



STAFF REPORT

MEETING DATE: January 25, 2023

PRESENTER: John Jansons, City Manager

SUBJECT: Determination of Public Convenience or Necessity Regarding Alcoholic Beverage License Applications Before the Department of Alcoholic Beverage Control (JAJ)

RECOMMENDATION: Council by motion adopt a resolution designating the City Council to Make Determinations of Public Convenience and Necessity for Persons/Premises Applying for an alcohol license in the City of Kerman.

EXECUTIVE SUMMARY: Pursuant to Section 23958 of the California Business and Professions Code (BPC), the Department of Alcoholic Beverage Control, (ABC), shall deny an application for a license if issuance would result in or add an undue concentration of licenses. Section 23958.4 BPC defines what constitutes an “undue concentration” of ABC licenses.

Further, according to Section 23958.4 of the California Business and Profession Code, “the Department of Alcoholic Beverage Control, (ABC) may issue said license the local governing body, or its designated subordinate officer or body, determines that issuance of the license would serve a Public Convenience or Necessity (PCN)”

The City has historically reviewed and considered referrals from the California Department of Alcoholic Beverage Control for a determination of a Public Convenience and Necessity (PCN) requested by the State.

DISCUSSION: On January 6, 2023, the City received a letter from ABC requesting the City decide whether the City wants:

- (i) the City Council to review and make PCN determinations, or
- (ii) to designate a subordinate officer/body to make PCN determinations, or
- (iii) to decline to make PCN determinations and defer to ABC.

Given the current “undue concentrations” of license in Kerman and the concern for any negative impacts associated with alcohol sales proliferation, it is recommended that Kerman continue the practice of local City Council review and consideration of approval of all license applications proposed.

Adoption of the attached resolution will provide ABC the response requested in their January 3, 2023, letter and continue the practice of local City Council involvement and oversight of a sensitive use(s).

FISCAL IMPACT: There is no direct fiscal impact in continuing to review and consider of approval of ABC license applications for approval.

ATTACHMENTS:

A. Resolution w/Exhibit

Attachment 'A'

RESOLUTION NO. 23-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN DESIGNATING THE CITY COUNCIL TO MAKE DETERMINATIONS OF PUBLIC CONVENIENCE AND NECESSITY FOR PERSONS/PREMISES APPLYING FOR AN ABC LICENSE IN THE CITY OF KERMAN

WHEREAS, the City of Kerman received a request from the California Department of Alcoholic Beverage Control (ABC) requesting that the local governing body (City Council) indicate if they desire to review and consider ABC referrals relating to Public Convenience and Necessity (PCN); and

WHEREAS, the City Council believes it is in the best interest of public health and safety, that the Council make PCN determinations; and

WHEREAS, the City Council wishes to perform this review directly and not delegate this authority to any subordinate Officer or Body.

NOW, THEREFORE the City Council of the City of Kerman resolves as follows:

- Section 1. The recitals above are true and correct and incorporated herein.
- Section 2. The City Council resolves to retain local authority for the approval of any and all PCN determinations to maintain and protect public health and safety, as indicated in Exhibit 'A'.
- Section 3. The City Manager is directed to complete the form (Exhibit 'A') selecting Option Number 1, and transmit City Council's response to the CA Department of Alcoholic Beverage Control.
- Section 4. This resolution is effective upon its adoption.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Kerman held on the 25th day of January, 2023, and passed at said meeting by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing resolution is hereby approved.

Maria Pacheco
Mayor

ATTEST:

Marci Reyes
City Clerk