

THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.

ORDINANCE

**WAIVING REQUIREMENTS OF § 4-6(c)(1,3 and 4) AND 4-6(d)(6) OF THE
CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC
BEVERAGES ON LOT 1A AND LOT 2A, BLOCK 4, NCB 1994, LOCATED
AT 825 FREDERICKBURG ROAD, FOR ON-PREMISE AND OFF-PREMISE
CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF BEACON
HILL ELEMENTARY SCHOOL, A PUBLIC EDUCATION INSTITUTION IN
THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT IN COUNCIL
DISTRICT 3.**

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WHEREAS, § 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, § 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, Ordinance No. 88724, passed and approved on October 22, 1998, amended the City Code of the City of San Antonio by adopting the distance requirement in Chapter 4, Article I, §. 4-6(c)(1,3 and 4) and 4-6(d)(6), and established a procedure for the granting of a variance to the prohibition; and

WHEREAS, Max Woodward., Applicant, has requested a waiver and variance of the requirements of City Code Chapter 4, §4-6(c)(1,3 and 4) and 4-6(d)(6), for the sale of alcoholic beverages for on-premise and off-premise consumption within three hundred (300) feet of the Beacon Hill Elementary School, a public education institution in the San Antonio Independent School District on Lot 1A and Lot 2A, Block 4, NCB 1994, located at 825 Fredericksburg Road; 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 requirements of §§ 4-6 (c) (1), 4-6 (c) (2), 4-6(c) (3), 4-6 (c) (4), and 4-6 (d) (1) to provide documentation from Texas Alcoholic 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 Applicant, Max Woodward, for a variance to City Code Chapter 4, §4-6(e) (1) to sell alcoholic beverages for on-premise and off-premise consumption on Lot 1A and Lot 2A, Block 4, NCB 1994, located at 825 Fredericksburg Road, within three hundred (300) feet of the Beacon Hill Elementary School, is hereby granted.

SECTION 3. The request of Applicant for 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 thirty (30) percent of the annual gross revenues in §4-6 (d) (6) is hereby granted.

SECTION 4. 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 winery, (b) all alcohol sales are for on-premise and off-premise consumption (wine consumption and sales), (c) the days and hours of operation for alcohol sales are limited to Monday through Sunday from 11:00 a.m. – 9:00 p.m., (d) that the authorization for the sale of alcoholic beverages shall not transfer to different owners or land uses, (e) 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 5. 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 _____, 2019.

M A Y O R
Ron Nirenberg

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Andrew Segovia, City Attorney