

AN ORDINANCE 2019-02-21-0148

**WAIVING THE REQUIREMENTS OF CHAPTER 4, SECTIONS 4-6, OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON LOT 2, BLOCK 8, NCB 17305, LOCATED AT 3920 HARRY WURZBACH ROAD, FOR ON-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF ST. PIUS X CATHOLIC SCHOOL, A PUBLIC EDUCATION INSTITUTION, COUNCIL DISTRICT 10.**

\* \* \* \* \*

**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 St. Pius Catholic School, a private 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; **NOW THEREFORE**,

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

**SECTION 1.** The requirements of Chapter 4, Sections 4-6, prohibiting sales of alcohol for on premise consumption pursuant to the City Code of San Antonio, Texas, are waived and the variance request of The Hearthstone Restaurant Group Inc., applicant, to sell alcoholic beverages for on premise consumption, on Lot 2, Block 8, NCB 17305, located at 3920 Harry Wurzbach Road within three hundred (300) feet of the St. Pius X Catholic School, is hereby granted. This

variance to sell alcoholic beverages for on premise consumption is based on the following conditions: (a) authorization shall be limited to a food service establishment; (b) alcohol sales will be for beer and wine for on premise consumption only; (c) authorization shall not transfer to different owners or different land uses; (d) authorization shall terminate in the event of non-operation or non-use for a period of twelve or more successive calendar months; (e) alcohol sales shall only be permitted between the hours of 7:00 a.m. and 12:00 a.m. (midnight) Monday through Saturday, and 12:00 p.m. -12:00 a.m. (midnight) on Sundays; and (f) sales of alcohol shall not exceed thirty (30) percent of total revenue;

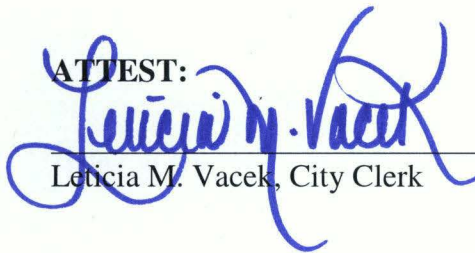
**SECTION 2.** This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

**PASSED AND APPROVED** this 21<sup>st</sup> day of February, 2019.

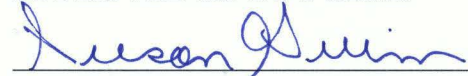
**M A Y O R**

**Ron Nirenberg**

**ATTEST:**

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

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
fa Andrew Segovia, City Attorney

<b>Agenda Item:</b>	<b>29 ( in consent vote: 28, 29, Z-1, Z-2, Z-3, P-2, Z-5, P-4, Z-7, Z-8, Z-10, Z-11, P-5, Z-12, Z-16, Z-17, Z-19 )</b>						
<b>Date:</b>	02/21/2019						
<b>Time:</b>	02:56:23 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	ALCOHOL VARIANCE # AV2019002 (Council District 10): Ordinance waiving the application requirements of City Code 4-6 and granting a variance authorizing the sale of alcoholic beverages on Lot 2, Block 8, NCB 17305, located at 3920 Harry Wurzbach Road for on-premise consumption within three-hundred (300) feet of the St. Pius X Catholic School, a public education institution located within Council District 10.						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Art A. Hall	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8	x					
John Courage	District 9		x				x
Clayton H. Perry	District 10		x				