



VILLAGE OF CORRALES

RESOLUTION NO. 23-47

ESTABLISHING A PROCEDURE FOR GRANTING A WAIVER OF THE PROHIBITION OF A LIQUOR LICENSED PREMISES WITHIN 300 FEET OF A CHURCH OR SCHOOL


WHEREAS, The Governing Body may grant a waiver of the prohibition of a liquor licensed premises within 300 feet of a church or school pursuant to Section 60-6B-10 NMSA 1978; and

WHEREAS, A procedure detailing how a waiver may be granted has been created as is attached as exhibit A;

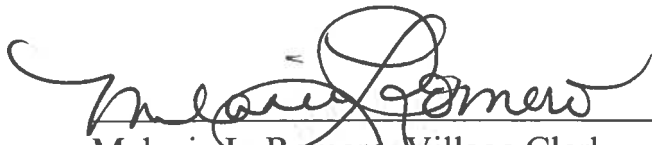
THEREFORE, BE IT RESOLVED that the Governing Body of the Village of Corrales approves and adopts the procedures for granting a waiver to the prohibition of liquor license approval for an establishment that exists within 300 feet of a church or school.

APPROVED this 11th day of July 2023.

VILLAGE OF CORRALES


James F. Fahey, Jr. MD, Mayor

ATTEST:


Melanie L. Romero, Village Clerk
(SEAL)

ATTACHMENT A



VILLAGE OF CORRALES

PROCEDURE FOR GRANTING A LIQUOR LICENSE WAIVER WHEN THE PREMISES EXISTS WITHIN 300 FEET OF A CHURCH OR SCHOOL

(A) The Village 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, a waiver may be requested for the operation of a restaurant A or B license pursuant to Section 60-6A-4 NMSA 1978, a small brewer's license pursuant to Section 60-6A-26.1 NMSA 1978, or a winegrower's license pursuant to Section 60-6A-11 NMSA 1978.
- (2) In all zones that allow the sale or service of alcoholic beverages, 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:
 - (i) The waiver will not be detrimental to the public health, safety, welfare or morals of the affected neighborhood, including residents;
 - (ii) 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
 - (iii) The issuance or transfer for which the waiver is sought will not be in violation of a zoning or other ordinance of the Village.

(B) Any person or business applying for the issuance or transfer of a liquor license shall notify the Director and Village Council whether the proposed licensed premises is located within 300 feet of any church or school and whether that person will seek a waiver of the distance requirement from the Village.

(C) Any person or business seeking a waiver for a liquor license shall apply for a waiver on a form prescribed by the Village Council, and the Village shall approve or disapprove the waiver in accordance with this section after a public hearing and prior to the approval or disapproval of the issuance or transfer of the liquor license.

(D) After receiving the application for the waiver, the Clerk of the Village Council shall submit the application for waiver to the Village Council. It will be the duty of the Village

Council to conduct a public hearing after notice has been provided in accordance with this section and prior to the hearing on the issuance or transfer of the license. Nothing herein shall prohibit the Village Council from conducting both public hearings on the same day in the proper sequence. The Village Council may promulgate rules of procedure for the waiver hearing. These rules shall conform with accepted administrative hearing procedures. The Village Council shall conduct this hearing and accept documentary and testimonial evidence in accordance with such rules of procedure.

(E) Notice of the public hearing shall be given by the Village Council in writing, in accordance with the notice requirements for a liquor hearing and shall be specifically noticed as a "Request for Waiver of the 300-foot Requirement". The notice of hearing shall set forth:

- (1) The name and address of the applicant;
- (2) The location of the applicant's proposed licensed premises; and
- (3) That the applicant has requested a waiver of the 300 feet distance requirement.

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

(G) The Village Council, in approving or disapproving the waiver, shall take into consideration the following:

- (1) The type, attendance, hours of the church and/or school as related to the proposed licensed operation;
- (2) Existing natural or man-made barriers or access restrictions between the proposed licensed premises and the school and/or church in question;
- (3) The recommendation of the school board and/or recognized parent association in the case of a school, or the recommendation of the pastor, rabbi or other religious leader in the case of the affected church;
- (4) The consistency of the licensed premises with the educational, cultural, social, religious, civic and community character of the area in which the license or licenses would be issued;
- (5) The impact of such license or licenses on other businesses, residents, schools or churches in the area in question;
- (6) The number and type of other applicants or licensed businesses in the area;
- (7) Previous experience with similar licensed establishments in the area;
- (8) The impact of the license on the area, including but not limited to crime, traffic control and regulation, fire protection, planning and zoning, parking, or other village ordinances, and the impact on the village concerning the enforcement of the same;
- (9) The type of structure, the exact location and the exact times of operation proposed by the applicant;

- (10) Previous experience with the applicant's operation of a liquor establishment, if any;
- (11) The benefit to the community or furtherance of a village policy;
- (12) Any other relevant information.

(H) The Village Council shall also consider information solicited from the Police Department, the Fire Department, Public Works Director, and the Planning and Zoning Office. The information from those village agencies shall be provided to the Village Council and the applicant at least seven days prior to the hearing on the waiver and made available to the applicant and members of the public at least five days prior to the hearing on the waiver.

(I) Based on the Village Council's findings from the reports of Village departments and the public hearing, the Council shall either approve or disapprove the waiver:

(1) If approved, the waiver and liquor license shall be granted to the applicant.

(2) If disapproved, the Village Council must notify the Director of the reasons they did not approve the waiver. A copy of the decision and findings and conclusions of the public hearing on the waiver application shall be submitted to the applicant and the Village Clerk with the notice of disapproval of the waiver.

(J) Any person aggrieved by any decision made by the Village Council as to the waiver may appeal to the District Court by filing a petition in that Court within 30 days from the date of the decision of the Village Council. The decision of the Village Council shall continue in force, pending a reversal or modification by the District Court, unless otherwise ordered by the Court for good cause shown.