

# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 3 Ordinance/Resolution# 15-057

For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)

For Meeting of October 20, 2014  
(Adoption Date)

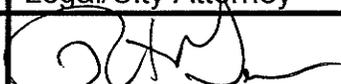
Please check box that applies to this item:

QUASI JUDICIAL     LEGISLATIVE     ADMINISTRATIVE

**TITLE:** A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO THE NEW MEXICO BREWERS GUILD FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR DIA DE LA CERVEZA TO BE HELD ON MAIN STREET ON SUNDAY, NOVEMBER 2, 2014 FROM 12:00 P.M. TO 5:00 P.M.

**PURPOSE(S) OF ACTION:**

To approve the issuance of a waiver.

<b>COUNCIL DISTRICT: 1</b>		
<b><u>Drafter/Staff Contact:</u></b> Monica Campbell	<b><u>Department/Section:</u></b> Legal/City Attorney	<b><u>Phone:</u></b> 541-2128
<b><u>City Manager Signature:</u></b> 		

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

According to NMSA 1978, Section 60-6B-10, no license shall be issued for the sale of alcoholic beverages at a licensed premises that is within 300 feet of a church or school. However, in 1997 the statute was amended to allow for the granting of a waiver of the distance restriction by the governing body of the local option district.

The New Mexico Brewers Guild ("Guild") is sponsoring Dia de la Cerveza, on Main Street on November 2, 2014. Casa de Alabanza church is within 300 feet of the beer and spirituous liquors sale and consumption areas between Las Cruces Avenue and Griggs Avenue.

Twelve brewers and one craft distiller have submitted Public Celebration Permit Applications to provide beer and spirituous liquors for sale and consumption during Dia de la Cerveza: Abbey Brewing Co., Bosque Brewing Co., Comanche Creek Brewing Company, High Desert Brewing Company, La Cumbre Brewing Co., Little Toad Creek Brewery, Little Toad Creek Distillery, Santa Fe Brewing Company, Second Street Brewery, Sierra Blanca Brewing Company, Taos Mesa Brewing, Tractor Brewing Company, and Turtle Mountain Brewing Company.

The Alcohol and Gaming Division of the Regulation and Licensing Department requires a waiver of the church/school distance restriction by the City Council for the Public Celebration Permit Applications to be approved.

The Public Celebration Permit Applications from the beer and spirituous liquors vendors are presented as separate agenda items and approval of each item is contingent upon approval of a waiver of the church/school distance restriction.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Zoning/Vicinity Map showing Main Street and the distances to the nearest church and school.
3. Attachment "1", List of property owners within 300 feet of Main Street.
4. Attachment "2", Form of letter sent to the property owners listed in Attachment "1".

**SOURCE OF FUNDING:**

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

**BUDGET NARRATIVE**

N/A
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**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

(Continue on additional sheets as required)

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve of and consent to the issuance of a waiver of the church/school distance restriction. Approval will allow the beer and spirituous liquors vendors to continue with the permitting process for Dia de la Cerveza.
2. Vote "No"; if the Council does not approve the waiver, Alcohol & Gaming will be notified of the reason(s) the waiver was not approved and the Director of Alcohol & Gaming shall not approve the Public Celebration Permits.
3. Vote to "Amend"; any amendments must comply with state statute and/or the requirements of Alcohol & Gaming.
4. Vote to "Table"; if the Council fails to either approve or disapprove the issuance of a waiver, the matter will be submitted to Alcohol & Gaming for further proceedings.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

**RESOLUTION NO. 15-057**

**A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO THE NEW MEXICO BREWERS GUILD FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR DIA DE LA CERVEZA TO BE HELD ON MAIN STREET ON SUNDAY, NOVEMBER 2, 2014 FROM 12:00 P.M. TO 5:00 P.M.**

The City Council is informed that:

**WHEREAS**, according to NMSA 1978, Section 60-6B-10, no license shall be issued for the sale of alcoholic beverages at a premises that is within 300 feet of a church or school. However, in 1997, the statute was amended to allow for the granting of a waiver of the distance restriction; and

**WHEREAS**, the New Mexico Brewers Guild is sponsoring Dia de la Cerveza, an event to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on Sunday, November 2, 2014; and

**WHEREAS**, Casa de Alabanza church is within 300 feet of the beer and spirituous liquors sale and consumption area between Las Cruces Avenue and Griggs Avenue; and

**WHEREAS**, thirteen liquor license holders have submitted Public Celebration Permit Applications to provide beer and spirituous liquors for sale and consumption during Dia de la Cerveza: Abbey Brewing Co., Bosque Brewing Co., Comanche Creek Brewing Company, High Desert Brewing Company, La Cumbre Brewing Co., Little Toad Creek Brewery, Little Toad Creek Distillery, Santa Fe Brewing Company, Second Street Brewery, Sierra Blanca Brewing Company, Taos Mesa Brewing, Tractor Brewing Company, and Turtle Mountain Brewing Company; and

**WHEREAS**, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires a waiver of the church/school distance

restriction from the Las Cruces City Council for the Public Celebration Permit Applications to be approved for the event; and

**WHEREAS**, granting a waiver of the church/school distance restriction will allow the applicants to proceed to the next step of the application process.

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

**(I)**

**THAT** the issuance of a waiver of the church/school distance restriction, as shown on Exhibit "A" attached hereto, to Abbey Brewing Co., Bosque Brewing Co., Comanche Creek Brewing Company, High Desert Brewing Company, La Cumbre Brewing Co., Little Toad Creek Brewery, Little Toad Creek Distillery, Santa Fe Brewing Company, Second Street Brewery, Sierra Blanca Brewing Company, Taos Mesa Brewing, Tractor Brewing Company, and Turtle Mountain Brewing Company for Dia de la Cerveza, to be held on Sunday, November 2, 2014 from 12:00 p.m. to 5:00 p.m. on Main Street, generally between Las Cruces Avenue and Griggs Avenue, is hereby approved.

**(II)**

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

**DONE AND APPROVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Levatino:	_____

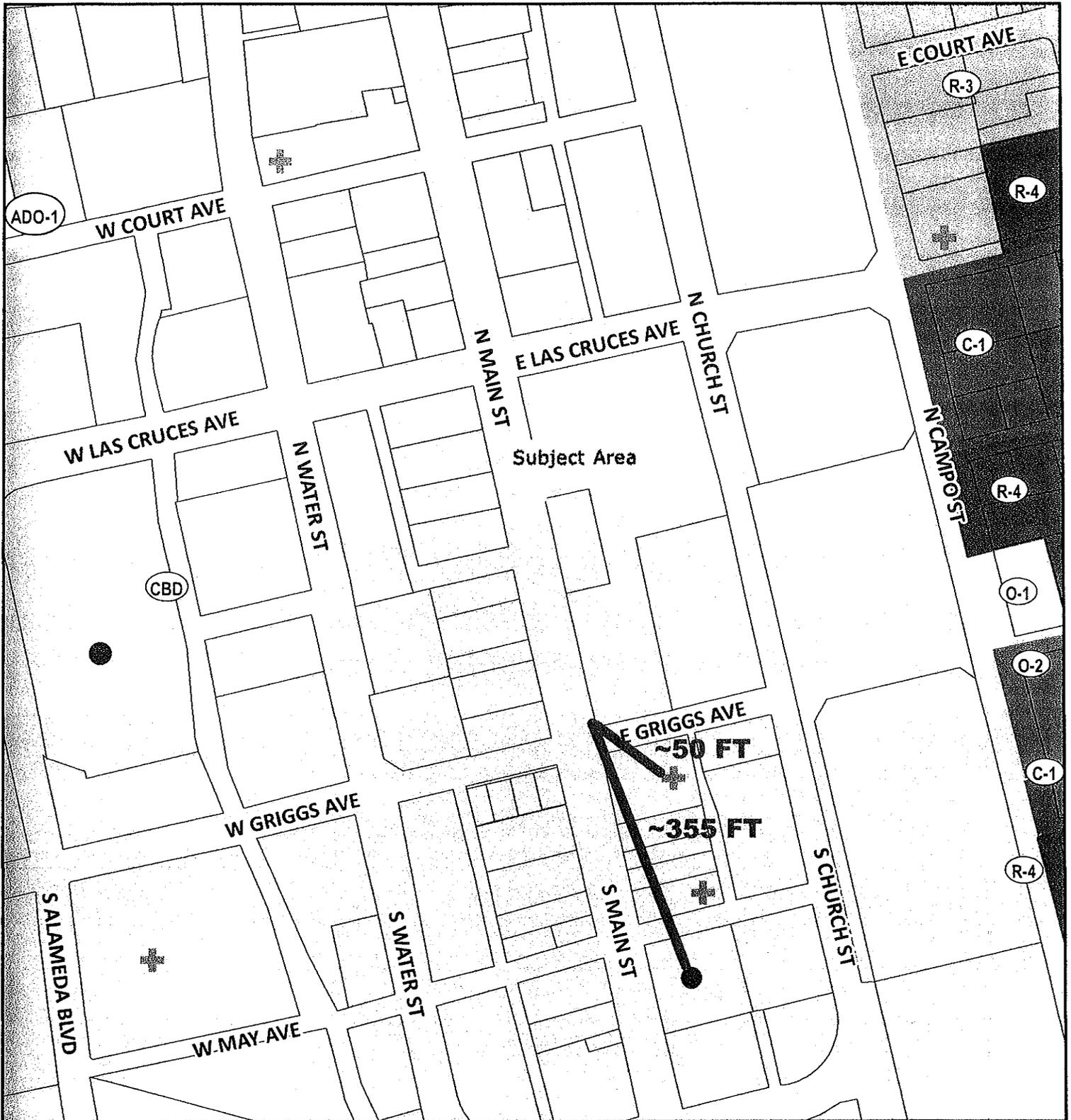
APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

# ZONING/VICINITY MAP

Exhibit A

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○ ZONING ● SCHOOL + CHURCH

DIA DE LA CERVEZA  
Zoning: CBD

Distance to nearest school: ~355 Feet  
Distance to nearest church: ~50 Feet

100 50 0 100 200 300  
Feet

Community Development Department  
700 N Main St  
Las Cruces, NM 88001  
(575) 528-3222

125 W GRIGGS LLC  
125 W GRIGGS  
LAS CRUCES NM 88001

ALBERTO GUTIERREZ LLC  
213 W GRIGGS AVE  
LAS CRUCES NM 88005

BANK OF THE WEST  
PO BOX 5155  
SAN RAMON, CA 94583-5155

CALVARY CHAPEL INC  
139 S MAIN ST  
LAS CRUCES NM 88001

CLARK RUTH & BOBBY C  
TRUSTEES  
PO BOX 1777  
LAS CRUCES NM 88004

CORONADO JOSE R & RUBEN  
CORONADO  
119 N MAIN ST  
LAS CRUCES NM 88001

GARCIA R LEO & SALLY P  
PO BOX 16228  
LAS CRUCES NM 88004

HAMILL-BUCKLEY LLC ET AL  
1230 CITYLIGHTS PL  
LAS CRUCES NM 88007

HOUSE OF PRAISE INC  
PO BOX 2527  
LAS CRUCES NM 88004-252

NEW MEXICO DEVELOPMENT  
CORPORATION  
PO BOX 2049  
LAS CRUCES NM 88004

RICHARD ROSEN INC  
306 E OVERLAND  
EL PASO TX 79901

SOUTHERN RIO GRANDE  
MENTAL HEALTH  
100 W GRIGGS  
LAS CRUCES NM 88001

ST GENEVIEVE PARISH INC  
1280 MEDPARK DR  
LAS CRUCES NM 88005

SUN CITY FINANCE INC  
3190 DEL REY BLVD  
LAS CRUCES NM 88012

TREE OF LIFE FELLOWSHIP  
INC  
PO BOX 467  
ORGAN NM 88052

VALENTINE, JERALD A & J A  
PO BOX 850  
LAS CRUCES NM 88004-0850



October 6, 2014

Dear Property Owner:

The New Mexico Brewers Guild is sponsoring Dia de la Cerveza, an event to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue. The event is scheduled for Sunday, November 2, 2014 from 12:00 p.m. to 5:00 p.m. Approximately thirteen liquor license holders have submitted Public Celebration Permit Applications to provide beer and spirituous liquors for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires the applicants to obtain approval for the use of City property from the governing body of the City of Las Cruces.

This matter will come before the City Council as part of its regular meeting on Monday, October 20, 2014 which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

Casa de Alabanza church is within 300 feet of the beer and spirituous liquors sales and consumption areas between Las Cruces Avenue and Griggs Avenue, and a request for a waiver of the church/school distance restriction will be considered by the City Council. The LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted.

If you wish to share your views concerning the impact of the Public Celebration Permit Applications and the Dia de la Cerveza event, please attend the City Council Meeting on October 20, 2014, or you may submit your views in writing to the City Attorney's Office, Post Office Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, October 16, 2014.

If you have any questions or need additional information, please contact Monica Campbell at 575-541-2128.

Sincerely,

Harry S. (Pete) Connelly  
City Attorney