

ORDINANCE 2021-05-20-0377

**WAIVING THE REQUIREMENTS OF CHAPTER 4, SECTIONS 4-6, OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON 0.1685 ACRES OUT OF LOT N TRI 67FT OF 15 & N IRR 84FT OF 16, NCB 6926, LOCATED AT 2123 CULEBRA, FOR ON-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF MARIN B. FENWICK ACADEMY, A PUBLIC EDUCATION INSTITUTION IN THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, COUNCIL DISTRICT 7.**

\* \* \* \* \*

**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 Marin B. Fenwick Academy, a public education institution in the San Antonio Independent School District; 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**,

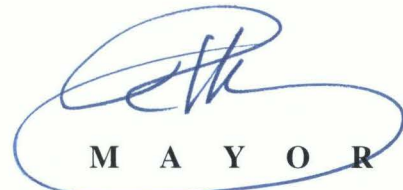
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**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 MariaElena Flores-Cuellar, for El Real De Jalisco Mexican Restaurant,

applicant on behalf of Rafael Hernandez, owner, to sell alcoholic beverages for on premise consumption, on 0.1685 acres out of Lot N TRI 67FT OF 15 & N IRR 84FT OF 16, NCB 6926, located at 2123 Culebra Road within three hundred (300) feet of the Marin B. Fenwick Academy, 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 Sunday through Thursday 11:00 a.m. to 10:00 p.m., Friday and Saturday 11:00 a.m. – 12:00a.m. (midnight) (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 20<sup>th</sup> day of May, 2021.




**M A Y O R**  
**Ron Nirenberg**

**ATTEST:**

  
Tina J. Flores, City Clerk

**APPROVED AS TO FORM:**

  
for Andrew Segovia, City Attorney



## City of San Antonio

City Council

May 20, 2021

**Item: 32**

**File Number: 21-3642**

**Enactment Number:**

**2021-05-20-0377**

ALCOHOL VARIANCE # AV2021-002 (Council District 7): Ordinance waiving the application requirements of City Code 4-6 and granting a variance authorizing the sale of alcoholic beverages to El Real de Jalisco Mexican Restaurant, Rafael Hernandez, applicant, on 0.1685 acres out of NCB 6926, located at 2123 Culebra Road for on-premise consumption within three-hundred (300) feet of Marin B. Fenwick Academy, a public education institution in San Antonio Independent School District.

Councilmember Rebecca Viagran made a motion to approve. Councilmember John Courage seconded the motion. The motion passed by the following vote:

**Aye:** 11 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage and Perry