

# Sandoval County Board of County Commissioners

## Agenda Item Summary

AGENDA ITEM # 2-20-14.8A

**1. REQUESTED MOTION**

**ACTION REQUESTED:**

Approve Application for a Non-Dispensor Liquor License for Mr. Greg McAllister, on Behalf of Algodones Distillery LLC, 15 Calle Alfredo, Algodones NM, Non-Dispensor License Application No. 891502

**WHY ACTION IS NECESSARY (Summary):**

NM Statutory laws require review of the application for a Liquor License by the Sandoval County Board of County Commissioners. (continued on next page)

**2. REQUESTOR**

COMMISSIONER SPONSORED:  YES  NO

DISTRICT: < SELECT DISTRICT >

DIRECTOR / ELECTED: Michael Springfield

DIVISION: Planning and Zoning

ELECTED OFFICE:

ATTACHMENTS:  YES  NO

**3. MEETING DATE**

February 20, 2014

**4. AGENDA** (To be completed by County Manager)

- PROCLAMATION
- PRESENTATION
- CONSENT
- REGULAR
- APPEAL

**5. RECOMMENDATIONS**

Planning and Zoning Division staff recommends approval of the Non-Dispensor Liquor License application.

**6. FISCAL IMPACT**

**7. RECOMMENDED APPROVAL (Initials & Date)**

Department Director/Elected Official	Human Resources	Purchasing	County Attorney	Finance Budget	County Manager	Other
MRS 2/11/14	_____	_____	PFT 2/13/14	_____	PPR 2/13/14	_____

**8. COMMISSION ACTION**

Approved     
  Denied     
  Deferred     
  Other

WHY ACTION IS NECESSARY (Summary) continued:

NM Regulations and Licensing Department, in accordance with Section 60-6B-4 NMSA of the Liquor Control Act, requires the governing body of Sandoval County to hold a public hearing in regards to the above-referenced liquor license application to determine whether the Department should approve the proposed issuance or transfer.

The subject site under consideration for the Non-Dispensor Liquor License is zoned Rural Residential Agricultural (RRA) zone district. The applicant was granted a Home Occupation permit for a Craft Distillery by the Planning and Zoning Division on October 24, 2013, after staff review of on-site plans and proposals for business activity. The requirements for a Home Occupation Permit (Section 6, Definitions, Sandoval County Comprehensive Zoning Ordinance, Subsection 37. "Home Occupation") are that the business is operated only from the approved Craft Distillery structure, with minimal business-related traffic and no more than one (1) non-resident employee on the premises at any given time of business operation. The business is also limited to one (1) non-illuminated sign of not more than four (4) square feet in face area. The activity space was reviewed and approved by the Sandoval County Fire Chief for fire suppression requirements for the activity.

State Statutes 60-6A-21 through 60-6A-28 NMSA 1978 recognize Craft Distilleries as a legitimate Non-Dispensor liquor production and distribution business. The applicant has expressed an interest in holding periodic events on the subject site for the purpose of beverage tasting and sales. The Home Occupation permit does not allow for these events. For such events, the applicant will be required to apply for a Special Events Permit as established in Section 21, Special Events Permit, Sandoval County Comprehensive Zoning Ordinance. This permit would address number of events per year, event conditions such as attendant parking and other safety issues, and outdoor-related activities.

Attachments:

- NMRLD Letter & Liquor License Application No. 891502
- Copy of Home Occupation Permit letters to Mr. Greg McAllister dated October 24, 2013 and January 31, 2014.
- Copy of email from Mr. Greg McAllister to Planning and Zoning Division staff dated February 9, 2014.



**New Mexico Regulation and Licensing Department**  
**ALCOHOL AND GAMING DIVISION**

Toney Anaya Building • 2550 Cerrillos Road • Santa Fe, New Mexico 87505  
(505) 476-4875 • Fax (505) 476-4595 • www.rld.state.nm.us/agd

November 14, 2013

Certified Mail No: 7009 2250 0000 9386 7495

**Suzanna Martinez**  
GOVERNOR

**J. Dee Dennis, Jr.**  
SUPERINTENDENT

**Jennifer M. Anderson**  
DIRECTOR

Sandoval County  
Eileen Gerbagni, Clerk  
PO Box 40  
Bernalillo, NM 87004

Re: App. No. 891502  
Applicant Name: Algodones Distillery, LLC  
Doing Business As: Algodones Distillery  
Proposed Location: 15 Calle Alfredo, Algodones, NM

ATTENTION: Department or person responsible for conducting or preparing the public hearing for liquor license transfers or issuance of new liquor licenses. \*(Please review the revised instructions for approval or disapproval below.)

Greetings:

The Director of the Alcohol and Gaming Division has granted Preliminary Approval for the referenced application and is being forwarded to you in accordance with Section 60-6B-4 NMSA of the Liquor Control Act.

Within forty-five days after receipt of a notice of preliminary approval from the Alcohol and Gaming Division, the governing body shall hold a public hearing in the question of whether the department should approve the proposed issuance or transfer. Notice of the public hearing required by the Liquor Control Act shall be given by the governing body by publishing a notice of the date, time and place of the hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the territorial limits of the governing body, which requires that two weeks of publication must be satisfied before a hearing can be conducted. The notice shall include: (A) Name and address of the Applicant/Licensee; (B) The action proposed to be taken by the Alcohol and Gaming Division; (C) The location of the licensed premises. The governing body is required to send notice by certified mail to the applicant of the date, time and place of the public hearing. The governing body may designate a hearing officer to conduct the hearing. A record shall be made of the hearing.

The applicant is requesting a Craft Distillery Liquor License:

The governing body may disapprove the issuance or transfer of the license if:

The proposed location is within an area where the sale of alcoholic beverages is prohibited by the laws of New Mexico. (The governing body may disapprove if the proposed location is within 300 feet of a church or school unless the license has been located at this location prior to 1981 or unless the applicant/licensee has obtained a waiver from the local option district governing body for the proposed licensed premises.)

Alcohol and Gaming Division  
(505) 476-4875

Boards and Commissions Division  
(505) 476-4600

Construction Industries Division  
(505) 476-4700

Financial Institutions Division  
(505) 476-4885

Manufactured Housing Division  
(505) 476-4770

Securities Division  
(505) 476-4580

Administrative Services Division  
(505) 476-4800

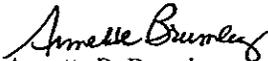
The issuance or transfer would be in violation of a zoning or other ordinance of the governing body. The governing body may disapprove if the proposed location is not properly zoned. Because this office is in receipt of a zoning statement from the governing body, this is not a basis for disapproval.

The issuance would be detrimental to the public health, safety or morals of the residents of the local option district. Disapproval by the governing body on public health, safety or morals must be based on and supported by substantial evidence pertaining to the specific prospective transferee or location and a copy of the record must be submitted to the Alcohol and Gaming Division.

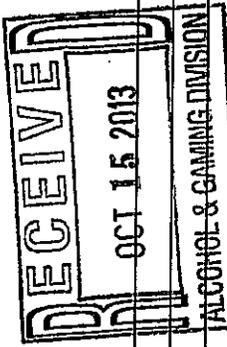
\*Within thirty (30) days after the public hearing, the governing body shall notify the Alcohol and Gaming Division *in writing* as to whether the local governing body has approved or disapproved the issuance of transfer of the license *and* by signing the enclosed original Page 1 of the application. *The letter of approval/disapproval and the Page 1 must be returned together with the notice of publication(s).* If the governing body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the public hearing, the director *will* give final approval to the issuance or transfer of the license.

If the governing body disapproves the issuance or transfer of the license, it shall notify the Alcohol and Gaming Division within thirty (30) days setting forth the reasons for the disapproval. A copy of the minutes of the public hearing shall be submitted to the Alcohol and Gaming Division with the notice of disapproval (page 1 of the application page noting disapproval).

Sincerely,

  
Annette R. Brumley  
Hearing Officer

ENCLOSURES: Original Page 1 of Liquor License Application  
Copy of page 2 Premises, Location, Ownership & Description of Premises



### LIQUOR LICENSE APPLICATION

Application fee - \$200.00 Fees are non-refundable.



State Liquor License # 10999999  
Application Number 891502  
Local option (AGD use) AMB  
Record Owner of Existing License \_\_\_\_\_  
Current D/B/A Name \_\_\_\_\_  
Current Premises Address \_\_\_\_\_  
Transfer Ownership of Existing License \_\_\_\_\_ Transfer Ownership and Location \_\_\_\_\_ Other \_\_\_\_\_

Application is for: Change of Stock \_\_\_\_\_ Change of Officers/Directors \_\_\_\_\_  
Issue New License  Type of License being applied for Craft Distillery  
Applicant is: Individual \_\_\_\_\_ Corporation \_\_\_\_\_ Partnership (General or Limited) \_\_\_\_\_ Limited Liability Company

NAME OF APPLICANT (company or individual) Algodones Distillery, LLC  
ADDRESS (including city, state, zip) 15 Calle Alfredo, Algodones, NM 87001  
TELEPHONE NUMBER 505-301-9992

D/B/A name to be used: Algodones Distillery  
Phone number for licensed premises: 505-301-9992

Physical location where license is to be used: 15 Calle Alfredo, Algodones, NM 87001  
(Include street number / highway number / state road, city and county, state, and zip code)

Mailing address: same

Are alcoholic beverages currently being dispensed at the proposed location? Yes \_\_\_\_\_ No  If yes, give license number and type \_\_\_\_\_

I, (print name) Gregory R. McAllister, as (title) managing member, being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that any statements or representations herein are found to be false, the director may refuse to issue or renew the license or may cause the license to be revoked at any time.

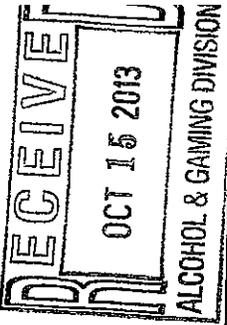
*You must sign and date this form in the presence of a notary public.*  
Signature of Applicant Gregory R. McAllister Date 09.25.13

SUBSCRIBED AND SWORN TO before me this 25 day of September, 2013 by Gregory McAllister  
Notary Public Guilherme My Commission Expires 12-3-16  
Notary Public Seal: VIOLA Y. BERMUDEZ, Notary Public, State of New Mexico

Local Governing Body of: \_\_\_\_\_ (City or County). Hearing held on \_\_\_\_\_ 20\_\_\_\_

Check one: Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ City/County Official \_\_\_\_\_ (Signature & Title)

For Alcohol and Gaming Division Use Only  
Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ Director Approval \_\_\_\_\_ Date \_\_\_\_\_



**PREMISES LOCATION, OWNERSHIP, AND DESCRIPTION (COPY)**  
 55-60-6B-10

1. The land and building which is proposed to be the licensed premises is (check one):

Owned by Applicant \_\_\_\_\_ Leased by Applicant (attach copy of deed or lease)  Other (provide details) \_\_\_\_\_

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s) Gregory R. McAlistar and Peter David Pacheco

B. Date and term of lease 05/14/13 (commences 06/01/13), terminates 06/01/18 (5 yr term)

3. Premises location is zoned (example C-1) RA (rural agricultural)

If the premises is zoned, attach zoning statement from local government giving location address and type of zone, stating whether alcoholic beverages are allowed at proposed location. If there is no zoning, attach confirmation from local government indicating there is no zoning.

4. Distance from nearest church \*(Property line of church to licensed premises—shortest distance).

Miles/feet 0.6 mi Name of church San Jose Catholic Church Address/location of church 1415 Highway 313, Algodones, NM 87000

5. Distance from nearest school \*(Property line of school to licensed premises—shortest distance).

Miles/feet 0.4 mi Name of school Algodones Elementary Address/location of school 1399 Highway 313, Algodones, NM

6. Distance from military installation \*(Property line of military installation to licensed premises—shortest distance.)

Miles 29.6 mi Name of Military Installation, circle one: Kirtland Air Force Base (Albuquerque), White Sands Missile Range (Las Cruces), Holloman Air Force Base (Alamogordo), Cannon Air Force Base (Clovis).

7. Attach, on a separate sheet, the detailed floor plan for each level (floor) where alcoholic beverages will be sold or consumed. Show exterior walls, doors, and interior walls. This will be the licensed premises. The floor plan should be no larger than 8 1/2 x 11 inches, and must include the total square footage of premises.

\*If the distance is beyond 300 feet, but less than 400 feet, a registered engineer or licensed surveyor must complete a Survey Certificate showing the exact distance.

8. Type of Operation:

Lounge \_\_\_\_\_ Restaurant \_\_\_\_\_ Package Grocery \_\_\_\_\_ Racetrack \_\_\_\_\_ Hotel \_\_\_\_\_ Other (specify) craft distillery

ALCOHOL & GAMING DIVISION  
2550 CERRILLOS ROAD 87505  
P.O. BOX 25101  
SANTA FE, NEW MEXICO 87504-5101

COPY

POSTING CERTIFICATE  
(ISSUANCE OF NEW LIQUOR LICENSES)

RESTAURANT (BEER/WINE ONLY) WHOLESALER: \_\_\_\_\_  
XX MASTER WINEGROWER \_\_\_\_\_ WINEGROWER OFF-SITE: 1 2 3 (Circle)  
MASTER SMALL BREWER \_\_\_\_\_ SMALL BREWER OFF-SITE: 1 2 (Circle)  
OTHER: \_\_\_\_\_

APPLICATION NUMBER: A-891502

APPLICANT NAME: ALGODONES DISTILLERY, LLC

PROPOSED NAME: UNKOWN

PROPOSED LOCATION: 15 CALLE ALFREDO, ALGODONES, NM

I CERTIFY THAT I HAVE POSTED THE REQUIRED NOTICE OF LIQUOR LICENSE PURSUANT TO SECTION 60-6B-2, NMSA, AND FURTHER CERTIFY AS FOLLOWS:

1. LOCATION POSTED IS WITHIN CORPORATE LIMITS OF: \_\_\_\_\_
2. LOCATION POSTED IS IN UNINCORPORATED LIMITS OF: ALGODONES
3. DISTANCE FROM NEAREST CHURCH IS APPROXIMATELY: 3.8 MILES  
NAME OF CHURCH IS: OUR LADY OF SORROWS
4. DISTANCE FROM NEAREST SCHOOL IS APPROXIMATELY: 0.3 MILES  
NAME OF SCHOOL IS: ALGODONES ELEMENTARY
5. DISTANCE FROM NEAREST MILITARY INSTALLATION IS: KIRTLAND AIR FORCE BASE  
MILES

NAME OF INSTALLATION IS: \_\_\_\_\_  
\_\_\_\_\_ KIRTLAND AIR FORCE BASE (ALBUQUERQUE)  
\_\_\_\_\_ WHITE SANDS MISSILE RANGE (LAS CRUCES)  
\_\_\_\_\_ HOLLOMAN AIR FORCE BASE (ALAMOGORDO)  
\_\_\_\_\_ CANNON AIR FORCE BASE (CLOVIS)

NOTICE POSTED ON: \_\_\_\_\_ BUILDING  BILLBOARD \_\_\_\_\_ OTHER: \_\_\_\_\_

DATE POSTED: 10-22-2013

EXPIRATION DATE: 11-11-2013

[Signature]  
APPLICANT'S SIGNATURE

[Signature]  
S.I.D. SPECIAL AGENT



STATE OF NEW MEXICO  
Taxation and Revenue Department



New Mexico  
Taxation and Revenue Department

Susana Martinez  
Governor

Demesia Padilla, CPA  
Secretary

GREG MCALLISTER  
ALGODONES DISTILLERY  
15 CALLE ALFREDO  
ALGODONES, NM 87001

April 24, 2013  
CRS: 03-267612-00-3  
Letter ID: L0065581888

STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT  
**REGISTRATION CERTIFICATE**

Date ID Issued <b>24-Apr-2013</b>	IDENTIFICATION NUMBER <b>03-267612-00-3</b>	Business Start Date <b>01-Sep-2013</b>
Business Location <b>15 CALLE ALFREDO</b>	Business End Date	
City and State <b>ALGODONES, NM</b>	Zip Code <b>87001</b>	
Taxpayer Name <b>ALGODONES DISTILLERY LLC</b>	Taxpayer Type <b>LLC</b>	
Name <b>ALGODONES DISTILLERY</b>	Filing Frequency <b>MONTHLY</b>	
Mailing Address <b>15 CALLE ALFREDO</b>		
City and State <b>ALGODONES, NM</b>	Zip Code <b>87001</b>	

This Registration Certificate is issued pursuant to Section 7-1-12 NMSA 1978 for Gross Receipts, County Gross Receipts, Municipal Gross Receipts, Compensating and Withholding Taxes. This copy must be displayed conspicuously in the place of business. Any purchaser of the registrant's business is subject to certain requirements under Section 7-1-61 NMSA 1978.

Division Director Tax Administration

By \_\_\_\_\_

Any inquiries concerning your Identification Number should be addressed to the Audit & Compliance Division, P.O. Box 630, Santa Fe, New Mexico 87504-0630

Form Revised 02/2003

THIS CERTIFICATE IS NOT TRANSFERABLE

STATE OF NEW MEXICO TAXATION AND REVENUE DEPARTMENT  
**REGISTRATION CERTIFICATE**

Date ID Issued <b>24-Apr-2013</b>	IDENTIFICATION NUMBER <b>03-267612-00-3</b>	Business Start Date <b>01-Sep-2013</b>
Business Location <b>15 CALLE ALFREDO</b>	Business End Date	
City and State <b>ALGODONES, NM</b>	Zip Code <b>87001</b>	
Taxpayer Name <b>ALGODONES DISTILLERY LLC</b>	Taxpayer Type <b>LLC</b>	
Firm Name <b>ALGODONES DISTILLERY</b>	Filing Frequency <b>MONTHLY</b>	
Mailing Address <b>15 CALLE ALFREDO</b>		
City and State <b>ALGODONES, NM</b>	Zip Code <b>87001</b>	

This Registration Certificate is issued pursuant to Section 7-1-12 NMSA 1978 for Gross Receipts, County Gross Receipts, Municipal Gross Receipts, Compensating and Withholding Taxes. This copy must be displayed conspicuously in the place of business. Any purchaser of the registrant's business is subject to certain requirements under Section 7-1-61 NMSA 1978.

Division Director Tax Administration

By \_\_\_\_\_

Any inquiries concerning your Identification Number should be addressed to the Audit & Compliance Division, P.O. Box 630, Santa Fe, New Mexico 87504-0630

Form Revised 02/2003

THIS CERTIFICATE IS NOT TRANSFERABLE



160065581888026



# Business Registration Form

**Please Print:**

1 Type of Application: **Business License**

2 Application Status:  New  Renewal  Non-Profit  Home Occupation

3 Business Name: Algodones Distillery, LLC  
 Business Telephone: 1571 301-9992  
 Physical Location: 15 Calle Alfredo  
 City: Algodones State: NM Zip Code: 87001

Mailing Address: (if different than above)  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Home Telephone: ( ) \_\_\_\_\_

4 New Mexico CRS Number: 

0	3	2	6	7	6	1	2	0	0	3
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5 Primary type of business: **Check One**  Construction  Retail Trade  Service  
 Wholesale Trade  Manufacturing  Other

6 Nature of Business: distilled spirits plant

7 List Owners, Partners, Corporate Officers:

Name & Title	Address:	City:	State:	Zip Code:
<u>Gregory R. M. Allister</u> <u>managing member</u>	<u>15 Calle Alfredo</u>	<u>Algodones</u>	<u>NM</u>	<u>87001</u>
<u>Peter David Pacheco</u> <u>member</u>	<u>"</u>	<u>"</u>	<u>"</u>	<u>"</u>

8 Corporation Name: (If Applicable: Algodones Distillery, LLC)

9 Does Business Require a Contractor's License?  Yes  No  
 If Yes: License #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

I affirm that the above information is true and correct:

Signature: [Signature] Date: 11.15.13

Official Use Only:

Business License Number: 6877

Business Name: Algodones Distillery, LLC

Date Filed: 11-19-13 Date Expires: 11-19-14

Initials: MN



## SANDOVAL COUNTY ADMINISTRATIVE OFFICES

### BOARD OF COUNTY COMMISSIONERS

DARRYL F. MADALENA  
District 5, Chair

NORA SCHERZINGER  
District 2, Vice Chair

ORLANDO J. LUCERO  
District 1

DON G. CHAPMAN  
District 3

GLENN WALTERS  
District 4

PHILLIP RIOS  
County Manager

October 24, 2013

Mr. Greg R. McAllister  
Algodones Distillery, LLC  
15 Calle Alfredo  
Algodones, NM 87001

Dear Mr. McAllister,

Your application for a Home Occupation permit has been reviewed and approved by the Sandoval County Planning and Zoning Division for a Craft Distillery. The proposed structure for the Craft Distillery has been approved for Accessory Use setback and height regulations in the Rural Residential Agricultural (RRA) zone, and has a design for fire suppression that has been approved by the Sandoval County Fire Marshall.

The requirements for a Home Occupation permit are that your business is operated only from the approved Craft Distillery structure, with minimal business-related traffic and no more than one (1) non-resident employee on the premises at any given time of business operation. Also, for your business, you are limited to one (1) non-illuminated sign of not more than four (4) square feet in face area.

For the purpose of alcoholic beverages, the Sandoval County Comprehensive Zoning Ordinance does not name alcoholic service, consumption, and/or production as a land use. Approval of this activity will be addressed in your licensing with the New Mexico Department of Alcohol and Gaming. The use is not specifically prohibited in the RRA zone.

Your approval for a Home Occupation permit is effective only for the length of time of an approved Business License from the Sandoval County Office of the County Clerk. Upon expiration of the County Clerk's business license, you must seek and gain a new approval from this office for renewal of your Home Occupation permit, which will require renewal of your Business License.

If you have any questions on these or related matters, please contact me at the Sandoval County Planning and Zoning Division at 867-7656.

Best Regards,

A handwritten signature in black ink that reads "Makita Hill".

Makita Hill

Long Range Senior Planner, Sandoval County Planning and Zoning Division

CC: Mike Springfield, Director, Sandoval County Planning and Zoning Division



## SANDOVAL COUNTY ADMINISTRATIVE OFFICES

### BOARD OF COUNTY COMMISSIONERS

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District 1

DON G. CHAPMAN  
District 3

GLENN WALTERS  
District 4

PHILLIP RIOS  
County Manager

January 31, 2014

Mr. Greg R. McAllister  
Algodones Distillery, LLC  
15 Calle Alfredo  
Algodones, NM 87001

Dear Mr. McAllister,

The Sandoval County Planning and Zoning Division has received notice that you have applied for a Liquor License from the State of New Mexico Department of Alcohol and Gaming. This letter is sent to you to clarify the allowances you have been granted under your approved Home Occupation Permit.

As mentioned in the letter sent to you dated October 24, 2013, the requirements for your Home Occupation Permit are that your activity is operated only from the approved Craft Distillery structure, with minimal business-related traffic and no more than one (1) non-resident employee on the premises at any given time of business operation. Also, for your distillery, you are limited to one (1) non-illuminated sign of not more than four (4) square feet in face area.

To clarify, this allowance means that you are not permitted to make direct sales of alcoholic beverages from your distillery, but you may have delivery vehicles pick up beverages from your facility and take the beverages to other locations for sales. Also, the Home Occupation Permit does not allow service of the beverages you manufacture within your distillery anywhere on your property. While the alcoholic service activity itself is not named as a land use in the Sandoval County Comprehensive Zoning Ordinance, the on-premise service and sale of beverages manufactured in your distillery is considered a retail business activity which requires a zone change of your property.

If you have any questions on these or related matters, please contact me at the Sandoval County Planning and Zoning Division at 867-7656.

Best Regards,

A handwritten signature in cursive script that reads "Makita Hill".

Makita Hill  
Long Range Senior Planner, Sandoval County Planning and Zoning Division

CC: Mike Springfield, Director, Sandoval County Planning and Zoning Division  
Patrick Trujillo, Sandoval County Attorney

**From:** [drgregmcdsjd@aol.com](mailto:drgregmcdsjd@aol.com) [<mailto:drgregmcdsjd@aol.com>]  
**Sent:** Sunday, February 09, 2014 8:59 PM  
**To:** Makita Hill  
**Cc:** [Annette.Brumley@state.nm.us](mailto:Annette.Brumley@state.nm.us); Michael Springfield; Brad Stebleton  
**Subject:** Re: Algodones Distillery, LLC

Dear Makita:

Thank you for your email and phone call and the opportunity to explain our New Mexico Craft Distillers Liquor License application.

#### **BACKGROUND**

My partner David Pacheco and I first met with you last summer to discuss the possibility of opening a craft distillery on our rural property in Algodones and you will recall that we provided you with a copy of the recently enacted "Domestic Winery, Small Brewery and Craft Distillery Act", Sections 60-6A-21 to 60-6A-28 NMSA 1978, which was amended in the 2011 Legislature to include Craft Distilleries and was thus renamed. This was the authorizing statute under which we sought clarification and zoning approval in order to establish our craft distillery.

According to your October 24, 2013 letter our proposed enterprise qualified as a Home Occupation which is a Permissive Use in our Rural Residential/Agricultural (RRA) Zone. Your letter informed us of the requirements for a Home Occupation and this letter was supplied to the State Regulation and Licensing Department, Alcohol and Gaming Division as the requisite Zoning Statement in support of our application for a Craft Distiller Liquor License. We also relied upon this letter in commencing construction on our project and the placement of equipment orders. After a November 12, 2013 preliminary hearing before Administrative Law Judge Annette Brumley we were given Preliminary Approval by the Alcohol and Gaming Division and a certified letter was sent to Sandoval County on November 14, 2013 and signed for on November 18, 2013.

When I did not hear anything from the County by January 28, 2014 I contacted Ms. Brumley to inquire as to the status of our license application. Once she communicated with Sandoval County officials we received your letter dated January 31, 2014 in which you restated the October 24, 2013 Home Occupation approval; however, the letter contained additional restrictions or "allowances" for the Home Occupation permit of which we were unaware. You and I then exchanged emails and had a phone conversation in which we expressed the shared sentiment that this is likely a situation involving a high degree of confusion about the nature of our proposed business and the type of licensure applied for. We further agreed that the application form for a Craft Distiller license from the State was part of the confusion in and of itself since the license form uses the same multi-purpose application for both alcohol producers as well as for other liquor license applicants such as restaurants, and the words "Liquor License" have many connotations from a manufacturer to a dispenser such as a bar, lounge or package store.

In order to clarify the situation and to dispel any confusion you asked me to draft this email detailing the nature of our application.

#### **NEW MEXICO CRAFT DISTILLER'S LIQUOR LICENSE APPLICATION**

In October 2013, after having obtained our federal permit to operate a distilled spirits plant (Algodones Distillery, LLC, Federal DSP-NM-21003) we made application to the State of New Mexico on the Alcohol and Gaming Division's prescribed "Non-Dispenser Liquor License Application" form for our Craft Distillers Liquor License. There is no licensure form specific to a proposed Craft Distiller and our sole purpose in making application to the State was and is to obtain the proper licensure to operate our 900 square foot craft distillery as a family-run business focused on using New Mexico agricultural products such as blue corn, Algodones water and our local microclimate to age our products making uniquely New Mexican spirits. Manufacturing and the processes of a craft distillery are our primary activity. ***We did not make application for purposes of opening a bar, lounge or package store, etc. on our property. This would require a Dispenser Liquor License Application and is not what we are seeking, nor is that the application we submitted.***

Page 2 of this multipurpose application called for "Premises Location, Ownership, and Description, SS-60-6B-10" and Item 3 stated: "If the premises is zoned, attach a zoning statement from local government giving location address and type of zone, stating whether alcoholic beverages are allowed at proposed location." I then contacted Mr. Makita Hill, Long Range Senior Planner, Sandoval County Planning and Zoning Division in order to obtain such a statement and his October 24, 2013 letter ensued. Since we had been very forthcoming in our prior discussions with Mr. Hill we felt certain that the County was satisfied with our intended use of our property and the proposed craft distillery and, thus, submitted this letter to the State as the required zoning statement and relied upon the strength of this statement to commence the building and equipping of our space.

#### **NEW MEXICO "Domestic Winery, Small Brewery and Craft Distillery Act", SS-60-6A-21 through 60-6A-28 NMSA 1978.**

State law was amended in the 2011 Legislature to include small distilleries in the Act previously reserved for small wineries and breweries.

Under SS 60-6A-6.1 "Craft distiller's license. A. In any local option district, a person qualified under provisions of the Liquor Control Act [60-3A-1 NMSA 1978], except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act [60-6A-21 NMSA 1978], may apply for and be issued a craft distiller's license subject to the following conditions . . . ." We have met all of those conditions and were open and honest in our intentions with the County from the outset.

Section B of the law goes on to state: "A person to whom a craft distiller's license is issued pursuant to this section may do any of the following:...(7) conduct spiritous liquor tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale, spiritous liquors of the crafts distiller's own production...on the craft distiller's premises . . . ."

When we provided a copy of the new statute to you last summer we discussed the fact that State law now treats craft distilleries as identical to wineries, though the County only recognizes Wineries as Permissive Uses within our RRA Zone. In our recent conversation we further discussed the fact that, although State law has only recently recognized Craft Distillers the art and business of distillation is as old as - and in fact older than - the United States itself and that our first president George Washington was one of the largest (if not the largest) distillers in the new republic. Distilling grain for alcohol is considered a traditional agricultural activity, though not recognized as such under the Sandoval County Comprehensive Zoning Ordinance. Since we are a craft distillery (a.k.a."micro-distillery") you had previously recommended we seek approval as a Home Occupation, rather than seek to have the Ordinance amended or a Conditional Use approved and this is what we did. We assumed there was familiarity with the new law and all that it entailed which places craft distilleries on equal footing with domestic wineries and small breweries.

To date there have been 4 New Mexico Craft Distillers licensed under the Act:

1. Dolin Distillery, Inc. (dba Don Quixote Distillery and Winery), Los Alamos, NM; Craft Distiller License #63001 (10/2011);
2. Santa Fe Distillery, LLC (dba Santa Fe Spirits), Santa Fe, NM; Craft Distiller License 63002 (10/2011);
3. Little Toad Creek, LLC (dba Little Toad Creek Brewery & Distillery), Mimbres, NM; Craft Distiller License #63004 (02/2013);
4. Left Turn, Inc. (dba Left Turn Distilling), Albuquerque, NM; Craft Distiller License #63006 (08/2013).

The Santa Fe and Albuquerque distilleries are both located in light industrial areas whereas the Los Alamos and Mimbres distilleries are located in rural areas such as ours. In fact, the Dolin Distillery is located on property nearly identical in character to our own: large parcels of land with houses in a rural residential/agricultural setting.

I have personally visited 3 of these craft distilleries (as well as others out of state) and count the owners as friends. These are licensed facilities that are responsible members of their respective communities and a visit to any one of them is reminiscent of visits to the many domestic wineries one can visit here in New Mexico (think Ponderosa Valley Vineyards) and elsewhere, where tours show the facilities and the alcohol production process. Samples are available to eligible adults and on-premise sales are made so that customers can take local products with them if they so choose. They likewise sell branded merchandise to promote their products, all in a relaxed but professional fashion. These are not high-traffic or raucous sites and operate within strict guidelines of federal, state and local laws. These are daytime operations, not bars, and they support the State and local economies through their agribusinesses.

## **SUMMARY**

To the extent we are seeking a Liquor License it is ONLY to the degree of being considered a Craft Distiller under New Mexico law and thus required to file the prescribed liquor license form. We seek nothing more - though nothing less - than that which the Domestic Winery, Small Brewery and Craft Distillery Act permits (and requires) its licensees to do. AGAIN, WE ARE NOT SEEKING A LIQUOR LICENSE AS A BAR, LOUNGE, OR PACKAGE STORE. We feel it is necessary to be able to sample and sell our products on-premise as well as wholesale them according to the same terms and conditions that apply to Domestic Wineries under State Law and County Ordinance. It's the same thing. It is an integral function of craft distilleries, not only vital to our economic viability but also to our educational mission, to be able to have potential customers sample our products but also to be able to make direct sales to the public of our products and State law recognizes this fact. Our intent is to make direct sales and to conduct sampling in such a fashion that it does not interfere with our "neighborhood" setting nor infringe upon our "allowances" as a Home Occupation by restricting regular visiting hours to the weekends between 10am and 6pm on Saturdays and 12noon and 4pm on Sundays, with samples limited in number (no more than 3) of no more than 0.5oz each. Though we do not anticipate heavy traffic we can require reservations for visitors so that we can further limit their number and minimize their impact.

I hope this email helps to clarify matters. Please contact me with any further questions or concerns you may have.  
Best regards,  
Greg McAllister  
301.9992