City of Las Cruces®
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Council Action and Executive Summary

Item # 8 **Ordinance/Resolution#** 2684

For Meeting of June 3, 2013 (Ordinance First Reading Date) **For Meeting of** June 17, 2013 (Adoption Date)

Please check box that applies to this item:
☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

TITLE: **AN ORDINANCE REPEALING LCMC 1997, CHAPTER 10, FARMERS AND CRAFTS MARKET, SECTIONS 10-1 THROUGH 10-43 IN ITS ENTIRETY AND PLACING THE CHAPTER IN RESERVE.**

PURPOSE(S) OF ACTION:

Repeal Chapter 10 of the Municipal Code.

COUNCIL DISTRICT: N/A		
Drafter/Staff Contact: Andy Hume	**Department/Section:** Community Development / Planning & Neighborhood Services	**Phone:** 528-3048
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Las Cruces Farmers and Crafts Market has been in operation for over 40 years. Over the past several years the market has been under City governance. During the past 5 months, City staff has been working with the Farmers & Crafts Market of Las Cruces, Inc. (the "Corporation") to take over market operations.

In order to complete the transition, Chapter 10 of the Las Cruces Municipal Code, entitled Farmers and Crafts Market, must be repealed. Chapter 10 details the statutes under which the City governed the market. Those details are now included in the Memorandum of Agreement between the City and the Corporation; the Lease Agreement; the Corporation Bylaws; and the Corporation's Vendor Policies and Procedures.

The repeal of Chapter 10 will take place on July 1, 2013. At that time the Corporation takes charge of the market.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Las Cruces Municipal Code, Chapter 10, Farmers and Crafts Market.

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
N/A	Budget Adjustment Attached	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: ____in the amount of $_____for FY__.
N/A	No	☐	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this action will approve the Ordinance repealing Chapter 10 of the Las Cruces Municipal Code, entitled Farmers and Crafts Market.
2. Vote "No"; this action will deny the Ordinance repealing Chapter 10 of the Las Cruces Municipal Code, entitled Farmers and Crafts Market. This will create a situation where the City and the Corporation will have dueling documents governing the market.
3. Vote to "Amend"; this action could modify the Ordinance and delay or prevent the transition of the Farmers and Crafts Market to the Corporation.
4. Vote to "Table"; this action could prevent the transition of the Farmers and Crafts Market to the Corporation.

REFERENCE INFORMATION:

1. N/A

COUNCIL BILL NO. 13-029
ORDINANCE NO. 2684

AN ORDINANCE REPEALING LCMC 1997, CHAPTER 10, FARMERS AND CRAFTS MARKET, SECTIONS 10-1 THROUGH 10-43 IN ITS ENTIRETY AND PLACING THE CHAPTER IN RESERVE.

The City Council is informed that:

WHEREAS, the Las Cruces Farmers and Crafts Market has been in existence for over 40 years; and

WHEREAS, over the past few years the Las Cruces Farmers and Crafts Market has been named the number one market in New Mexico and in 2011 was voted the number one market in the United States by American Farmland Trust; and

WHEREAS, on April 1, 2013, the Las Cruces City Council entered into a memorandum of agreement (MOA) for the non-profit corporation known as Farmers & Crafts Market of Las Cruces, Inc. (FCMLC) to operate the Farmers and Crafts Market on Main Street in downtown Las Cruces; and

WHEREAS, Chapter 10 of the Las Cruces Municipal Code, entitled Farmers and Crafts Market, sets out the details for the City to govern and operate the market; and

WHEREAS, Chapter 10 of the Las Cruces Municipal Code must be repealed to pave the way for a smooth transition to governance by FCMLC and thereby allowing the MOA, lease agreement, Corporation Bylaws, and vendor policies to serve as the governing documents; and

WHEREAS, the Las Cruces City Council has the authority to amend the Municipal Code.

NOW, THEREFORE, Be it ordained by the governing body of the City of Las Cruces:

(I)

THAT Chapter 10 of the Las Cruces Municipal Code, entitled Farmers and Crafts Market, as shown in Exhibit "A," attached hereto and made part of this Ordinance, is hereby repealed on July 1, 2013 and placed in reserve for future use.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2013.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

Sec. 10-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Crafts market means the sale of any locally made, homecrafted or hand-assembled arts and crafts, which have been homecrafted or hand-assembled or produced by the seller or members of the seller's household, including leather goods; drawings, paintings and prints; photographs; woodwork; metalcraft; ceramics and pottery; weaving and yarn work; macrame; needlework; beadwork; sculpture; jewelry; stitchery and sewing; clothing and accessories; glasswork; and natural fiber crafts and basketry.

Downtown means the seven-block public way, known as "Main Street Downtown" between Bowman and Mountain Streets, in the city.

Farmer's and crafts market means:

(1) The sale of agricultural products grown by the seller;

a. New Mexico and El Paso County agricultural products including fruits, vegetables, nuts, honey, herbs, spices, and flowers.

(2) The sale of locally produced home kitchen prepared goods which have been approved for sale by the state environmental improvement agency;

(3) The sale of all household, bedding, seedling or collected plants other than cactus weighing more than 15 pounds; cut flowers; seeds, bulbs and like items; and eggs produced and collected locally by the seller. The appropriate license, registration and packaging regulations issued by the state agricultural department are required; or

(4) The sale of a commercial product or service which justifiably compliments the vendor's locally grown or prepared market items or enhances the farmers' and crafts market theme as determined by the market manager.

Farmers' and crafts market manager means the city manager or designee appointed to administer the city's policies and procedures relevant to the organization, administration and management of the farmers' and crafts market and events related thereto.

Homemade or hand assembled means an item that has two or more distinctive parts, combined and permanently attached by intent, labor, creativity and skill to produce a more attractive or valuable product.

Locally means within the bounds of the county, including residents of the county and New Mexico State University students.

Reserved use means a use which provides for a reservation of space on the downtown for specific dates, but does not displace the farmers' and crafts market.

Vendor means resident of Dona Ana County (resident of New Mexico, and El Paso County for agricultural products including fruits, vegetables, nuts, honey, herbs, spices, and flowers) who sells at the farmers' and crafts market and those who are members of the same household.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Secs. 10-2—10-31. - Reserved.

Sec. 10-32. - Use of Downtown and hours.

The farmers' and crafts market shall be allowed the use of the downtown on Wednesdays and Saturdays. During the times covered by a reserved use business license, the farmers' and crafts market shall be confined to downtown. Participants are responsible for the cleanup associated with the farmers' and crafts market.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Sec. 10-33. - Proof of tax collection capabilities.

All vendors must provide proof of gross receipts tax collection capabilities when conducting business at the farmers' and craft market. Proof shall be provided to the farmers' market manager. Proof shall consist of one of the following:

(a) Approved and valid city business registration or home occupation registration;
(b) Approved and valid county business registration or home occupation registration; or
(c) Valid State Taxation Number (CRS) Form.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Cross reference— *Business licenses, § 16-96 et seq.*

Sec. 10-34. - Selling restrictions; housekeeping and maintenance.

(a) All participants of the farmers' and crafts market, unless stated otherwise in this article, shall be restricted to selling only those items and services as defined in section 10-1. Requests originating from any source for additions to section 10-1 should be forwarded to the farmers' and crafts market manager, which will make final determination for inclusion or exclusion of an allowable sale item.
(b) Any vendor that began selling at the farmers' and crafts market and reaches commercial status can continue to sell at the farmers' and crafts market as long as that vendor, or someone from that vendor's household, sells the product.
(c) Routine housekeeping and maintenance rules shall be promulgated in the farmers' and crafts market rules and regulations.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Sec. 10-35. - Petition for reserved use.

Any group may petition the city for the grant of a reserved use of the downtown. The City may grant a reserved use in its discretion to any organization, provided that the organization would not displace the farmers' and crafts market, except as provided in section 10-37. Reserved use shall be available on any area except for that area assigned for the farmers' and crafts market.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Sec. 10-36. - Restrictions and policies on reserved use permits.

All applications for reserved use of the downtown must be filed with the recreation section ten days prior to the anticipated date of the reserved use of the downtown. The following restrictions and policies shall apply to reserved use permits:

(1) An additional fee will be assessed if clean up and damage are associated with event.
(2) An appropriate reimbursement for electricity costs shall be established by city staff if the use of electricity is requested.
(3) Reserved use permits may carry the requirement for liability insurance as prescribed by the risk management department.
(4) An appropriate charge for dumpsters shall be made if required or deemed necessary by the parks and recreation advisory board.
(5) Portable restroom facilities may be required to be provided by the user, if deemed necessary by the parks and recreation advisory board.
(6) An appropriate charge shall be made for relocating any mall planters, etc., if required by the user.
(7) All individual sellers participating in a reserved use shall be required to obtain a downtown permit.
(8) Violations of any subsection of this section shall be grounds to disapprove any future reserved use requests.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Sec. 10-37. - Community event use.

Civic or nonprofit groups who wish to utilize the entire seven blocks of the downtown for a large event, celebration, festival or other community or countywide attraction shall apply to the city for such a use. Such application shall be made six months prior to the event for approval or rejection. The city shall, prior to the proposed event, provide two months' notice to the farmers' and crafts market manager of the unavailability of the downtown area for farmers' and crafts market activities. All other sections of this article shall apply to such an application.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Sec. 10-38. - Special attendance permit.

Local nonprofit or civic groups, or government agencies can apply for a special attendance permit for the downtown during the farmers' and crafts market hours. Approval may be granted by the farmers' and crafts market manager with appropriate charges and conditions as determined by the user's request.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2076, §§ I—III, 2-2-04; Ord. No. 2530, § I, 7-20-09)

Sec. 10-39. - Exemption of downtown merchants.

Merchants whose places of business are adjacent to the downtown shall be exempt from all sections of this article, except for section 10-41, when selling their customary merchandise at sidewalk sales.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2076, §§ I—III, 2-2-04)

Sec. 10-40. - Traffic; fireworks; animals; bicycles and skates.

(a) All vehicles are prohibited from driving on the sidewalks downtown, with the exception of mail delivery, maintenance and construction of the downtown itself, city and emergency vehicles, vehicles with reserved use or special use business licenses, and farmers' and crafts market vehicles used to load and unload merchandise and equipment during specified times as designated in the rules and regulations.
(b) No person shall cause an obstruction on the Yellow Brick Road on the mall.
(c) Fireworks on the mall are prohibited.
(d) Open fires on the mall are prohibited unless a permit is obtained from the fire department.
(e) The active use of bicycles, skateboards, roller blades, and roller skates are prohibited during market hours except by law enforcement personnel.
(f) No person shall cause an obstruction of the entrances of businesses adjacent to farmers' and crafts market

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2076, §§ I—III, 2-2-04; Ord. No. 2264, § I, 1-17-06)

Cross reference— *Alcoholic beverages generally, ch. 5; fireworks generally, § 11-146 et seq.; traffic, ch. 27.*

Sec. 10-41. - User fees.

(a) All vendors will be required to pay a use fee prior to participating in the farmers' and crafts market. Use fees shall be set by resolution.
(b) All vendors shall display a "user certificate" evidencing their fees paid in a prominent place at their farmers' and crafts market site.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Sec. 10-42. - General penalties for violations.

Violation of any section of this article shall be just cause for revoking farmers' and crafts market use privilege and punishment upon conviction in accordance with section 1-10. The codes enforcement department will be responsible for enforcement of article provisions except for the routine housekeeping and maintenance rules and regulations stated in section 10-34 and user fees stated in sections 10-41(a) and 10-41(b), which come under the responsibility of the market manager.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

Sec. 10-43. - Appeals.

Any aggrieved vendor who is affected by a decision of the farmers' and crafts market manager may appeal to the city manager.

(Ord. No. 1720, § II, 1-4-99; Ord. No. 2264, § I, 1-17-06)

FOOTNOTE(S):

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Editor's note—*Ord. No. 2264, § I, adopted January 17, 2006, amended the Code by retitling art. II. Formerly, art. II was entitled "Downtown Mall."* *(Back)*