**

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in oar upon any automobile or other vehicle. The provisions of this section shall not be deemed to prohibit the handing, transmitting, or distributing of any noncommercial handbill to the owner or other occupant of any automobile or other vehicle, who is willing to accept the same. (Ord. 1978-M-43 § 1 (part): prior code § 25.605.)

**5.24.070 Distribution on uninhabited or vacant private premises.**

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. 1978-M-43 § 1 (part): prior code § 25.606.)

**5.24.080 Distribution prohibited where properly posted.**

It is unlawful for any person to distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill upon any premises, if requested by anyone thereon not to do so, or if there is placed on said premises, in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or to have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 1978-M-43 § 1 (part): prior code § 25.607.)

**5.24.090 Distribution on inhabited private premises.**

No person licensed under the provisions of this chapter, or any other person, shall distribute, deposit, place, throw, scatter or cast any commercial or noncommercial handbill in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or any other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided in this chapter, the aforesaid licensed or other person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or elsewhere, except that mailboxes may not be used when so prohibited by federal postal laws or regulations. (Ord. 1978-M-43 § 1 (part): prior code § 25.608.)

**5.24.100 Name and address of printer and distributor required.**

It is unlawful for any person to distribute, deposit, scatter, hand out or circulate any commercial or noncommercial handbill in any place, under any circumstances, which does not have printed on the cover, front or back thereof, the name and address of the following:

- A. The person who printed, wrote, compiled or manufactured the same;
- B. The person who caused the same to be distributed; provided, however, that in the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring said handbill shall also appear thereon.

(Ord. 1978-M-43 § 1 (part): prior code § 25.609.)

**5.24.110 Posting of objectionable material prohibited.**

It is unlawful for the owner, lessee, occupant or agent of premises to permit any person, whether licensed or acting under the terms of this chapter, or otherwise, to post, affix or otherwise attach to any building, structure or fixture located upon such premises, whether such fixture is natural or artificial, any poster or handbill containing any matter prohibited by the terms of this chapter. (Ord. 1978-M-43 § 1 (part): prior code § 25.612.)

**5.24.120 Posting of handbills offensive to public morals prohibited.**

It is unlawful for any person to post, hand out, distribute or transmit any sign, or any commercial or noncommercial handbill:

- A. Which may reasonably tend to incite riot or other public disorder, or which advocates disloyalty to or the overthrow of the government of the United States or of this state by means of any artifice, scheme, or violence, or which urges any unlawful conduct, or encourages or tends to encourage a breach of the public peace or good order of the community; or
- B. Which is offensive to public morals or decency, or which contains blasphemous, obscene, libelous or scurrilous language.

(Ord. 1978-M-43 § 1 (part): prior code § 25.613.)

**5.24.130 Exemptions.**

The provisions of this chapter shall not be deemed to apply to the distribution of mail by the United States, nor to newspapers as defined in this chapter. (Ord. 1978-M-43 § 1 (part): prior code § 25.611.)

**5.24.140 Violation - Penalty.**

Any person, firm or corporation violating any provision of this chapter shall be fined fifty dollars (\$50.00) for the first offense and two hundred dollars (\$200.00) for each subsequent offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(Ord. 2008-M-44 § 1; Ord. 1978-M-43 § 1 (part): prior code § 25.617.)

Chapter 5.28

**PEDDLERS<sup>6</sup>**

Sections:

- 5.28.010 License - Required.
- 5.28.020 License - Application - Contents.
- 5.28.040 Violation - Penalty.

**5.28.010 License - Required.**

It is unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandised article or thing in the village, without first having obtained a license therefor. (Prior code § 25.801.)

**5.28.020 License - Application - Contents.**

Applications for such licenses shall be made to the clerk, and shall state thereon the number of vehicles, if any, intended to be operated; the kind of article or merchandise to be peddled; and the permanent address of the peddler. (Prior code § 25.802.)

**5.28.040 Violation - Penalty.**

Any person, firm or corporation violating any provision of this chapter shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Prior code § 25.805.)

Chapter 5.32

REFUSE COLLECTORS

Sections:

5.32.005	Definitions.
5.32.010	License - Required.
5.32.011	Types of license - Limitation on number.
5.32.015	Recycling requirement for non-residential license holders.
5.32.020	License - Application - Issuance - Renewal.
5.32.030	License - Fee.
5.32.040	Vehicle requirements.
5.32.050	Disposal of refuse within city prohibited - Exception.
5.32.055	Unlawful removal of recyclable material.
5.32.060	Violation - Penalty.

**5.32.005 Definitions.**

The definitions stated in Chapter 8.24.010 are incorporated herein by reference. (Ord. 1990-M-13 § 1.)

**5.32.010 License - Required.**

It is unlawful for any person, firm or corporation to engage in the business of refuse collector, namely, the collection or disposal of animal, human or vegetable refuse, or offal, or refuse of any kind, without having first secured a license therefor. A license may not be assigned, transferred or conveyed in any manner without the consent and approval of the mayor and city council of the city. (Ord. 1978-M-34 § 1 (part); Ord. 1968-13 (part): prior code § 25.901.)

**5.32.011 Types of license - Limitation on number.**

- A. Residential License: A residential license permitting the refuse collector to collect garbage and refuse, compostable material and recyclable material from any location within the city. There shall be only one residential refuse collection license issued by the city in effect at any time.
- B. Non-Residential License: A non-residential license, permitting material and recyclable material from any location in the city other than single-family dwellings and multiple-family dwellings, except that holders of a non-residential license may collect home remodeling, construction and repair materials from single-family or multiple-family dwellings, provided said materials exceed two cubic yards in volume. There shall be no more than seven (7) non-residential refuse collection licenses issued by the city in effect at any one time.

(Ord. 1995-M-24 § 1; Ord. 1990-M-58 § 1; Ord. 1990-M-13 § 1.)

**5.32.015 Recycling requirement for non-residential license holders.**

- A. All holders of a non-residential refuse license shall offer recycling services to customers within the city, which shall include at least two (2) materials. At the time of applying for renewal of any such license, the application shall include two reports, one will detail the amount of refuse collected, while the second report details the types and quantities of recyclables collected during the period from April 1, of the prior year through March 31 of the year during which renewal is requested.

## REFUSE COLLECTORS

- B. The refuse collector shall indemnify and hold harmless the city of St. Charles, Illinois, its employees and agents from and against any and all claims and demands whatsoever, including costs, litigation expenses, counsel fees and liabilities incurred in connection therewith, arising out of injury to, or death whatsoever, or damage to property of any kind by whomsoever owned, caused in whole or in part by the acts or omissions of the refuse collector, or any other person directly or indirectly employed by them, while engaged in the performance of the work or any activity associated therewith or relative thereto.  
(Ord. 1993-M-12 § 1; Ord. 1991-M-17 § 1; Ord. 1991-M-12 § 1.)

### **5.32.020 License - Application - Issuance - Renewal.**

Application for such license shall be made to the City Clerk, prior to May 1st of a calendar year, and shall be referred by him to the Mayor and City Council. A renewal license may be issued by the Mayor provided the licensee has duly completed the required application, given the information required and paid the appropriate fee. In the event the same has not been completed on or before May 1 of the license year, the Mayor shall conduct a public hearing by the Mayor and City Council with a three-day written notice to the licensee, affording the licensee an opportunity to appear and defend such notice to begin the day following delivery by certified mail or by the city police department acting as agent for the Mayor and City Council. No more than eight (8) refuse collectors' licenses shall be in force in the city at any one time. Each collector must file with the City Clerk a list of its charges for commercial, business and industrial establishments on or before May 1 of each calendar year. (Ord. 1996-M-48 § 1; Ord. 1990-M-58 § 2; Ord. 1987-M-57 § 1; Ord. 1987-M-35 § 1; Ord. 1978-M-34 § 1 (part); Ord. 1977-M-17; Ord. 1977-M-7; Ord. 1968-13 (part): prior code 25.902.)

### **5.32.030 License - Fee.**

The annual fee for the residential refuse collector license shall be \$500.00. The annual fee for a non-residential license shall be \$500.00. (Ord. 1990-M-13 § 1; Ord. 1979-M-44 § 5(e); Ord. 1978-M-34 § 1 (part); Ord. 1968-13 (part): prior code 25.903.)

### **5.32.040 Vehicle requirements.**

Any vehicle used by such refuse collector in his business shall be watertight and equipped with airtight covers for such portions as are used for the transportation of garbage or similar refuse. It is unlawful for any such vehicle to be driven over or through any street in the city during or on Sunday. (Ord. 1978-M-34 § 1 (part); Ord. 1968-13 (part): prior code 25.904.)

### **5.32.050 Disposal of refuse within city prohibited - Exception.**

It is unlawful for any refuse collector to dispose of or store any refuse in any place within the city limits or within one and one-half miles thereof, except with the permission of the mayor and city council. (Ord. 1978-M-34 § 1 (part); Ord. 1968-13 (part): prior code 25.905.)

### **5.32.055 Unlawful removal of recyclable material.**

It shall be unlawful for any refuse collector, except as authorized by the city council, to remove any item of recyclable material including newspaper, aluminum or bimetal cans, glass bottles or plastic milk containers placed in or adjacent to city recycling containers. (Ord. 1989-M-27 § 2)



**5.32.060 Violation - Penalty.**

Any person, firm or corporation violating any provision of this chapter shall be fined not less than five dollars nor more than five hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 1978-M-34 § 1 (part); Ord. 1968-13 (part): prior code 25.906.)

Chapter 5.36

**SOLICITORS**

Sections:

5.36.010	Definitions.
5.36.020	Charitable Solicitation; Registration.
5.36.030	Commercial Solicitation; Registration.
5.36.040	Registration Fee.
5.36.050	Notice Regulating Soliciting.
5.36.060	Duty of Solicitors.
5.36.070	Uninvited Soliciting Prohibited.
5.36.080	Time Limit for Soliciting.
5.36.090	Prohibitions.
5.36.100	Additional Regulations for Charitable Solicitations.
5.36.110	Records Kept.
5.36.120	Violation – Penalty

**5.36.010 Definitions.**

The following words and phrases as used in this ordinance shall have the following meanings, unless a different meaning is required by the context:

**CHARITABLE ORGANIZATIONS:** Any benevolent, philanthropic, patriotic, not for profit, religious or one purporting to be such which solicits and collects funds for charitable purposes.

**CHARITABLE PURPOSE:** Any charitable, benevolent, philanthropic, patriotic, not for profit, or religious purpose.

**CHARITABLE SOLICITATION:** Any request for the donation of money, property or anything of value, or the pledge of a future donation of money, property or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications or brochures, upon the representation, express or implied, that the proceeds of such sale will be used for a "charitable purpose" as such term is herein defined.

**COMMERCIAL SOLICITATION:** Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever; seeking to obtain subscriptions to books, magazines, periodicals, etc.

**PERSON:** Any individual, organization, group, association, partnership, corporation, trust or any combination thereof.

**SOLICITATION:** Any "charitable solicitation" or "commercial solicitation", as those terms are defined herein.

**SOLICITOR:** Any person who engages in "charitable solicitation" or "commercial solicitation", as those terms are defined herein.

(Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1001.)

**5.36.020 Charitable Solicitation; Registration.**

A. It shall be unlawful for any charitable organization to engage in charitable solicitation within the

## SOLICITORS

corporate limits of the City unless such organization has registered with the City as hereinafter provided.

- B. Any charitable organization engaging in charitable solicitation within the corporate limits of the City shall register the following information with the Chief of Police or his designee:
1. The name and address of the charitable organization and the name or names under which it intends to engage in solicitation.
  2. The names and addresses of all persons who will engage in charitable solicitation in the City.
  3. The dates and time of day such solicitations are to be made and the geographic areas within the City wherein such solicitation shall be conducted at a particular time and day.
  4. A written statement of recent date issued by the attorney general of Illinois that the charitable organization has complied with the provisions of 225 Illinois Compiled Statutes 460/1 et seq., or a written statement by the attorney general of exemption under 225 Illinois Compiled Statutes 460/3.
- (Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1970-M-16(part): prior code § 25.1002.)

### **5.36.030 Commercial Solicitation; Registration.**

- A. It shall be unlawful for any person to engage in commercial solicitation within the corporate limits of the City unless such person shall have first obtained approved registration from the City as hereinafter provided.
1. Application for registration shall be made upon a form provided by the City. The applicant shall truthfully state in full the following information and submit the following documentation:
  2. The name and address of the person who intends to engage in solicitation.
    1. The name and address of the person or organization by whom the applicant is employed or represents, and the length of time of such employment or representation.
    2. The name and address of the person in charge of solicitation in the City and an address within the state of Illinois where service of process may be had.
    3. Applicant shall submit his or her driver's license or state ID number and date of birth, as well as a physical description of applicant.
    4. The dates and time of day such solicitation is to be made and the geographic area within the City wherein such solicitation shall be conducted at a particular time and day.
    5. The date, or approximate date, of the latest previous application for registration under this ordinance, if any.
    6. Whether a registration issued to the applicant under this ordinance has ever been revoked.
    7. Whether the applicant has been convicted of a violation of any of the provisions of this ordinance or the ordinances of any other Illinois municipality regulating solicitation.
    8. A description sufficient for identification of the subject matter of the solicitation which the applicant will engage in.
    9. Whether the applicant has ever been convicted of the commission of a felony under the laws of the state of Illinois or any other state, or of a law of the United States.
    10. An electronic headshot photo of each applicant in an approved format.
    11. Proof of submission for Uniform Conviction Information Act through a fingerprint conviction information request with an approved Livescan Vendor with the Illinois State Police.
- C. An application for registration shall be submitted to the Chief of Police and shall be verified under oath. The Chief of Police shall acknowledge receipt of such application in writing within five (5) working days of such receipt and shall act upon such application within ten (10) days after its receipt. No application shall be effective until acted upon by the Chief of Police. If the Chief of Police finds and determines that all the requirements of this ordinance have been met,

the Chief of Police shall issue said approval forthwith. Registration shall be valid for 90 days from the date of issue.

- D. The failure of an applicant to fulfill the requirements of this ordinance shall be a basis for the denial of an approved registration by the Chief of Police. In addition, no approved registration shall be issued to any person who has been convicted of a felony under the laws of the state Illinois or any other state or under the laws of the United States; nor to any person who has been convicted of a sex offense as defined by 720 Illinois Compiled Statutes, Act 5, Article 11 or any other equivalent law of any other state; nor to any person who has been convicted of a violation of any of the provisions of this ordinance; nor to any person whose registration issued hereunder has previously been revoked as herein provided. In the event that any registration is denied for failure to comply with the requirements set forth hereinabove, the Chief of Police shall immediately notify the applicant, in writing, of the reasons for denial. If said application is not cured within ten (10) days after the date on which the Chief of Police denies the issuance of said registration, said application shall be null and void.
- E. The Chief of Police shall revoke an approved registration for a violation of any of the regulations listed in sections 5.36.050 through 5.36.090 of this ordinance, inclusive. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the approved registration by certified or registered mail, return receipt requested. Upon receipt of said notice of revocation, all solicitation activity shall cease. (Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1998-M-82 § 1; Ord. 1979-M-4 § 1; Ord. 1970-M-16(part): prior code § 25.1003.)

**5.36.040 Registration Fee.**

The fee for application and approval of registration required to engage in commercial solicitation pursuant to this ordinance shall be fifty dollars (\$50.00) per applicant. Said fee shall be paid at the time of application and prior to the processing of said application. (Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1004.)

**5.36.050 Notice regulating soliciting.**

Any person owning or occupying any premises within the City may post a notice indicating if solicitors are not invited at said premises.

Such notice so exhibited shall constitute sufficient notice to any solicitor of the determination by the owner or occupant of the premises of the information contained thereon. (Ord. 2015-M-28 § 1; Ord. 2012-M-12 § 1; Ord. 1970-M-16 (part): prior code § 25.1006; prior code § 25.1005.)

**5.36.060 Duty of solicitors.**

It shall be the duty of every solicitor, upon going onto any premises in the City, to first examine the notice provided for in section 5.36.050 of this ordinance, if any is attached, and be governed by the statement contained on the notice. If the notice states: "NO SOLICITORS INVITED", then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises. Each approved solicitor must display the City of St. Charles issued permit prominently when soliciting.

(Ord. 2015-M-28 § 1; Ord., 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1007; prior code § 25.1006.)

**5.36.070 Uninvited soliciting prohibited.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person to remain upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the owner or occupant of such premises for the

purpose of securing an audience with the owner or occupant thereof, and engage in "solicitation" as herein defined in defiance of the notice exhibited at the premises in accordance with the provisions of section 5.36.050 of this ordinance.

Any solicitor who has gained entrance to any premises, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant (Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1970-M-16(part): prior code § 25.1008; prior code § 25.1007.)

**5.36.080 Time limit on soliciting.**

- A. No person shall engage in "solicitation" as herein defined prior to nine o'clock (9:00) A.M. or after seven o'clock (7:00) P.M. of any day. No person shall engage in commercial solicitation at any time on a Sunday or any state or national holiday.
- B. No commercial solicitor shall solicit within five hundred feet (500') of the property line of any elementary or secondary school.  
(Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 2010-M-25 § 1; Ord. 1970-M-16(part): prior code § 25.1009; prior code § 25.1008.)

**5.36.090 Prohibitions.**

- A. Felons and Persons Convicted of Sex Offenses as Solicitors: It shall be unlawful for any person to be a solicitor who has been convicted of a felony under the laws of the state of Illinois, or any equivalent law of any other state, or under the federal laws of the United States. It shall be unlawful for any person to be a solicitor who has been convicted of a sex offense as defined by 720 Illinois Compiled Statutes, Act 5, Article 11, or any equivalent law of any other state.
- B. Fraud: No person shall misrepresent his name, occupation, financial condition, social conditions or residence, and no person shall make or perpetrate any other misstatement, deception or fraud, in connection with any charitable or commercial solicitation, or in any application or report filed under this ordinance.  
(Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 2010-M-25 § 1; Ord. 1970-M-16(part): prior code § 25.1009.)

**5.36.100 Additional Regulations for Charitable Solicitations.**

- A. Financial Disclosure Required: The charitable organization shall distribute to every person solicited a financial statement of said charitable organization for the preceding twelve (12) months which shall include a balance sheet and statement of income and expenses clearly setting forth the following: gross receipts and gross income from all sources broken down into total receipts and income from each separate solicitation project or source; cost of administration; cost of solicitation; cost of programs designed to inform or educate the public; funds or properties transferred out of the state of Illinois, with explanation as to recipient and purpose; total net income amount for each major purpose, charitable or otherwise. Statements shall be signed by the president or other authorized officer or agent and shall be accompanied by an opinion signed by an independent certified public accountant that said financial statement fairly represents the financial operation of the charitable organization.

A copy of the annual report to the attorney general of Illinois required by 225 Illinois Compiled Statutes 460/4, as amended, may be presented in lieu of the aforementioned financial statement. For the purpose of financial statements, the definitions and standards applicable to the annual report to the attorney general as set forth in paragraph 460/4 shall be utilized.

In the event a charitable organization has not been established for a period of twelve (12) months, a copy of the registration statement filed with the attorney general of Illinois pursuant to 225 Illinois Compiled Statutes 460/2, as amended, may be utilized.

## SOLICITORS

- B. Solicitation of Charitable Contributions On Highways: Solicitation of charitable contributions on highways within the City shall be permitted; provided, however, that all such activity shall be conducted in strict conformity with and shall be limited to that activity permitted under the provisions of the Illinois vehicle code paragraph 5/11-1006(c) and this code.

In order to, on an ongoing basis, evaluate the safety of solicitors and the safety of motorists, and to otherwise provide for the orderly flow of traffic, the City may authorize charitable solicitation on highways to take place during such times as the City may approve, notwithstanding any time limitation set forth in section 5.36.080 of this ordinance to the contrary. Permits will only be given charitable organizations with a City of St. Charles mailing address. A permit may be granted at the discretion of the Chief of Police to a charitable organization who serves citizens of St. Charles but may not have a St. Charles mailing address.

(Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1013.)

### **5.36.110 Records Kept.**

The Chief of Police shall cause to be kept an accurate record of every application received and acted upon together with all other information and data pertaining thereto, under the provisions of this ordinance, and a record of the denial of any and all applications.

(Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1970-M-16 (part): prior code § 25.1011.)

### **5.36.120 Violation - Penalty.**

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500) for each offense.

(Ord. 2015-M-28 § 1; Ord. 2012-M-22 § 1; Ord. 1994-M-18 § 1.)

Chapter 5.44

**SECONDHAND AND JUNK STORES**

Sections:

- 5.44.010 Licenses - Exceptions.
- 5.44.020 Records required - Inspection of records and goods.
- 5.44.030 Stolen goods.
- 5.44.040 Dealing with minors.
- 5.44.050 Licensee not to operate certain businesses.
- 5.44.060 Time for purchases restricted.

**5.44.010 Licenses - Exceptions.**

- A. It is unlawful for any person to operate a business as a dealer in junk, dismantled or wrecked motor vehicles or parts thereof, and secondhand articles without having first obtained and kept in effect a license therefor. Such secondhand articles shall include, but not be limited to, used household goods and personal items, metals and gems.
- B. This chapter shall not apply to those isolated transactions commonly known as "garage sales" or "rummage sales;" provided that the same are held a maximum of twice yearly.
- C. This chapter shall not apply to antique dealers, flea market dealers, and consignment dealers except to the extent any of them shall in the course of business purchase jewelry, gems and/or precious metals.
- D. This chapter shall not apply to not-for-profit organizations operating a business as described in subsection A above if the articles sold are originally donated to the organization.
- E. Organizations operating a business as described in subsection A that have obtained the secondhand articles from a not-for-profit organization, and the articles to be sold were originally donated to that not-for-profit organization, and the organization does not purchase any secondhand articles from the general public, shall be exempt from Section 5.44.020 and Section 5.44.040, but shall otherwise comply with the requirements of this Chapter.  
(Ord. 2011-M-49 § 1.)  
(Ord. 1983-M-27 § 1 (part).)

**5.44.020 Records required - Inspection of records and goods.**

Every secondhand or junk store dealer shall keep a permanent record book in which shall be legibly written in ink, at the time of each purchase, an accurate account and description of the article or thing so purchased or sold, and the name and residence of the person to whom or from whom such purchase was made. The record book as well as every article of merchandise shall at all reasonable times be open to the inspection of any member of the police force. The form of such record shall be as set forth in Exhibit "A" attached to this chapter. (Ord. 1983-M-27 § 1 (part).)

**5.44.030 Stolen goods.**

Every secondhand or junk store dealer who receives or is in possession of any goods, articles or things of value which may have been lost or stolen, shall upon demand produce such article or thing to

## **SECONDHAND AND JUNK STORES**

any member of the police department for examination, and it shall be the duty of every dealer hereunder to report to the police department any article or thing which was sold to him or which is offered to him for purchase if he has reason to believe that the article or thing was stolen. (Ord. 1983-M-27 § 1 (part).)

### **5.44.040 Dealing with minors.**

No secondhand or junk store dealer shall, in the course of his business, make any transaction with any person less than eighteen years of age, except with the written consent of the parent or guardian of the minor given in the presence of the dealer. (Ord. 1983-M-27 § 1 (part).)

### **5.44.050 Licensee not to operate certain businesses.**

No secondhand or junk store dealer shall receive or hold a license to carry on a business as a pawnbroker. (Ord. 1983-M-27 § 1 (part).)

### **5.44.060 Time for purchases restricted.**

It is unlawful for any licensee hereunder to purchase in the course of business any goods, articles or things whatsoever from any person or persons whomever, between the hours of ten p.m. one day and eight a.m. of the following day. Notwithstanding the foregoing, this Section shall not prohibit organizations described in Section 5.44.010(E) from accepting deliveries starting at 7:00 a.m., unless otherwise prohibited by this Code. (Ord. 2011-M-49 § 2; Ord. 1983-M-27 § 1 (part).)



**EXHIBIT A**  
**SECONDHAND STORE DAILY REPORT**

**Store Name & Address** \_\_\_\_\_ **Date** \_\_\_\_\_

PRINT ALL INFORMATION

[illegible]

-71-

(June '91)

## Chapter 5.45

**PAWNBROKERS**

## Sections:

5.45.010	Definition.
5.45.020	License Required, Application, Fee and Bond Requirements.
5.45.030	Records and Pawn Procedures.
5.45.040	Reports to Police.
5.45.050	Purchase Prohibited.
5.45.060	Pledges.
5.45.070	Employment of Minors.
5.45.080	Change of Location.
5.45.090	License - Suspension - Revocation.
5.45.100	Penalty.

**5.45.010 Definition.**

Every person engaged in the business of receiving property in pledge or as security for money or other things advanced to the pawner or pledger, shall be held and is hereby declared and defined to be a pawnbroker. (Ord. 1988-M-27 § 1.)

**5.45.020 License Required, Application, Fee and Bond Requirements.**

- A. No person shall engage in, carry on or conduct the business of a pawnbroker within the city unless he be licensed so to do.
- B. Any person desiring a license as a pawnbroker shall make application in writing therefor to the Mayor, setting out in such application the full name and residence of the applicant, if an individual, and if a corporation, partnership or firm, the name and residence of each of its officers and local agent, individual owner, partner, associate, director and trade names to be used by applicant. Such application shall also set out the location at which it is intended or desired to conduct such business and any other information the Mayor or his designee shall find necessary.
- C. If such applicant shall produce satisfactory evidence of good character to the Mayor, he shall direct the City Clerk to issue a license to such applicant to conduct, carry on or engage in the business of a pawnbroker, at the place designated in such application for and during the period of such license, upon payment by such applicant to the City Clerk of an annual license fee of one hundred dollars (\$100.00) and the filing of a bond as required in this chapter.
- D. Every person so licensed shall at the time of receiving such license execute a bond to the city in the sum of one thousand dollars (\$1,000.00) with good and sufficient sureties, conditioned for the due observance of the ordinances of the city respecting pawnbrokers at any time during the continuance of such license. (Ord. 1988-M-27 § 1.)

**5.45.030 Records and pawn procedures.**

- A. Record of Loan and Pledges: Every pawnbroker shall keep a book in which shall be fairly written in ink at the time of each loan an accurate account and description in the English language of the goods, article or thing pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan and the name and residence of the person pawning or pledging the said goods, article or thing. No entry made in such book shall be erased or obliterated or defaced.

- B. Memorandum to Pledger: Every pawnbroker shall at the time of each loan deliver to the person pawning or pledging any goods, article or thing, a memorandum or note signed by him containing the substance of the entry required to be made in his book at the last preceding subsection, and no charge shall be made or received by any pawnbroker for any such entry, memorandum or note.
- C. Inspection of Records: The said book, as well as every article or other thing of value pawned or pledged, shall at all times be open to inspection of the Mayor or any member of the police force.

(Ord. 1988-M-27 § 1.)

**5.45.040 Reports to police.**

It shall be the duty of every person licensed as aforesaid to make out and deliver to the Chief of Police every Tuesday before the hour of twelve o'clock (12:00) noon, a legible and correct copy of the book required in Section 5.45.030(a) hereof, of all personal property and other valuable things received or deposited during the preceding week, setting forth the hour when received, and a description of the person by whom left in pledge. No report shall be necessary for days when the business is closed. (Ord. 1988-M-27 § 1.)

**5.45.050 Purchases prohibited.**

No pawnbroker shall, under any pretense whatsoever, purchase or buy any secondhand furniture, metals or clothes or any other article or thing whatever offered to him as a pawn or pledge. (Ord. 1988-M-27 § 1.)

**5.45.060 Pledges.**

- A. Redemption of Pledge: No personal property received on deposit or pledge by any such licensed person shall be sold or permitted to be redeemed or removed from the place of business of such licensed person for the space of twenty-four (24) hours after the copy and statement required to be delivered to the Chief of Police shall have been delivered as required by Section 5.45.030.
- B. Pledge from Minor Prohibited: No person licensed as aforesaid shall take or receive in pawn or pledge for money loaned, any property, bonds, notes, securities, article or other valuable thing from any minor under the age of eighteen (18) years, or which may be in the possession or under the control of any minor. (Ord. 1988-M-27 § 1.)

**5.45.070 Employment of minors.**

No person licensed as aforesaid shall permit any person under the age of eighteen (18) years of age to take pledges in pawn for him. (Ord. 1988-M-27 § 1.)

**5.45.080 Change of location.**

If, after issuance and delivery of a license under the provisions of this chapter, any change be made in the place of business designated therein, no business shall be carried on or engaged in at such new location under such license, until notice of such change shall have been given, in writing, by the licensee to the City Clerk. (Ord. 1988-M-27 § 1.)

**5.45.090 License - Suspension - Revocation.**

Nothing in the provisions of this chapter shall preclude the right of the Mayor to suspend or revoke the license of the licensee, as follows:

- A. The Mayor may temporarily suspend any license issued under the terms of this chapter when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven-day period; and further provided, that if such licensee is also engaged in the conduct of other businesses on the licensed premises, such order shall not be applicable to such other businesses.
- B. The Mayor may suspend or revoke any license issued under the terms of this chapter upon due notice to the licensee of the time and place of a public hearing, and if the Mayor determines upon hearing that the licensee has failed or refused to comply with the terms of this chapter, has failed or refused to comply with other law applicable to the business of pawnbroker, or has been convicted by a court of competent jurisdiction of a violation of any provision of this chapter.

(Ord. 1988-M-27 § 1.)

**5.45.100 Penalty.**

Any pawnbroker who shall violate, neglect or refuse to comply with any of the provisions of this chapter shall, in addition to the suspension or revocation of his license, be fined not more than five hundred dollars (\$500.00) for each offense. (Ord. 1988-M-27 § 1.)

## Chapter 5.48

## CARNIVALS

## Sections:

5.48.010	Definitions.
5.48.020	Prohibited concessions.
5.48.030	License required.
5.48.040	Insurance requirements.
5.48.050	City held harmless.
5.48.060	Length and hours of operations.
5.48.070	Right of inspection by city.
5.48.080	Emergency telephone numbers posted.
5.48.090	Location - Distance from residential district.
5.48.100	Fire resistant material.
5.48.110	License fees.
5.48.130	Sanitary facilities.

**5.48.010 Definitions.**

- A. "Carnival" means and includes an aggregation of attractions, whether shows, acts, games, vending devices or amusement devices, whether conducted under one or more managements or independently, which are temporarily set up or conducted in a public place or upon any private premises accessible to the public, with or without admission fee and which, from the nature of the aggregation attracts attendance and causes promiscuous intermingling of persons in the spirit of merry making and revelry. The term "carnival" is intended to include the term "circus" within its definition.
- B. "Game of skill" means and includes a game in which the average person with a reasonable amount of practice can be expected to improve his/her performance and be able to complete the required task at least once out of fifty (50) attempts. The fact that a select few by virtue of long practice and experience can win at a game is not sufficient to designate the game as one of skill.
- C. "Razzle-Dazzle" means and includes a series of games of skill or chance in which the player pays money or other valuable consideration in return for each opportunity to make successive attempts to obtain points by use of dice, darts, marbles or other implements and where such points are accumulated in successive games by the player toward a total number of points, where the total number of points are required for the player to win a prize or valuable consideration, and where the operator determines the total number of points needed.
- D. "Concession" means and includes any game, vending device, or amusement device open to the public and operated for profit in which the patron pays a fee for participating and may receive a prize upon a later happening.

(Ord. 1985-M-34 § 1.)

**5.48.020 Prohibited concessions.**

- A. It shall be unlawful for any person who owns or operates a concession at a carnival to obtain money by deception from another by means of one or more hidden mechanical devices or obstructions, or by any other means with intent to diminish the chance of such person to win a prize.
- B. It shall be unlawful for any person who uses, manufactures or sells at a carnival within the city a mechanical device or obstruction for a concession at a carnival to know or have reason to know it will be used to diminish the chance of any patron to win a prize.
- C. It shall be unlawful for any person to own or operate a game of "razzle-dazzle" at a carnival.
- D. It shall be unlawful for any person to own or operate at a carnival any game other than a game of skill open to the public and operated for profit in which the patron pays a fee for participating and may receive a prize upon a later happening.
- E. It shall be unlawful for any person to set up or operate at a carnival any gambling device, lottery, number or paddle wheel, number board, punch board or other game, of chance or any lewd, lascivious or indecent show or attraction making an indecent exposure of the person or suggesting lewdness or immorality.

(Ord. 1985-M-34 § 1.)

**5.48.030 License required.**

- A. A license to give, conduct, produce, operate, or present a carnival as herein defined shall be applied for by the owner. Application for said license shall be in writing on a form provided by the city which shall include the following information.
  - 1. Applicant's name, address, and telephone number.
  - 2. Type of ownership.
  - 3. Name of business, address and telephone number if other than applicant's name.
  - 4. If business is conducted by a manager or agent, name, address, and telephone number of such manager or agent.
  - 5. Location of where carnival will be operated.
  - 6. Starting and closing dates of carnival operation.
  - 7. List of rides, amusement stands, food stands, entertainment shows inside or outside and any other attractions not necessarily falling within the above list.
  - 8. Written proof of compliance with the State of Illinois Carnival Amusement Rides Safety Act.
  - 9. Amount of insurance, type, expiration date, and name of insurance carrier.
  - 10. Other information as may be deemed necessary by the Mayor.

(Ord. 1985-M-34 § 1.)

**5.48.040 Insurance requirements.**

Prior to a license being issued to operate a carnival the applicant shall submit to the city of St. Charles a certificate of public liability insurance showing as named insureds the owner(s) of the carnival as well as those persons owning each ride, amusement, entertainment, performance or exhibition which collectively make up the carnival, and further naming the city of St. Charles as an additional insured. Such insurance shall cover bodily injury, death and property damage, insuring against liability that may arise from the operation or maintenance of said carnival or any part thereof. The amount of such insurance shall be not less than \$2,000,000, except that the amount shall not be less than \$1,000,000 in the case of an owner of five or less amusement rides or amusement attractions as defined in the Illinois Carnival and Amusement Rides Safety Act, and in the case of an owner of any other amusements, entertainments, performances, exhibitions, rides or attractions not subject to the Illinois Carnival and Amusement Rides Safety Act. (Ord. 1998-M-42 § 1; Ord. 1987-M-36 § 1.)

**5.48.050 City held harmless.**

Applicant for a license for a carnival shall provide the city with an indemnification agreement in writing holding the city harmless from any and all claims, liabilities and losses including reasonable attorney fees rising out of or in connection with granting a license to the applicant. (Ord. 1985-M-34 § 1.)

**5.48.060 Length and hours of operation.**

- A. Any carnival licensed to operate in the city of St. Charles shall not remain in operation at any one location for a period not to exceed twelve (12) consecutive days, nor shall any carnival be located at any one location more than three (3) times during one calendar year.
- B. Carnivals shall not open for business prior to ten o'clock (10:00) a.m. in the morning, and shall not remain open later than eleven o'clock (11:00) p.m. on the same day or curfew time as specified in Chapter 9.52 of the St. Charles Municipal Code, whichever is earlier. A carnival operating at a permanent county fairground shall not remain open later than twelve o'clock (12:00) a.m. (midnight), and shall remain closed between twelve o'clock (12:00) a.m. (midnight) and ten o'clock (10:00) a.m.

(Ord. 1996-M-78 § 1; Ord. 1985-M-34 § 1.)

**5.48.070 Right of inspection by city.**

- A. Police officers, firemen, the city health officer, building/zoning commissioner and electrical inspector and their subordinates shall in connection with inspections, have free access to the grounds of any carnival and all booths, shows and concessions on such grounds at all times.
- B. The owner or his/her appointed manager shall keep records as specified below open to inspection during the hours the carnival is open for business. These records shall be available at the site of the carnival operation. The records shall be updated daily. The records shall be shown to those persons listed in Section 5.48.070(A). The records shall contain:
  1. The name and address of the owner and operator of each ride and concession.
  2. The name and address of each employee and independent contractor and at which ride or concession he or she is employed.
  3. Compensation paid and hours worked by each employee and independent contractors.
  4. The gross receipts of each ride and concession and the percentage that is paid to the carnival.

5. The amount of stock or merchandise dispensed to the players of each game concession.
  6. The recording by the owner or his or her appointed representative of his or her personal inspection at least once every four (4) hours the carnival is open to the public, of each ride for safety and each concession that it complies with this chapter of the St. Charles Municipal Code.
  7. The name, address, age, and extent of injuries, if know, of any person or including employees injured at the carnival.
- C. All rules pertaining to playing of any games and the price to participate must be posted conspicuously at the location of each game. The fee to participate shall be collected by the operator and the proper change, if any is due, returned to the player prior to the start of the game.
  - D. The use of "shills" and/or any person posing as a patron is prohibited.
  - E. Games utilizing foul lines wherein the person operating the game is the sole determiner as to whether or not a player has fouled are prohibited unless the foul lines shall be explained to the patron before the games start.
  - F. Only items of merchandise that can be won by the player may be displayed in conjunction with any game. A sign setting forth the requirements for winning a prize shall be conspicuously displayed. The offering of money as a prize or as incentive to play is prohibited.
  - G. All concessions shall be open to inspection by those persons listed in Section 5.48.070(A) during the hours the carnival is open to the public.
- (Ord. 1985-M-34 § 1.)

**5.48.080 Emergency telephone numbers posted.**

There shall be posted at least four (4) conspicuous locations on the grounds the telephone numbers of the police department, fire department, ambulance service and city health officer. In addition, if a first aid station is available on or near the grounds, directions to the station will be posted with the emergency telephone numbers. (Ord. 1985-M-34 § 1.)

**5.48.090 Location - Distance from residential district.**

Carnival shall not be set up and operated closer than three hundred (300) feet to any area zoned residential district. Nor shall any carnival be located closer than twenty (20) feet of any lot line as determined for zoning purposes. (Ord. 1985-M-34 § 1.)

**5.48.100 Fire resistant material.**

All non-metallic material used in conjunction with any ride or concession such as but not limited to canvas components, decorative materials, streamers, and related material shall be of approved fire resistant material. Specifications of the aforementioned material shall conform to the requirements of Chapter 15.28 of the St. Charles Municipal Code and shall be submitted to city of St. Charles Fire Prevention Bureau for review and approval prior to issuance of a license hereunder. (Ord. 1985-M-34 § 1.)



**5.48.110 License fees.**

- A. The following fees shall be paid prior to issuance of a license hereunder:
1. \$30.00 per amusement ride or amusement attraction, as defined in the Illinois Carnival and Amusement Rides Safety Act,
  2. \$20.00 per amusement stand,
  3. \$20.00 per concession,
  4. \$20.00 per entertainment show, inside or outside,
  5. \$20.00 per foot stand,
  6. \$20.00 for any other attractions not necessarily falling within the above listed.
- B. The following organizations are exempt from fees under this chapter:
1. Grammar, junior high and high schools located within the city.
  3. Governmental units, boards, commissions, and bodies duly organized under the laws of the city, state of Illinois and/or United States of America.

(Ord. 1998-M-42 § 1; Ord. 1997-M-73 § 1.)

(5.48.120 Number of rides and concessions - deleted Ord. 1998-M-42 § 2; Ord. 1985-M-34 § 1.)

**5.48.130 Sanitary facilities.**

There shall be provided on the premises of the carnival site not less than four (4) toilets (2 for females and 2 for males). When portable toilets are utilized, two (2) toilets shall be placed at opposite ends of the carnival site. The toilets shall be clearly marked for female or male use. It shall be the responsibility of the licensee of the carnival to maintain the toilet facilities in a clean and sanitary condition at all times. (Ord. 1985-M-35 § 1.)

(5.48.140 Parking – deleted Ord. 1998-M-42 § 2; Ord. 1985-M-34 § 1.)



6. Has any officer, manager, director or shareholder owning five percent or more of the stock of the corporation ever been convicted of a felony charge? \_\_\_\_\_
7. Will this business be conducted by a manager or agent? \_\_\_\_\_  
NAME \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_  
ADDRESS \_\_\_\_\_ HOME PHONE # \_\_\_\_\_
8. AMOUNT OF INSURANCE \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_  
NAME OF INSURANCE CARRIER \_\_\_\_\_  
ADDRESS \_\_\_\_\_
9. ILLINOIS STATE PERMIT NO. \_\_\_\_\_ DATE ISSUED \_\_\_\_\_
10. Location of place where carnival will be operated:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Dates carnival will be in operation: START \_\_\_\_\_ CLOSE \_\_\_\_\_
12. List rides, amusement stands, food stands, entertainment shows, other attractions.

RIDES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AMUSEMENT STANDS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOOD STANDS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Applicant Is Not To Write Below)

**STAFF FINDINGS**

14. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Police Chief Endorsement:** Recommend Issuance ☐ Yes ☐ No

Signature \_\_\_\_\_ Date \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_

**ldg.Comm./Health Off.Endorsement:** Recommend Issuance ☐ Yes ☐ No

Signature \_\_\_\_\_ Date \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_

**Comptroller Endorsement:** Recommend Issuance ☐ Yes ☐ No

Signature \_\_\_\_\_ Date \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_

**Fire Chief Endorsement:** Recommend Issuance ☐ Yes ☐ No

Signature \_\_\_\_\_ Date \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_

**Mayor's Approval:** Recommend Issuance ☐ Yes ☐ No

## NEWSPAPER DISPENSING DEVICES

### Chapter 5.50

#### NEWSPAPER DISPENSING DEVICES

##### Sections:

5.50.010	Definitions
5.50.020	Newspaper Dispensing Devices: Application and Permit
5.50.030	Privately Owned Newspaper Dispensing Device Permit Conditions
5.50.040	Uniform Newspaper Dispensing Devices
5.50.050	Appeal of Denial of Permits
5.50.060	Emergency
5.50.070	Revocation of Permits
5.50.080	Removal of Newspaper Dispensing Devices
5.50.090	Penalties
5.50.100	Severability

##### **5.50.010 Definitions**

The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Newspaper dispensing device:** a container constructed of metal or other material of substantially equivalent strength and durability which is used for the dispensing of newspapers, fliers, handbills, or other similar printed materials at a cost or free of charge.

For purposes of this ordinance, the geographic area referred to as the “Central Business District” or “CBD” shall have the same boundaries as the City’s Special Service Area #1B.  
(2002-M-24 § 1.)

##### **5.50.020 Newspaper Dispensing Devices: Application and Permit**

- A. No newspaper dispensing device shall be placed or located within a public right-of-way, along the streets, thoroughfares, parkways or sidewalks within the City unless a permit has been issued therefor by the City in conformance with the provisions of this article. This ordinance does not prohibit newspaper dispensing devices located within a wholly enclosed structure.
- B. Applications for a permit under this section shall be made on forms approved by the City Administrator (or his/her designate) for permits allowing for the installation and placement of newspaper dispensing devices within the public right-of-way, along the streets, thoroughfares, parkways, and sidewalks within the City. The applications shall be available and provided by the City Clerk (or his/her designate) upon request. The application must include a site plan and must expressly state the exact location where the applicant wishes to install a newspaper dispensing device. The application must also include a description of and the specifications for the intended newspaper dispensing device.

## NEWSPAPER DISPENSING DEVICES

- C. Within five business days of receipt of an application for a permit under this section, the City Administrator (or his/her designate) shall grant the application and instruct the City Clerk to issue the permit provided that the conditions contained in Section 5.50.030 are, where applicable, complied with. If the terms and conditions of Section 5.50.030, where applicable, are not complied with, the City Administrator (or his/her designate) shall, within five business days of receipt of the application for a permit, deny the application, and state the reasons in writing for such denial.

(2002-M-24 § 1.)

### **Section 5.50.030      Privately Owned Newspaper Dispensing Device Permit Conditions**

A city permit allowing the placement of privately owned newspaper dispensing devices shall be subject to, and granted upon, the following conditions, restrictions, and requirements:

- A. Newspaper dispensing devices shall not be placed in the central business district. The central business district is delineated on the map attached as Exhibit A. However, newspapers, fliers, handbills, or other printed materials may be placed in uniform newspaper dispensing devices in the central business district pursuant to Section 5.50.040. The location of the uniform newspaper dispensing devices is depicted on the maps attached as Exhibit B, collectively.
- B. Newspaper dispensing devices shall be placed adjacent and parallel to building walls not more than six inches distant therefrom, or near and parallel to the curb not less than 18 inches and not more than 24 inches distant from the curb.
- C. No newspaper dispensing device shall be placed, installed, located, used or maintained:
1. Within twenty feet of any electric utility pole, fire hydrant, Fire Department Station, Police Department Station, or Medical Building driveway.
  2. Within twenty feet of any intersecting driveway, alley, or street.
  3. Adjacent to parallel parking spaces or on the curb in front of angle parking spaces.
  4. At any location where the width of paved (or other suitable hard surface) clear space in any direction for the passage of pedestrians is reduced to less than five feet.
  5. So as to be chained or otherwise secured to any tree, utility pole, light pole, parking meter, traffic control post, street signpost, or other public property.
  6. Within three feet of any bicycle tie-up racks, bus benches, area improved with landscaping, or window displays.
  7. On or within any median within any public right-of-way.
  8. So as to project into any part of the public right-of-way or along the streets, thoroughfares, parkways and sidewalks within the City, as authorized by a properly issued City permit.
- D. The permittee shall pay an administrative processing fee of \$25.00 for each location where a newspaper dispensing device is installed. The initial administrative processing permit fee shall be applicable to the initial license year, or any part thereof. The permittee shall pay a renewal administrative processing permit fee of \$25.00 per year for each location where a newspaper dispensing device is installed. The permittee will also pay for the cost of a template placed upon the box to identify the publication and the permittee will also pay any yearly maintenance costs associated with the box.
- E. The permittee shall maintain the device in good working order, in a safe and clean condition, in such a manner that:
1. It is reasonably free of dirt and grease;
  2. It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
  3. It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon;
  4. The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
  5. The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading;
  6. The structural parts thereof are not broken or unduly disfigured;

## NEWSPAPER DISPENSING DEVICES

7. The device shall display a telephone number for refund in case of malfunctioning of the device.
- F. The permittee shall not use a newspaper dispensing device for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the materials sold or distributed therein.
- G. Permits shall be for a term of one year and shall not be assignable. Permits for the City fiscal year 2002-03 will be filed with the City Administrator (or his/her designate) no later than June 3, 2002; these permits will be valid through April 30, 2003. For all years thereafter, permits shall expire on the 30th day of April of each year; applications for renewal of permits shall be filed with the City Administrator (or his/her designate) no later than the 1st day of April of each year.
- H. A permit shall allow the installation of a newspaper dispensing device only at the exact location described in the application for the permit. The permit shall contain a description of the authorized location. Permits shall not be transferable from one location to another.
- I. The permittee, upon removal of the newspaper dispensing device, shall restore the property of the City to the same condition as when the device was initially installed, ordinary wear and tear excepted.
- J. As an express condition of the acceptance of a permit hereunder, the permittee thereby agrees to indemnify and hold harmless the City, its officials, both elected and appointed, its employees and agents against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as the result of the installation, use or maintenance of a device within the City.

(2002-M-24 § 1.)

### **5.50.040 Uniform Newspaper Dispensing Devices**

Uniform newspaper dispensing devices shall be located within the central business district (See Exhibit A) at the locations shown in Exhibit B. A prototype illustration of the uniform newspaper dispensing devices is attached at Exhibit C. Permits for spaces within the uniform newspaper dispensing devices shall be issued, subject to the following conditions:

- A. Persons or entities wishing to place newspapers, fliers, handbills, or other printed materials in the uniform newspaper dispensing devices must file an application for a permit on the forms approved by the City Administrator (or his/her designate). Said applications shall be available and provided by the City Clerk upon request.
- B. Permits shall be issued on a first come - first served basis. In the event that the City has issued permits equal to the number of available spaces in the newspaper dispensing devices, additional applicants will be placed on a waiting list. As spaces become available, additional permits shall be issued and retained according to the provisions of this Section. No publication shall be issued more than one space at each location.
- C. The permittee shall pay an administrative processing fee of \$25.00 for each space in the uniform newspaper dispensing device. The initial administrative processing permit fee shall be applicable to the initial license year, or any part thereof. The permittee shall pay a renewal administrative processing permit fee of \$25.00 per year for each space. Permits shall be for a term of one year and shall not be assignable. Permits shall expire on the 30th day of April of each year; applications for renewal of permits shall be filed with the Mayor's Office no later than the 1st day of April of each year. In the event that the renewal fee is not paid by April 1st, the space shall be forfeited.
- D. The permittee, upon removal of materials from the newspaper dispensing device, shall restore the newspaper dispensing device to the same condition as when the device was initially installed, ordinary wear and tear excepted. The permittee shall be responsible for reimbursing the City for the cost of any repairs to the newspaper dispensing device resulting from damage caused by the permittee.

(2002-M-24 § 1.)

### **5.50.050 Appeal of Denial of Permits**

## NEWSPAPER DISPENSING DEVICES

The decision of the City Administrator (or his/her designate) in refusing to grant a permit under this Article shall be appealable. The applicant shall have the right to appeal the decision to the Chair of the Government Operations Committee, provided that the applicant files a written notice of appeal, including a statement of the grounds of appeal, with the City Clerk within 15 calendar days after notice of the decision of the City Administrator (or his/her designate). The Government Operations Committee shall set a hearing on the appeal at its next regularly scheduled Government Operations Committee meeting, and notice of such time and place shall be given in the same manner as specified in this Article. The Government Operations Committee shall have the power to reverse, affirm, or modify the decision of the City Administrator (or his/her designate). In making its determination, the Government Operations Committee shall only consider the standards set forth in this Article. Its decision shall be rendered the same day as the hearing. The decision of the Government Operations Committee shall be final. (2002-M-24 § 1.)

### **5.50.060 Emergency**

Notwithstanding any other provision of this Article, however, the City may remove any device from public property which, because of its location or condition, poses an immediate threat to the health, safety and welfare of the public or a member thereof. The City Administrator (or his/her designate) shall send, by certified mail, with return receipt requested, a written notice to the address of the owner or user of the newspaper dispensing device. The notice shall state the address and telephone number of the City Administrator (or his/her designate) and a description of why the newspaper dispensing device was removed. The owner may request a hearing before the Government Operations Committee by filing a written appeal with the City Administrator (or his/her designate). In this event, a hearing shall be held, according to Section 5.50.080, for the purpose of determining whether there is a continued need for the removal.

(2002-M-24 § 1.)

### **5.50.070 Revocation of Permits**

The City Administrator or his/her designate shall revoke any permit issued under the terms of this Article after a finding of guilty, by any state court, for any of the following causes, which shall constitute violations of this Article:

- A. Fraud, misrepresentation, or any false statement contained in the application for a permit;
- B. Violation of any term of the permit granted to the permittee;
- C. Violation of any term of this Article.

(2002-M-24 § 1.)

### **5.50.080 Removal of Newspaper Dispensing Devices**

- A. If any newspaper dispensing device is placed or remains within the central business district as delineated in the map at Exhibit A or within any public right-of-way, street, thoroughfare, parkway, or sidewalk without a permit therefor being issued, or after the expiration or revocation of a previously issued permit, or is deemed abandoned or unclaimed, or in violation of any other provision of this Article, the City Administrator (or his/her designate) shall send, by certified mail, with return receipt requested, a written notice to the address of the owner or user of the newspaper dispensing device. The notice shall state the address and telephone number of the City Administrator (or his/her designate), a description of why the newspaper dispensing device is in violation of the requirements of this Article; that the owner or user is ordered to cause immediate removal of the newspaper dispensing device from the public property; and that the newspaper dispensing device shall be removed by the City after a date designated in the notice. The date shall be no less than ten calendar days after the date the notice is mailed or first posted, as the case may be, unless the owner or user requests a hearing before the Government Operations Committee by filing a written appeal with the City Administrator (or his/her designate) on or before the designated removal date.



## NEWSPAPER DISPENSING DEVICES

- B. If any materials are placed in a uniform newspaper dispensing device without a permit therefor being issued, or after the expiration or revocation of a previously issued permit, or the materials are deemed abandoned or unclaimed, or in violation of any other provision of this Article, the City Administrator (or his/her designate) shall send, by certified mail, with return receipt requested, a written notice to the address of the permitted user. The notice shall state the address and telephone number of the City Administrator (or his/her designate), a description of why the materials are in violation of the requirements of this Article; that the user is ordered to cause immediate removal of the materials; and that the materials shall be removed by the City after a date designated in the notice. The date shall be no less than ten calendar days after the date the notice is mailed or first posted, as the case may be, unless the user requests a hearing before the Government Operations Committee by filing a written appeal with the City Administrator (or his/her designate) on or before the designated removal date.
- C. When any appeal is filed pursuant to this section, the City Council shall set a hearing on the appeal at its next regularly scheduled Council meeting and notice of such time and place shall be given in the manner as specified in this section. Any newspaper dispensing device or materials located in a City owned newspaper dispensing device may remain in place during the appeal period. In making its determination, the Government Operations Committee shall only consider the standards set forth in this Article. Its decision shall be rendered on the same day as the hearing. The decision of the Government Operations Committee shall be final.
- D. If any newspaper dispensing device is still on public property after the ten-day period described in subsection (1) of this section, or if an appeal is made and denied after hearing before the Government Operations Committee, the City Administrator (or his/her designate) shall cause removal of the newspaper dispensing device. Similarly, if any materials located in a City owned newspaper dispensing device remain in the City owned newspaper dispensing device after the ten-day period described in subsection (2) of this section, or if an appeal is made and denied after hearing before the Government Operations Committee, the City Administrator (or his/her designate) shall cause the removal of the materials.
- E. The owner of any newspaper dispensing device removed in accordance with the terms of this Article shall be responsible for all the expenses of the removal, storage and disposal of such newspaper dispensing device. Likewise, the owner of any materials placed in a City owned newspaper dispensing device removed in accordance with the terms of this Article shall be responsible for all the expenses of the removal, storage and disposal of such materials. Should the newspaper dispensing device or materials fail to be claimed or should the owner fail to pay any money due the City, such newspaper dispensing device or materials shall be unclaimed property and may be disposed of pursuant to law.

(2002-M-24 § 1.)

### **5.50.090 Penalties**

Any person or entity who shall be guilty of a violation of any of the provisions of this Article, shall be subject to a fine of not less than fifty (\$50.00) dollars and not more than seven hundred and fifty (\$750.00) dollars. A separate offense shall be deemed committed for every day a violation continues.

(2002-M-24 § 1.)

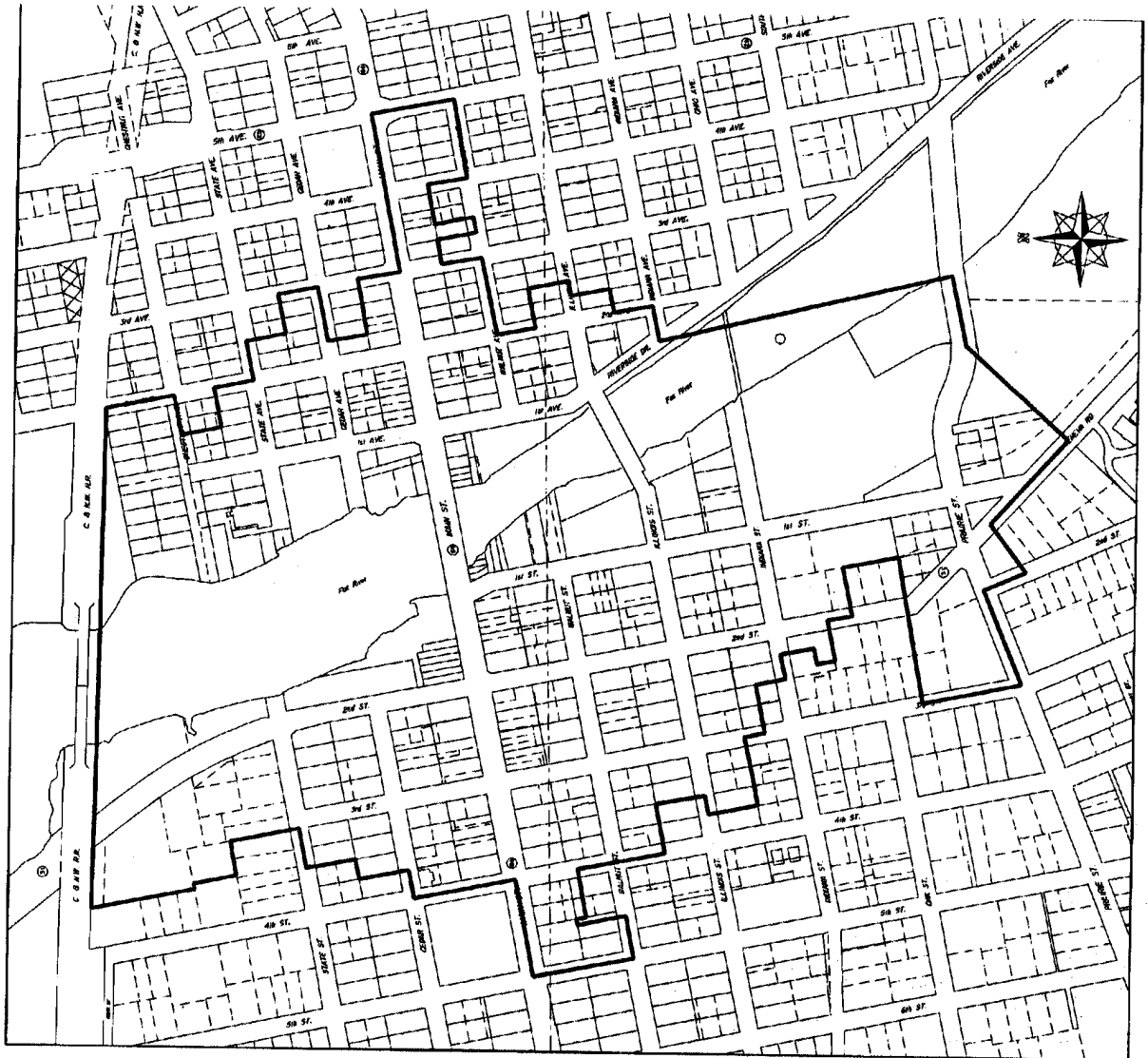
### **5.50.100 Severability**

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Article.

(2002-M-24 § 1.)

NEWSPAPER DISPENSING DEVICES

EXHIBIT A  
MAP OF CENTRAL BUSINESS DISTRICT

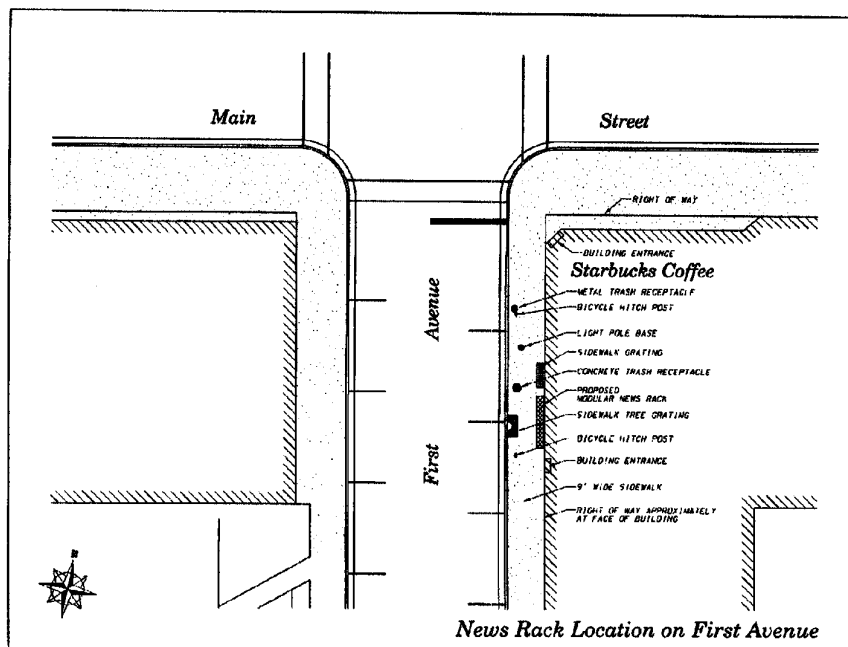
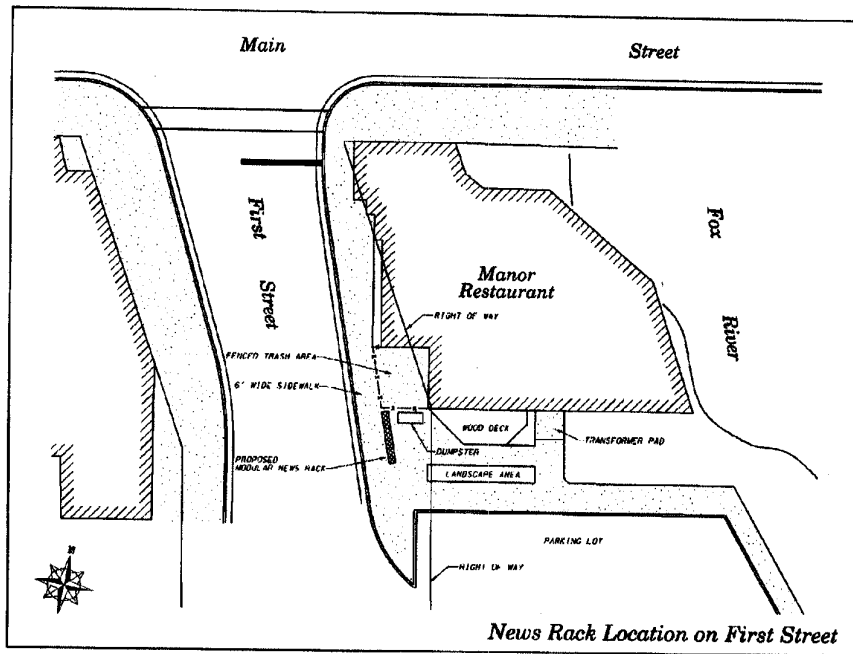


(Ord. 2002-M-24 § 1.)

# NEWSPAPER DISPENSING DEVICES

## GROUP EXHIBIT B

### MAP LOCATION OF SITES WITHIN CENTRAL BUSINESS DISTRICT



(Ord. 2002-M-24 § 1.)

## Group Exhibit C

## NEWSPAPER DISPENSING DEVICES

### Prototype Illustration of Uniform Newspaper Dispensing Devices



(Ord. 2002-M-24 § 1.)

### Chapter 5.52

## HORSE-DRAWN CARRIAGES

#### Sections:

5.52.010	Definitions.
5.52.020	Horse-drawn carriage company requirements.
5.52.030	Horse-drawn carriage requirements and operating regulations.
5.52.040	Horse-drawn carriage traffic regulations.
5.52.050	City right to revoke license.

#### **5.52.010 Definitions.**

For the purpose of this chapter:

- A. “Carriage” means any device in, upon or by which any person is or may be transported or drawn upon a public way, designed to be or capable of being driven by a horse and carrying no more than six (6) passengers.
- B. “Carriage stand” means that portion of a curb lane designated by the City for loading and unloading of passengers for horse-drawn vehicles.
- C. “City” means the City of St. Charles, Illinois.
- D. “Horse” means an animal of the genus equus and shall be a draft or draft-cross horse. More than fifty percent (50%) of the horse’s blood line must be from a draft horse breed.
- E. “Person” means a natural person, partnership, firm, corporation or other legal entity.
- F. “Administrator” means City Administrator or his/her designee for the City.

#### **5.52.020 Horse-drawn carriage company requirements.**

- A. Permit Required: No person or entity may conduct business as a horse-drawn carriage company on City streets without a valid, current horse-drawn carriage company permit issued by the City under Section 5.52.030. Permits will be issued annually for the period May 1 through April 30 of each year. Horse-drawn carriage company permit fees are one hundred fifty dollars (\$150.00) for a year and must be renewed annually.
- B. Number of Permits Issued: Only two (2) horse-drawn carriage company permits shall be issued annually so the City can maintain safety and efficacy of a horse drawn carriage operation in downtown St. Charles.
- C. Background Check: Each applicant(s) must submit to a background check by the police department and be found to be of good moral character in the eyes of the law.
- D. Rates: Each horse-drawn carriage must prominently display the rate or other charge to be made for its service. This may be done by placing placard on the inside of the carriage or handing out a document with the rates attached.
- E. Insurance Requirements: Company permit holders must secure and maintain a commercial general liability policy reflecting limits of no less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate for covered claims arising out of but not limited to, bodily injury, property damage, personal and advertising injury, and contractual liability in the course of the permit holder’s work under a for-hire horse-drawn carriage company permit. The insurance policy must allow for written notice to the administrator thirty (30) days before a policy is cancelled, will expire or be reduced in coverage.

## HORSE-DRAWN CARRIAGES

### **5.52.030 Horse-drawn carriage requirements and operating regulations.**

- A. Carriage Safety Sticker: Each horse-drawn carriage company must display a City safety sticker for each horse-drawn carriage being used in the operation. A safety sticker will be issued by the City police department upon a successful inspection of a carriage regarding the requirements put forth in subsections 5.52.030B and C. No horse-drawn carriage may carry more than seven (7) passengers at one time, including the driver or the maximum recommended weight for the carriage, whichever is less. The fee for the first carriage safety sticker is included in the cost of the horse-drawn carriage company permit, which must be renewed annually. However, each additional carriage safety sticker shall be fifty dollars (\$50.00) a year and must be obtained annually. The total number of carriage safety stickers issued to any horse-drawn carriage company each fiscal year shall be two (2).
- B. Mechanically Sound: Each horse-drawn carriage shall be mechanically sound, and not in a state of disrepair, with all equipment functional in the manner for which it was constructed.
- C. Safety Equipment: All horse-drawn carriages shall be equipped with two (2) electrified white lights visible for one thousand (1,000) feet to the front of the vehicle, and two (2) electrified red lights visible for one thousand (1,000) feet to the rear of the vehicle. All lights must be operational from sunset to sunrise and during the times of lessened visibility. Electrified directional signals are required at all times. Each horse-drawn carriage shall be equipped with working brakes that are capable of stopping the loaded vehicle on at least a ten-degree incline.
- D. Driver Requirements: Each horse-drawn carriage company shall ensure that the driver(s) of their carriage(s) has in his or her possession a current and valid Illinois driver's license, completed a background check by the City police department, and is at least twenty-one (21) years of age. The background check shall confirm that the driver has not been convicted of any felony, or any misdemeanor relating to decency, morality or traffic offenses.
- E. Passenger Conduct: All passengers must remain seated during the ride. No open alcohol shall be allowed in the carriage.
- F. Hours of Operation: The commercial horse-drawn carriages shall not be operated for hire between the hours of ten o'clock (10:00) p.m. and nine o'clock (9:00) a.m.
- G. Signage: Each horse-drawn carriage shall display a sign of no more than four (4) square feet on its exterior which identifies the horse drawn carriage permit holder and a contact phone number or a single sponsor and the contact phone number.
- H. Horses: The horses used to pull the horse-drawn carriages must meet the definition of horse in section 5.52.010D, be in good health and wear horse shoes that are in good condition.
- I. Sanitation Requirements: Each horse-drawn carriage shall be equipped with a container placed to catch all horse droppings. Such containers shall be large enough to hold and retain all droppings during a drive until return to the starting point of each trip. All containers shall be emptied and sanitized daily. Waste catchers must be in place and functioning properly at all times. It shall be the responsibility of the horse-drawn carriage operator to clean up any spillage and to dilute and eliminate accumulated agents and odors upon the urination of any horse with a solution to be approved by the City.
- J. No Unattended Carriages: Carriage drivers shall not leave the horse-drawn carriage unattended while it is parked at a carriage stand while waiting to be hired.

### **5.52.040 Horse-drawn carriage traffic regulations.**

- A. Traffic Laws: Carriage drivers shall obey all traffic-control devices and rules of the road.
- B. Location On Street: All vehicles shall be driven in the right-hand lane available for traffic or as close as practicable to the right-hand curb or edge of the roadway. Each driver operating a horse-drawn carriage shall maintain the horse at a speed no faster than a walk or slow trot. Passenger loading and unloading will not be allowed on Main Street. Double parking should be avoided to the

## HORSE-DRAWN CARRIAGES

greatest extent feasible.

- C. Approved Locations: Horse-drawn carriages may only operate on approved local streets that have a posted speed limit of twenty-five (25) mph or less, unless crossing over an unauthorized street in accordance with the rules of the road and at a signalized intersection or with the specific assistance of an on-duty City police officer. The City will designate the approved streets or areas that horse drawn carriages may operate in by developing an approved map. The police department will also designate appropriate carriage stand locations where carriages can park as they load and unload passengers.

### **5.52.050 City right to revoke license.**

In the event that the administrator or his/her designee determines that the continued operation of a horse-drawn carriage company constitutes an unreasonable safety hazard or is otherwise contrary to the interest of the City, or for good cause shown, the City reserves the right to revoke any permits issued and, in that event, will issue a pro rata refund of the permit fee paid.

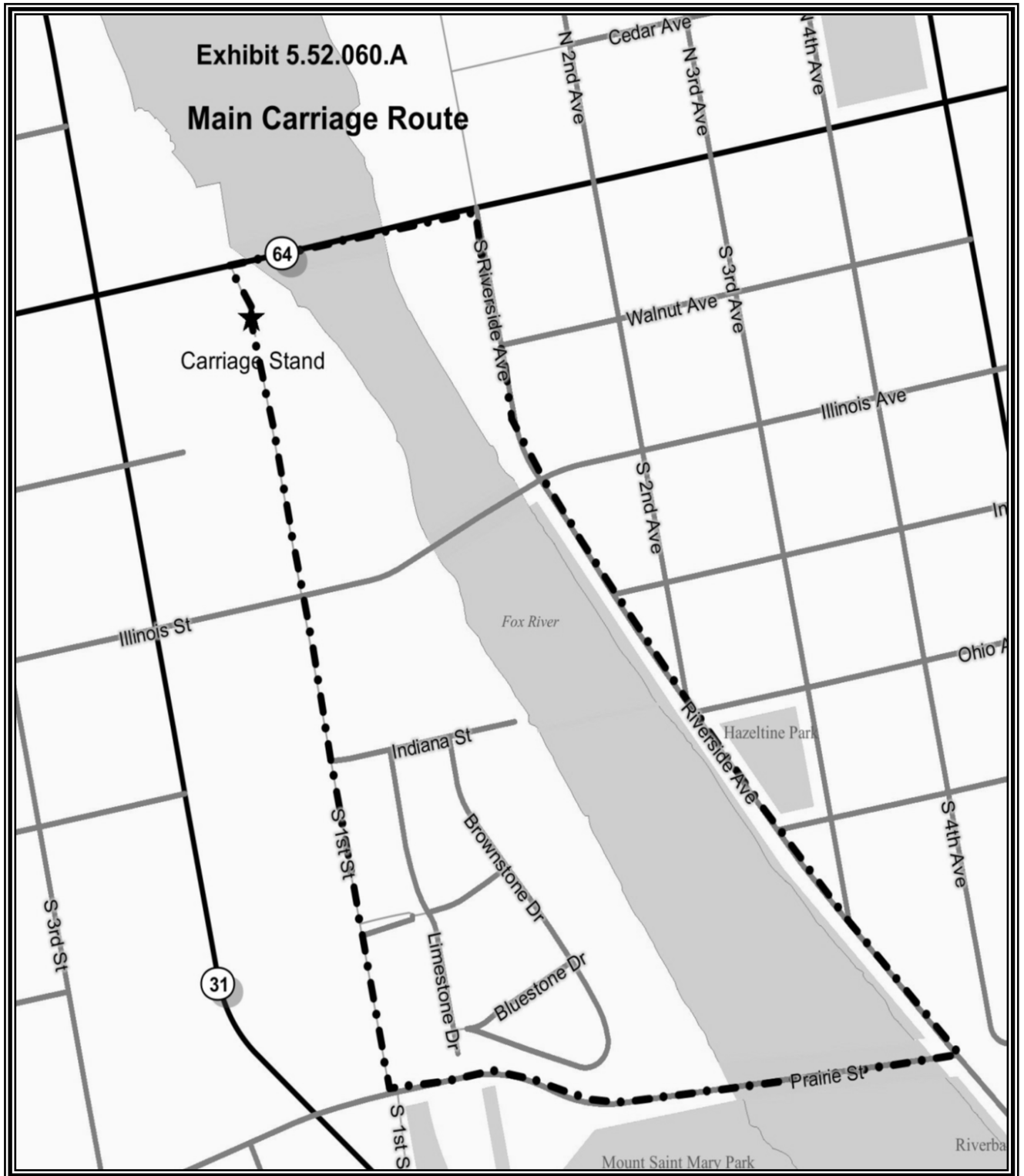
### **5.52.060 Horse-drawn Carriage Route**

A carriage stand, located in the loading zone near the 1<sup>st</sup> Street Plaza, will be the starting point for both authorized carriage routes.

- A. Beginning at the carriage stand, the carriage will travel north on 1<sup>st</sup> Street to Main Street; then east on Main Street to Riverside Avenue; Riverside Avenue south to Prairie Street; west across the Prairie Street Bridge to 1<sup>st</sup> Street; north on 1<sup>st</sup> Street returning back to the carriage stand.
- B. An alternate route to the main route to be utilized in the event Main Street is not accessible is as follows: beginning at the carriage stand, the carriage will travel south on 1<sup>st</sup> Street to Prairie Street; east on Prairie Street over the Prairie Street Bridge to Riverside Avenue; north on Riverside Avenue to the Illinois Street Bridge; west on Illinois Street over the bridge to 1<sup>st</sup> Street; north on 1<sup>st</sup> Street returning back to the carriage stand.
- C. Maps of these routes are depicted in Exhibit 5.52.060.A:

(Ord. 2012-M-54 § 1.)

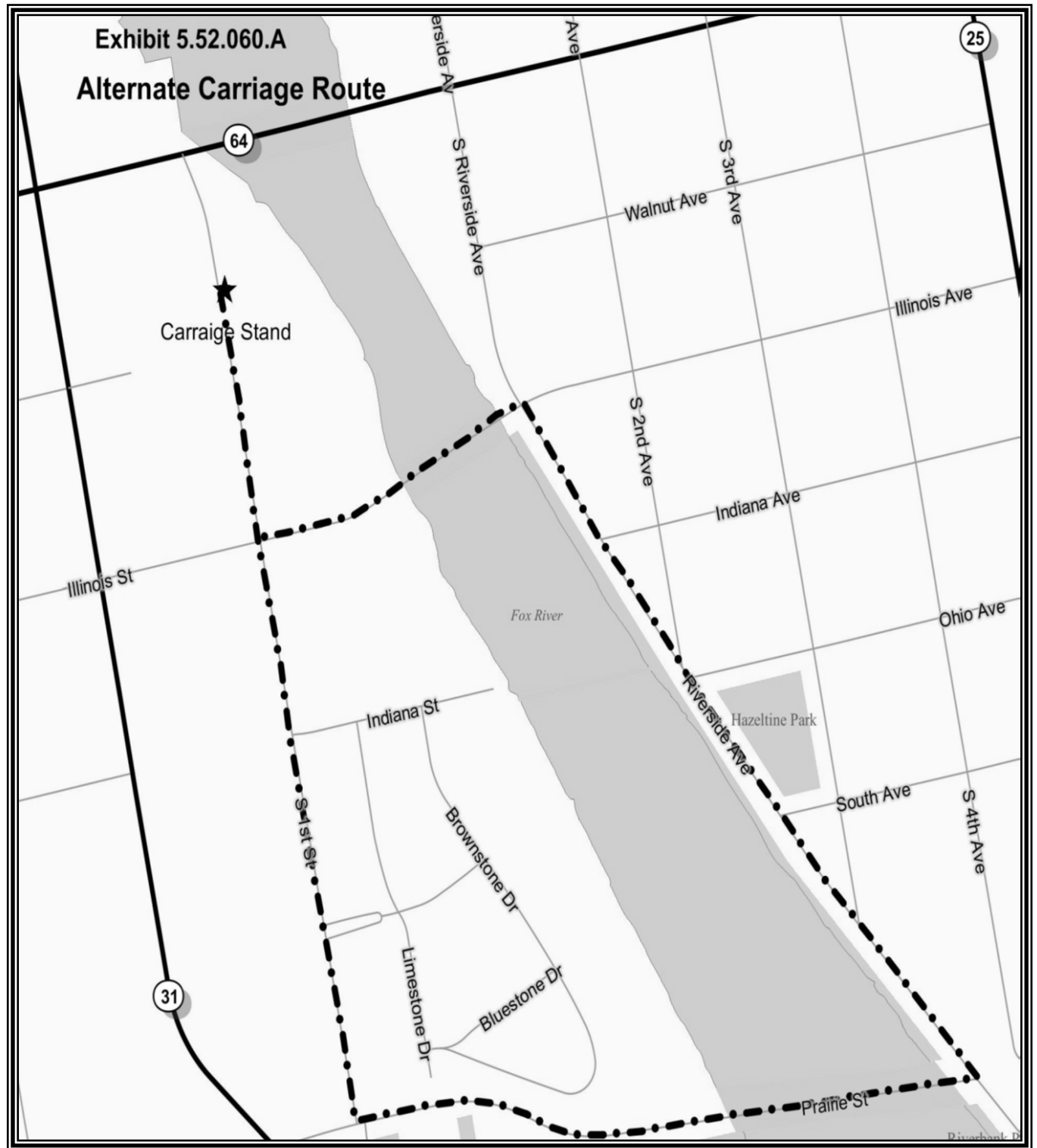
## HORSE-DRAWN CARRIAGES



(Ord. 2012-M-54 § 1.)



## HORSE-DRAWN CARRIAGES



(Ord. 2012-M-54 § 1.)

## **TITLE 5 FOOTNOTES**

### **TITLE 5 FOOTNOTES**

1. For statutory provisions authorizing cities to license and tax certain businesses, see 65 ILCS 5/11-42-1; for provisions authorizing cities to fix the amount, terms and manner of issuing and revoking licenses, see 65 ILCS 6/11-60-1. (Ord. 1996-M-53 § 12.)
2. For statutory provisions related to alcoholic beverages generally, see 235 ILCS 5/5-1 et seq.; for provisions authorizing local control, see 235 ILCS 5/4-1. Prior ordinance history: Ords. 1965-12, 1965-47, 1965-53, 1968-16, 1971-M-25, 1971-M-34, 1972-M-41, 1972-M-46, 1971-M-48, 1973-M-12, 1974-M-6, 1975-M-22. (Ord. 1996-M-53 § 12.)
3. For statutory provisions on municipal regulation of billiard and bowling alleys, see 65 ILCS 5/11-42-2; for provisions on municipal regulation of shows, see 65 ILCS 5/11-42-5. (Ord. 1996-M-53 § 12.)
4. For statutory provisions prescribing sales of cigarettes to minors, see 720 ILCS 675/1; for provisions on municipal health powers, see 65 ILCS 5/11-20-5; for provisions on municipal regulation of tobacco, see 65 ILCS 5/11-20-3. (Ord. 1996-M-53 § 12.)
5. For statutory provisions on municipal regulation of handbills, see 65 ILCS 5/11-80-16. (Ord. 1996-M-53 § 12.)
6. For statutory provisions on municipal regulation of hawkers, peddlers, solicitors and itinerant merchants, see 65 ILCS 5/11-42-5. (Ord. 1996-M-53 § 12.)