

AN ORDINANCE 2013-11-07-0766

**WAIVING THE REQUIREMENTS OF SECTIONS 4-6 (C), 4-6(D) (6) AND 4-6(E) (1) OF THE CITY CODE AND AUTHORIZING A VARIANCE REQUEST TO SELL ALCOHOLIC BEVERAGES ON LOT 1, BLK 3, NCB 2582 CURRENTLY ADDRESSED AS 1902 SOUTH FLORES FOR ON-PREMISE AND OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF BRISCOE ACADEMY, A PUBLIC EDUCATIONAL INSTITUTION LOCATED IN COUNCIL DISTRICT 5.**

\* \* \* \* \*

**WHEREAS**, Section 109.33 of the Texas Alcoholic Beverage Code authorizes the governing board of an incorporated city to enact regulations prohibiting the sale of alcoholic beverages if the place of business is within three hundred feet of any church, public school or public hospital; and

**WHEREAS**, Section 109.33 of the Texas Alcoholic Beverage Code authorizes the governing body of an incorporated city to allow variances to the regulation if the governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community; and

**WHEREAS**, pursuant to Section 109.33 (a) of the Texas Alcoholic Beverage Code, Chapter 4 of the City Code of the City of San Antonio prohibits the sale of alcoholic beverages if the place of business is within three hundred feet of any church, public school or public hospital; and

**WHEREAS**, the subject property is situated within three hundred (300) feet of the nearest property line of Briscoe Academy, a charter high school within the San Antonio Independent School District, thus, making the sale of alcoholic beverages a violation; and

**WHEREAS**, Ordinance No. 88724, passed and approved on October 22, 1998, amended the City Code of the City of San Antonio, Part 2, Chapter 4, Article I, Sec. 4-6, and established a procedure for the granting of a variance to the prohibition; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The requirements of Sections 4-6 (c), 4-6(d) (6) and the portion of 4-6 (e) (1) prohibiting variances for off-premise consumption of the City Code of the City of San Antonio are waived and the variance request of 1902, LLC for the property located on NCB 2582 BLK 3 LOT 1, currently addressed as 1902 South Flores, for on-premise and off premise consumption is hereby granted. This variance to sell alcoholic beverages is based on the following conditions: (a) that this authorization shall not transfer to a different land use other than a micro distillery;

and (b) that such authorization shall terminate in the event of non-operation or non-use for a period of twelve or more successive calendar months.

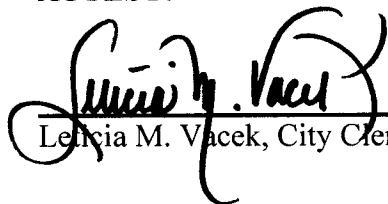
**SECTION 2.** This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

**PASSED AND APPROVED** this 7<sup>th</sup> day of November, 2013.

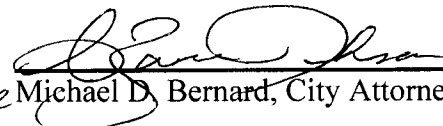


M A Y O R  
Julián Castro

**ATTEST:**

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
for Michael D. Bernard, City Attorney

<b>Agenda Item:</b>	37
<b>Date:</b>	11/07/2013
<b>Time:</b>	02:23:46 PM
<b>Vote Type:</b>	Motion to Appr w Cond
<b>Description:</b>	An Ordinance waiving the variance requirements of Section 4-6(c); Section 4-6(d)(6); and a portion of Section 4-6(e)(1) of the City Code and authorizing a variance request to sell alcoholic beverages at 1902 South Flores for on and off premise consumption within three hundred (300) feet of Briscoe Academy, a San Antonio Independent School District public educational institution located in Council District 5.
<b>Result:</b>	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				x
Shirley Gonzales	District 5		x			x	
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Carlton Soules	District 10		x				