# CITY of ALBUQUERQUE

## TWENTY-FIRST COUNCIL

COUNCIL BILL NO. ENACTMENT NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SPONSORED BY: Patrick Davis

ORDINANCE

AMENDING SECTION 13-2-4 ROA 1994, CONCERNING THE WAIVER OF THE DISTANCE REQUIREMENT BETWEEN PREMISES LICENSED TO SERVE ALCOHOLIC BEVERAGES AND SCHOOLS OR CHURCHES, TO ALLOW APPLICATIONS FOR WAIVERS TO ALLOW THE TRANSFER OF AN "INTER LOCAL OPTION DISTRICT" DISPENSER’S LICENSE AS DEFINED AND REGULATED UNDER THE PROVISIONS OF THE LIQUOR CONTROL ACT (NMSA)] INTO THE NOB HILL AREA.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. FINDINGS AND INTENT

(1) The City Council finds that certain areas of the City are emerging as vibrant mixed-use districts featuring entertainment, dining, shopping, cultural and residential uses within walking distance of one another; and

(2) That the establishment and growth of these mixed use districts has the potential to spur revitalization in surrounding neighborhoods, promote tourism and further Albuquerque/Bernalillo County Comprehensive Plan goals and policies for active centers connected by multi-modal corridors; and

That the Nob Hill area exemplifies this type of district and continues to evolve as a major cultural center for the City; and

(3) That the fine-grained nature of these neighborhoods often results in the close proximity of nightlife, such as full-service restaurants that serve alcohol, to daytime uses, including religious institutions; and

(4) Whereas the positive, collaborative growth of these districts warrants revisiting of city ordinances governing businesses and occupations as they relate to the sale of alcohol.

SECTION 3. Section 13-2-4(A) is hereby amended as follows:

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

(A) The Council may grant a waiver of the prohibition of a licensed premises within 300 feet of a church or school pursuant to Section 60-6B-10 NMSA 1978, provided:

 (1) In all zones that allow the sale or service of alcoholic beverages, other than the Arts and Entertainment District of the downtown core[,] the waiver is for the operation of a restaurant license, a small brewer’s license, or a winegrower’s license as defined in the state Liquor Control Act;

 (2) In the Arts and Entertainment District of the downtown core as designated in the Downtown 2010 Plan (as adopted in 2000), a waiver may be requested for the operation of any state license authorized under Chapter 60, Article 6A of the Liquor Control;

 (3) [In all zones that allow the sale or service of alcoholic beverages, where the licenses premise is completely located within 100 feet of Central Avenue between Girard Boulevard and Carlisle Boulevard, a waiver may be requested to allow the transfer of an "Inter Local Option District" Dispenser’s License as defined and regulated under NMSA 1978 § 60-6B-12, the Liquor Control Act;

 (4)] In all zones that allow the sale or service of alcoholic beverages, where a waiver is required only because of the proposed proximity to a post-secondary educational institution, a waiver may be requested for the operation of any state license authorized under Chapter 60, Article 6A of the Liquor Control Act; and further provided that:

 [~~(4)~~(5)] The waiver will not be detrimental to the public health, safety, welfare or morals of the affected neighborhood, including residents;

 [~~(5)~~(6)] The proposed location for which the waiver is sought will not be within an area where the sale of alcoholic beverages is prohibited by the laws of the state; and

 [~~(6)~~(7)] The issuance or transfer for which the waiver is sought will not be in violation of a zoning or other ordinance of the city.”

SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

SECTION 5. COMPILATION. Section 2 and 3 of this ordinance shall amend, be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.