0-2014-007

CITY OF ALBUQUERQUE CITY COUNCIL

INTEROFFICE MEMORANDUM

TO:

Richard J. Berry, Mayor

FROM:

Jon K. Zaman, Director of Council Services

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. O-14-5 Amending Chapter Thirteen Of The Revised Ordinances Of Albuquerque Relating To Businesses And Occupations To Authorize Waivers Of The Distance Requirement From A Church Or School For Certain Licenses Issued Under The New Mexico Liquor Control Act (Benton), which was passed at the Council meeting of March 17, 2014 by a vote of 8 FOR AND 0 AGAINST.

Excused: Lewis

In accordance with the provisions of the City Charter, your action is respectfully requested.

JKZ:mh Attachment

CITY of ALBUQUERQUE TWENTY-FIRST COUNCIL

COUNCIL BILL NO. 0-14-5 **SPONSORED BY:** Isaac Benton 1 **ORDINANCE** AMENDING CHAPTER THIRTEEN OF THE REVISED ORDINANCES OF 2 3 ALBUQUERQUE RELATING TO BUSINESSES AND OCCUPATIONS TO AUTHORIZE WAIVERS OF THE DISTANCE REQUIREMENT FROM A CHURCH 4 5 OR SCHOOL FOR CERTAIN LICENSES ISSUED UNDER THE NEW MEXICO 6 LIQUOR CONTROL ACT. 7 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF 8 **ALBUQUERQUE:** 9 SECTION 1. FINDINGS AND INTENT 10 The City Council finds microbrewers and winers have become an - Deletion 11 important part of Albuquerque's small business economy creating local jobs Bracketed/Underscored Material] - New 12 and economic growth; 13 That Albuquerque already hosts several established and award Bracketed/Strikethrough Material] 14 winning microbreweries, brew pubs and wineries and Albuquerque has been 15 recognized for its microbreweries as the top "Emerging Beer City" in 2013 16 according to the website, livability.com; 17 (3) That the establishment and growth of local microbreweries and wineries has a potential revitalization effect on surrounding neighborhoods 18 19 and can help promote tourism; and 20 That the positive growth and establishment of local brewers and 21 winers is a relatively recent phenomena that warrants revisiting of city 22 ordinances governing businesses and occupations as they relate to brewers 23 and winers. 24 SECTION 2. THE DEFINITION OF "LICENSE" IN SECTION 13-2-2 IS **HEREBY AMENDED AS FOLLOWS:** 25 26 **"§ 13-2-3 DEFINITIONS**

31

1	LICENSE. A dispenser's, retailer's, club, restaurant, wholesaler's, small				
2	brewer's, wine grower's or other license regulated under this ordinance and				
3	issued by the Director for the sale of alcoholic beverages."				
4	SECTION 3. SECTION 13-2-4(A) IS HEREBY AMENDED AS FOLLOWS:				
5	"§ 13-2-4 WAIVER OF DISTANCE REQUIREMENT BETWEEN LICENSED				
6	PREMISES FOR A LIQUOR LICENSE AND CHURCH OR SCHOOL.				
7	(A) The Council may grant a waiver of the prohibition of a licensed				
8	premises within 300 feet of a church or school pursuant to Section 60-6B-10				
9	NMSA 1978, provided:				
10	(1) In all zones that allow the sale or service of alcoholic beverages,				
11	other than the Arts and Entertainment District of the downtown core, the				
12	waiver is for the operation of a restaurant license, a small brewer's license, or				
13	a winegrower's license as defined in the state Liquor Control Act;				
14	(2) The Arts and Entertainment District of the downtown core as				
15	designated in the Downtown 2010 Plan (as adopted in 2000), a waiver may be				
16	requested for the operation of any state license authorized under Chapter 60,				
17	Article 6A of the Liquor Control Act; and further provided that;				
18	(3) The waiver will not be detrimental to the public health, safety,				
19	welfare or morals of the affected neighborhood, including residents;				
20	(4) The proposed location for which the waiver is sought will not be				
21	within an area where the sale of alcoholic beverages is prohibited by the laws				
22	of the state; and				
23	(5) The issuance or transfer for which the waiver is sought will not be				
24	in violation of a zoning or other ordinance of the city."				
25	SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph,				
26	sentence, clause, word or phrase of this ordinance is for any reason held to be				
27	invalid or unenforceable by any court of competent jurisdiction, such decision				
28	shall not affect the validity of the remaining provisions of this ordinance. The				
29	Council hereby declares that it would have passed this ordinance and each				
30	section, paragraph, sentence, clause, word or phrase thereof irrespective of				

any provisions being declared unconstitutional or otherwise invalid.

	1	SECTION 5.	COMPILATION.	Section 2 and 3 of this ordinance shall				
	2	amend, be incorporated in and made part of the Revised Ordinances of						
	3	Albuquerque, New Mexico, 1994.						
	4	SECTION 6.	EFFECTIVE DATE	. This ordinance shall take effect five				
	5	days after publication by title and general summary.						
	6							
	7							
	8							
	9							
	10		•					
	11							
	12							
	13							
	14							
	15							
	16							
√ tion	17							
	18							
<u>Material</u>] - New laterial] - Deletion	19							
 , 1	20							
Material Aaterial	21							
	22							
orec	23							
<u>Bracketed/Underscored</u> Bracketed/Strikethrough N	24							
	25							
	26							
	27							
grace State	28							
	29							
	30							
	31							
	32							
	33	X:\CITY COUNCIL\SHA	RE\CL-Staff_Legislati	ve Staff\Legislation\21 Council\O-5final.doc				

2				
<i>-</i>	BY A VOTE OF: 8	FOR	0	_AGAINST.
3				
4	Excused: Lewis			
5				
6		-1		
7		m Jenny	15/	A STATE OF THE STA
8	Ken Sa	inchez, Presi	dent	
9	City Co	ouncil		
10				
11				
12	2154	\mathcal{M}		
13	APPROVED THIS 3/3' DAY	OF <u>////</u>	<u> </u>	, 2014
14				
15				
16				
17	Bill No. O-14-5			
일 18				
<u></u> 19				
<u>'</u> 20		1 110	/ //	
£ 21		A 11	Luy-	10000
ф 22 ≥	Richard	d J/Berry, M	ayor	
± 23	City of	Albuquerque	9	
24				
₫ 25				
26	ATTEST:			
27	Mina W.			
¥ 28 %		<u> </u>		
	i rina ivi. Gurule, Acting City Cler	'K		
		A		
	4 5 6 7 8 9 10 11 12 13 14 15 16	4 Excused: Lewis 5 6 7 8 Ken Sa 9 City Co 10 11 12 13 APPROVED THIS 3/5+ DAY 14 15 16 17 Bill No. O-14-5 18 19 20 21 22 Richard 23 City of 24 25 26 ATTEST: 27 28 Trina M. Gurule, Acting City Cler 30 31 32	4 Excused: Lewis 5 6 7 8 Ken Sanchez, Presi 9 City Council 10 11 12 13 APPROVED THIS 3/5 [†] DAY OF 14 15 16 17 Bill No. O-14-5 18 19 20 21 Richard J Berry, M City of Albuquerque 22 City of Albuquerque 24 25 26 ATTEST: 27 28 Trina M. Gurule, Acting City Clerk 30 31 32	Excused: Lewis Ken Sanchez, President City Council APPROVED THIS 3/5+ DAY OF March APPROVED THIS 3/5+ DAY OF March Bill No. O-14-5 Richard J Berry, Mayor City of Albuquerque ATTEST: Constant Service S

Health City Sun Affidavit of Publication

CITY of ALBUQUERQUE TWENTY-FIRST COUNCIL COUNCIL BILL NO.O-14-5 ENACTMENT NO. O-2014-007 SPONSORED BY: Isaac Benton

ORDINANCE

AMENDING CHAPTER THIRTEEN OF REVISED ORDINANCES OF ALBUQUERQUE RELATING BUSINESSES AND OCCUPATIONS TO AUTHORIZE WAIVERS OF THE DISTANCE REQUIREMENT FROM A CHURCH OR SCHOOL FOR CERTAIN LICENSES ISSUED UNDER THE NEW MEXICO LIQUOR CONTROL BE ORDAINED COUNCIL, THE THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE: HCS Pub. April 4, 2014

State of New Mexico) ss County of Bernalillo)

David Rivord, being duly sworn declares and says he i.s the Publisher of the Health City Sun, a weekly newspaper published and having a general paid circulation in the State of New Mexico; that the said Health City Sun was entered in the post office at Albuquerque as second class mail matter on September 5, 1930, and has met all requirements of a legal newspaper under the laws of the State of New Mexico.

Affiant further states that this newspaper is duly qualified to publish Legal Notices or advertisements within the meaning of Section 14-11-4 of the New Mexico Statutes annotated (1978).

Affiant further states that the publication, a copy of which is hereto attached, was published in said paper in the regular and entire issue of each number of the paper, during the period and time of publication, and that the notice was published in the newspaper proper and not in a supplement thereof for 1 week, the first publication being in the issue of the 4th day of April, 2014, and the last publication being in the issue of the 4th day of April, 2014.

Affiant further states that the costs of publishing said legal notice have been paid, or have been assessed as court costs in the case numbered.

David Rivord, Publisher

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 4th day of April, 2014.

Mosine Bro Volle Notary Public

My Commission Expires 3-1/247

Office Address: 6300 Montano NW, Albuquerque, NM 87102 Mailing Address: P.O. Box 67560, Albuquerque, NM 87193 Phone: 505-242-3010/Fax: 505-842-5464

Health City Sun AFFIDAVIT OF PUBLICATION

CIUDAD de ALBUQUERQUE VIGÉSIMO PRIMER CONCEJO PROYECTO DE LEY MUNICIPAL NÚM. O-14-5 PROMULGACIÓN NÚM. O-2014-007

PATROCINADO POR:

Isaac Benton **ORDENANZÁ** PARA **ENMENDAR** EL CAPÍTULO TRECE DE LAS ORDENANZAS REVISADAS DE ALBUQUERQUE RELATIVAS A NEGOCIOS Y OCUPACIONES, CON EL FIN DE AUTORIZAR EXENCIONES PARA REQUISITO DE DISTANCIA **DESDEIGLESIAS O ESCUELAS** PARA CIERTAS LICENCIAS EMITIDAS CONFORME A LA LEY DE CONTROL DE BEBIDAS **ALCOHÓLICAS** NUEVO DF MÉXICO. ASÍ. LO RESUELVE EL CONCEJO. ÓRGANO **GOBERNANTE** DE CIUDAD DE ALBUQUERQUE: HCS Pub. April 4, 2014

State of New Mexico) ss County of Bernalillo)

David Rivord, being duly sworn declares and says he i.s the Publisher of the Health City Sun, a weekly newspaper published and having a general paid circulation in the State of New Mexico; that the said Health City Sun was entered in the post office at Albuquerque as second class mail matter on September 5, 1930, and has met all requirements of a legal newspaper under the laws of the State of New Mexico.

Affiant further states that this newspaper is duly qualified to publish Legal Notices or advertisements within the meaning of Section 14-11-4 of the New Mexico Statutes annotated (1978).

Affiant further states that the publication, a copy of which is hereto attached, was published in said paper in the regular and entire issue of each number of the paper, during the period and time of publication, and that the notice was published in the newspaper proper and not in a supplement thereof for 1 week, the first publication being in the issue of the 4th day of April, 2014, and the last publication being in the issue of the 4th day of April, 2014.

Affiant further states that the costs of publishing said legal notice have been paid, or have been assessed as court costs in the case numbered.

David Rivord, Publisher

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 4th day of April, 2014.

Musike Mm Volds Notary Public

My Commission Expires 3-1/ 2017

Office Address: 6300 Montano NW, Albuquerque, NM 87102 Mailing Address: P.O. Box 67560, Albuquerque, NM 87193 Phone: 505-242-3010/Fax: 505-842-5464