



Council Action and Executive Summary

Item # 1 Ordinance/Resolution# 15-143

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of February 17, 2015
(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 FOR A PUBLIC CELEBRATION PERMIT APPLICATION FROM HIGH DESERT BREWING COMPANY FOR AN EVENT AT THE MUSEUM OF NATURE & SCIENCE, 411 NORTH MAIN STREET, TO BE HELD ON FRIDAY, FEBRUARY 27, 2015.

PURPOSE(S) OF ACTION:

Approve the issuance of a waiver.

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

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 Foundation for Las Cruces Museums ("Foundation") is sponsoring an event called "Birds, Bees and Brew" at the Museum of Nature & Science ("MoNaS"), located at 411 North Main Street. The event is for adults 21 and over and will feature discussion with MoNaS staff and experts from New Mexico State University about animal courting rituals.

The Latter Rain Harvest Fellowship Church is within 300 feet of the MoNaS.

The Foundation has asked High Desert Brewing Company to provide beer for sale and consumption at the event. 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 approval or disapproval of the Public Celebration Permit Application is presented as a separate agenda item and its approval is contingent upon approval of a waiver of the church/school distance restriction.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Map showing the location of the MoNaS and the adjacent church.
3. Attachment "1", Public Celebration Permit Application, High Desert Brewing Company.
4. Attachment "2", List of property owners within 300 feet of the location of the MoNaS.
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

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 application process.

(Continue on additional sheets as required)

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

N/A

RESOLUTION NO. 15-143

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR A PUBLIC CELEBRATION PERMIT APPLICATION FROM HIGH DESERT BREWING COMPANY FOR AN EVENT AT THE MUSEUM OF NATURE & SCIENCE, 411 NORTH MAIN STREET, TO BE HELD ON FRIDAY, FEBRUARY 27, 2015.

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 Latter Rain Harvest Fellowship Church is within 300 feet of the Museum of Nature & Science ("MoNaS"); and

WHEREAS, the Foundation for Las Cruces Museums ("Foundation") is sponsoring an event for adults 21 and over called "Birds, Bees and Brew" on February 27, 2015 and has asked High Desert Brewing Company to provide beer for sale and consumption at the event; and

WHEREAS, the Alcohol and Gaming Division of the New Mexico State Regulation and Licensing Department requires that High Desert Brewing Company must obtain a waiver of the church/school distance restriction from the City Council for the Public Celebration Permit to be approved for the event; and

WHEREAS, granting a waiver of the church/school distance restriction will allow High Desert Brewing Company 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 Brewing Company for an event on Friday, February 27, 2015, called "Birds, Bees and Brew" at the Museum of Nature & Science, 411 North Main Street, from 6:00 p.m. to 9:00 p.m., 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 _____, 2015.

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

Zone 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.

411 N. MAIN ST.
 ZONING CBD
 DISTANCE TO THE NEAREST SCHOOL: 522 FEET
 DISTANCE TO THE NEAREST CHURCH: ADJECENT

Legend

- County Parcel
- Interstates_Highway
- Railroad
- Rio Grande

150 75 0 150 300 450
 Feet

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

ALCOHOL & GAMING DIVISION
PUBLIC CELEBRATION PERMIT APPLICATION WINEGROWER, SMALL BREWER & CRAFT DISTILLER LICENSE HOLDERS
(60-6A-11 / 60-6A-26.1 NMSA)

FEEs ARE \$10 PER DAY -- Fees are Non-Refundable

LICENSE HOLDER INFORMATION:

Business Name (DBA) High Desert Brewing Company Owner Name High Desert Brewing Co., Inc. Liquor License # 6801
Mailing Address 1201 W Hadley Avenue City, State & Zip Las Cruces, NM 88005
Contact Telephone # 575-525-6752 Fax # 575-647-8033 Email Address hdhc.lcnm@gmail.com

EVENT INFORMATION: Celebration type: State Fair County Fair Community Fiesta Cultural/Artistic Performance Athletic

Circle those that apply - All Age Event / Wrist Bands and/or Stamps - Beer Garden - (Indoor) Outdoor Event Begin Time 6:00 AM End Time 9:00 PM
Description and Name of Event THE BIRDS, THE BEES AND THE TREES FEB 27, 2015 Alcohol Service Begin Time 6:00 PM End Time 8:30 PM
Physical Address of Event & Name of Building or Business 411 N. MAIN ST, MUSEUM of NATURE & SCIENCE Number of Persons expected to Drink 50
Description of Security LAS CROCES SECURITY Number of Security 2 Security Contact Name PETE HAMPTON Contact Telephone # 526-1294

SPONSOR INFORMATION

Sponsor of Event FOUNDATION FOR LAS CROCES MUSEUMS Contact Name MICHAEL WEISS Contact Telephone # 575-202-9971

BUILDING/PROPERTY OWNER APPROVAL

Name (print) Robert L. Garza, P.E. Signature _____ Telephone # 575-511-2070 Date _____

LICENSE HOLDER & SERVER CERTIFICATION: I, Donna L Almarez (Licensee) hereby certify that this event is not within 300 Ft. of a church or school unless alcoholic beverages were sold there prior to July 1, 1981 or a waiver is obtained from the local governing body. I further certify that all persons providing the service of alcoholic beverages are server certified and that they are my employees and that ALL the information in this application is true and correct.

NOTE: List of servers including name, server permit # and server expiration date must be attached to permit application.

Licensee agrees that if any statements or representations herein are found to be false, the director may refuse to issue additional permits.

Licensee Name (print) Donna L Almarez Signature Donna L Almarez Date 23 Jan 2015
All profits derived from the sale of liquor will go only to the licensee.

Only the owner or authorized representative of the licensee may sign the permit.

NOTARY INFORMATION

Subscribed and Sworn before me this 23 day of January, 2015 Notary Public Donna L Almarez My commission expires 1/6/2016 Exp. 1/6/2016



LOCAL GOVERNING BODY APPROVAL

Print Name Robert L. Garza, P.E. Title City Manager Date _____ Signature _____
Phone 575-541-2070 Fax 575-541-2017

ALCOHOL & GAMING DIVISION USE ONLY

Approved by: _____

Date _____

Permit Number _____

Attachments: 1) Floor plan - (Pictures) _____ 2) Fees per day (listed on top of page) _____ 3) Server information list _____



11

116 COMMERCIAL PROPERTIES LLC
116 W LAS CRUCES AVE
LAS CRUCES, NM. 88001

AGUIRRE PETE MRS
PO BOX 2276
LAS CRUCES, NM. 88004-2276

AMERICAN LINEN SUPPLY OF N M
550 N CHURCH ST
LAS CRUCES, NM. 88001-3440

AVASIL PROPERTIES LLC
406 N MAIN ST
LAS CRUCES, NM. 88001

BANK OF THE RIO GRANDE NA
1800 GLENARM PL STE 103
DENVER, CO. 80202

CM ASSOCIATES LLC
212 WEST HADLEY
LAS CRUCES, NM. 88005

COAS PROPERTIES LLC
317 N MAIN ST
LAS CRUCES, NM. 88001

HADLEY AVE INVESTMENTS LLC
253 W HADLEY AVE
LAS CRUCES, NM. 88005

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

HERMAN PETER & CEIL
430 N DOWNTOWN MALL
LAS CRUCES, NM. 88001

LAS CRUCES LODGE #2081 LOYAL
ORDER OF MOOSE
514 N MAIN
LAS CRUCES, NM. 88001-1256

LATTER RAIN HARVEST FELLOWSHIP
PO BOX 1927
LAS CRUCES, NM. 88004

LOOMIS NEIL
127 HARVARD
LAS CRUCES, NM. 88005-1708

LYNER L L C
PO BOX 2274
LAS CRUCES, NM. 88004-2274

MRMJ PROPERTIES LLC
560 N WATER ST
LAS CRUCES, NM. 88001

OVERMYER CARL R
340 N WATER
LAS CRUCES, NM. 88001

PIONEER CONSTRUCTION LLC
PO BOX 397
LAS CRUCES, NM. 88004

RAINBOW REAL ESTATE CO
PO BOX 16134
LAS CRUCES, NM. 88004

SANDOVAL GABRIEL C & MINERVA N
2000 E LOHMAN STE C
LAS CRUCES, NM. 88001

SCHWAIGER GLENN & LEEANN
MEADOWS
3800 N VALLEY DR APT 4
LAS CRUCES, NM. 88007

SCIENTIST
325 W MOUNTAIN
LAS CRUCES, NM. 88001

SCOTT JAMES M & MARTA H
TRUSTEES
216 PRINCETON
LAS CRUCES, NM. 88005-1728

STUDIO D ARCHITECTS PA
6490 VISTA VALLEY TRL
LAS CRUCES, NM. 88007

SUGAMOSTO RONALD LOUIS
4173 CAPISTRANO
LAS CRUCES, NM. 88011

SUNSHINE BUILDING OF LAS CRUCES
LLC
PO BOX 578
LAS CRUCES, NM. 88004

THE LOFTS AT ALAMEDA LLC
141 ROADRUNNER PARKWAY STE 141
LAS CRUCES, NM. 88011

WEST MOUNTAIN LLC
123 W MOUNTAIN
LAS CRUCES, NM. 88001

January 30, 2015



Dear Property Owner:

The Foundation for Las Cruces Museums ("Foundation") is planning an event at the Museum of Nature & Science ("MoNaS"), located at 411 North Main Street, called "Birds, Bees and Brew", an event for adults 21 and over. The event will be held on Friday, February 27, 2015 from 6:00 p.m. to 9:00 p.m. and will feature discussion about animal courting rituals with MoNaS staff and experts from New Mexico State University. The Foundation has asked High Desert Brewing Company to offer beer for sale and consumption at the event. As part of the approval process, the Liquor Control Act ("LCA") requires approval of High Desert's Public Celebration Permit Application from the Las Cruces City Council.

This matter will come before the City Council during its regular meeting on Tuesday, February 17, 2015 at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

Because the Latter Rain Harvest Fellowship Church is within 300 feet of the MoNaS, a request for a waiver of the church/school distance restriction will be on the agenda for approval or disapproval. 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 Application at the MoNaS event, you may attend the City Council Meeting on February 17, 2015, 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, February 12, 2015.

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

Sincerely,

CITY OF LAS CRUCES

William R. Babington Jr.
City Attorney