

Submitted by: Assembly Vice-Chair Constant
Prepared by: Municipal Clerk's Office
For reading: March 18, 2022

**ANCHORAGE, ALASKA
AR No. 2022-80(S)**

1 **A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY REGARDING THE**
2 **STATE OF ALASKA APPLICATIONS FOR THE TRANSFER OF OWNERSHIP AND**
3 **LOCATION OF BEVERAGE DISPENSARY LIQUOR LICENSE, #4531 FOR LED**
4 **ULTRA LOUNGE AND GRILL, LLC DBA TRI GRILL AND BEVERAGE DISPENSARY**
5 **LIQUOR LICENSE, #4551 FOR LED ULTRA LOUNGE AND GRILL, LLC DBA LED**
6 **ULTRA LOUNGE & GRILL LOCATED AT 420 W 3RD AVENUE, ANCHORAGE, AK**
7 **99501; AND AUTHORIZING THE MUNICIPAL CLERK TO TAKE CERTAIN ACTION.**
8

9 (Downtown Community Council)

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11 **WHEREAS**, LED Ultra Lounge & Grill, LLC has made an application with the Alaska
12 Alcohol and Marijuana Control Office (AMCO), for consideration by the Alcoholic Beverage
13 Control (ABC) Board, and has paid the required fee for the transfer of ownership and
14 location of beverage dispensary LL#4531 to be used for Tri Grill; and beverage
15 dispensary LL#4551, to be used for LED Ultra Lounge & Grill, located at 420 W 3rd
16 Avenue, Anchorage, Alaska, 99501; and
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18 **WHEREAS**, Anchorage Municipal Code (AMC) 2.30.120F. requires the Assembly to act
19 on state liquor license applications by resolution and does not require introduction of the
20 resolution and it is automatically set for public hearing; and
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22 **WHEREAS**, the Municipal Clerk's Office prepared and submitted AR No. 2022-80,
23 regarding the transfer of ownership and location application for public hearing before the
24 Anchorage Assembly at the regular Assembly meeting of March 15, 2022. The public
25 hearing notice posting as required by Anchorage Municipal Charter Section 10.01(b) and
26 AMC 2.30.060 has been satisfied and is on the Municipal Webpage for Current Public
27 Notices; and
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29 **WHEREAS**, on February 24, 2022, the Municipality of Anchorage received an application
30 for Administrative Permit for an Unlicensed Nightclub from LED Ultra Lounge (sic) & Grill
31 LLC, Alaska business license # 2104038; and
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33 **WHEREAS**, on March 7, 2022, the permit application was denied by the Municipality as
34 the proposed nightclub does not meet the separation distance to a school; and
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36 **WHEREAS**, on March 7, 2022, the Clerk's Office received a letter from Anchorage School
37 District, through Assembly Vice-Chair Constant, opposing the transfer of LL#4531 and
38 LL#4551 citing non-compliance with Alaska Statute 04.11.410; and
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40 **WHEREAS**, on March 9, 2022, the Downtown Community Council has scheduled a
41 special meeting to discuss and deliberate a proposed Council Resolution opposing the
42 transfer of LL#4531 and LL#4551, with supporting documentation including numerous

1 attachments; an unsigned draft of the Council Resolution was provided to the Clerk's
2 Office on or about March 4, 2022; and
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4 **WHEREAS**, the Assembly must enter any protest to AMCO within 60 days following
5 receipt of the application; and
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7 **WHEREAS**, the Anchorage Municipal Clerk received a copy of the applications on
8 January 19, 2022 and has determined that the last day for the Assembly to file a protest
9 is March 20, 2022; and
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11 **WHEREAS**, Anchorage Municipal Code (AMC) 2.30.120 and 3 AAC 304.145(d) require
12 the Assembly to hold a public hearing to provide the applicant an opportunity to defend
13 their application prior to exercising or waiving the right to protest; and
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15 **WHEREAS**, although Assembly Resolution AR 2022-80 set the public hearing on the
16 protest for March 15, 2022, this resolution – AR 2022-80(S) - sets the public hearing on
17 the protest of the transfer of ownership and location of LL#4531 and LL#4551, for March
18 18, 2022 at a special Assembly meeting; and
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20 **WHEREAS**, the public hearing notice posting as required by AMC 2.30.060 has been
21 satisfied and is on the Municipal Webpage for Current Public Notices; and
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23 **WHEREAS**, notice of the proposed resolution and public hearing has been given to the
24 applicant and the Downtown Community Council ten days in advance as required by AMC
25 2.30.120F. and AS 04.21.010(d); and
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27 **WHEREAS**, the Municipal Clerk reports the following status concerning this location:
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- 29 1. Any ABC Board violations and/or incidents on file that would lead to an ABC
30 Board violation are attached; and
- 31 2. There are no taxes owing to the Municipality of Anchorage; and
- 32 3. Conditional Use Permit required by AMC 21.50.160 **has not been approved**;
33 and
- 34 4. Certifications from the Anchorage Health Department, the Anchorage Fire
35 Department and Building Safety Official **have been received**; and
36

37 **WHEREAS**, the Assembly has provided the liquor licensee the opportunity to defend the
38 renewal application, has considered the testimony and evidence relevant to this liquor
39 license, and has considered the options of either protesting or waiving protest and
40 requesting the ABC Board impose conditions;
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42 **NOW, THEREFORE**, the Anchorage Assembly resolves:
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44 **Section 1.** The Anchorage Assembly finds the applicant and the Downtown
45 Community Council were given notice and a public hearing was properly held March 15,
46 2022 and continued to a special meeting held on March 18, 2022 for purposes stated

1 herein with relevant evidence presented as indicated in the public records maintained by
2 the Municipal Clerk.

3
4 **Section 2.** Per Anchorage Municipal Code section 2.30.125, in the exercise of its
5 powers and under AS 04.11.480 and 3 AAC 304.145 to protest issue, renewal and
6 transfer of alcoholic beverage licenses within the municipality, the assembly shall
7 consider whether the proposed license meets the factors and standards set forth in that
8 section, and those potentially relevant, pending the public hearing, to the transfer
9 application for license #4531 and for license #4551 are listed below.

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11 A. After review of the application and all relevant information, the Assembly finds that
12 **(only check items that apply):**

- 13
14 Concentration and land use. The transfer of location or issuance of the requested
15 license will negatively impact the community through an increase in the
16 concentration of uses involving the sale or service of alcoholic beverages within
17 the area affected and will **not** conform to the separate standards of section
18 21.05.020.
- 19 Training. The applicant cannot demonstrate prospective or continued compliance
20 with a liquor server awareness training program approved by the state alcoholic
21 beverage control board, such as or similar to the program for techniques in alcohol
22 management (T.A.M.). Until such plan is approved, training by a licensee's
23 employees in the T.A.M. shall constitute compliance with this section. (This
24 subsection is effective December 1, 1985.)
- 25 Operations procedures. The applicant cannot demonstrate prospective or
26 continued compliance with operations procedures for licensed premises set forth
27 in section 10.50.035.
- 28 Public safety. The operator cannot demonstrate the ability to maintain order and
29 prevent unlawful conduct in licensed premises. For purposes of this section and
30 section 10.50.035 the term "licensed premises" shall include any adjacent area
31 under the control or management of the licensee.
- 32 Payment of taxes and debts. Pursuant to AS 4.11.330, the applicant is delinquent
33 in payment of taxes owed to the municipality for the payment of any debts or taxes,
34 including any estimated taxes for the current year arising from the conduct of the
35 licensed business.
- 36 Public health. The operator has engaged in a pattern of practices injurious to public
37 health or safety, such as providing alcohol to minors or intoxicated persons,
38 committing serious violations of state law relevant to public health or safety, or
39 other actions within the knowledge and control of the operator which place the
40 public health or safety at risk. The assembly has considered criminal convictions,
41 credible proof of illegal activity even if not prosecuted, police reports, testimony
42 presented before the assembly, written comments submitted prior to or during the
43 public hearing, and other evidence deemed to be reliable and relevant to the
44 purpose of this subsection and this resolution.
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- 1. The Anchorage School District has provided for the review of the Assembly a letter opposing the transfer of these licenses due to the proximity of the proposed location being within the 200 foot separation from a protected use, as defined in Alaska Statute 04.11.410, the Step Up academic program for disadvantaged students which is operated by the School District. Issuance of this license would be in violation of Alaska Statute 04.11.410. Letter is attached as exhibit A.
- 2. The Municipality of Anchorage has provided for the review of the Assembly a letter denying the permit application as the proposed unlicensed nightclub did not meet the 300 foot separation distance to a school as required under AMC 21.05.050D.8.c. Letter is attached as exhibit B.
- 3. The Downtown Community Council, as of March 4, has provided for the Assembly to review an unsigned draft of a Council Resolution opposing the transfer of these licenses due to numerous concerns as outlined in exhibit B. It is anticipated that after the special meeting of the Downtown Community Council, on March 9, 2022, the Council will provide for the Assembly review a signed Council Resolution regarding the transfer of these licenses as outlined by exhibit C.

Section 3. Per AMC subsection 2.30.120F., in the exercise of its rights under AS 04.11.480(c), based on the evidence and information provided, and based on the findings in Section 2, the Assembly respectfully requests that the Alcoholic Beverage Control Board deny the transfer of beverage dispensary liquor license #4531 and #4551.

Section 4. The Municipal Clerk shall provide a copy of this Assembly Resolution to AMCO as proof that the Anchorage Assembly, as the local governing body, has stated its **protest** of the transfer of beverage dispensary liquor license, #4531 and beverage dispensary liquor license #4551.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2022.

Chair

ATTEST:

Municipal Clerk