

Ordinance No. 876

2nd Series

**An Ordinance Amending Alexandria City Code Chapter 3,
Section 3.21 Relating to Private Off-Sale Liquor Licenses**

The City Council of the City of Alexandria does hereby ORDAIN:

SECTION I. That Section 3.21 of the Alexandria City Code is hereby added as follows:

Section 3.21. Private Off-Sale Liquor Licenses

Subd. 1. **Statement of Purpose.** Because the City of Alexandria owns and operates a municipal liquor dispensary, state law generally prohibits the City from issuing to private persons or entities off-sale licenses for the sale of intoxicating liquor. However, as described herein, validly issued off-sale licenses may be allowed to continue following the consolidation or annexation of territory to the City, including any such licenses in effect as of the effective date of this ordinance. Therefore, this ordinance sets forth the circumstances under which such private off-sale licenses may be continued and renewed by the City, considering the interests of the municipal liquor dispensary and the overall benefit to the community of Alexandria.

Subd. 2. **Annexation Exception.** Pursuant to Minn. Stat. § 340A.413, Subd. 6, as it may be amended, an off-sale license for the sale of intoxicating liquor that was validly issued by another licensing authority is not rendered invalid or illegal by reason of the consolidation or annexation of territory to the City, and the City may opt to allow it to continue to remain in effect and be renewed, except that the limitations as to ownership under Minn. Stat. § 340A.412, Subd. 2, as it may be amended.

Subd. 3. **Conditions of License.** Any private off-sale license that continues by virtue of consolidation or annexation shall be subject to the following conditions.

A. Only an "exclusive liquor store" as defined by Minn. Stat. § 340A. 101, Subd. 10, as the same may be amended, may apply for a license under this Section.

B. The license fee for an off-sale intoxicating liquor license shall be the maximum amount permitted by Minn. Stat. § 340A.408, Subd. 3, as it may be amended.

C. The process for obtaining a license hereunder shall be as set forth in Section 3.02, Subds. 1-4. Without limiting the foregoing, a license or license renewal application shall include a drawing, sketch, diagram, or other scale depiction of the licensee's premises, which premises shall not be expanded. No license shall be effective beyond the space described in the license for which it was granted.

D. No off-sale license may be transferred to another person or entity without City Council approval and without a new application having been filed. Any change in ownership of any stock of a corporate licensee, of any membership units of a limited liability company licensee, or of any ownership composition of a partnership licensee is deemed a transfer of the license if the change in ownership results in a change in control of the licensee. For these purposes, "Change in Control" shall mean either: (a) any person (or persons acting together) not "related" to the licensee

acquires, directly or indirectly, beneficial ownership of more than 50% of the combined voting power of the equity of the licensee; or (b) the consummation of a complete liquidation or dissolution of the Licensee or the sale or other disposition to a person (or persons acting together) not related to the Licensee of all or substantially all of the assets of the Licensee; or (c) consummation of a reorganization, merger, consolidation, or similar transaction of the Licensee in which less than 50% of the equity in the surviving entity is held by shareholders of the Licensee immediately prior to the transaction. Any such change in ownership without prior Council approval is a ground for revocation of the license. Upon the Council's approval of the transfer, the transferee shall pay the duplicate license fee set forth in the City's fee schedule.

E. An applicant under this Section must establish proof of financial responsibility by any of the methods set forth in Minn. Stat. § 340A.409, as it may be amended. Any off-sale licensee shall immediately notify the City if any required insurance has lapsed, been canceled, suspended, or in any way is not in effect.

F. Every licensee shall allow any peace officer, health officer or properly designated officer or employee of the City to enter, inspect and search the premises of the licensee during business hours without a warrant. Provided, however, that any such inspection or search must be limited to evaluating the Licensee's compliance with this ordinance.

G. The provisions of Minn. Stat. Chapter 340A, as amended, relating to the off-sale of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

The license shall be posted in conspicuous place in the licensed establishment at all times.

H. Every licensee is responsible for the conduct of the licensee's place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

I. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City are delinquent and unpaid.

J. No license shall be granted for any premises located within 300 feet of any place of worship or school. The distances herein referred to shall be measured in a straight line from the nearest property boundary of the licensed premises to the nearest point of the place of worship or school building.

K. No license may be issued to:

- i. a person under 21 years of age;
- ii. a person who has had an intoxicating liquor or 3.2 percent malt liquor license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a licensee, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;
- iii. a person not of good moral character and repute; or

iv. a person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler.

v. a person who, within five years of the license application, has been convicted of a felony or a willful violation of a federal or state law or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution of an alcoholic beverage. The City may require that fingerprints be taken and forwarded to the Federal Bureau of Investigation for purposes of a criminal history check.

L. An off-sale licensee shall immediately notify the City of any disqualifying circumstance outlined in Subd. 3.12.

M. Background Checks - Initial Application Following Consolidation or Annexation.

i. On an initial application for an off-sale license following consolidation or annexation, and on application for transfer of an existing license hereunder, the applicant shall pay with the application an investigation fee of \$500.00. The City shall request that its Chief of Police conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the Council may require. If the Council deems it in the public interest to have an investigation made on a particular application for renewal of a license, it shall so determine. If the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Apprehension for the investigation. If an investigation outside the state is required, the applicant shall be charged the cost not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The fee shall be payable by the applicant whether or not the license is granted. Upon completion of the investigation, the Chief of Police shall make a written report and recommendation to the City Council of his or her findings, including a specific report on any violations of federal or state law or municipal regulations.

ii. The applicant for an off-sale license, including the transferee when a license is proposed to be transferred, must provide the City with the applicant's signed, written informed consent to conduct a background check.

iii. For initial off-sale licenses applications, upon receipt of the written report and recommendation by the Police Chief of the City of Alexandria, and within twenty-one (21) days thereafter, the City Council shall instruct the Clerk to cause to be scheduled a public hearing, with notice thereof to be published in the official newspaper ten (10) days in advance of the scheduled hearing, setting forth the day, time and place when the hearing will be held, the name of the applicant, the premises where the business is to be conducted, the nature of the business, and such other information as the Council may direct. At the hearing, opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application in its discretion.

iv. For off-sale license renewal applications the Council will hold a public hearing. Notice of the time and place of said hearing and the fact that off-sale license renewal applications will be considered shall be published in the official newspaper at least ten (10) days in advance of the hearing. An

opportunity shall be given to any person to be heard for or against the granting of an on-sale license renewal. The Council shall grant or refuse the application in its discretion.

v. The Council may, in its sole discretion and for any reasonable cause, deny any application, suspend, or revoke any off-sale license. Before suspension or revocation of any license, the Council shall give notice to the licensee and grant such licensee's opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing. Licenses shall terminate only by expiration or revocation.

vi. Lapse, suspension, cancelation, or any other loss of required insurance or bond shall result in an immediate suspension of any license issued pursuant to this Ordinance without further action by the City Council. Notice of cancellation, lapse, suspension, cancelation, or any other loss of current liquor liability policy or bond shall also constitute notice to the licensee of the contemporaneous suspension of the license. The holder of the license who has received notice of lapse, suspension, cancelation, or any other loss of required insurance or bond may, in writing, request a hearing thereon. A hearing will be held at the next regularly scheduled City Council meeting with notice to the licensee. Any suspension under this paragraph shall continue until the City Council determines that the financial responsibility requirements of this ordinance have again been met.

SECTION II. This Ordinance shall be in effect and full force after its publication.

ADOPTED by the City Council of the City of Alexandria this 10th day of October, 2022, by the following vote:

YES: FRANZEN, THALMAN, ALLEN, BENSON, WIENER

NO: NONE

ABSENT: NONE


Bobbie K. Osterberg, Mayor

ATTEST: 
Martin D. Schultz, City Administrator