

**TITLE 23**

**LIQUOR CONTROL**

DRAFT

### **Section 101: Authority**

Under authority granted in 7 V.S.A. Chapters 1-25; 24 V.S.A. Part 2, Chapter 61, Subchapter 11; and 24A V.S.A. Chapter 11; the City Council of the City of St. Albans ordains the following civil ordinance regulating liquor.

### **Section 102**

- a) The purpose of this section is to preserve and promote the public health, safety, and welfare by regulating the sale and the consumption of alcoholic beverages within the City of St. Albans. It is the intent of this section to allow alcohol related businesses and the residents of the City to peacefully coexist in a manner which is mutually respectful of the interests and rights of each other and the general public.
- b) This ordinance is meant to compliment or amplify any applicable municipal, state or federal regulations, laws, statutes, ordinances, or conditions.

### **Section 103: Definitions**

As used in this section, all terms shall be as defined by 7 V.S.A. Chapter 1, Section 2. In addition:

- (a) The word "license," as used in this Ordinance, shall mean a license issued pursuant Title 7 Vermont Statutes Annotated.
- (b) The word "Commission," as used in this Ordinance, shall mean the St. Albans City Council when convened as the Local Liquor Control Commission.
- (c) The word "City," as used in this Ordinance, shall mean the City of St. Albans.
- (d) A "Low-Volume Alcohol Vendor," as used in this Ordinance, shall mean a Licensee who operates an establishment whose annual sales of alcoholic beverages is less than forty percent (40%) of its total annual sales.
- (e) A "High-Volume Alcohol Vendor," as used in this Ordinance, shall mean a Licensee who operates an establishment whose annual sales of alcoholic beverages is forty percent (40%) or more of its total annual sales.

### **Section 104: Adoption of Vermont Liquor Control Board Rules and Regulations**

This Ordinance adopts the Rules and Regulations of the Vermont Liquor Control Board as amended.

### **Section 105: Duration of license**

In accordance with 7 V.S.A. §232, all licenses shall expire at midnight on April 30 of the year following issuance unless extended, renewed, or otherwise approved by the Commission with the approval of the Vermont Liquor Control Board, and upon the payment of a new fee.

**Section 106: Application.**

All licenses shall be issued by the City Clerk in accordance with the procedure and requirements outlined in Title 7 Vermont Statutes Annotated and the Rules and Regulations of the Vermont Liquor Control Board. In compliance with these requirements, before a license shall be granted, the applicant shall file a written application with the City Clerk signed by the applicant and stating the applicant's place of residence with street and number, the particular type of license desired and that the applicant will observe the conditions of the license and all provisions of the ordinances governing it. Said Application shall be submitted at least 10 business days prior to the date of the event or commencement of business.

Upon receipt of an application, the City Clerk shall conduct a background check of the applicant, at the applicant's sole expense, that shall be completed prior to the application being considered by the Commission.

**Section 107: Fees**

Fees shall be as determined in 7 V.S.A. §231.

**Section 108: License Approval / Suspension / Revocation / Renewal**

(a) Pursuant to its statutory authority, the Commission may approve, deny and/or condition all applications for a license.

1. Without limitation, any of the following may be grounds for disapproval or nonrenewal of the license:
  - A. The business premises do not comply with applicable City ordinances and State laws.
  - B. The application is incomplete or contains any material misrepresentation.
  - C. The application does not show adequate measures for the protection of the public health, safety or welfare of persons on site and in the areas surrounding the premises.
  - D. If, in accordance with to 32 V.S.A. §3113(f), taxes administered by the Vermont Department of Taxes/Commissioner of Taxes to the Licensee have not been paid and the Licensee's liability for such taxes is not under appeal.
  
2. The Standard conditions for all licenses shall be as follows:

- A. Licensee agrees that it shall comply with all City and State conditions, laws, ordinances and regulations and that the failure to do so may result in the Commission suspending or revoking the license for violation of this condition.
- B. Licensee agrees that it will ensure that lighting in its establishment is illuminated such that inspectors, law enforcement officers, the licensee and its agents shall be able to read the identification documents of persons throughout the interior of the establishment.
- C. Licensee agrees that it will ensure that patrons waiting to enter their establishments leave the sidewalk adjacent to the establishment open for pedestrians to pass.
- D. Licensee agrees that it will maintain the public right-of-way adjacent to its premises clear of all refuse and debris (i.e. paper, glass, cigarette butts, etc.) and understands that failure to do so may result in the Local Control Commission imposing a suspension for repeated violations of this condition.
- E. Licensee acknowledges and agrees that discounting practices that encourage overconsumption of alcohol (i.e. happy hours, two for ones, all you can drink for a set price, free alcohol or selling at less than cost) are prohibited.
- F. All first class licensees agree and understand that they must be in full compliance with any annual fire safety inspection of their establishments. This inspection shall be conducted no more than 120 days prior to the beginning of the new licensing year.
- G. Licensee agrees that all its advertising will be consistent with any license or permit issued.
- H. All licensees shall report any changes in management or contact information to the City Clerk's office in writing within 30 days of such change.
- I. All First Class Licensees' agree that they must keep a copy of the establishment's complete floor plan on file in the City Clerk's office. Any changes to the floor plans must be filed with the Clerk's office within 14 days of such change.
- J. Licensee agrees that it shall indemnify and reimburse the City for any damage sustained by the City by reason of the granting or exercise of such license.
- K. Licensee agrees that it shall maintain, at all times while its license is in effect, appropriate insurance covering reasonable liability of the type(s) and minimum coverage amounts required by the City of St. Albans' Liquor Control Ordinance and State of Vermont Statutes.

(b) Pursuant to the authority granted by 7 V.S.A. §§ 167 and 236, any license may be suspended or revoked at any time by the Commission for cause, after notice and hearing, if it finds in its sole discretion that, without limitation, a violation of one or more of the following has occurred:

1. Title 7 of Vermont Statutes Annotated.
2. Any condition pursuant to which such license was granted.
3. Any duly adopted City Ordinances regulating entertainment or public nuisances.
4. Any rule or regulation prescribed by the State of Vermont Liquor Control Board.
5. The Licensee has materially misrepresented or failed to disclose any material information to the Commission in connection with the application for the License.
6. The operation of the premises has become a proximate cause of an increase in disturbance on the premises or in the immediate vicinity of the premises.
7. If, pursuant to 32 V.S.A. §3113(f), taxes administered by the Vermont Department of Taxes/Commissioner of Taxes to the Licensee have not been paid and the Licensee's liability for such taxes is not under appeal.

No revocation shall be made by the Commission, however, until the licensee shall be notified and be given a hearing before the State of Vermont Liquor Control Board, unless such licensee shall have been convicted by a court of competent jurisdiction of violating the provisions of Title 7 Vermont Statutes Annotated.

Without limitation, any violation of the above may also be the basis for the non-renewal or conditioning of a License by the Commission.

**Section 109: Sale, assignment or transfer prohibited.**

No license may be sold, assigned or transferred.

**Section 110: Indemnification of City and Insurance.**

- a) All licenses shall be subject to the condition that the licensee shall indemnify and reimburse the City for any damage sustained by the City by reason of the granting or exercise of such license.
- b) All holders of any class of license shall be required to have the appropriate insurance covering reasonable liability. Low-Volume Alcohol Vendors must maintain appropriate liability coverage in an amount not less than \$250,000 per occurrence (such coverage may include so-called DRAM SHOP coverage, general liability coverage or a combination of both). High-Volume Alcohol Vendors must maintain appropriate liability coverage including, but not limited to, so-called DRAM SHOP coverage in an amount not less than \$500,000.00 per occurrence. Prior to issuance of a license, the license

holder shall produce to the City a Declaration Page proving the coverage required by this Ordinance.

**Section 111: License issuance and display.**

The City Clerk shall furnish each license granted by the Commission. This license shall be conspicuously displayed by the licensee according to the provisions of the license, State statutes and Vermont Liquor Control Board Rules and Regulations.

**Section 112: Enforcement.**

- a) It shall be the duty of the Commission to see that all licensees are in compliance with this ordinance, Title 7 Vermont Statutes Annotated, the conditions pursuant to which such license was granted, duly adopted City Ordinances regulating entertainment or public nuisances, and all rules and regulations prescribed by the State of Vermont Liquor Control Board. The Commission shall enforce all violations in accordance with state statutes and this ordinance.
- b) Any certified Vermont law enforcement officer, including but not limited to St. Albans City Police Officers, shall be the designated enforcement officers. They may issue written reports and/or complaints and may be an appearing officer at any hearing.

**Section 113: Classification of Violations**

Any violation of this ordinance shall be punishable as a civil offense and/or pursuant to the authority delegated to the Commission by 7 V.S.A. Chapters 1-25 and the Rules and Regulations of the Vermont Liquor Control Board. Violations of this Ordinance shall be designated, in their sole discretion, by the Commission as one of three classes of violation.

- a) The three classes of violations shall be as follows:
  - 1. Class A violations pose a real or potential threat to public health, safety, and welfare and/or are deemed a significant violation(s) by the Commission.
  - 2. Class B violations result from a regulatory infraction and/or are deemed to be a public nuisance that is a level of severity below that considered a Class A violation by the Commission. A second Class B violation, and any additional Class B violations, within a 12-month period may be considered Class A violations.
  - 3. Class C violations result from an administrative infraction and/or are deemed to be a public nuisance that is a level of severity below that considered a Class B violation by the Commission. A fourth Class C violation, and any additional Class C violations, within a 12-month period may be considered Class A violations.

b) The table and reference to the appropriate state website, below, illustrates the rules and regulations that, when violated, can constitute a Class A, B or C violation. This table shall be used to provide guidance to the Commission and Licensees but in no way shall it limit the factors that the Commission may consider when determining the Class of a violation or the penalty to be imposed.

CLASS A VIOLATIONS	CLASS B VIOLATIONS	CLASS C VIOLATIONS
General Regulation # 2	General Regulation # 5	General Regulation # 11
General Regulation # 3	General Regulation # 7	General Regulation # 20
General Regulation # 4	General Regulation # 8	General Regulation # 21
General Regulation # 6	General Regulation # 9	General Regulation # 38
General Regulation # 12	General Regulation # 10	General Regulation # 51
General Regulation # 13	General Regulation # 31	
General Regulation # 14	General Regulation # 32	
General Regulation # 15	General Regulation # 33	
General Regulation # 16	General Regulation # 34	
General Regulation # 17	General Regulation # 35	
General Regulation # 18	General Regulation # 41	
General Regulation # 19	General Regulation # 42	
General Regulation # 22	General Regulation # 44	
General Regulation # 23	General Regulation # 45	
General Regulation # 24	General Regulation # 46	
General Regulation # 25	General Regulation # 49	
General Regulation # 26	General Regulation # 50	
General Regulation # 27		
General Regulation # 28		
General Regulation # 29		
General Regulation # 30		
General Regulation # 36		
General Regulation # 37		
General Regulation # 39		
General Regulation # 40		
General Regulation # 43		
General Regulation # 47		
General Regulation # 48		

\* The term “General Regulation” in the table above refers to the Vermont Liquor Control Board General Rules and Regulations, as amended. Such General Rules and Regulations can be found at <http://www.liquorcontrol.vermont.gov/enforcement/regulations> or by contacting the Vermont Department of Liquor Control.

**Section 116: Penalties**

The Penalties for Class A, B, and C violations shall be as follows:

Class A violations: Suspension of license for at least ten (10) business days, a penalty of up to \$800 per violation and/or revocation of license.

Class B violations: Suspension of license for no more than nine (9) business days and/or penalty of up to \$500 for each violation.

Class C violations: Suspension of license for no more than four (4) business days and/or penalty of up to \$250 for each violation.

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