

ORDINANCE

WAIVING APPLICATION REQUIREMENTS OF SECTION 4-6 OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON 1.065 ACRES OUT OF NCB 782, LOCATED AT 812 SOUTH ALAMO STREET, FOR ON-PREMISE AND OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF BONHAM ELEMENTARY SCHOOL, A PUBLIC EDUCATION INSTITUTION IN THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT IN COUNCIL DISTRICT 1.

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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 as measured in a direct line from the property line of the public or private school to the property line of the place of business; 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)(1) of the Texas Alcoholic Beverage Code, and Chapter 4 of the San Antonio City Code which 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 the Bonham Elementary School, a public education institution; and

WHEREAS, Ordinance No. 88724, passed and approved on October 22, 1998, amended the City Code of the City of San Antonio adopting this distance requirement in Chapter 4, Article I, Sec. 4-6, and established a procedure for the granting of a variance to the prohibition; and

WHEREAS, staff recommends any approval of the variance request contain the conditions that the authorization for the sale of alcoholic beverages shall be limited to the hours prescribed by the Texas Alcoholic Beverage Commission and that such authorization shall terminate in the event of non-operation or non-use for a period of twelve or more successive calendar months; **NOW THEREFORE**,

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

SECTION 1. The application requirements of City Code, Chapter 4, §4-6 (c) (1) The sale of alcoholic beverages had been permitted within the last two (2) years at the location in question and § 4-6 (d) (1) The applicant shall submit certified documentation from the Texas Alcohol and Beverage Commission (establishing that an alcoholic beverage license had been issued for the location where the variance is sought and that the date of expiration of the license was less than two years before the date of the variance request) are hereby waived.

SECTION 2. The request of Kevin Covey for Gray Street, LLC., applicant, for a variance City Code Chapter 4, §4-6(e) (1) to sell alcoholic beverages for on-premise and off-premise consumption on 1.065 acres out of NCB 782, located at 812 South Alamo Street, as shown on the attached property description and map labeled "**Attachment 1**," within three hundred (300) feet of the Bonham Elementary School, a public education institution, is hereby granted. This includes a variance to the requirement to limit the sale of on-premise consumption of alcoholic beverages to no more than thirty (30) percent of the annual gross revenues of the establishment and to the annual submission requirements for verification of §4-6(d)(6).

SECTION 3. This variance to sell alcoholic beverages for on-premise and off-premise consumption is based on the following conditions: (a) that this authorization shall be limited to a food hall: which may include food service establishments (without cover charge 3 or more days per week), wine boutiques, gift shops, grocery stores, retail variety stores and/or mobile food court, (b) the sale of alcoholic beverages shall be limited to the hours prescribed by the Texas Alcoholic Beverage Commission, and (c) that such authorization shall terminate in the event of non-operation or non-use of the property for a period of twelve or more successive calendar months.

SECTION 4. 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 ____ day of _____, 2018.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney