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TO: Mayor and Councilmembers
FROM: Timothy J. Kuntz, City Attorney
DATE: January 3, 2018
RE: First Reading of Ordinance Amending City Code Section 4-1-6(I) relating to the Distances between an Off-sale Intoxicating Liquor Facility and a School or Church; January 8, 2018 Council Meeting

Section 1. Background. IGH City Code Section 4-1-6(I) dealing with liquor licenses requires that a 500 foot distance exist between an on-sale intoxicating liquor facility and a church parcel or school parcel. The distance is measured between the nearest property line of the parcel on which the on-sale intoxicating liquor facility is located and the nearest property line of the school parcel or church parcel. The distance is measured between parcel property lines rather than the distance between buildings.

This requirement is generally easy to administer when the on-sale establishment is a freestanding building on a lot containing only the on-sale intoxicating liquor facility.

When the on-sale establishment is part of a strip shopping center or a small part of a much larger lot with multiple buildings and multiple uses, there is some uncertainty in how the requirement should be applied. This is particularly true when there is shared parking because the definition of parcel includes all parking areas used in conjunction with the on-sale establishment.

An instance of this type has arisen with respect to Village Square Shopping Center and its juxtaposition to the parcel containing Hilltop Elementary School. The school parcel is about 12.21 acres. The Village Square Shopping Center parcel is about 9.92 acres and touches the Hilltop Elementary School parcel. The Village Square Shopping Center parcel contains multiple uses and multiple buildings and generally has shared parking for the multiple buildings.

In the building that contains Aldi Foods, there is an open space available for lease and a possible tenant has expressed an interest in leasing the open leased space for an off-sale liquor establishment.

The leased space is walled off from Aldi Foods and has its own identifiable separate entrance. Part of the leased space is 500 feet away from the Hilltop Elementary School parcel; part is not. The main entrance of the leased space is 500 feet away; the storage door entrance is not. Some of the shared parking is 500 feet away; some is not.

Section 2. Council Action. At the January 8, 2018 Council meeting the Council is asked to consider the first reading of an ordinance that would amend Section 4-1-6(I). Where there are large parcels (more than one acre) and where there are multiple buildings or leased spaces with shared parking, the amendment would provide that the 500 foot measurement be taken from the main entrance of the off-sale liquor establishment to the nearest parcel boundaries of the school parcel or church parcel.

Attachment

CITY OF INVER GROVE HEIGHTS

DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. _____

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE
SECTION 4-1-6 (I) RELATING TO THE DISTANCES BETWEEN AN OFF-SALE
INTOXICATING LIQUOR FACILITY AND A SCHOOL OR CHURCH**

THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS ORDAINS AS FOLLOWS:

Section One. Amendment. Section 4-1-6(I) of the Inver Grove Heights City Code is hereby amended to read as follows:

I. No off-sale intoxicating liquor license may be granted for a facility located on a parcel which lies within five hundred feet (500') of a parcel on which a school or church is located. The distance established herein shall be measured between the nearest property lines of the parcels.

For the purposes of this subsection, "parcel" means the lots on which the subject building exists, plus the adjoining lots used in conjunction with the liquor facility, church or school including any parking areas.

Provided, however, the following exceptions and qualifications to the above stated distance requirement shall apply:

1. Licenses that existed on October 1, 1995, for locations that do not meet the requirements of this subsection may nonetheless be renewed or transferred for such locations.
2. If a school or church in the future expands or is built within five hundred feet (500') of a licensed location that did meet the requirements of this subsection, the license may nonetheless be renewed or transferred for such location.
3. If a government entity acquires a licensed location that was within five hundred feet (500') of a school parcel or church parcel, then the license may be transferred to another location within five hundred feet (500') of the same school parcel or the same church parcel as long as the relocation occurs within forty two (42) months after the acquisition by the government entity.
4. If a government entity acquires a licensed location that was within five hundred feet (500') of a school parcel or church parcel, then the license may be temporarily transferred to another location for a period up to thirty (30) months within five hundred feet (500') of any school parcel or any church parcel as long as the relocation occurs within six (6) months after the acquisition by the government entity; in such instance, the authorization for the temporary relocated site expires after thirty (30) months from the time that the city issued the license for the relocated

site; after the thirty (30) month period, the relocated site is no longer eligible for an off-sale intoxicating liquor license.

5. If the on-sale intoxicating liquor facility is on property of one acre or more, and if the property contains multiple buildings or contains multiple leased spaces, and if the on-sale intoxicating liquor facility shares parking with other uses on the property, then the measurement of the five hundred foot (500') distance shall be from the main customer entrance for the on-sale intoxicating liquor facility to the nearest property lines of the church parcel or school parcel.

Section Two. Effective Date. This ordinance amendment shall be effective from and after its passage and publication according to law.

Passed this ___ day of _____, 2018.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

Michelle Tesser, City Clerk