

# City of Las Cruces®

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 6

Ordinance/Resolution# 15-100

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

For Meeting of December 1, 2014  
(Adoption Date)

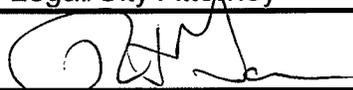
Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE:** A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATION SUBMITTED FOR THE 1<sup>ST</sup> ANNUAL LAS CRUCES CHILE DROP TO BE HELD ON DECEMBER 31, 2014.

**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.

Project Mainstreet is sponsoring the 1<sup>st</sup> Annual Las Cruces Chile Drop to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on December 31, 2014. The Casa De Alabanza Church is within the 300 foot distance from a designated alcoholic beverage service area located near the intersection of Main Street and Griggs Avenue.

High Desert Brewing Company has submitted a Public Celebration Permit Application to provide beer for sale and consumption on December 31, 2014 from 7:00 p.m. to 1:00 a.m. 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 Application to be approved.

(Continue on additional sheets as required)

The Public Celebration Permit Application is presented as a separate agenda item and approval 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 approximate distance to the nearest church.
3. Attachment "1", Map of event area on Main Street, showing the designated alcohol service areas.
4. Attachment "2", List of property owners.
5. Attachment "3", Form of letter sent to the property owners listed in Attachment "2".

**SOURCE OF FUNDING:**

Is this action already budgeted?  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.
Does this action create any revenue?	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

**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 High Desert Brewing Company to continue with the permitting process for the 1<sup>st</sup> Annual Las Cruces Chile Drop.

(Continue on additional sheets as required)

2. Vote "No"; if the Las Cruces City 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 Permit.
3. Vote to "Amend"; any amendments must comply with state statute and/or the requirements of Alcohol & Gaming.
4. Vote to "Table"; if the City 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. 15-100**

**A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATION SUBMITTED FOR THE 1<sup>ST</sup> ANNUAL LAS CRUCES CHILE DROP TO BE HELD ON DECEMBER 31, 2014.**

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**, Project Mainstreet is sponsoring the 1<sup>st</sup> Annual Las Cruces Chile Drop, to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on December 31, 2014; and

**WHEREAS**, the Casa De Alabanza Church is within the 300 foot distance from a designated alcoholic beverage service area near the intersection of Main Street and Griggs Avenue; and

**WHEREAS**, High Desert Brewery has submitted a Public Celebration Permit Application to provide beer for sale and consumption during the 1<sup>st</sup> Annual Las Cruces Chile Drop; 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 City Council for the Public Celebration Permit Application to be approved for the event; and

**WHEREAS**, granting a waiver of the church/school distance restriction will allow the applicant 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 to High Desert Brewery for the 1<sup>st</sup> Annual Las Cruces Chile Drop to be held on Main Street on December 31, 2014, as shown on Exhibit "A" attached hereto, 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:

ATTEST:

\_\_\_\_\_  
Mayor

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

(SEAL)

VOTE:

- Mayor Miyagishima: \_\_\_\_\_
- Councillor Silva: \_\_\_\_\_
- Councillor Smith: \_\_\_\_\_
- Councillor Pedroza: \_\_\_\_\_
- Councillor Small: \_\_\_\_\_
- Councillor Sorg: \_\_\_\_\_
- Councillor Levatino: \_\_\_\_\_

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

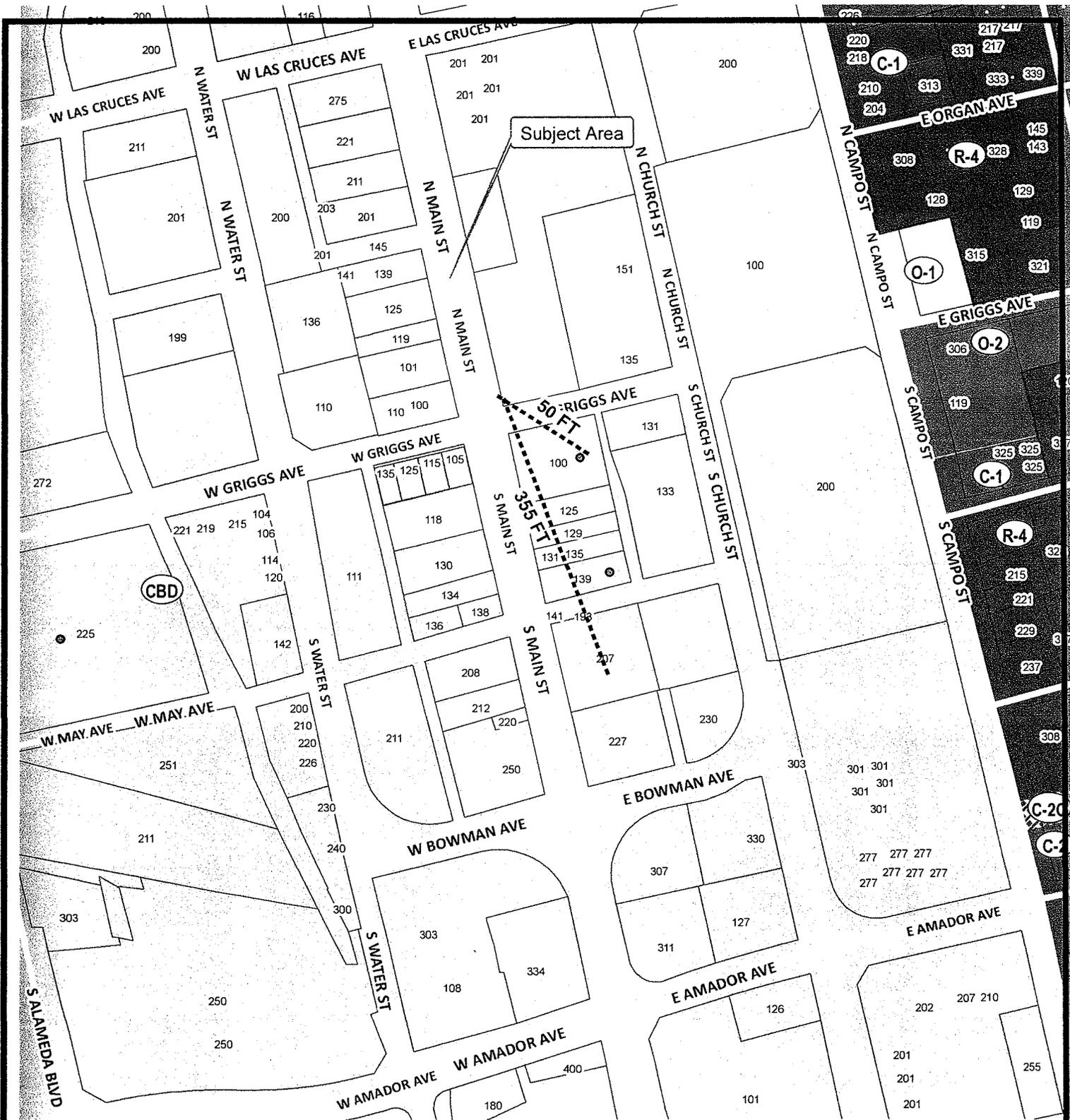
Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

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

*DMM*

# Zoning / Vicinity Map



This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

## Legend

- Schools
- ⊕ church

CHILE DROP  
 ZONING CBD  
 DISTANCE TO THE NEAREST SCHOOL: 355 FEET  
 DISTANCE TO THE NEAREST CHURCH: 50 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

<sup>70</sup>  
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



November 14, 2014

Dear Property Owner:

Project Mainstreet is sponsoring the 1<sup>st</sup> Annual Las Cruces Chile Drop on Main Street, generally between Las Cruces Avenue and Griggs Avenue. The event is scheduled for Wednesday, December 31, 2014 from 7:00 p.m. to 1:00 a.m. High Desert Brewery has submitted an application to provide beer for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires the liquor license holder 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, December 1, 2014, which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

The LCA prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. A waiver request will be considered by the City Council for approval or disapproval because Casa De Alabanza Church is within the 300 foot distance from a designated alcohol service area near the intersection of Main Street and Griggs Avenue.

If you wish to share your views concerning the 1<sup>st</sup> Annual Las Cruces Chile Drop, the liquor license holder's application and the waiver request, please attend the City Council Meeting on December 1, 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 Wednesday, November 26, 2014.

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

Sincerely,

CITY OF LAS CRUCES

A handwritten signature in black ink, appearing to read "William R. Babington Jr.", written over the printed name.

William R. Babington Jr.  
Deputy City Attorney