



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 2

Ordinance/Resolution# 16-112

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of December 7, 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 TO AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE LAS CRUCES CHILE DROP TO BE HELD ON DECEMBER 31, 2015.

PURPOSE(S) OF ACTION:

To 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.

Project Mainstreet is sponsoring the Las Cruces Chile Drop to be held on Main Street, generally between Las Cruces Avenue and Griggs Avenue, on December 31, 2015. The Casa De Alabanza Church is within 300 feet of an area where wine and beer may be sold for consumption on Main Street.

Amaro Winery and High Desert Brewing Company have submitted Public Celebration Permit Applications to provide wine and beer for sale and consumption on December 31, 2015 between 8:00 p.m. to 12:30 a.m. The Alcohol and Gaming Division of the Regulation and Licensing Department requires a waiver of the church/school distance restriction by the Las Cruces City Council for the Public Celebration Permit Applications to be approved.

(Continue on additional sheets as required)

The Public Celebration Permit Applications are 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", List of property owners.
4. Attachment "2", 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 Amaro Winery and High Desert Brewing Company to continue with the permitting process for the 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 Applications.
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. 16-112

A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE LAS CRUCES CHILE DROP TO BE HELD ON DECEMBER 31, 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, Project Mainstreet is sponsoring the Las Cruces Chile Drop, to be held on Main Street generally between Las Cruces Avenue and Griggs Avenue, on December 31, 2015; and

WHEREAS, the Casa De Alabanza Church is within 300 feet of an area where wine and beer may be sold during the Chile Drop; and

WHEREAS, Amaro Winery and High Desert Brewing Company have submitted Public Celebration Permit Applications to provide wine and beer for sale and consumption during the Las Cruces Chile Drop on December 31, 2015; 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 Amaro Winery and High Desert Brewing Company for the Las Cruces Chile Drop to be held on Main Street on December 31, 2015, 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

Interim City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councillor Gandara: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Eakman: _____

Councillor Sorg: _____

Councillor Levatino: _____

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be "MRS. J. J. [unclear]", written over a horizontal line.

City Attorney

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 nor the Community Development Department assumes any legal responsibility 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

70
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 23, 2015

Dear Property Owner:

Project Mainstreet is sponsoring the Las Cruces Chile Drop on Main Street, December 31, 2015. Amaro Winery and High Desert Brewing Company have submitted applications to sell wine and beer during the event between 8:00 p.m. and 12:30 a.m. As part of the permit approval process, the Liquor Control Act requires Amaro Winery and High Desert Brewing Company to obtain approval for the use of City property from the Las Cruces City Council.

This matter will come before the City Council as part of its regular meeting on Monday, December 7, 2015, which begins at 1:00 p.m. in the City Council Chambers located at City Hall, 700 North Main Street.

The Liquor Control Act prohibits the sale and consumption of alcoholic beverages within 300 feet of a church or school unless a waiver has been granted. You are being sent this letter because property you own is within 300 feet of the event, and because Casa De Alabanza Church is within 300 feet of an area where wine and beer will be sold during the Las Cruces Chile Drop.

If you wish to share your views concerning the Las Cruces Chile Drop, the permit applications to sell wine and beer, and the waiver request, you may attend the City Council Meeting on December 7, 2015, or you may submit your views in writing to the City Attorney's Office, P. O. Box 20000, Las Cruces, New Mexico 88004. Letters must be received by 5:00 p.m. on Thursday, December 3, 2015.

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 a faint, illegible stamp.

William R. Babington Jr.
City Attorney



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of December 7, 2015
(Adoption Date)

TITLE: A RESOLUTION APPROVING THE ISSUANCE OF A WAIVER OF THE CHURCH/SCHOOL DISTANCE RESTRICTION TO AMARO WINERY AND HIGH DESERT BREWING COMPANY FOR THE PUBLIC CELEBRATION PERMIT APPLICATIONS SUBMITTED FOR THE LAS CRUCES CHILE DROP TO BE HELD ON DECEMBER 31, 2015.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Monica Campbell</i>	541-2128	11/20/15
Department Director	<i>[Signature]</i>	541-2128	20 Nov 2015
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2100 541-2106	11/23/15 11/20/15
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	11/23/15
City Attorney	<i>[Signature]</i>	541-2128	20 Nov 2015
City Clerk - Interim	<i>[Signature]</i>	541-2115	