

A RESOLUTION TO OPPOSE THE TRANSFER OF LICENSE OF LED LOUNGE TO THE PROPOSED LOCATION ON 3RD AND E STREET.

(Substitute Version) March 4, 2022

- 1 **WHEREAS**, the Downtown Community Council (DTCC) is in receipt of applications from the
- 2 Alcoholic Beverage Control (ABC) Board for transfer of ownership and transfer of location from
- 3 Robert Alexander to LED Ultra Lounge and Tri Grill LLC (LED) of beverage dispensary license
- 4 #4531 (Exhibit A) and duplicate licenses #4551 (Exhibit B) to the proposed premise located at
- 5 420 W 3rd Ave., Anchorage, Alaska; and
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- 7 **WHEREAS**, Anchorage Municipal Code (AMC) 2.40.050(e)(1) determines an advisory function of
- 8 the Downtown Community Council is to receive and review alcohol beverage control board
- 9 applications; and
- 10
- 11 **WHEREAS**, AMC 2.30.120 and Alaska State Statute (AS) 04.11.480 provide the Anchorage
- 12 Assembly the opportunity to protest a license transfer upon facts that render the particular
- 13 application objectionable to the local governing body, or may be based on general public policy
- 14 with a reasonable basis in fact, not contrary to law, and not patently inapplicable to the
- 15 particular application; and
- 16
- 17 **WHEREAS**, the transfer of location from 901 W 6th Ave. to 420 W 3rd Ave. materially changes the
- 18 environmental conditions in which the business could create a significant impact on the use and
- 19 enjoyment of adjacent properties by property owners and occupants; and
- 20
- 21 **WHEREAS**, the Downtown Community Council and the Municipality of Anchorage face
- 22 increasing public safety challenges in the downtown business district area of 3rd Ave. and E st.
- 23 due to the density of residential homeowners and hotel beds; and
- 24
- 25 **WHEREAS**, within the most recent 23-year period, the Anchorage Assembly has protested
- 26 multiple beverage dispensary license transfers based on operators control of noise and placed
- 27 specific conditions to alleviate noise problems on other locations within close proximity of the
- 28 proposed premise, due to the densely populated residential units and hotel beds (Exhibit C);
- 29 and
- 30
- 31 **WHEREAS**, AR 2004-010 highlights the mediation between the previous Woodshed Lounge,
- 32 located at 535 W 3rd Ave, and the Turnagain Arm Homeowners Association in regards to noise
- 33 levels, agreeing that entertainment would end by 10:00pm each night and after 10:00pm noise
- 34 levels would not exceed levels allowed under AMC code (Exhibit D); and
- 35

1 **WHEREAS**, the previous Woodshed Lounge location is now occupied by Matanuska Brewing
2 Downtown Beverage Dispensary license #1244, d.b.a. The Broken Blender, located at 535 W 3rd
3 Ave.; and
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5 **WHEREAS**, per AR 2019-328 (Exhibit E), due to the history of continual noise complaints from
6 residents in close proximity to the location, The Broken Blender has the same conditional use
7 provision for their deck that prohibits entertainment after 10:00pm each night and has been
8 successful abiding by the noise ordinances, setting the precedent that a bona fide restaurant
9 can operate effectively in the immediate area with minimal complaints; and
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11 **WHEREAS**, per AR 2012-298(s) (Exhibit F) and AR 2015-1 (Exhibit G) the precedent has been set
12 by both the DTCC and the Anchorage Assembly that the downtown business district requires
13 more careful scrutiny of certain uses to the negative impacts resulting from a similar club
14 profile business that offers recorded music, live music, and patron dancing, open until 2:30am
15 on weeknights, and 3:00am on weekends operating near a residential area; and
16

17 **WHEREAS**, Exhibit A, page 14 and Exhibit B, page 14, the licensee LED Ultra Lounge & Grill, LLC.
18 completed Form AB-03: Restaurant Designation Permit Application for both license #4531 and
19 #4551 and entered hours of operation as "Monday thru Sunday: each day 11 am – 5am; and
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21 **WHEREAS**, the licensee is in violation of AMC 10.50.010, "Premises licensed under AS 4.11.080
22 for the service and consumption of alcoholic beverages shall be closed for the sale, service and
23 consumption of alcoholic beverages between the hours of 2:30am and 10:00am Monday
24 through Friday, and between the hours of 3:00am and 10:00am on Saturday or Sunday or on a
25 legal holiday recognized by the state under AS 44.12.010, except that the following premises
26 may remain open between the hours of 3:00am and 4:00am on Saturday or Sunday or on a
27 legal holiday recognized by the state under AS 44.12.010 ("bar safety hour"); and
28

29 **WHEREAS**, LED Ultra Lounge and Grill meets the definition of a night club, per AMC
30 21.05.020(8), defined as an enterprise, that, for consideration, provides entertainment to its
31 patrons in the form of floorshows; dance revues; live, recorded, or electronically enhanced
32 music; patron dancing; or performances by live or recorded professional or amateur
33 entertainers. Discotheques, nightclubs, bars, lounges, dance halls, bistros, teen clubs, and any
34 facility that meets the terms of this definition are often, but not exclusively, open during one or
35 more of the hours between 11:00pm and 3:00am; and
36

37 **WHEREAS**, LED has a long standing demonstrated history of events with entertainment
38 between the hours of 11:00pm and 3am, in fact, the majority of previous LED events state that
39 the doors open at 10:00pm, see social media posts and flyers (Exhibit H); and
40

41 **WHEREAS**, Mr. Alexander intends to operate the business the same at the new 420 W 3rd Ave.
42 premise evidenced by his eight caterer's permit applications that were denied for events
43 between October 9 and November 27, 2021, with the same event name "LED opening event"
44 where the permit was "to cater a typical event with both alcohol and food the same as what I

1 have done at location 901 W. 6th Ave for the past 7 years. Approx 200-300 people, 21+ only,
2 between the hours 12:00pm and 3:00am” (Exhibit I); and
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4 **WHEREAS**, the LED Facebook social media page lists LED Ultra Lounge and Grill 2.0 as a Dance &
5 Night Club with 420 W 3rd Ave. as their premise location (Exhibit J); and
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7 **WHEREAS**, during the periods 2018-2019 there were numerous documented complaints by the
8 neighbors attributed to the LED operation, located at 901 W 6th Ave., and the community
9 outreach flagged the need for the DTCC Alcohol & Marijuana Committee to conduct a
10 mediation on 7/31/2019 between LED and many surrounding neighbors (Exhibit K); and
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12 **WHEREAS**, AR No. 2020-103 and AR No. 2020-104 (Exhibit L), during the license renewal period
13 in 2020, objections were raised by the Assembly and property owners due to the impact of
14 operations of LED; and
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16 **WHEREAS**, the commercial lease agreement between Gallo Limited Partnership and the LED
17 Ultra Lounge & Grill for the location 420 W 3rd Ave. identifies the permitted use of premises as
18 restaurant, bar, and night club (Exhibit M); and
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20 **WHEREAS**, on 2/24/22 Mr. Alexander submitted an application for administrative permit for an
21 unlicensed nightclub to the Municipality of Anchorage Planning Department/ Land Use (Exhibit
22 N); and
23

24 **WHEREAS**, per AMC 21.05.050D.8 in the description of nightclubs, certain types of enterprises
25 have been determined to produce secondary impacts on surrounding land uses. The impacts
26 include a perceived decline in property values, and an increase in the level of criminal activity,
27 including unlawful sales and use of drugs and consumption of alcoholic beverages, and noise
28 conflicts in the vicinity of these types of enterprises; and
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30 **WHEREAS**, the Hilton Downtown Anchorage located at 500 W 3rd Ave., with 606 beds, is the
31 number two hotel based on assessed value in Downtown Anchorage and is a major economic
32 driver for the municipal government for both bed tax and property tax, paying \$830,298.53 in
33 property tax 2021, not included in this number is substantial bed tax as well (Exhibit O); and
34

35 **WHEREAS**, the Hilton Downtown Anchorage opposes the transfer of LED to 420 W 3rd Ave
36 (Exhibit P); and
37

38 **WHEREAS**, per AMC 21.05.050ii, Minimum Distance from Certain Uses, “Except for teen
39 nightclubs and underage dances permitted under AMC chapter 10.55, an unlicensed nightclub
40 shall be located so that all portions of the lot on which the unlicensed nightclub is located shall
41 be 300 feet or more from the lot line of property on which is located: (A) A school or
42 instructional service serving any combination of grades kindergarten through 12; (B) A childcare
43 center; (C) Property zoned residential; or (D) TA-zoned property designated as residential in the
44 Turnagain Arm Comprehensive Plan; and

1 **WHEREAS**, the Turnagain Arms Residential Condo Building, located at 525 W 3rd Ave., is
2 occupied as residential property with 69 residential units; and

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4 **WHEREAS**, the proposed location of 420 W 3rd Ave. is within 300 feet of the Turnagain Arms
5 Residential Condo Building and is in violation of the spirit of AMC 21.05.050ii (Exhibit Q); and

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7 **WHEREAS**, per AS 04.11.410, Alcoholic beverages restriction of location near churches and
8 schools a) a beverage dispensary or package store license may not be issued and the location of
9 an existing license may not be transferred if the licensed premises would be located in a
10 building the public entrance of which is within 200 feet of a school ground or a church building
11 in which religious services are regularly conducted, measured by the shortest pedestrian route
12 from the outer boundaries of the school ground or the public entrance of the church building;
13 and

14
15 **WHEREAS**, the Anchorage School District Step Up Secondary Alternative school in which classes
16 are regularly conducted is located at 411 W 3rd Ave. (Exhibit R); and

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18 **WHEREAS**, Exhibit A, page 9 and Exhibit B, page 9, Forms AB-02 the applicant identifies the
19 main public entrance for both applications as the northeast doors opening to the COHO parking
20 lot on W 3rd Ave.; and

21
22 **WHEREAS**, Exhibit N, page 5, the applicant identifies the main public entrance for the nightclub
23 as the northeast doors opening to the COHO parking lot on W 3rd Ave.; and

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25 **WHEREAS**, in violation of AS 04.11.410, the proposed main entrance, when measured by the
26 shortest pedestrian route from the outer boundary of school ground, is within 200 feet of a
27 school (Exhibit S); and

28
29 **WHEREAS**, in violation of AMC 21.05.050ii, Exhibit S further demonstrates all other entrances
30 and exits of the proposed location of 420 W 3rd Ave. are within 300 feet of a school or
31 instructional service serving any combination of grades kindergarten through 12; and

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33 **WHEREAS**, per AS 04.11.410, the Anchorage School District (ASD) is officially opposing the
34 transfer of LED to 420 W 3rd Ave. (Exhibit ; and

35
36 **NOW THEREFORE IT BE RESOLVED**, that the Downtown Community Council hereby requests
37 the Assembly to PROTEST the transfer of beverage dispensary licenses #4351 and #4551 to the
38 proposed premise located at 420 W 3rd Ave., Anchorage, Alaska for the following reasons:

- 39
40
41 1. The application violates AS 04.11.410, where the main entrance is within 200 feet of a
42 school boundary and ASD is opposing it.
43 2. The application violates AMC 21.05.050ii and creates a special land use conflict, as all
44 entrances and exits are within 300 feet of a school.

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- 3. The application violates the spirit of AMC 21.05.050ii and creates a special land use conflict, as all entrances and exits are within 300 feet of a building occupied as residential property.
- 4. Based on more than 20 years of history experienced by the Municipality at the proposed location and close vicinity, it has been established that there is a permanent negative impact greater than emancipated from permitted development, on a) pedestrian and vehicular traffic circulation and safety; b) the demand for and availability of public services and facilities; and c) noise and public litter concerns of a nightclub profile.
- 5. The application presented by LED is inconsistent with State law and Municipal code on numerous counts.

PASSED and APPROVED by the Downtown Community Council this _____ day of March, 2022.

Signed:
Its:
Downtown Community Council

1 This resolution references the following Exhibits, as attached to this Resolution for ease of
2 tracking and reference:

3
4 **Exhibit A** - Application of a Beverage Dispensary Liquor License Transfer of Location and
5 Ownership for Tri Grill, LED Ultra Lounge & Grill #4531.

6
7 **Exhibit B** - Application of a Beverage Dispensary Duplicate Liquor License Transfer of Location
8 and Ownership for Tri Grill, LED Ultra Lounge & Grill #4551.

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10 **Exhibit C** - AR 99-121 A Resolution of the Anchorage Municipal Assembly waiving protest of the
11 renewal of the Woodshed's Beverage Dispensary Liquor License subject to certain conditions.

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13 **Exhibit D** - AR 2004-10 A Resolution of the Anchorage Municipal Assembly approving a
14 conditional use fo an alcoholic beverages conditional use in the B-2C district for a duplicate
15 beverage dispensary license per AMC 21.40.170 D.14 for the Woodshed Lounge, located on the
16 lower level floor, Anchorage original townsite, block 17, lot 7a; generally located on the
17 northeast corner of West 3rd Avenue and F Street.

18
19 **Exhibit E** - AR 2019-328(S) A Resolution of the Anchorage Municipal Assembly approving an
20 amendment to an alcoholic beverages conditional use for beverage dispensary license number
21 1244 for Matanuska Brewing downtown, llc, dba Matanuska Brewing Downtown Brewpub; in
22 the b-2c (Central Business District, periphery) district; located at 535 West 3rd Avenue, within
23 lot 7a, block 17, Anchorage Original Townsite; generally located north of West 3rd Avenue, east
24 of F street, south of west 2nd Avenue, and West of E street, in Anchorage (Downtown
25 Community Council) (case 2019-0110), Planning Department.

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27 **Exhibit F** - AR No 2012-298(S) A Resolution of the Anchorage Municipal Assembly setting a
28 hearing regarding the renewal of transfer of Liquor License #4157 for Basilio Gallo dba
29 Rumrunner's Old Towne Bar & Grill, located at 415 E Street, Anchorage, Alaska; stating its
30 protest of the renewal or transfer; and giving notice of violation.

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32 **Exhibit G** - AR 2015-1 A Resolution of the Anchorage Municipal Assembly stating its protest
33 regarding transfer of Beverage Dispensary liquor license #4531 and duplicate licenses #4551
34 and #4552 for premises located at 901 West 6th Avenue, Anchorage, Alaska; giving notice of
35 reasons for protest; and further providing for Public Hearing before the Assembly on the
36 exercise or waiver of this protest.

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38 **Exhibit H** - Advertising from LED Lounge Facebook page for events during 2019-2021.

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40 **Exhibit I** - 8 denied applications from the State of Alaska Alcohol Beverage Control Board for
41 Catering Permits from October 2021 through November 2021.

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43 **Exhibit J** - LED Facebook page categorized as a nightclub.
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- 1 **Exhibit K** - Downtown Community Council Alcohol & Marijuana Committee LED & Neighbors
2 Mediation Meetings Notes 7/31/19 & 9/11/19.
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- 4 **Exhibit L** - AR 2020-103 A Resolution of the Anchorage Municipal Assembly regarding the State
5 of Alaska application for the renewal of a Beverage Dispensary-Duplicate Liquor License #4551
6 for Robert Alexander dba LED Ultra Lounge & Grill located at 901 W 6th., Anchorage, AK 99501,
7 and authorizing the Municipal Clerk to take certain action and AR 2020-104 A Resolution of the
8 Anchorage Municipal Assembly regarding the State of Alaska application for the renewal of a
9 Beverage Dispensary Liquor License #4531 for Robert Alexander dba LED Ultra Lounge & Grill
10 located at 901 W 6th., Anchorage, AK 99501, and authorizing the Municipal Clerk to take
11 certain action.
12
- 13 **Exhibit M** - Commercial lease agreement between Gallo Limited Partnership and the LED Ultra
14 Lounge & Grill for the location 420 W 3rd Ave.
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- 16 **Exhibit N** - LED application for administrative permit for an unlicensed nightclub to the
17 Municipality of Anchorage Planning Department/ Land Use.
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- 19 **Exhibit O** - Anchorage Municipality of Anchorage property tax information for Hilton Downtown
20 Anchorage.
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- 22 **Exhibit P** - Letter from Hilton Downtown Anchorage in opposition on the LED transfer to 420 W
23 3rd Ave.
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- 25 **Exhibit Q** - Distance as tracked from Anchorage Municipal Website from Turnagain Arms Condo
26 to LED Lounge.
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- 28 **Exhibit R** - Letter on Anchorage School District (ASD) letterhead verifying the address of the ASD
29 Step Up Secondary Education School.
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- 31 **Exhibit S** - Distance as tracked from Anchorage Municipal website from Anchorage School
32 District School boundary to LED Lounge.
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- 34 **Exhibit T** - Letter from Anchorage School District in opposition on the LED transfer to 420 W 3rd
35 Ave. due to the violation of AS 04.11.410.