

# CITY OF ALBUQUERQUE

## PLANNING DEPARTMENT ADMINISTRATION

600 2<sup>nd</sup> Street NW, 3<sup>rd</sup> Floor  
Albuquerque, NM 87102  
Tel: (505) 924-3339



### **DECLARATORY RULING**

**FROM:** Michael J. Vos, AICP, Principal Planner and Zoning Enforcement Officer (ZEO)

**DATE:** September 30, 2025

**SUBJECT:** Declaratory Ruling regarding liquor licenses at Assisted Living Facilities

Sutin, Thayer & Browne, on behalf of La Vida Llena (“Applicant”), made a request for a Declaratory Ruling regarding the potential sale of alcohol to its members under a club liquor license at their facility located at 10501 Lagrima de Oro Rd NE (the “subject property”). The subject property is zoned Residential – Multi-family Low Density (R-ML), pursuant to the City of Albuquerque’s Integrated Development Ordinance (IDO). The matter for this Declaratory Ruling is whether alcohol sales are allowable as an accessory use to an Assisted Living Facility in a Residential zone district, or whether a Mixed-use zone district is required to operate both the Assisted Living Facility and a separately listed primary use for the proposed alcohol sales, such as a bar or restaurant.

#### **DEFINITIONS**

##### **IDO §14-16-7-1, Definitions, Assisted Living Facility**

A facility designed to provide housing, supportive services, personalized assistance, and health care services to respond to individuals who need help with activities of daily living or memory care services, but not including skilled nursing care. Such facilities may include separate bedrooms or living quarters, a commercial or private kitchen, shared dining facilities, and recreational activities.

##### **IDO §14-16-7-1, Definitions, Other Use Accessory to a Residential Primary Use**

A land use that is subordinate in use, area, or purpose to a primary residential land use on the same lot and serving a purpose naturally and normally incidental to such primary land use and that is not listed separately in Table 4-2-1. For residential uses other than multi-family dwellings, this use includes, but is not limited to, tennis courts, game rooms, patios, outdoor kitchens, swimming pools, and accessory buildings for storage, recreation, hobbies, and gardening for the use of the residents living in the dwellings on the same lot as this use. For multi-family residential development, this use includes, but is not limited to, sales of convenience items, personal service shop, rental/management office, concierge/doorman services, and similar activities provided for residents of the multi-family or group living uses.

##### **IDO §14-16-7-1, Definitions, Residential Community Amenity**

A use provided for the comfort and convenience of residents of more than 1 unit in a low-density or multi-family residential development, including but not limited to a clubhouse, exercise room, swimming pool, tennis court, community room, or laundry room.

##### **IDO §14-16-7-1, Definitions, Multi-family Residential Development**

Residential development of multi-family dwellings or uses from the Group Living category (except small community residential facilities) in zone districts as allowed per Table 4-2-1. Properties that include both multi-family dwellings and low-density residential development are considered multi-family residential development for the purposes of this IDO. Properties with other uses accessory to residential primary

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uses allowed per Table 4-2-1 are still considered multi-family residential development for the purposes of this IDO.

### **IDO §14-16-7-1, Definitions, Bar**

An establishment having as its primary or predominant uses the serving of beer, wine, or liquor for consumption on the premises or for takeout or delivery service for off-site consumption, but that does not meet the definition for Tap Room or Tasting Room.

### **IDO §14-16-7-1, Definitions, Restaurant**

An establishment that serves food and beverages that are consumed on its premises by customers seated at tables and/or counters either inside or outside the building thereon and/or that may provide customers with take-out service of food and/or beverages for off-site consumption. Sale of alcoholic beverages is controlled by other provisions in this IDO and the New Mexico State statutes regarding alcoholic drink sales. See also Bar and Taproom or Tasting Room.

### **IDO §14-16-7-1, Definitions, Establishment**

A place of business, industry, institutional, or philanthropic activity, with its furnishings and staff.

## **BACKGROUND**

The applicant indicates they intend to obtain a club liquor license for their facility from the State of New Mexico pursuant to [Section 60-6A-5 NMSA 1978](#), retrieved on 09/25/2025. La Vida Llena is a retirement community consisting of both an Assisted Living Facility and an accessory Independent Living Facility. The Assisted Living Facility is a permissive primary use in the underlying R-ML zone district of the subject site. In addition, La Vida Llena has an on-site shared dining facility that serves its residents and their guests. The proposed liquor license would allow La Vida Llena to serve alcohol to its residents and guests in the on-site dining facility.

## **ANALYSIS**

### ***Shared Dining Facilities within Assisted Living Facilities Are Similar to a Restaurant.***

The IDO explicitly includes shared dining facilities in the definition of an assisted living facility, alongside commercial kitchens and recreational activities.

Table 4-2-1 allows “Other use accessory to residential primary use,” which is defined to include sales of convenience items, personal services, or offices as permissive in R-ML. While the definition for this use states that these accessory uses are not those that would be listed separately in Table 4-2-1 (and limited to the zone districts where those uses are allowable), the definition itself includes activities that are listed separately in Table 4-2-1 (General Retail, Personal and Business Services, or Office).

The distinguishing factor between what is an allowable accessory use and a separate primary use is the limitation in the use-specific standard for “Other use accessory to residential primary use,” IDO §14-16-4-3(F)(18)(a), which states “The use must be intended for the exclusive use of residents of the premises on which the accessory use is located, and their invited guests.” A restaurant, retail, or other use accessory to a residential use – in this case an assisted living facility – is allowed in a Residential zone district by virtue of being limited to the residents and their guests. If open to the public, these uses would only be allowed as primary uses pursuant to Table 4-2-1, i.e., only in Mixed-use and Non-residential zone districts.

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### ***Alcohol Sales Are Allowed with Restaurants.***

There are several uses in the IDO, including restaurants, that allow alcohol sales within the use, not always as the primary or predominant part. The restaurant use is defined to include sale of alcoholic beverages subject to IDO provisions and New Mexico State statutes. The use-specific standard for restaurants states: "Alcohol sales for on-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities" [IDO §14-16-4-3(D)(8)]. The same applies to Bed & Breakfast establishments, liquor retail, and taproom or tasting rooms. In addition, the Outdoor Dining accessory use allows for the consumption of alcohol if the area meets all applicable State law requirements.

### ***There is not a One-for-One Relationship between IDO Uses and Licenses under the Liquor Control Act.***

While some uses in the IDO have a clear link to State law, such as Bed & Breakfasts and the provisions for a special bed and breakfast dispensing license or Taprooms and Tasting Rooms with a Small Brewer's, Winegrower's, or Craft Distiller's licenses, others do not. Small-scale alcohol manufacturing may occur under the same licenses as the Taproom and Tasting Room use, but the State also has a manufacturer's license. A restaurant may obtain one of several restaurant licenses from the State but may also be able to operate within IDO allowances with a Dispenser's license that allows alcohol sales while still maintaining the sales of food and non-alcoholic beverages. The same Dispenser's license could be used for a Bar, where the sale of alcohol is the predominant part of the use, or it could be utilized for Liquor Retail, which could also operate under a retail-only license. See [Ch. 60, art. 6A NMSA 1978](#), retrieved on 09/30/2025 for more state license types.

### ***Alcohol Sales May Be Allowed as an Other Accessory Use to Residential if Sufficiently Limited.***

If subordinate in use, area, or purpose; a dining facility serving alcohol during meals may be permissive within a Residential zone district as long as it meets all of the following requirements:

- 1) serves a purpose naturally and normally incidental to the primary land use and is not listed separately in Table 4-2-1, pursuant to the Other Use Accessory to a Residential Primary Use definition or otherwise falls within the definition of an assisted living facility.
- 2) meets the use-specific standard in IDO §14-16-4-3(F)(18)(a) limiting the use only to residents and their invited guests; and
- 3) complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities, like other uses that involve alcohol.

Based on the above, a Bar may not be allowable where serving alcohol is the "primary or predominant" part of the use. The same may be true for liquor retail, where alcohol is sold for off-site consumption. Those are separately listed uses in Table 4-2-1 with specific definitions; however, the dining facilities of an assisted living facility are clearly within the definition of the use itself and incidental to the overall primary use of providing "housing, supportive services, personalized assistance, and health care services..." to the residents. Serving alcohol in this context and limited to residents and their guests only is appropriate, as long as the applicant is able to comply with all applicable State law requirements, as reviewed and approved through the liquor licensing process.

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### ***A Club License Is an Appropriate License for Limiting the Use to Residents and Guests Only***

Pursuant to [Section 60-3A-3 NMSA 1978](#), retrieved on 09/30/2025, a club is, in part:

- (1) any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state, with a membership of not less than fifty members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges, and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:
  - (a) is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes; and
  - (b) has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended, or ... that it will, in good faith, apply for an income tax exemption as soon as it is eligible.

According to the Applicant, “La Vida Llena is a domestic non-profit corporation. La Vida Llena and the restaurant are managed by Pacific Retirement Services, also a non-profit corporation. The restaurant is operated for recreation purposes for its guests and does not meet the definition of ‘restaurant’ under NMSA §60-3A-3”, whereas a restaurant under the Liquor Control Act is “...held out to the public...”

If granted approval of a club license, State statute and the New Mexico Administrative Code specifically limit sales under a club license to members and guests. The on-site restaurant and dining facility must verify that every non-employee on the licensed premises where alcoholic beverages are sold, served, or consumed must be a member or a bona fide guest of a member. While other mechanisms may be available to ensure compliance with the IDO use-specific standard, the club license closely ties back to the limitation of residents and their guests.

### **CONCLUSION**

It is my official determination as ZEO that a shared dining facility associated with an Assisted Living Facility may sell and serve alcohol as part of a restaurant that is an accessory use to a residential primary use in any zone district where such a facility is allowed, including Residential zone districts. Such facilities must comply with the use-specific standard in IDO §14-16-4-3(F)(18)(a) limiting the use only to residents and their invited guests, as well as with all New Mexico State law requirements for uses involving alcohol, including but not limited to any required spacing from other uses or facilities. The Applicant’s proposed club license appears to meet these requirements.

Respectfully,

Michael J. Vos, AICP  
Principal Planner and Zoning Enforcement Officer  
Albuquerque Planning Department