

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

**AN ORDINANCE**

**WAIVING THE REQUIREMENTS OF SECTIONS 4-6(c)(1), 4-6(c)(3), 4-6(c)(4), 4-6(d)(6), AND 4-6(e)(1) OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON THE SOUTH 60 FEET OF LOTS 7 AND 8, BLOCK 32, NCB 543, GENERALLY LOCATED AT 621 CHESTNUT STREET, FOR ON-PREMISE AND OFF-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF THE HEALY-MURPHY LEARNING CENTER, A PRIVATE EDUCATION INSTITUTION LOCATED IN COUNCIL DISTRICT 2.**

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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, 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 The Healy-Murphy Learning Center, 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 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 a "microdistillery"; that alcohol sales shall be limited to liquor sold for on-premise and off-premise consumption; that such approval shall not transfer to different owners or different land uses; that such authorization shall terminate in the event of non-operation or non-use of the identified establishment for a period of twelve (12) or

more successive calendar months; that alcohol sales for on-premise consumption shall not be permitted Monday through Friday before 5:00 p.m. or after 11:00 p.m., nor Saturday and Sunday before 11:00 a.m. or after 11:00 p.m.; and that alcohol sales for off-premise consumption shall not be permitted Monday through Saturday before 5:00 p.m. or after 9:00 p.m.; **NOW THEREFORE,**

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

**SECTION 1.** The requirements of Sections 4-6(c)(1), 4-6(c)(3), 4-6(c)(4), 4-6(d)(6), and 4-6(e)(1), prohibiting sales of alcohol for on-premise and off-premise consumption pursuant to the City Code of the City of San Antonio are waived and the variance request of Noel Burns on behalf of Chestnut Park, LLC, d/b/a Alamo Distilling Company, applicant, to sell alcoholic beverages for on-premise and off-premise consumption, on the south 60 Feet of Lots 7 and 8, Block 32, NCB 543, located at 621 Chestnut Street, as shown on the accompanying map labeled "Attachment 1," within three hundred (300) feet of the Healy-Murphy Learning Center, is hereby granted. 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 the "microdistillery"; (b) that alcohol sales shall be limited to liquor sold for on-premise and off-premise consumption; (c) that this authorization shall not transfer to different owners or different uses; (d) that such authorization shall terminate in the event of non-operation or non-use for a period of twelve or more successive calendar months; (e) that alcohol sales shall not be permitted Monday through Friday before 5:00 p.m. or after 11:00 p.m., nor Saturday and Sunday before 11:00 a.m. or after 11:00 p.m., and (f) that alcohol sales for off-premise consumption shall not be permitted Monday through Saturday before 5:00 p.m. or after 9:00 p.m.;

**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 15<sup>th</sup> day of June, 2017.

M A Y O R  
Ivy R. Taylor

**ATTEST:**

**APPROVED AS TO FORM:**

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Leticia M. Vacek, City Clerk

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on behalf of Andrew Segovia, City Attorney