

## ORDINANCE NO. 37

An ordinance to define ardent spirits and to prohibit the manufacture, use, sale, offering for sale, transportation, keeping for sale, and giving away of ardent spirits, or drugs, as herein defined, except as provided herein; declaring certain ardent spirits contraband, and prescribing procedure for search therefor and forfeiture thereof; to prohibit advertisement of such ardent spirits; to prescribe the jurisdiction for trial and appeals of cases arising under this ordinance; to prescribe the force and effect of certain evidence and prosecutions for violation of this ordinance; defining intoxication and who is a person of intemperate habits within the meaning of this ordinance; prescribing a penalty for intoxication; prescribing certain rules of evidence in certain prosecutions under this ordinance; defining soft drinks, providing how they may be sold, regulating the sale of toilet, antiseptic preparations, patent and proprietary medicines, and flavoring extracts; to provide for the enforcement of this ordinance and to prescribe penalties for the violation of this ordinance; to make it an offense to operate an automobile, engine, or other motor vehicle while intoxicated or under the influence of liquor, and to prescribe penalties therefor; and to repeal all ordinances or parts of ordinances in conflict with this ordinance.

Be It Ordained by the City Council of the City of Alexandria, Virginia:

Section 1. ARDENT SPIRITS DEFINED.—The words ardent spirits as used in this ordinance, shall be construed to embrace alcohol, brandy, whiskey, rum, gin, wine, porter, ale, beer, all malt liquors, all malt beverages, absinthe and all compounds or mixtures or any of them; all compounds or mixtures of any of them with any vegetable or other substance; alcoholic bitters, bitters containing alcohol; also all liquids, mixtures, or preparations, whether patented or otherwise, which will produce intoxication, fruits preserved in ardent spirits, and all beverages containing more than one-half of one per centum of alcohol by volume, except as herein provided.

Section 2. PERSON, CITY AND TERRITORY EMBRACED by "CITY", DEFINED.—The word person as used in this ordinance shall be construed to embrace all natural persons, firms, corporations, combinations and associations of every kind; and the word city as used in this ordinance shall mean the City Council of Alexandria, and territorially it shall include the territory embraced within the corporate limits and within three (3) miles of said limits.

Section 3. MANUFACTURE, TRANSPORTATION, SALE, USE, ET CETERA, OF ARDENT SPIRITS RESTRICTED.—It shall be unlawful for any person in this City or within three (3) miles of the corporate limits thereof to manufacture, transport, sell, keep, or store for sale, offer, advertise or expose for sale, give away or dispense or solicit in any way, or receive orders for or aid in procuring ardent spirits, except as hereinafter provided.

But nothing in this ordinance shall be so construed as to prohibit any representative of any wholesale druggist or liquor manufacturer duly licensed under the laws of the United States to manufacture or sell ardent spirits from furnishing price lists with descriptions of the ardent spirits for sale, to druggists duly licensed and authorized under the provisions of the statutes of the State of Virginia to possess, keep, sell or store for sale such ardent spirits: Provided that such person has also obtained a permit and given bond as required by said statutes.

Section 4. ATTEMPTS, ACCESSORIES; PROCEDURE; PUNISHMENT.—It shall be unlawful for any person to attempt to do any of the things prohibited by this ordinance or to aid or abet another in doing, or attempting to do, any of the things prohibited by this ordinance.

And in a prosecution for the violation of any provisions of this ordinance, the defendant may be found guilty of an attempt, or of being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

Section 5. VIOLATIONS OF THE PROVISIONS OF THE PRECEDING SECTIONS; ACTING AS AGENT OF, SELLER, OR PURCHASER; PUNISHMENT FOR SUBSEQUENT OFFENSE.—Any person who shall violate any provisions of sections three and four of this ordinance, and any person, except a common carrier, who shall act as the agent or employee of such manufacturer or such seller, or person in so keeping, storing, offering or exposing for sale such ardent spirits, or act as the agent or employee of the purchaser in purchasing such ardent spirits, except as herein provided, shall be deemed guilty of a misdemeanor for the first offense, and of a misdemeanor for any subsequent offense committed after the first conviction and upon conviction of said subsequent offense, except the offenses of drinking, giving away or receiving or the purchasing and having in possession for personal use of ardent spirits contrary to this ordinance, such person shall be fined not less than Two Hundred and Fifty Dollars (\$250.00), nor more than Five Thousand Dollars (\$5,000.00), and shall be confined in jail not less than six months, nor more than twenty-four months and shall be sentenced to work out the term of said confinement on the public roads of this State.

Section 6. PENALTIES.—Any person who shall violate any of the provisions of this ordinance shall, except as otherwise herein provided, be deemed guilty of a misdemeanor, and be fined not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00), and be confined in jail not less than one, nor more than six months, except that any person who shall manufacture distilled ardent spirits shall be punished by a fine of not less than Two Hundred and Fifty Dollars (\$250.00) nor more than Five Thousand Dollars (\$5,000) and shall be confined in jail not less than six months nor more than twenty-four months and shall be sentenced to work out the term of said confinement on the public roads of this State, and except, further, that the sale of ardent spirits or the transportation thereof in excess of one gallon shall be punished by

a fine of not less than Two Hundred and Fifty Dollars (\$250.00), and not exceeding Five Hundred Dollars (\$500.00), and by confinement in jail not less than three nor more than twelve months. The penalty for any subsequent offense committed after the first conviction, which penalty is not herein otherwise provided for, shall be a fine not exceeding Five Hundred Dollars (\$500.00), and imprisonment in jail for not less than three months nor more than twelve months. Whereupon the trial of any charge of violation of this ordinance, other than the charge of manufacture or sale of ardent spirits, it shall appear to the justice or jury trying the case, that there has been no intentional violation of any provisions thereof, but an unintentional or inadvertent violation thereof, then the jail sentence may be omitted: Provided that in any case of possession or transportation of ardent spirits where the quantity does not exceed one pint the jail sentence may be omitted.

But the jail sentence shall not be suspended in any case of a person convicted of the illegal manufacture or the sale of ardent spirits, or the transportation thereof in excess of one gallon or for any second or subsequent conviction of any offense.

The term "conviction" as used in this ordinance is intended to mean the conviction for any act committed after the sentence of the justice whenever the time limit for perfecting an appeal shall have expired, provided the offense tried as a second offense was committed after that for which he was "convicted."

The term second or subsequent offense as used in this ordinance is intended to mean second or subsequent offenses committed against this ordinance after the defendant has been convicted of a violation of this ordinance, or State prohibition law passed since November 1, 1916.

Section 7. Whenever a fine is prescribed for the violation of this ordinance, and such fine and the costs incident to the prosecution and conviction are not paid, the defendant shall be sentenced to the State convict road force for a period of not less than three months nor more than six months, and if the ordinance prescribes a jail sentence and such sentence is imposed, then the defendant shall be sentenced to the State convict road force for the period of such jail sentence, and for the additional period of not less than three months and not more than six months.

Section 8. PENALTY WHEN FIREARMS OR OTHER DEADLY WEAPONS ARE FOUND IN POSSESSION OF PERSONS UNLAWFULLY ENGAGED IN MANUFACTURING, TRANSPORTING OR SELLING ARDENT SPIRITS.—If any person shall unlawfully manufacture, transport or sell ardent spirits as herein defined, and at the time of such manufacturing, transporting, or selling or aiding or assisting in any manner in such act, shall carry on or about his person, or have on or in any vehicle which he may be using to aid him in any such purpose, or have in his possession, actual or constructive, at or within one hundred yards of any place where any such intoxicating liquor is being unlawfully manufactured, transported or sold, any firearm, dirk, bowie-knife, razor, slung-shot, metal knucks or any weapon of like kind, he shall be deemed guilty of a misdemeanor, and on convic-

tion shall be fined not less than Two Hundred and Fifty Dollars (\$250.00) nor more than Five Thousand Dollars (\$5,000.00), and shall be confined in jail not less than six months nor more than twenty-four months and shall be sentenced to work out the term of said confinement on the public roads of this State.

All persons manufacturing, transporting, or selling, or aiding or abetting in such act, with knowledge of the possession by any one or more of their number of the deadly weapons as above set forth shall be deemed principals to the crime and punished as such.

Any such firearm, dirk, bowie-knife, razor, slung-shot, metal knucks or any weapon of like kind shall be confiscated by the City.

Section 9. SITU OF SALE WHEN SHIPMENT IS MADE BY A COMMON CARRIER.—In case of a sale in which a shipment or delivery of such ardent spirits is made by a common or other carrier, the sale thereof shall be deemed to be made in this city if the delivery thereof is made by such carrier to the consignee, his agent or employee in this city or within three (3) miles of its corporate limits. A prosecution for such sale may likewise be had in this city if the seller resides therein, or if the shipment is made therefrom.

Section 10. Prosecutions under this ordinance shall be in the name of the City Council of Alexandria, Virginia.

Section 11.—The possession by any person of ardent spirits at any place other than his permanent bona fide home shall be unlawful, and the possession at such home shall be unlawful unless the ardent spirits shall have been lawfully acquired from a person or persons authorized by law to furnish the same, or wine manufactured in the home not in violation of the provisions of this ordinance. Upon a prosecution of a person for the unlawful possession of ardent spirits, such possession shall be prima facie evidence of unlawful possession, by the person or persons occupying the premises, and the burden shall be upon the accused to satisfy the justice trying the case that he lawfully acquired possession of such ardent spirits.

Section 12. USE OF ARDENT SPIRITS IN THE HOME; HOME DEFINED.—Nothing in this ordinance shall prevent one from keeping and possessing ardent spirits in his permanent bona fide home for the personal use of himself, his family, his servants or his guests, if such ardent spirits shall have been lawfully acquired from a person or persons authorized by law to furnish the same. Nor shall any provision be construed to prevent such a lawful owner of ardent spirits, his family, or servants from giving or serving such ardent spirits to a guest in said home when the quantity given or served is not enough to produce intoxication and such gift or service is in no wise a shift or device to evade the provisions of this ordinance, but the word "home" as used herein shall be the permanent residence of the person and his family, not including the curtilage or outbuildings, and shall not be construed to include a rooming house, a club, fraternity house, lodge room or rooms, or place of common resort, or room of a guest in a hotel or boarding house or rooming house or apartment house. Nothing in this section or ordinance shall be construed to mean that a per-

son may not have a home in this city, and another in the country.

Section 13. **GIVING OR SELLING ARDENT SPIRITS TO MINORS OR ANY STUDENT ON THE CAMPUS OR SCHOOL GROUNDS.**—Giving or selling ardent spirits to a minor or selling such ardent spirits to a student on the campus or school grounds of any of the schools or educational institutions of this city, or the employment or use of such minor or student in the selling or transportation of any amount of ardent spirits is hereby declared to be a misdemeanor, and the punishment therefore shall be a fine of not less than Two Hundred and Fifty Dollars (\$250.00) nor more than Five Thousand Dollars (\$5,000.00) and by confinement in jail not less than six months nor more than twenty-four months, and the said term of confinement shall be worked out on the public roads of this state.

Section 14. **UNLAWFUL TO GRIND OR TRANSPORT MALT.**—It shall be unlawful for any person to grind or transport malt in this city or any substitute for the same by whatever name it may be called to be used in the manufacture of ardent spirits, and the burden of proof shall be upon any person grinding or transporting malt to show that such malt is not to be used in violation of this ordinance.

Section 15. It shall be unlawful for any person to sell, give away, transport, distribute or have in his possession any malt, malted grain, or any mixture thereof, other than in a private home and all officers charged with the duty of enforcing the prohibition laws of the State of Virginia, this city, or the United States, are authorized to seize any such malt, malted grain or mixture thereof wherever found other than in a private home without a warrant and to destroy the same. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

Section 16. **DRINKING ARDENT SPIRITS IN PUBLIC PLACES.**—Any person who shall take a drink of ardent spirits or shall offer a drink to another, whether accepted or not, in any railroad station, or at any boat landing, or in any day coach, or Pullman car, or on any passenger train, or in any passenger boat, or in any street car, hack, jitney, or other public conveyance, or automobile, or in any street, alley, highway, or in any other public place, whether of like kind or not, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

Section 17. **UNLAWFUL TO BE DRUNK IN PUBLIC PLACES; PENALTY.**—Any person who, being intoxicated as defined by the State law, shall appear in any public place in this city, shall be fined not less than Five Dollars (\$5.00) nor more than Ten Dollars (\$10.00).

Section 18. **MAKING IT UNLAWFUL TO MANUFACTURE STILLS, OR TO TRANSPORT OR HAVE IN POSSESSION MATERIAL THEREFOR, AND DECLARING ALL SUCH STILLS AND MATERIAL CONTRABAND.**—It shall be unlawful for any person, firm or corporation, other than public service corporation, to ship or transport into this city, distilling apparatus or material for

the manufacture of the same or to manufacture distilling apparatus for the purpose of manufacturing whiskey, beer or any other ardent spirits, and any person, firm or corporation found with material in possession acquired for use in the manufacture of distilling apparatus, shall be deemed prima facie guilty of manufacturing such apparatus, and upon conviction thereof, shall be fined not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), or confined in jail not less than sixty days nor more than twelve months, or both, in the discretion of the justice trying the case, and such material shall be declared contraband and confiscated. Nothing in this section shall prevent merchants and regular dealers from handling and offering for sale sheet copper, copper tubing or other metal stock usually carried by such dealers.

Section 19. REQUIRING STILLS TO BE REGISTERED AND DECLARING ALL UNREGISTERED STILLS CONTRABAND; PROCEEDINGS UPON SEIZURE; OFFENSES AND PRESUMPTIONS.—It shall be unlawful for any person to own or to have in his possession without a permit as provided by the law of the State of Virginia any still, still cap, worm, tub fermenter, or any of them or any other appliances connected with a still and used, or mash or other substances, capable of being used in the manufacture of ardent spirits, unless such owner shall be registered according to said law and a permit be obtained to own such still, which permit shall be kept conspicuously posted at the place where such still is located. All stills in this city not registered under a permit as herein required and all mash or other products used in the operation of such a still are hereby declared contraband and shall be subject to seizure by any officer charged with the enforcement of this ordinance, which officer shall destroy all mash and other like products found at such still and used in the operations thereof and shall forthwith notify the director of public safety of this city and turn over to him all stills, caps, worms, tubs, fermenters and other appliances to be disposed of in a lawful manner for the benefit of the city.

All persons found at a distillery where ardent spirits are being manufactured shall be deemed prima facie guilty of manufacturing the same or aiding and abetting in such manufacture, and upon conviction thereof shall be punished by a fine of not less than Two Hundred and Fifty Dollars (\$250.00) nor more than Five Thousand Dollars (\$5,000.00), and by confinement in jail not less than six months nor more than twenty-four months, and the said term of confinement shall be worked out on the public roads of this State.

Whenever any still is seized under the provisions of this ordinance and the party owning or operating the same is arrested the officer making the seizure and arrest shall be allowed a fee or reward of Fifty Dollars (\$50.00) and upon conviction of said person, the attorney for the Commonwealth shall receive a fee of Ten Dollars (\$10.00), which shall be taxed against the defendant and collected as other costs in the manner provided by law.

Section 20. FOR LEASING PREMISES FOR THE MANUFACTURE OR SALE OF ARDENT SPIRITS, ET CETERA, AND PROVIDING PENALTY.—Any person who shall lease, or rent, or

cause to be leased or rented to another person for the purpose of the manufacture or sale of ardent spirits, any land, house, apartment or other premises in this city or knowingly permit such land, house, apartment, or other premises to be so used shall, for the first offense, be guilty of a misdemeanor and be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and be confined in jail not less than one month nor more than six months; and for the second or subsequent offense shall be guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred and Fifty Dollars (\$250.00) nor more than Five Thousand Dollars (\$5,000.00) and shall be confined in jail not less than six months nor more than twenty-four months, and the term of said confinement shall be worked out on the public roads of this State.

Section 21. DEVICES TO EVADE THE PROVISIONS OF THIS ORDINANCE.—The keeping, storing, or giving away of ardent spirits, or any shift, or any device whatever, to evade the provisions of this ordinance, shall be deemed unlawful within the provisions of this ordinance, and shall be punished as unlawful selling is punished.

Section 22. It shall be unlawful for any person to use any automobile or other vehicle for the illegal transportation of ardent spirits without the consent of the owner, lienor or holder of a reservation of title of such automobile or other vehicle, and for a violation of this section any person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined the sum equal to the fair cash value of said automobile at the time of such seizure, to be ascertained by the civil and police justice upon proper inquiry. In default of the payment of such fine, such person shall be committed to the road force of this state for a period of not less than three months, nor more than six months.

Section 23. RUNNING AUTOMOBILES, ENGINES, ET CETERA, WHILE INTOXICATED; HOW PUNISHED.—It shall be unlawful for any person to drive, or run any automobile, car, truck, engine, or train while under the influence of intoxicants. If any person violates the provisions of this section he shall be guilty of a misdemeanor punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), and imprisonment for not less than thirty days nor more than one year, for the first offense, provided the justice in a proper case may suspend the jail sentence. Any person convicted of a second or subsequent offense shall be fined not less than Two Hundred and Fifty Dollars (\$250.00) nor more than Five Thousand Dollars (\$5,000.00), and shall be confined in jail not less than six months nor more than twenty-four months, and the term of said confinement shall be worked out on the public roads of this State. The judgment of conviction shall itself operate to deprive him of his right to drive any such vehicle or conveyance in this city for a period of one year from the date of such judgment. If any person so convicted shall, during the year, drive any such vehicle or conveyance, he shall be guilty of a misdemeanor.

Section 24. SEARCH OF VEHICLES IN WHICH ARDENT SPIRITS ARE BEING TRANSPORTED, VEHICLE TO BE SEIZED AND FORFEITED, PROCEEDINGS; DISPOSITION OF ARDENT SPIRITS; ARREST OF OCCUPANTS.—When any officer charged with the enforcement of this ordinance shall have any reason to believe that ardent spirits are being transported in any wagon, boat, buggy, automobile, or other vehicle, whether of like kind or not, contrary to law, he shall have the right and it shall be his duty to search such wagon, boat, buggy, automobile, or other vehicle, and to seize any and all ardent spirits found therein which are being transported contrary to law. Whenever any ardent spirits which are being illegally transported, or are being transported for an illegal use, shall be seized by such officer, he shall also take possession of the vehicle and team, or automobile, boat or any other conveyance, other than a conveyance owned and used by a railroad, steamboat, or express company, but this proviso shall not apply to barges, tugs or small craft owned and operated by such railroad or steam boat companies in which such liquor shall be found, and turn the same over to the sergeant of this city, and such vehicle and team, automobile, boat or other conveyance shall be forfeited to the city; and shall report the seizure to the attorney for the Commonwealth of this city, and the attorney for the Commonwealth shall file an information in the name of the City Council of Alexandria against such vehicle and team, automobile, boat or other conveyance by its name or general designation. The information shall allege the seizure and set forth in general terms the cause and ground of forfeiture. It shall also pray that property be condemned and sold and the proceeds be disposed of according to law, and that all persons concerned in interest be cited to appear and show cause why the said property should not be condemned and sold to enforce the forfeiture, which information shall be sworn to by the attorney for the Commonwealth. Upon the filing of the information the clerk of the Corporation Court of this city shall forthwith issue a notice reciting briefly the filing of the information, the object thereof, the seizure of the property and citing all persons concerned in interest to appear on a specified day of the next term of the Corporation Court of this city, after the publication of said notice, and show cause why the prayer of the information for condemnation and sale should not be granted, a copy of which said notice shall be posted in front of the courthouse of said court by the sergeant of this city and published by him in some newspaper published in this city where such seizure is made, at least five days before the return of such notice, which said publication shall be sufficient service of notice on all parties concerned in interest, provided that whenever there is filed with the information the affidavit of the sergeant or other officer in charge of the property seized that the vehicle, team, automobile, boat or conveyance seized is of less value than Fifty Dollars (\$50.00), then the said court or the judge thereof in vacation, may order the immediate sale of such vehicle, team, automobile, boat, or conveyance on such terms and conditions and hold and dispose of the proceeds as may seem meet.

Provided that any person claiming an interest therein may give a forthcoming bond, in amount double the value of the property as seized, conditioned to abide by and perform the final judgment of the court in the cause, and a stipulation in the said bonds, that if final judgment in the cause be for the city, judgment, without further proceedings, shall be rendered against the obligors for the penalty, to be discharged by the payment of the appraised value of said property seized, and that thereupon process of execution may be awarded against the obligors, upon which the clerk of said court shall endorse, "No security is to be taken." Such appraised value shall be ascertained by three appraisers, one of whom shall be appointed by the claimant, if he so desired, another by the clerk, and another by the judge of the said court, who shall meet forthwith, make the appraisal, under oath, at least two of said appraisers acting, and return the same in writing to the clerk of the Corporation Court of this city.

Any person interested may appear and be made a party defendant and make defense to the information, which must be done by answer under oath, and the proceedings shall conform as nearly as practicable to chapter one hundred and thirty-one of the Code of Virginia of nineteen hundred and nineteen. But, provided, further that any equity or interest or any person who is in charge of such vehicle and team, automobile, boat or other conveyance, or who is an occupant of the same at the time such seizure is made, shall be forfeited by making such person or persons a party defendant and the possession of such ardent spirits in such vehicle, automobile, boat or other conveyance, shall be prima facie evidence that the person in charge knew such ardent spirits were in such vehicle, automobile, boat or other conveyance, nor shall it be a ground of defense that such person or persons by whom said property was used in violation of law has not been convicted of such violation. The said information shall be independent of any proceedings against such person or any other for violation of law. For every information filed under this section there shall be allowed to the attorney for the Commonwealth a fee of Twenty-five Dollars (\$25.00) and to the officer making the seizure and arrest a fee of Twenty-five Dollars (\$25.00), which shall be taxed as cost. All fees herein prescribed, and costs incident to the seizure and forfeiture of an automobile or other vehicle under this ordinance, or any other, including commissions and cost of advertising, shall be deducted out of the proceeds of sale of such automobile or other vehicle, and the net balance turned over to the city.

In every case the ardent spirits shall be turned over to the director of public safety of the city to be disposed of in a lawful manner for the benefit of the city.

The officer making the seizure shall also arrest all persons in charge or occupying such team or vehicle and report all arrests made to the attorney for the Commonwealth of this city in which such arrests shall be made, and the attorney for the Commonwealth shall at once proceed against the person or persons arrested under the provisions of this ordinance.

Provided, that the forfeiture provided for in this section shall not apply to the transportation in personal baggage of the quantity of ardent spirits permitted by the law of the State of Virginia. And provided, further, that whenever a quantity of ardent spirits is illegally transported in any automobile or other vehicle and it shall appear to the satisfaction of the said court from the evidence that the owner or lienor of such vehicle and team, automobile, boat or other conveyance was ignorant of the illegal use to which the same was put, and that such illegal use was without his connivance or consent, express or implied, and that such lienor has prior to the commission of such offense duly recorded in the county or corporation in which the debtor resides, the instrument, creating such lien and that such innocent owner has perfected his title to the vehicle, if the same be an automobile, by proper transfer in the office of the Motor Vehicle Commissioner of this State, as provided by law, then the court shall have the right to relieve such owner or lienor from the forfeiture herein provided; provided, however, such lienor or innocent owner shall pay the costs incident to the capture and custody of such automobile or other vehicle and to the trial of said cause.

Whenever any automobile or other vehicle or boat herein mentioned is seized under the provisions of this section, the officer making such seizure shall be allowed a fee or reward of Twenty-five Dollars (\$25.00), to be taxed against the automobile or other vehicle or boat seized and confiscated. In the event the automobile or other vehicle or boat is not finally confiscated under this section such fee shall be Ten Dollars (\$10.00) to be taxed against the confiscated vehicle or boat or the defendant, and collected as other costs in the manner provided by this ordinance.

Section 25. FORFEITED BONDS.—Whenever any bond given under this ordinance shall be forfeited, it shall be the duty of the attorney for the Commonwealth of this city to proceed at once to collect the penalty of said bond and, when collected, inform the city, and thereupon the city shall be entitled to said penalty.

Section 26. All proceedings for the confiscation of all articles declared contraband and forfeited to the city under this ordinance, excepting those specifically otherwise provided for under section twenty-four, shall be proceeded against as provided in this section.

If there be complaint on oath that ardent spirits are being manufactured, sold, kept, stored, or in any manner, held, used or concealed in a particular house, or other place, in violation of this ordinance, a justice of the peace of this city to whom complaint is made, if satisfied that there is a reasonable cause for such belief, shall issue a warrant to search such house or other place for the ardent spirits, provided that whenever such a warrant is issued for the search of any baggage room, house or other place, the property of a public service corporation, such warrant shall describe with reasonable certainty, the baggage, container or package to be searched.

Whenever any article, under the provisions of this ordinance is declared contraband and forfeited to the city, and has been seized, with or without a warrant, by any officer charged with

the enforcement of this ordinance, he shall produce same, and the person in whose possession it was found, if any, and if no person be found in possession of said articles the return shall so state. A copy of said warrant shall be posted on the door of the building or room wherein the same was found, or if there be no door, then in any conspicuous place upon the premises.

Upon the return of the warrant as provided in this section, the civil and police justice shall fix a time not less than ten days and not more than thirty days thereafter, for the hearing of said return, when he shall proceed to hear and determine whether or not the articles so seized, or any part thereof, were used or in any manner kept, stored, or possessed in violation of any of the provisions of this ordinance. At such hearing if no claimant shall appear, the civil and police justice, shall declare the articles seized forfeited to the city and if such articles be not necessary as evidence in any pending prosecution, shall turn the same over to the director of public safety to be disposed of in a lawful manner for the benefit of the city. At such hearing any person claiming any interest in any of the articles seized may appear and file a written claim setting forth particularly the character and extent of his interest. Thereupon the civil and police justice shall hear and determine the validity of such claim. But upon such hearing the sworn complaint or affidavit upon which the search warrant was issued and the possession of such ardent spirits shall constitute prima facie evidence of the contraband character of the liquor and articles seized, and the burden shall rest upon the claimant to show, by competent evidence, his property right or interest in the articles claimed and that the same were not kept, stored, possessed or in any manner used in violation of any of the provisions of this ordinance. If, upon such hearing, the evidence warrants, the civil and police justice shall thereupon enter a judgment of forfeiture, and order the article so seized to be turned over to the director of public safety to be disposed of for the benefit of the city. Action under this section and the forfeiture of any articles there under shall not be a bar to any prosecution under any other provisions of this ordinance.

If any person shall knowingly and wilfully make any false complaint under this section, he shall be guilty of a misdemeanor and fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each offense.

Nothing herein contained shall be construed to permit the issuance of general warrants whereby an officer may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence.

Section 27. WINE OR CIDER; MANUFACTURE, USE, SALE OF, WHEN NOT PROHIBITED BY THIS ORDINANCE; DENATURED ALCOHOL OR DENATURED RUM FOR USE IN INDUSTRIAL OR MECHANICAL ARTS, WHEN EXEMPTED FROM PROVISIONS OF THIS ORDINANCE; WOOD OR DENATURED ALCOHOL EXEMPTED FROM THE PROVISIONS OF THIS ORDINANCE.—The provisions of this ordinance shall not be construed to prevent any person from manufacturing for his domestic

consumption at his home, but not to be sold, dispensed or given away, except as hereinafter provided, wine or cider from fruit of his own raising; or to prevent the manufacture from fruit of cider for the purpose of making vinegar, not used as a beverage; and non-intoxicating cider, containing not more than one per centum of alcohol by volume, for use or sale.

Nothing in this ordinance or in any section thereof shall have any application whatever to denatured alcohol or denatured rum intended for use only in the industrial or mechanical arts, including especially the manufacture of tobacco, cigarettes, cheroots, or cigars, where the same is brought or shipped into the State of Virginia under bond and there kept and stored under bond, in strict compliance with the United States internal revenue laws and regulations, until actually applied to the users above mentioned and none other whatsoever.

Nothing in this ordinance shall be construed to apply to wood or denatured alcohol, the manufacture or sale of which does not require the payment of United States liquor dealer's tax.

**Section 28. ENFORCEMENT OF THIS ORDINANCE, TERRITORY CONTIGUOUS.**—For the enforcement of this ordinance, the civil and police justice of this city shall also have jurisdiction over the territory contiguous to this within three (3) miles of the city limits, provided said three mile limit does not interfere with the jurisdiction of the mayor or police justice of any town, and where there is less than six miles between this city and a town, the jurisdiction of the said civil and police justice of this city shall extend only to one-half the distance between this city and said town.

In any prosecution before the civil and police justice, the commissioner of prohibition of the State of Virginia and the attorney for the Commonwealth of this city shall be notified by the said civil and police justice, in time to attend said trial, and the said attorney for the Commonwealth and the commissioner, his deputies and inspectors, shall have the same power in respect to such cases that they have in cases before the circuit or corporation court.

**Section 29. JURISDICTION OF CASES ARISING UNDER THIS ORDINANCE.**—The civil and police justice of this city shall have exclusive original jurisdiction, except as herein otherwise provided, for the trial of all cases arising under this ordinance, with the right of appeal to the defendant to the corporation court.

**Section 30. GIVING TO PERSONS OF INTEMPERATE HABITS; SENDING FEMALES FOR ARDENT SPIRITS.**—It shall be unlawful for any person to give ardent spirits to any person of intemperate habits or addicted to the use of any narcotic drug except on the prescription of a physician.

It shall be unlawful for any person or persons to send or use a female in the purchase or sale of ardent spirits, or to deliver the same whether gift, purchase or sale, and upon conviction for a violation of this section, the same penalties shall be imposed as are provided for under section six.

Section 31. WHEN BOND REQUIRED OF PERSONS CONVICTED.—In addition to the penalties imposed by this ordinance for the violation of any of its provisions, the civil and police justice in his discretion, after conviction is had, for the first offense, and shall after every subsequent conviction, require the defendant to execute bond, with approved security, payable to the city, in the penalty of not less than Five Hundred Dollars (\$500.00), nor more than Five Thousand Dollars (\$5,000.00), conditioned that the said defendant will not violate any of the provisions of this ordinance, for the term of one year. And if said bond shall not be given, the defendant shall be committed to jail until it is given, or until he is discharged by the said justice, provided he shall not be confined for a longer period than six months.

Section 32. INCRIMINATING TESTIMONY NO EXCUSE FOR NOT TESTIFYING AND PRESCRIBING CERTAIN RULE OF EVIDENCE.—No person shall be excused from testifying for the city as to any offense committed by another under this ordinance or State prohibition statute by reason of his testimony tending to incriminate himself but the testimony given by any such person on behalf of the city when called to the stand by the civil and police justice or the attorney for the Commonwealth, or the commissioner of prohibition prosecuting the case, shall in no case be used against him, nor shall he be prosecuted as to the offense as to which he testified.

It shall be competent in a prosecution for any offense against the prohibition ordinance of this city to prove the general reputation of the defendant as a violator of the National, State or city prohibition laws.

Section 33. PROSECUTIONS, HOW INSTITUTED; ALLEGATIONS OF WARRANT; PROCEDURE AND POWER OF COURT ON APPEAL; WHAT PROOF SUFFICIENT.—Prosecutions under this ordinance, except as herein otherwise provided, shall be by warrant, issued by a justice of the peace of this city in the manner and form that warrants for misdemeanors under the State laws are now issued, except that the said warrant shall state that the offense is the violation of this city ordinance, and shall be in the name of the City Council of Alexandria.

Upon appeal to the corporation court, there shall be the same procedure therein as in appeal cases prosecuted under the State law.

Whenever in this ordinance a power, right, duty or discretion is conferred upon the civil and police justice, it shall be construed to confer the same upon the corporation court when the case is before said court on appeal or as otherwise provided herein.

In the warrant for the violation of any provision of this ordinance as to sale or gift of ardent spirits to a particular person, it shall be sufficient for the conviction of the accused to prove a sale or gift contrary to this ordinance.

If more than one sale shall be proved within the year preceding the warrant the Commonwealth's attorney shall not be required to say upon which sale conviction will be asked, but he may elect if he thinks proper to do so, and proceed by warrant against the accused for the other sales.

Section 34. BURDEN UPON ACCUSED TO PROVE EXEMPTION.—When, in any case prosecuted under this ordinance, the accused claims the benefit of any exception in or to any section of this ordinance, the burden shall be upon him to prove that he comes within the exception.

Section 35. All ardent spirits and materials used in the manufacture of ardent spirits and containers in which ardent spirits are manufactured, kept, stored, possessed, sold or in any manner used in violation of the provisions of this ordinance shall be deemed contraband and shall be forfeited to the city, provided the provisions of this ordinance shall have no application to ardent spirits stored in a bona fide home prior to November first nineteen hundred and sixteen, or acquired according to provisions of section eleven of this ordinance, so long as the same shall not be used in violation of this ordinance.

Section 36. CERTAIN OFFICIALS CHARGED WITH THE ENFORCEMENT OF PROVISIONS OF THIS ORDINANCE; FEES.—It shall be the duty of the chief of police, civil and police justice, special officers, attorney for the Commonwealth, and the sergeant and his deputies, justices of the peace and police of this city to enforce all of the provisions of this ordinance, and the neglect, failure or refusal of such officers so to do shall be deemed misfeasance in office.

For official services rendered in connection with violations of this ordinance all said officers, including police officers of this city, clerk of the corporation court, attorney for the Commonwealth, and witnesses summoned on behalf of the city shall be entitled to and shall be paid the same fees as are now allowed by the State prohibition law and the same shall be taxed against the defendant as costs.

In every case where a conviction is had for the violation of this ordinance, the attorney for the Commonwealth shall be allowed a fee of Twenty-Five Dollars (\$25.00) to be taxed with the costs and paid for by the defendant, and where there is a conviction, but the defendant is insolvent, then the attorney for the Commonwealth shall be allowed a fee of Ten Dollars (\$10.00) to be paid by the city.

For making an arrest for the violation of any of the provisions of this ordinance, the officer making such arrest, if the defendant is convicted, shall be paid a fee of Ten Dollars (\$10.00), to be taxed as a part of the costs against such defendant, and if two or more officers unite in making such arrests, then provided the fee for arrest for intoxication shall be Five Dollars (\$5.00), said fee shall be apportioned among them.

All fines, costs and fees provided by this ordinance, including such fines, costs, and fees as are assessed before the civil and police justice, shall be paid to and collected by the clerk of the corporation court of this city, and the said clerk shall disburse said costs and fees to the persons entitled thereto under the provisions of this ordinance, and shall pay all such fines over to the city and shall make a monthly report and accounting to the city for all such fines, and the said clerk shall be entitled to the same commissions on said fines as allowed by the laws of this State.

Section 37. CERTAIN EMPLOYEES OF COMMON CARRIERS MADE SPECIAL POLICE FOR THE ENFORCEMENT OF THIS ORDINANCE; JURISDICTION.—Captains of boats and vessels doing business in this city as common carriers, conductors of railroad trains, conductors and motormen of electric railways, police agents of railroad companies, station and depot agents of common carriers, operating in this city shall be specially charged with the enforcement of this ordinance, and shall have the powers of special police, with jurisdiction to make arrests for violations of this ordinance, upon the property of the common carrier by whom they are employed.

Section 38. OBSTRUCTION OF OFFICER IN DISCHARGE OF DUTY, CONCEALING OR DESTROYING EVIDENCE UNLAWFUL.—It shall be unlawful for any person to obstruct the lawful exercise of the duties of any officer charged by law with the enforcement of this ordinance, and it shall likewise be unlawful to conceal or destroy evidence before or after it shall have been lawfully captured by any person otherwise than as permitted by this ordinance.

Section 39. WHEN OFFICER MAY BREAK AND ENTER HOUSES.—If in any house, building, boat, car or other place, as is hereinbefore mentioned, the sale, offering, storing or exposing for sale of ardent spirits is carried on clandestinely, or in such manner that the person or persons engaged therein cannot be seen or identified by the officer or officers charged with the execution of warrant, under any section of this ordinance, any such officer may, whenever it is necessary for the arrest or identification of the person or persons, offending, or of seizing such ardent spirits, break open and enter such house, building, boat, car or place, or any room or part of any of them.

Section 40. SEARCH WARRANTS.—All warrants issued under this ordinance for the search of any automobile, boat, conveyance, or vehicle, whether of like kind or not, or for the search of any trunk, grip or other article of baggage, whether of like kind or not, for ardent spirits, may be executed in any part of the city where the same are overtaken, and shall be made returnable before the civil and police justice of this city.

Section 41. OFFICERS TO HAVE AUTHORITY TO ENTER DANCE HALLS, ET CETERA, WITHOUT WARRANT.—All officers charged with the enforcement of the prohibition laws of the State of Virginia, and of this ordinance shall have at all times the right, without warrant, and free of charge admission, to enter any public dance hall, or dance hall to which there is a charge of admission, either by way of admission charge, club charges or other dues, and to all rooms or apartments therein except such as are used exclusively by women, or to any other place of public entertainment or gathering, where ever such officer shall have reasonable cause to believe that the provisions of this ordinance are being violated.

Section 42. AGENTS OF AUTHORITIES MAY PURCHASE AND TRANSPORT ARDENT SPIRITS CONTRARY TO THE PROVISIONS OF THIS ORDINANCE.—Nothing in this ordinance shall be construed as prohibiting any person from purchasing or transporting ardent spirits contrary to the provisions of this ordinance, when acting as the agent of the authorities charged with the enforcement of this ordinance and the prohibition laws of the State of Virginia in the detection and conviction of violators of said laws and ordinance, nor to prevent the commissioner under the laws of the State of Virginia from ordering the transportation of ardent spirits in or out of the city, or from one point to another within the city, when deemed necessary to carry into effect the purpose of the State prohibition act.

Section 43. Whoever not being any officer, agent, or employee of the United States, or State of Virginia, or of this city, charged with the enforcement of the prohibition law of the United States, this State, or this ordinance, shall falsely represent himself to be such officer, agent or employee, and in such assumed character shall arrest or detain any person, or shall in any manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or imprisonment for not more than one year, or by both such fine and imprisonment.

Section 44. SOFT DRINKS DEFINED.—The words "soft drinks" shall be construed to embrace and include any and all beverages, patented, domestic or otherwise, of every description and kind, which may be offered for sale in this city, not embraced in the words "ardent spirits" as defined in this ordinance.

Section 45. MEDICINES CONTAINING ALCOHOL, TOILET, MEDICINAL AND ANTISEPTIC PREPARATIONS AND SOLUTIONS, ET CETERA, CONTAINING ALCOHOL, FLAVORING EXTRACTS CONTAINING ALCOHOL, HOW MAY BE MANUFACTURED, KEPT, SOLD AND DISPENSED; VIOLATIONS, HOW PUNISHED; HOW MANUFACTURERS OF FLAVORING EXTRACTS, TOILET, MEDICINAL, ANTISEPTIC PREPARATIONS AND SOLUTIONS MAY OBTAIN ALCOHOL.—The provisions of this ordinance shall not be construed to prevent the sale or gift and keeping and storing for sale by druggists and general merchants or others duly licensed by existing laws of the State of Virginia of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopeia and national formulary patent and proprietary preparations, and other bona fide medicinal and technical preparations which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold and used exclusively as medicine and not as beverages; or to prevent the manufacture and sale of toilet, medicinal and antiseptic preparations, and solutions not intended for internal human use, nor to be sold as beverages, and upon the outside of each bottle, box or

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package of which is printed in English conspicuously and legibly and clearly the quantity by volume of alcohol in such preparations; or to prevent the manufacture or keeping for sale of the food product known as flavoring extracts which shall be manufactured or sold for cooking and culinary purposes only, and not to be sold for beverage purposes; provided, that it shall not be lawful to manufacture or sell any toilet, medicinal, antiseptic preparations or solutions, or any flavoring extracts or patent or proprietary medicines or preparations, the manufacture or sale of which required the payment of the United States liquor dealer's tax.

Provided such manufacturers, druggists, general and retail merchants and others duly licensed under existing laws of the State of Virginia have first secured a permit as required by said laws.

It shall be unlawful for any person to sell such toilet, medicinal, antiseptic preparations or solutions or flavoring extracts or patent or proprietary medicines or preparations for beverage purposes in the guise of flavoring extracts or medicines, and a sale of any of them for beverage purposes shall be punished as prescribed by this ordinance for the sale of ardent spirits, but a sale of any of them without the permit required by this section shall be deemed a misdemeanor and for the first offense be punishable by a fine of not less than Ten Dollars (\$10.00), nor more than One Hundred Dollars (\$100.00), and for any subsequent offense by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00).

It shall be unlawful for any person to purchase such toilet, medicinal or antiseptic preparations or solutions of flavoring extracts or patent or proprietary medicines or preparations for use as a beverage, under representation to the vendor, that the same is intended for bona fide use as a toilet, medicinal or antiseptic preparation or flavoring extract; any purchase upon such misrepresentation shall be deemed a misdemeanor, and punishable by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

It shall be unlawful for any person to sell any such preparations, solutions, extracts or medicines as is above enumerated in this section, to any person who is intoxicated or who is known by the person selling it to be a person of intemperate habits as is defined by the prohibition laws of the State of Virginia. And any violation of these provisions shall be punished as unlawful selling of ardent spirits is punished by this ordinance; providing that any such medicinal preparations may be sold to a person of intemperate habits by a licensed druggist under the same conditions that whiskey and brandy may be sold by a druggist as prescribed by the laws of the State of Virginia.

Wherever in any prosecution under this section it appears from the evidence that the defendant has sold any of the preparations, solutions, extracts or medicines enumerated in this section in a quantity exceeding a normal or usual purchase, or has made more than one sale to the same person within a period of twenty-four hours, this shall be prima facie evidence that the defendant knowingly sold such preparation, solution, extract or medicine for beverage purposes and the burden shall be upon him to rebut said

and such book, shall at all times be open for the same inspection as the prescription.

But nothing in this ordinance shall prevent a druggist duly licensed under existing laws of the State of Virginia from buying, storing and using pure grain, ethyl or fruit alcohol for his own pharmaceutical purposes, provided he makes the monthly reports to the clerk of the court as required by said laws; and any common carrier may transport such alcohol to any druggist under a permit from the commissioner as provided in the law of the State of Virginia or under like conditions, wine for the purpose of compounding wine antimony, wine of ipecac and like preparations.

Section 47. WHEN IDENTIFICATION TO BE REQUIRED BY DRUGGIST.—If any person lawfully applying by affidavit for ardent spirits is not personally known to the druggist to whom he applies, as the person named in the affidavit, and a proper person to receive such ardent spirits, the druggist shall require him to be identified by some person known to him, who is not of intemperate habits or addicted to the use of narcotic drugs.

Section 48. PURCHASES BY DENTIST, PHYSICIANS AND VETERINARY SURGEONS.—Nothing in this ordinance shall be construed to prevent dentists, physicians, and veterinary surgeons from purchasing in accordance with the provisions of the law of the State of Virginia pure fruit, ethyl or grain alcohol to be used in the practice of their profession, and for no other purpose whatsoever, upon affidavit prescribed herein or upon a permit from the commissioner as herein provided.

Section 49. JAMAICA GINGER.—It shall be unlawful for any one but a licensed pharmacist to sell, dispense or give away to the consumer the extract, essence or tincture of Jamaica Ginger, and such pharmacist only upon the prescription of a regular licensed physician, and then only upon the same conditions as ardent spirits are sold under the provisions of the laws of the State of Virginia.

Nothing in this ordinance shall be construed to prevent the manufacture and transportation for sale outside of this city, of the extract, essence, or tincture of Jamaica ginger, into territory where the same may be legally sold.

Section 50. RIGHT OF APPEAL BY CITY.—In all cases arising under this ordinance, the city shall have the right of appeal except when such appeal is forbidden by the Constitution of Virginia.

Section 51. EFFECT WHEN PART OF ORDINANCE DECLARED UNCONSTITUTIONAL.—If any section or provision of this ordinance or any part of any section shall be declared unconstitutional by the supreme court of the United States or the State of Virginia, the part so declared unconstitutional shall cease to be operative, but the remainder of the ordinance and every section or part thereof not so declared unconstitutional shall continue to be the law of this city.

Section 52. PROPRIETORS OF HOUSES OF PUBLIC OR PRIVATE ENTERTAINMENT PERMITTING EMPLOYEES TO ASSIST GUESTS TO SECURE ARDENT SPIRITS; FAILURE TO DISCHARGE CONVICTED EMPLOYEE; PENALTY.—Any proprietor of any hotel or house of public or private entertainment in this city who shall knowingly permit any bell boy, elevator boy, or other employee to, or who shall himself, procure ardent spirits for, or give direction and information by which ardent spirits can be secured by any guest, patron or other persons, or who when duly notified that any employee has been convicted of a violation of any of the provisions of this ordinance, shall fail at once to discharge said employee permanently, shall be guilty of a misdemeanor, and when convicted, shall be fined not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), and for any subsequent offense shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and be confined in jail not less than one nor more than six months.

Section 53. ANALYSIS OF MIXTURES SUPPOSED TO CONTAIN ARDENT SPIRITS; CHEMIST CERTIFICATE AS EVIDENCE.—The certificate of any chemist employed by the department of agriculture of the State of Virginia when signed and sworn to by him, shall be evidence in all prosecutions for violations of this ordinance or of any other laws relating to ardent spirits as herein defined and all controversies touching the mixture analysed by him; and if the person taking the sample shall label the same with a mark of identification and cause it to be delivered to the chemist for analysis, with a certificate stating that the container contains the actual fluid taken by him from manufacturer, dealer, or the person storing, selling or attempting to sell the same, the burden of proof shall be upon the accused to show that it is not the fluid so taken, but on motion of the accused and for good cause shown, the civil and police justice may require the chemist making the analysis, and the person taking the sample to appear as witnesses and be subject to cross-examination.

Section 54. All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed.

Section 55. This ordinance shall take effect immediately upon its passage.

Approved this 2nd day of April, 1925.

W. A. SMOOT, Mayor.