



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 12

Ordinance/Resolution# 17-091

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of November 7, 2016
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL

LEGISLATIVE

ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE, ON BEHALF OF THE CITY COUNCIL, SPECIAL DISPENSER PERMIT APPLICATIONS, PUBLIC CELEBRATION PERMIT APPLICATIONS AND WAIVERS OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR ALCOHOLIC BEVERAGES TO BE SOLD AND CONSUMED AT EVENTS HELD ON CITY PROPERTY.

PURPOSE(S) OF ACTION:

To authorize approval by the City Manager.

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

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Section 5-1 of the Las Cruces Municipal Code 1997, as amended ("Municipal Code") restricts alcohol consumption in public places to areas approved by the Alcohol and Gaming Division of the New Mexico Regulation and Licensing Department ("Alcohol and Gaming"). Alcohol and Gaming regulations allow a dispenser to request a special dispenser's permit in order to serve alcohol outside its normal premises subject to the approval of the local governing body. This ordinance is currently complied with by presenting resolutions to the City Council to allow alcoholic beverages to be sold and consumed at various events held on City property.

There has been a substantial increase in the number of events held on City property which include an option to purchase alcoholic beverages, resulting in numerous resolutions presented to the City Council.

Fiscal Year	# of Resolutions
FY2012	5
FY2013	10
FY2014	19
FY2015	75
FY2016	82
FY2017	19 to 9/30/2016

The local governing body of the local option district, in this case the City Council of the City of Las Cruces, must grant approval of permit applications before they are sent to Alcohol & Gaming for issuance. Additionally, if the location of the event on City property is within 300 feet of a church or school, a waiver of the 300-foot distance restriction must be approved by the City Council for a specific event.

Staff has determined that it would be efficient and responsive to event coordinators, caterers, alcoholic beverage providers and other entities to have approval of the permit applications and the waiver of the church/school distance restriction delegated to the City Manager. Such approval would comply with Section 5-1 of the Municipal Code, and would be consistent with Alcohol and Gaming regulations.

The review process conducted by staff includes the City Attorney's office, the Police Department, the Fire Department, Business Registrations and Permitting, Zoning, Downtown Planning and Development, and the Parks and Recreation Department. If the City Manager is authorized to approve permit applications and waivers of the church/school distance restriction, the review process will continue as an assist for successful and safe events on City property. The City Manager would continue to receive such input from the review.

SUPPORT INFORMATION:

1. Resolution.
2. Attachment "A", Alcohol and Gaming's Public Celebration Permit Application Instructions.
3. Attachment "B", Alcohol and Gaming's Special Dispenser Permit Application Instructions.

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"/>	<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? N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$_____ for FY__.
	No	<input 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 authorize the City Manager to approve, on behalf of the City Council, permit applications and waivers of the church/school distance restriction for events with alcoholic beverages on City property.
2. Vote "No"; this will keep the current procedure in place and resolutions about alcoholic beverages at events on City property will continue to be submitted to the City Council.
3. Vote to "Amend"; this would allow the City Council to modify the Resolution.
4. Vote to "Table"; and provide further direction to staff.

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



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 November 7, 2016
(Adoption Date)

TITLE:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE, ON BEHALF OF THE CITY COUNCIL, SPECIAL DISPENSER PERMIT APPLICATIONS, PUBLIC CELEBRATION PERMIT APPLICATIONS AND WAIVERS OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR ALCOHOLIC BEVERAGES TO BE SOLD AND CONSUMED AT EVENTS HELD ON CITY PROPERTY.

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Therica Campbell</i>	541-2128	10/3/16
Department Director	<i>WTS</i>	541-2128	4 oct 2016
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>Andrew Macgregor</i>	541-2100 541-2107	10/6/16 10/5/16
Assistant City Manager/COO	<i>for DA</i>	541-2271	10/6/16
City Attorney	<i>WTS</i>	541-2128	4 oct 2016
City Clerk	<i>Deja</i>	541-2115	10-14-16

RESOLUTION NO. 17-091

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE, ON BEHALF OF THE CITY COUNCIL, SPECIAL DISPENSER PERMIT APPLICATIONS, PUBLIC CELEBRATION PERMIT APPLICATIONS AND WAIVERS OF THE CHURCH/SCHOOL DISTANCE RESTRICTION FOR ALCOHOLIC BEVERAGES TO BE SOLD AND CONSUMED AT EVENTS HELD ON CITY PROPERTY.

The City Council is informed that:

WHEREAS, Section 5-1 of the Las Cruces Municipal Code 1997 as amended, restricts alcoholic beverage consumption in public places to areas approved by the Alcohol and Gaming Division of the New Mexico Regulation and Licensing Department (“Alcohol and Gaming”); and

WHEREAS, the local governing body of the local option district, in this case the City Council, must grant approval of Special Dispenser Permit Applications and Public Celebration Permit Applications (“Permit Applications”), as well as waivers of the 300-foot church school distance restriction; and

WHEREAS, staff currently prepares resolutions requesting that the City Council waive the church/school distance restriction and allow alcoholic beverages at events held on City property; and

WHEREAS, there has been a substantial increase in the number of events on City property which include an option to purchase alcoholic beverages; and

WHEREAS, staff has determined that it would be efficient and responsive to event coordinators, caterers, alcoholic beverage providers and other entities to have approval of the Permit Applications and the waiver of the church/school distance restriction delegated to the City Manager.

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

(I)

THAT the City Manager is hereby authorized to sign, on behalf of the City Council, Permit Applications and waivers of the church/school distance restriction for alcoholic beverages to be sold and consumed in accordance with state law and Alcohol and Gaming's regulations during events on City property.

(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 _____, 20__.

APPROVED:

ATTEST:

Mayor

City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: _____
Councillor Gandara: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Eakman: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney



SPECIAL DISPENSER PERMIT APPLICATION: INSTRUCTIONS

ELIGIBILITY: Only New Mexico Licensees that hold a Dispenser, Inter-Local, Rural Dispenser, Lottery, or Canopy License may apply for a Special Dispenser Permit (SDP). The Liquor License must not be in suspension or have pending citations. If the license holder will be serving alcoholic beverages from any place other than the approved liquor licensed premises, a Permit is required. [The local governing body of the local option district (LOD) must grant approval for the issuance of the permit. The local governing body includes the city council, county clerk, mayor, etc.] If the event is to be held on a Sunday, the LOD must have held an election to allow Sunday Sales by the drink and the license holder must have a valid Sunday Sales Permit issued by the Alcohol & Gaming Division or must have a special concession issued from the local governing body pursuant to §60-6A-12(F) NMSA, 1978.

THE EVENT must be held within the SAME Local Option District that the Dispenser's License is issued in.

- Event must not exceed a three (3) day maximum unless permission is granted by the Division Director prior to the event.
- The Permit shall be valid for no more than 12 hours per day and the Director may reduce the number of hours allowed.
- Only server certified employees of the Liquor License Holder seeking the SDP, may sell, dispense, or serve alcoholic beverages at the Event. *Reminder: No Sales to Minors or Intoxicated Persons; No Sale, Service or Consumption before or after the times listed on Permit; Licensee and Employees are restricted from consuming alcoholic beverages at the Event; No more than 2 unconsumed drinks may be sold or served to one person at any given time.*
- **MUST POST SPECIAL DISPENSER PERMIT AT EVENT:** After the SDP is issued, the Licensee is required to post the Permit along with the required signage (*i.e., pregnancy, firearms, minors, posters*). The Permit must be prominently posted at the locations where the alcohol will be dispensed, as indicated by the Approved Floor Plan for the Event. Permits are subject to the same requirements and restrictions contained in the Liquor Control Act and are subject to citation for any violation.

LICENSEE PLEASE NOTE: Merely submitting an application does not constitute approval. If the Licensee does not have an Approved Permit for the Event, then the sale, service and/or delivery of alcoholic beverages is prohibited. A complete application, with required attachments must be received by AGD **AT LEAST 10 DAYS PRIOR TO THE EVENT**. All fees submitted are non-refundable, even when the Permit is issued and the Event is postponed and/or cancelled due to unforeseen circumstances.

APPLICATION PROCESS: A complete Application must be received by AGD at least 10 days prior to the Event. Applications must be signed by the Licensee, before a Notary. Faxed Application not accepted and incomplete applications will be returned. Licensee must obtain the Building/Property Owner's permission to allow an Event serving alcohol in their facility. **The following are also required and must be attached:**

- A) **FEES:** Private Event \$25 per day, only open to those with an invitation or known to sponsor, or Public Event \$50 per day, open to public.
Applicable daily fees, must be submitted by business check, Money Order or Cashier's Check
- B) **FLOOR PLAN:** Detailed Floor Plan, include Pictures, designating restricted and unrestricted areas
 - Detailed Floor Plan (on 8 ½ x 11 sheet) must be submitted showing exactly where the event is to be held
 - Total Square Footage for the proposed service area
 - Must show the location of Bars, Security, Serving Areas, Entrances, Exits
 - Enclosed or barricaded serving areas must also be clearly marked
 - If there are any patios or outside areas, indicate how they are enclosed to prevent alcohol from leaving the premises; Describe type and height of enclosure; Must be three (3) feet or higher
 - Placement and Location of Security Personnel; If Security is deemed insufficient, the Director may require additional Security Personnel or may deny permit. The average is 1 security personnel per 100 people, but may be increased depending upon the type of event requested.
- C) **LIST OF SERVERS:** Accurate List of Servers at the Event, including the Full Name of Employee, Server Permit Number and Expiration Date.



PUBLIC CELEBRATION PERMIT APPLICATION: INSTRUCTIONS

LICENSEE: Merely submitting an application does not constitute approval. If Licensee does not have the Approved Permit for the Event, than the sale, service and/or delivery of alcoholic beverages is prohibited. A complete application, w/required attachments must be received by AGD **AT LEAST 10 DAYS PRIOR TO THE EVENT**. All fees submitted are non-refundable, even when Permit is issued and the Event is postponed and/or cancelled due to unforeseen circumstances.

ELIGIBILITY: Only New Mexico Licensees that hold a Craft Distiller, Small Brewer or Winegrower License may apply for a Public Celebration Permit (PCP). The Master Liquor License must not be in suspension or have pending citations. If the license holder will be serving alcoholic beverages from any place other than the approved and designated liquor licensed premises, a Permit is required. **The local governing body of the local option district must grant approval** for the issuance of the permit. The local governing body includes city council, county clerk, mayor, etc. and they must have authorized **SUNDAYS SALES** by the drink and the Holder of the Dispenser's License must have a Valid Sunday Sales Permit issued by the Alcohol & Gaming Division or must have a special concession issued from the local governing body pursuant to §60-6A-12(E) NMSA, 1978.

THE EVENT may be held in any Local Option District.

- **MUST NOT EXCEED 3 DAYS:** three (3) day maximum, unless permission is granted by Division Director prior to the event.
- **12 HOURS PER DAY, MAXIMUM:** Service of alcohol must not occur for more than 12 hours per day.
- **ONLY EMPLOYEES** of the Holder of the NM Craft Distiller, Small Brewer or Winegrower Liquor License with the PCP, THAT ARE CURRENTLY LICENSED SERVERS, MAY SELL, DISPENSE, OR SERVE THE ALCOHOLIC BEVERAGES FOR THE EVENT. Reminder: *No Sale to Minors or Intoxicated Persons; No Sale, Service or Consumption before or after the times listed on Permit; Licensee and Employees restricted from consuming alcoholic beverages at the Special Event; No more than 2 Unconsumed drinks may be in the possession of one person. Servers are not permitted to provide more than the legal amount.*
- **MUST NOT REMOVE BEER, WINE OR SPIRITS FROM AREA OF THE CELEBRATION:** A wine grower, small brewer and/or craft distiller is authorized to dispense New Mexico produced alcohol as allowed by their license type, by the drink for consumption at the celebration. By-the-drink dispensed New Mexico produced products cannot be removed from the area of the event. The licensee is authorized to dispense the alcohol allowed by that license type in unbroken packages. The unbroken packages may be removed from the area of the celebration.
- **MUST POST PUBLIC CELEBRATION PERMIT AT EVENT:** After PCP is issued, Licensee is legally required to Post Permit along with Signage (*i.e., pregnancy, firearms, minors, etc.*) and it must be prominently posted at the locations where the alcohol will be dispensed, as indicated by the Approved Floor Plan for the Event. Permits are subject to the same requirements and restrictions contained in the Liquor Control Act and are subject to citation for any violation.

APPLICATION PROCESS: A complete Application must be received by AGD at least 10 days prior to the Event. Application **must be signed by the Licensee, before a Notary**. Faxed Applications not accepted and incomplete applications will be returned. Licensee **MUST** obtain the Building/Property Owner's permission to allow Event serving Alcohol in their facility. **The Following are also required and must be attached:**

- A) **FEES: \$10 per day**, Applicable daily fees must be submitted by business check, Money Order or Cashier's Check
- B) **FLOOR PLAN:** Detailed Floor Plan, include Pictures, designating restricted and unrestricted areas
 - ✓ A Detailed Floor Plan (on 8 ½ x 11 sheet) must be submitted showing exactly where the event is to be held
 - ✓ Total Square Footage for the proposed service area
 - ✓ Must show the location of Bars, Security, Serving Areas, Entrances, Exits
 - ✓ Enclosed or barricaded serving areas must also be clearly marked
 - ✓ If there are any patios or outside areas, indicate how they are enclosed to prevent alcohol from leaving the premises; Describe type and height of Enclosure; Must be four (4) feet or higher
 - ✓ Placement and Location of Security Personnel; If Security is deemed insufficient, the Director may require additional Security Personnel or may deny permit. The average is 1 security personnel per 100 people, but may be increased depending upon the type of event requested.
- C) **LIST OF SERVERS:** Accurate List of Servers at the Event, including the Full Name of Employee, Server Permit Number and Expiration Date