



Inter Department Correspondence Sheet

TO: Dr. Larry H. Filer II, City Manager

FROM: Jeremy Sharp, Zoning Administrator
Bernard A. Pishko, City Attorney, Allan Bull, City Clerk,

COPIES TO: George Homewood, Director of Planning

SUBJECT: Request for City Council Public Hearing of California Burrito
Special Exception Permit (Ordinance No. 46,858)

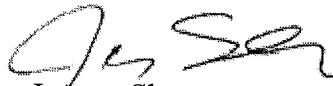
September 19, 2022

The City has evaluated the operations of California Burrito, an establishment located at 319 Granby Street, Suite 319 operated by the owner, Miguel Roldan-Ortiz. A copy of that special exception permit (Ordinance No. 46,858) is attached (Attachment 1).

The purpose of this memo is to request that a public hearing be set on City Council's Agenda on October 11, 2022 in order for it to determine whether the conditional use permit should be revoked.

On May 13, 1997, City Council adopted Ordinance No. 38,746 (Attachment 2) setting forth specific procedures to be followed in all proceedings in which the City Council considers the revocation of any permit or certificate previously granted by City Council. This procedure requires that a Statement of Proposed Revocation be prepared and submitted to City Council 14 days prior to the hearing.

I will prepare for your review a draft "Statement of Proposed Revocation," a draft City Council transmittal letter, and a draft ordinance to be adopted in the event revocation is approved by the City Council.


Jeremy Sharp
Zoning Administrator

Attachments

05/24/2017 lds

ATTACHMENT 1

Form and Correctness Approved: *RAF*

Contents Approved. *aw*

By *Adrian Davis*
Office of the City Attorney

By *[Signature]*
DEPT

NORFOLK, VIRGINIA

ORDINANCE No. 46,858

C-3

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "CALIFORNIA BURRITO" ON PROPERTY LOCATED AT 319 GRANBY STREET, SUITE 319

- - -

BE IT ORDAINED by the Council of the City of Norfolk

Section 1 - That a Special Exception is hereby granted to California Burrito, LLC authorizing the operation of an entertainment establishment with alcoholic beverages known as "California Burrito" on property located at 319 Granby Street. The property which is the subject of this Special Exception is more fully described as follows

Property fronts 55 feet, more or less, along the western line of Granby Street beginning 218 feet, more or less, from the southern line of West Freemason Street and extending southwardly; premises numbered 319 Granby Street, suite 319

Section 2 - That the Special Exception granted hereby shall be subject to the following conditions

- (a) The hours of operation for the establishment, for the sale of alcoholic beverages, and for entertainment shall be limited to 11 00 a m until 2 00 a m the following morning seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted
- (b) The seating for the establishment shall not be less than 33 seats indoors, shall not be more than 4 seats outdoors, and the total occupant capacity, including employees, shall not exceed 49 people
- (c) No entertainment shall be permitted anywhere outside the building

- (d) No smoking shall be permitted anywhere in the outdoor dining area. Signage notifying patrons of this restriction shall be conspicuously posted.
- (e) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (f) Entertainment shall be limited to live bands having no more than five (5) members, disc jockey, karaoke, comedian, and poetry reading. No other form of entertainment is permitted.
- (g) The dance floor shall not exceed 268 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.
- (h) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."
- (i) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (j) The establishment shall maintain a current, active business license at all times while in operation.
- (k) The establishment shall remain current on all food and beverages taxes and business personal property.

taxes which may become due while it is in operation

- (l) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, and both solid and liquid waste
- (m) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu
- (n) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar
- (o) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern
- (p) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from

requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law

- (q) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (r) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (s) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (t) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (u) A copy of this Adult Use Special Exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this Adult Use Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (v) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For

purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following

- (1) This special exception;
- (2) Any ABC license(s)
- (3) Any occupancy permit(s);
- (4) Certifications of all persons who work on the premises as a security guard;
- (5) All fire code certifications, including alarm and sprinkler inspection records;
- (6) Any health department permit(s)
- (7) The emergency action plan required under the Fire Prevention Code;
- (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time; and
- (9) The establishment's designated driver program

Section 3 - That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended)

Section 4 - That the Special Exception granted hereby amends the previously granted special exception permitting an Eating and Drinking Establishment on this property, adopted on April 12, 2016, (Ordinance No 46,311) and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception

Section 5 - That this ordinance shall be in effect from the date of its adoption

ATTACHMENTS

Exhibit A (5 pages)

Exhibit B (1 page)

ATTACHMENTS

Exhibit A (5 pages)

Exhibit B (1 page)

Adopted by Council June 13, 2017
Effective June 13, 2017

TRUE COPY
TESTE

R BRECKENRIDGE DAUGHTREY, CITY CLERK

BY _____
DEPUTY CITY CLERK

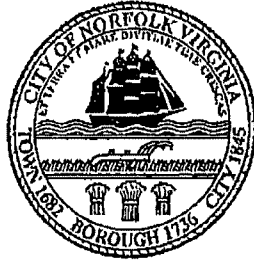


EXHIBIT "A"
Description of Operations
Entertainment Establishment
(Please Print)

Date March 13 '17

Trade name of business California Burrito LLC

Address of business 319 Granby Street Norfolk VA

Name(s) of business owner(s)* Miguel Roldan - California Burrito, LLC

Name(s) of property owner(s)* Armistead W Dey Jr

Name(s) of business manager(s)/operator(s) Miguel Roldan, Nicole Roldan, Keily Escobar

Daytime telephone number (757) 653-4981

*If business or property owner is a partnership, all partners must be listed.
 *If business or property owner is an LLC or Corporation, all principals must be listed.

1 Proposed Hours of Operation:

<u>Facility</u>	<u>Alcoholic Beverage Sales and Entertainment</u>
Weekday From <u>11</u> To <u>2am</u>	Weekday From <u>11</u> To <u>2am</u>
Friday From <u>11</u> To <u>2am</u>	Friday From <u>11</u> To <u>2am</u>
Saturday From <u>11</u> To <u>2am</u>	Saturday From <u>11</u> To <u>2am</u>
Sunday From <u>11</u> To <u>2am</u>	Sunday From <u>11</u> To <u>2am</u>

2. Type of ABC license applied for (check all applicable boxes):

On-Premises Off-Premises (second application required)

3. Type of alcoholic beverage applied for:

Beer Wine Mixed Beverage

Exhibit A – Page 2
Entertainment Establishment

- 4 Will video games, pool tables, game boards or other types of games be provided?
 Yes (If more than 4, additional application required) No

4a If yes, please describe type and number of each game to be provided.

5. Will patrons ever be charged to enter the establishment?
 Yes No

5a. If yes, why:

Special music events

5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
 Yes No

6a. If yes, explain:

Corporate parties, wedding celebrations

- 7 Will a third party (promoter) be permitted to lease, let or use the establishment?
 Yes No

7a. If yes, explain:

8. Will there ever be a minimum age limit?
 Yes No

Exhibit A – Page 3
Entertainment Establishment

9. Additional comments/description/operational characteristics or prior experience:

Currently operating California Burrito

Note. If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility



Signature of Applicant

Non-Entertainment
Option

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1 Total capacity

a. **Indoor**

Number of seats (not including bar seats) 36
Number of bar seats 5
Standing room 0

b. **Outdoor**

Number of seats 4

c. **Number of employees** 4

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 49

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

3. Will a dance floor be provided?

Yes No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

Entertainment
Option

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include.
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1 Total capacity

a. Indoor

Number of seats (not including bar seats) 28
Number of bar seats 5
Standing room 8

b. Outdoor

Number of seats 4

c. Number of employees

4

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 49

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian or poetry reading.

DJ, 5-member live band - unamplified

3. Will a dance floor be provided?

Yes No

3a. If yes,

Square footage of establishment 2,832
Square footage of dance floor 268

- If a disc jockey is proposed, a dance floor must be provided
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required

04/30/97 JM

ATTACHMENT 2

Form and Correctness Approved:

Contents Approved:

By Daniel R. Hagemister
Office of the City Attorney

By [Signature]
DEPT City Planning & Codes Adm

NORFOLK, VIRGINIA

R-15

ORDINANCE No. 38,746

AN ORDINANCE ESTABLISHING PROCEDURES FOR REVOKING PERMITS.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the following procedures, which are adopted pursuant to Section 10 of the Norfolk City Charter, shall govern all proceedings in which the Council considers the revocation of any permit or certificate that the Council has previously granted:

- (a) The process for revoking permits or certificates issued by Council shall be initiated by the preparation of a formal Statement of Proposed Revocation by the city manager or his designee. This statement shall be submitted to Council members not later than fourteen days prior to the scheduled proceeding before Council.
- (b) The Statement of Proposed Revocation shall be supported by appropriate documentation and may include affidavits, photographs, video tapes, recordings, official reports, compilations of statistics and any other pertinent matters.
- (c) The Statement of Proposed Revocation shall also contain a concise exposition of the principles of law under which revocation of the permit is being sought.
- (d) The Statement of Proposed Revocation shall be sent to the Permit Holder at the same time it is forwarded to Council members.
- (e) The Permit Holder thereafter shall file all documents including affidavits, exhibits, photographs, compilation of statistics, etc. that constitutes its defense. This Response must address all matters set forth in the Statement of Proposed Revocation. The Permit Holder shall include in its Response a written statement of all legal authorities upon which it relies. The Response shall be submitted to the City Clerk not later than seven days before Council is scheduled to meet on the revocation issue. Ten copies of the Response shall be filed with the Clerk who shall advise the

Council when all the materials are filed and the matter ready to be heard by Council.

- (f) Immediately upon receipt of the Response, the City Clerk shall provide one copy of said Response to each Council member. Also, one copy shall be provided to the Office of the City Attorney.
- (g) The Office of the City Attorney shall represent the City Manager (or his designee) before Council. Council shall allow the City Attorney to present an opening argument not to exceed fifteen minutes. The Permit Holder shall then be allowed oral argument not to exceed twenty minutes. The City Attorney shall then be allowed a rebuttal argument not to exceed five minutes.
- (h) No oral testimony may be taken in any such proceeding; however, Council shall review any and all transcripts which were provided as part of the documentation by either side.
- (i) Failure to fully meet the provisions of this ordinance shall result in a forfeiture of the right to file unless Council agrees to late filing.

Section 2:- That this ordinance shall be in effect from the date of its adoption.

Adopted by Council May 13, 1997
Effective May 13, 1997

TRUE COPY
TESTE:

R. BRECKENRIDGE DAUGHTREY, CITY CLERK

BY: _____
DEPUTY CITY CLERK