

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

**ORDINANCE**

**WAIVING THE REQUIREMENTS OF SECTIONS 4-6(c)(1-4), 4-6(d)(1), 4-6(d)(6) AND 4-6(e)(1) OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON LOT N TRI 67 FEET OF 15 AND N IRR 84 FEET OF 16, 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 LOCATED IN THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, COUNCIL DISTRICT 7.**

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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 public or private school 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 public or private school; 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; 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 Sections 4-6(c)(1-4), 4-6(d)(1), 4-6(d)(6) and 4-6(e)(1), prohibiting sales of alcohol for on-premise consumption pursuant to the City Code of San Antonio, Texas, are waived and the variance request of Ricardo Ernesto Mora, applicant and operator, for a restaurant, Aguachile Seafood, to sell alcoholic beverages for on-premise consumption, on Lot N TRI 67 feet of 15 & N IRR 84 feet of 16, NCB 6926, located at 2123 Culebra Road within three hundred (300) feet of 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 the restaurant establishment; (b) alcohol sales shall be 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 Monday through Sunday 10:00 a.m. to 2:00 a.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 25<sup>th</sup> day of January 2024.

**M A Y O R**

**Ron Nirenberg**

**ATTEST:**

**APPROVED AS TO FORM:**

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Debbie Racca-Sittre, City Clerk

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Andrew Segovia, City Attorney