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1 CITY. The city, a municipal corporation and a local option district as  
2 defined by the Liquor Control Act, and its representatives as authorized  
3 herein.

4 CLUB.

5 (1) Any nonprofit group, including an auxiliary or subsidiary  
6 group, organized and operated under the laws of this state, with a membership  
7 of not less than 50 members who pay membership dues at the rate of not less  
8 than \$5 per year and who under the constitution and bylaws of the club, have  
9 all voting rights and full membership privileges, and which group is the owner,  
10 lessee or occupant of premises used exclusively for club purposes and which  
11 group the State Director finds:

12 (a) Is operated solely for recreation, social, patriotic,  
13 political, benevolent or athletic purposes; and

14 (b) the proposed licensee has been granted an exemption  
15 by the United States from the payment of the federal income tax as a club  
16 under the provisions of Section 501(a) of the Internal Revenue Code of 1954,  
17 as amended or, if the applicant has not operated a club for a sufficient time to  
18 be eligible for the income tax exemption, it must execute and file with the State  
19 Director a sworn letter of intent declaring that it will, in good faith, apply for  
20 such exemption as soon as it is eligible; or

21 (2) An airline passenger membership club operated by an air  
22 common carrier which maintains or operates a clubroom at an international  
23 airport terminal. For the purposes of this division (2), AIR COMMON CARRIER  
24 means a person engaged in regularly scheduled air transportation between  
25 fixed terminals under a certificate of public convenience and necessity issued  
26 by the Civil Aeronautics Board.

27 STATE DIRECTOR. The Director of the Alcoholic Beverage Control  
28 Division of the New Mexico Regulation and Licensing Department.

29 DISPENSER. Any person licensed under the provisions of the Liquor  
30 Control Act selling, offering for sale or having in the person's possession with  
31 the intent to sell alcoholic beverages both by the drink for consumption on the  
32 licensed premises and in unbroken packages, including locally produced  
33 growlers, for consumption and not for resale off the licensed premises.

1       **DISTILLER.** Any person engaged in manufacturing spirituous liquors.

2       **LIQUOR HEARING OFFICER.** A hearing officer designated by the Director  
3 of the City Council Services Department to conduct hearings pursuant to this  
4 article and NMSA 1978, 60-6B-4.

5       **LICENSE.** Any license regulated under this article and issued by the State  
6 Director pursuant to the New Mexico Liquor Control Act.

7       **PERSON.** Any individual, corporation, firm, partnership, copartnership,  
8 association or other legal entity, and includes both the singular and plural.

9       **PRIVATE CELEBRATION.** Any celebratory activity that is held in a private  
10 or public venue not open to the general public and for which attendance is  
11 subject to a private invitation.

12       **PUBLIC CELEBRATION.** Any state or county fair, community fiesta,  
13 cultural or artistic event, sporting competition of a seasonal nature or  
14 activities held on an intermittent basis that are open or advertised to the  
15 general public. For purposes of this definition, “intermittent basis” means  
16 only that an activity occurs for no more than three consecutive days at a  
17 particular location with at least forty-eight hours before the next separately  
18 permitted activity, and for no more than twelve hours within a single day, or  
19 that the activity has been approved by the State Director regardless of these  
20 limitations.

21       **RESTAURANT.** An establishment having a New Mexico resident as a  
22 proprietor or manager that is held out to the public as a place where food is  
23 prepared and served primarily for on-premises consumption to the general  
24 public in consideration of payment and that has a dining room, a kitchen and  
25 the employees necessary for preparing, cooking and serving food; provided  
26 that “restaurant” does not include establishments as defined in rules  
27 promulgated by the State Director serving only hamburgers, sandwiches,  
28 salads and other fast foods.

29       **RETAILER.** A person licensed under the provisions of the Liquor Control  
30 Act selling, offering for sale or having in the person’s possession with the  
31 intent to sell alcoholic beverages in unbroken packages, including growlers,  
32 for consumption and not for resale off the licensed premises.

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1       **SMALL BREWER.** Any brewer licensed under the provisions of the Liquor  
2 Control Act as a small brewer.

3       **TRANSFER.** The changing of ownership or location of any license.

4       **WINEGROWER.** Any person who owns or operates a business for the  
5 manufacture of wine or cider.

6       **WHOLESALE.** Any person whose place of business is located in the City  
7 and who sells, offers for sale or possesses for the purpose of sale any  
8 alcoholic beverages for resale by the purchaser.

9       **§ 13-2-3 ISSUANCE OR TRANSFER OF A LICENSE.**

10       **(A) Notice to the City.**

11               **(1) At the time an applicant for the issuance or transfer of a**  
12 **license submits to the State Director a written application for the issuance or**  
13 **transfer of a license, the applicant shall notify the city of the application by**  
14 **providing written notice to the Liquor Hearing Officer through the staff of the**  
15 **City Council Services Department.**

16               **(2) The State Director will notify the Liquor Hearing Officer**  
17 **through the staff of the City Council Services Department of any preliminary**  
18 **approval of the issuance or transfer of the license prior to final approval.**

19       **(B) Process for Review by the City.** Once the Liquor Hearing Officer has  
20 received a notice of preliminary approval, or conditional preliminary approval  
21 (pending approval of a waiver), of the issuance or transfer of a license from  
22 the State Director the Liquor Hearing Officer may approve or disapprove the  
23 issuance or transfer of such license in accordance with the provisions of  
24 Sections '1' through '9', below:

25               **(1) After receiving the preliminary approval from the State**  
26 **Director, the City Council staff shall within five days submit the notice of**  
27 **preliminary approval to the Liquor Hearing Officer. The Liquor Hearing Officer**  
28 **shall conduct a public hearing within 45 days from the date of the mailing of**  
29 **the notice of preliminary approval by the State Director. The Liquor Hearing**  
30 **Officer may promulgate rules of procedure for the hearings. These rules shall**  
31 **conform with accepted administrative hearing procedures. The Liquor Hearing**  
32 **Officer shall conduct this hearing and accept documentary and testimonial**  
33 **evidence in accordance with such rules of procedure.**

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1           (2)    The City Council staff shall provide notice of the public  
2 hearing required by subsection '(B)(1)', above by:

3                   (a)    Publishing a notice of the date, time and place of the  
4 hearing at least once a week for two consecutive weeks in a newspaper of  
5 general circulation within the territorial limits of the city. The notice of hearing  
6 shall set forth:

- 7                               (i)    The name and address of the licensee;
- 8                               (ii)   The action proposed to be taken by the State  
9 Director;
- 10                              (iii)   The location of the licensee's premises; and
- 11                              (iv)   Such other information as may be required by the  
12 State Director.

13                   (b)    Sending a notice by certified mail to the applicant of the  
14 date, time and place of the public hearing.

15           (3)    A record shall be made of the public hearing.

16           (4)    As soon as practicable after the public hearing, the Liquor  
17 Hearing Officer shall issue a decision containing his or her findings and  
18 recommendations.

19           (5)    The Liquor Hearing Officer may disapprove the issuance or  
20 transfer of the license if:

21                   (a)    The proposed location is within an area where the sale  
22 of alcoholic beverages is prohibited by state law;

23                   (b)    The issuance or transfer would be in violation of the  
24 zoning regulations or any other applicable ordinance of the City; or

25                   (c)    The issuance or transfer would be detrimental to the  
26 public health, safety or morals of the residents of the City.

27           (6)    Within 30 days after the public hearing, the Liquor Hearing  
28 Officer shall notify the State Director as to whether the proposed issuance or  
29 transfer of the license has been approved or disapproved. If the Liquor  
30 Hearing Officer fails to either approve or disapprove the issuance or transfer  
31 of the license within 30 days after the public hearing, the State Director may  
32 give final approval to the issuance or transfer of the license.

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1           (7)     In the event of disapproval, the Liquor Hearing Officer’s  
2 notification to the State Director will set forth the reasons for the disapproval.  
3 A copy of the minutes of the public hearing shall be submitted with any such  
4 notification.

5           (8)     The City Council, by delegation of authority, deems as  
6 approved all findings and determinations made by the Liquor Hearing Officer.

7           (9)     Any person aggrieved by any decision made by the Liquor  
8 Hearing Officer as to the approval or disapproval of the issuance or transfer of  
9 a license may appeal to the District Court by filing a petition in that Court  
10 within 30 days from the date of the decision. The decision of the Liquor  
11 Hearing Officer shall continue in force, pending a reversal or modification by  
12 the District Court, unless otherwise ordered by the Court.

13     § 13-2-4 WAIVER OF DISTANCE REQUIREMENT BETWEEN LICENSED  
14 PREMISES FOR A LIQUOR LICENSE AND CHURCH OR SCHOOL.

15           (A)     Waiver Required. No new licensed premise will be approved within  
16 300 feet of a church or school unless a waiver is first approved pursuant to  
17 this Section.

18           (B)     Notice and Application to the City.

19                 (1) Any person applying for the issuance or transfer of a liquor  
20 license shall notify the State Director and the Liquor Hearing Officer as to  
21 whether the proposed licensed premises is located within 300 feet of any  
22 church or school.

23                 (2) In the event that a school or church distance waiver is required  
24 for the requested liquor license issuance or transfer pursuant to NMSA 1978 §  
25 60-6(B)-10, the person applying for the liquor license shall apply for a waiver  
26 on a form prescribed by the Liquor Hearing Officer.

27           (C)     Process for Review by the City.

28                 (1) After receiving the application for the waiver, City Council staff  
29 shall submit the application for waiver to the Liquor Hearing Officer for  
30 purposes of holding a public hearing on the matter. Nothing herein shall  
31 prohibit the Liquor Hearing Officer from conducting both the issuance or  
32 transfer hearing, and the waiver hearing on the same day in the proper  
33 sequence.

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1           (2)    The City Council staff shall provide notice of the public  
2 hearing at least ten days prior to such hearing, to the applicant, any church or  
3 school, and any recognized neighborhood association within 400 feet of the  
4 proposed licensed premises, and to any person or organization requesting  
5 such notice. The notice of hearing shall set forth:

6                   (a)    The name and address of the applicant;

7                   (b)    The location of the applicant's proposed licensed  
8 premises; and

9                   (c)    That the applicant has requested a waiver of the 300 feet  
10 distance requirement.

11           (3)    A record shall be made of the public hearing. The Liquor  
12 Hearing Officer may promulgate rules of procedure for the waiver hearing.  
13 These rules shall conform with accepted administrative hearing procedures.  
14 The Liquor Hearing Officer shall conduct this hearing and accept documentary  
15 and testimonial evidence in accordance with such rules of procedure.

16           (4)    The Liquor Hearing Officer may grant a waiver of the  
17 prohibition of a licensed premises within 300 feet of a church or school  
18 pursuant to Section 60-6B-10 NMSA 1978 in all IDO zones that allow all of the  
19 liquor sale or service activities permitted under the requested license,  
20 provided that:

21                   (a)    The waiver will not be detrimental to the public health,  
22 safety, welfare or morals of the affected neighborhood, including residents;

23                   (b)    The proposed location for which the waiver is sought  
24 will not be within an area where the sale of alcoholic beverages is prohibited  
25 by the laws of the state; and

26                   (c)    Granting of the waiver will not be in violation of a zoning  
27 or other ordinance of the City.

28           (5)    In evaluating paragraph 4(a), above, the Liquor Hearing Officer  
29 may consider factors that include but are not limited to:

30                   (a)    The attendance, hours, or programs of the church  
31 and/or school as related to the proposed license operation;

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1                   **(b) Existing natural or man-made barriers or access**  
2 **restrictions between the proposed licensed premises and the school and/or**  
3 **church in question;**

4                   **(c) The recommendation of the school board and/or**  
5 **recognized parent association in the case of a school, and the**  
6 **recommendation of the pastor, rabbi, or other religious leader of the affected**  
7 **church;**

8                   **(d) The consistency of such use with the educational,**  
9 **cultural, social, religious, civic and community character of the area in which**  
10 **the license or licenses would be issued;**

11                   **(e) The impact of such license or licenses on other**  
12 **businesses, residents, schools or churches in the area in question;**

13                   **(f) The number and type of other applicants and/or licensed**  
14 **premises in the area;**

15                   **(g) Previous experience with similar licensed**  
16 **establishments in the area or similar areas;**

17                   **(h) The impact of the license on the area, including but not**  
18 **limited to crime, traffic control and regulation, fire protection, planning and**  
19 **zoning, parking, or other City ordinances, and the impact on the City**  
20 **concerning the enforcement of the same;**

21                   **(i) The type of structure, the exact location and the exact**  
22 **times of operation proposed by the applicant;**

23                   **(j) Previous experience with the applicant's operation of a**  
24 **liquor establishment, if any;**

25                   **(k) The benefit to the community or furtherance of a City**  
26 **policy;**

27                   **(l) Any other relevant information.**

28                   **(6) The Liquor Hearing Officer shall also consider information**  
29 **solicited from the Police Department, the Fire Department, Traffic Engineering,**  
30 **the Environmental Health Department, the Planning Department and the**  
31 **Zoning Office. The information from those city agencies shall be provided to**  
32 **the Liquor Hearing Officer at least seven days prior to the hearing on the**



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1 waiver and made available to the applicant and members of the public at least  
2 five days prior to the hearing on the waiver.

3 (7) As soon as practicable after the public hearing, the Liquor  
4 Hearing Officer shall issue a determination either granting or denying the  
5 waiver. The City Council, by delegation of authority, deems as approved all  
6 findings and recommendations made by the Liquor Hearing Officer.

7 (8) If the Liquor Hearing Officer disapproves the waiver, the  
8 Liquor Hearing Officer shall disapprove the issuance or transfer of the license.  
9 The Liquor Hearing Officer shall notify the State Director of the reasons for the  
10 disapproval of the waiver. A copy of the minutes of the public hearing on the  
11 waiver application shall be submitted to the State Director by the Liquor  
12 Hearing Officer with the notice of disapproval of the waiver and issuance or  
13 transfer.

14 (9) If the Liquor Hearing Officer approves the waiver, the Liquor  
15 Hearing Officer may approve or disapprove the issuance or transfer of the  
16 license.

17 (10) Any person aggrieved by any decision made by the Liquor  
18 Hearing Officer as to the waiver may appeal to the District Court by filing a  
19 petition in that Court within 30 days from the date of the decision of the Liquor  
20 Hearing Officer. The decision of the Liquor Hearing Officer shall continue in  
21 force, pending a reversal or modification by the District Court, unless  
22 otherwise ordered by the Court for good cause shown.

23 **§ 13-2-5 LICENSE FEES.**

24 (A) The fee for issuance or transfer of a liquor license shall be \$600 per  
25 application.

26 (B) The fee for an application for a waiver shall be \$600.

27 **§ 13-2-6 SPECIAL DISPENSER'S AND CELEBRATION PERMITS.**

28 (A) Public Celebration.

29 (1) Dispenser's Licenses. Any person holding a dispenser's  
30 license in the City, pursuant to the Liquor Control Act and upon written  
31 approval by the City and final approval by the State Director, may dispense  
32 alcoholic beverages at a public celebration held in the City.

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1           **(2) Small Brewer, Winegrower, or Craft Distiller Licenses.** Any  
2 person holding a small brewer’s, winegrowers, or craft distiller’s license  
3 pursuant to the Liquor Control Act, whether or not their license is held within  
4 the City, may upon written approval by the City and final approval by the State  
5 Director, dispense alcoholic beverages produced and packaged by or for the  
6 licensee, or produced and packaged by another New Mexico small brewer,  
7 winegrower or craft distiller, at a public celebration held in the City.

8           **(B) Private Celebrations.** Any person holding a small brewer’s,  
9 winegrowers, or craft distiller’s license pursuant to the Liquor Control Act,  
10 whether or not their license is held within the City, may upon written approval  
11 by the City and final approval by the State Director, dispense alcoholic  
12 beverages produced and packaged by or for the licensee, or produced and  
13 packaged by another New Mexico small brewer, winegrower or craft distiller,  
14 at a private celebration held in the City.

15           **(C) Application.** The licensee must complete an Application for  
16 Approval of Special Dispenser’s, Public or Private Celebration Permit  
17 (“Application”) and must, as part of the application, obtain approvals from the  
18 following City Departments or Officials:

- 19           (1) the Police Chief or designee;
- 20           (2) the Fire Chief or designee;
- 21           (3) the Environmental Health Department Director or designee;

22 and

23           (4) if the public celebration will be held primarily outdoors and is  
24 other than a public dance as defined in § 10-9-2, the licensee must obtain  
25 approval from the Zoning Enforcement Officer or designee in addition to the  
26 officials listed above, provided, however, that the provisions in Chapter 14,  
27 Article 16, the Integrated Development Ordinance, that restrict the dispensing  
28 of alcoholic beverages shall not apply to the dispensing of alcoholic  
29 beverages pursuant to a Special Dispenser’s Permit.

30           **(D) (1) Approval may be withheld by a City department or official**  
31 **listed in division (C) of this section for good cause including:**

32                   **(a) The approval would be in violation of a zoning or other**  
33 **ordinance except as provided herein;**

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1 (b) The approval would be detrimental to the public health,  
2 safety or morals of the City residents; or

3 (c) There was a violation by the licensee of any state,  
4 federal or local law or regulation in connection with a previously approved  
5 Special Dispenser's Permit.

6 (2) If a City department or official listed in division (C) of this  
7 section withholds approval the reason(s) for withholding approval shall be  
8 provided in writing to the licensee.

9 (3) Where appropriate, as an alternative to withholding approval,  
10 any City department or official listed in division (C) of this section may  
11 recommend that the Liquor Hearing Officer impose certain conditions or  
12 limitations on the approval.

13 (E) The licensee must submit to the Liquor Hearing Officer the  
14 completed Application together with any fees required by the City and the  
15 completed state Special Dispenser's Permit Application form.

16 (F) Approval of a Special Dispenser's, Public or Private Celebration  
17 Permit shall not be issued by the City if the Application and all applicable fees  
18 and forms are not received by the Liquor Hearing Officer at least 15 business  
19 days prior to the function for which the permit is sought.

20 (G) If the Application is approved by all City officials listed in division (C)  
21 of this section and is accompanied by the City fee and the state Special  
22 Dispenser's, Public or Private Celebration Permit application, then the Liquor  
23 Hearing Officer shall approve the Application so long as the request is within  
24 the scope of a "public celebration" or "private celebration" as defined within  
25 this Article.

26 (H) Notwithstanding paragraph 'G', above, approval is subject to any  
27 reasonable conditions or requirements recommended pursuant to  
28 subparagraph (D)(3), above, and imposed by the Liquor Hearing Officer,  
29 together with any additional conditions deemed appropriate by the Liquor  
30 Hearing Officer relating to the preservation of the public health, safety or  
31 morals of City residents and the effect of the approval on land uses  
32 surrounding the location from which alcoholic beverages will be dispensed.  
33 Approval is also subject to all regulations adopted by the City.

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1 (I) The City's approval of a Special Dispenser's, Public or Private  
2 Celebration Permit may be revoked by any City department or official listed in  
3 paragraph (C), above, before or during a public celebration or catered function  
4 for good cause including, but not limited to, the falsification of information on  
5 the Application and the failure to follow regulations or meet conditions  
6 imposed.

7 (J) The dispenser's, small brewer's, winegrower's, or craft distiller's  
8 licensee and its employees shall be the only persons permitted to dispense  
9 alcohol during the function for which the Special Dispenser's, Public or  
10 Private Celebration Permit is sought.

11 (K) The City's approval does not authorize the licensee to dispense  
12 alcoholic beverages unless and until the licensee receives final approval from  
13 the State Director. It shall be the responsibility of the licensee to transmit the  
14 state application to the state so that the State Director receives the application  
15 at least ten days prior to the function for which the Special Dispenser's, Public  
16 or Private Celebration Permit is sought.

17 SECTION 2. Severability. If any section, paragraph, sentence, clause, word  
18 or phrase of this Ordinance is for any reason held to be invalid or  
19 unenforceable by any court of competent jurisdiction, such decision shall not  
20 affect the validity of the remaining provisions of this Ordinance. The Council  
21 hereby declares that it would have passed this Ordinance and each section,  
22 paragraph, sentence, clause, word or phrase thereof irrespective of any  
23 provision being declared unconstitutional or otherwise invalid.

24 SECTION 3. Compilation. Section '1' of this Ordinance amends, is  
25 incorporated in, and is to be compiled as part of the Revised Ordinances of  
26 Albuquerque, New Mexico, 1994.

27 SECTION 4. Effective Date. This Ordinance takes effect five days after  
28 publication by title and general summary.

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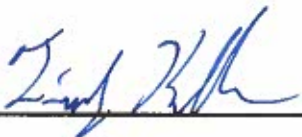
1 PASSED AND ADOPTED THIS 3rd DAY OF April, 2023  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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7 \_\_\_\_\_  
8 Pat Davis, President  
9 City Council

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12  
13 APPROVED THIS 17 DAY OF April, 2023

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15  
16 Bill No. C/S O-23-70

17  
18 

19 \_\_\_\_\_  
20 Timothy M. Keller, Mayor  
21 City of Albuquerque

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25 ATTEST:

26 

27 \_\_\_\_\_  
28 Ethan Watson, City Clerk

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