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 CHAPTER 4, SECTIONS 4-6, OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON LOT 5 & S IRR 67.44 FEET OF LOT 4 ARB, BLOCK 1, NCB 477, LOCATED AT 1017 N FLORES, FOR ON-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF AUSTIN ELEMENTARY SCHOOL, A PUBLIC EDUCATION INSTITUTION IN THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, COUNCIL DISTRICT 1.

*   *   *   *   *

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 Austin Elementary School, 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 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 Restaurant Gwendolyn LLC, applicant on behalf of Lisa Asvestas., owner, to sell alcoholic beverages for on premise consumption, on Lot 5 & S Irr 67.44 feet of Lot 4 ARB, Block 1, NCB 477, located at 1017 N Flores within three hundred (300) feet of Austin Elementary, 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 Restaurant Gwendolyn LLC., a restaurant service establishment; (b) alcohol sales will 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 between the hours of Monday through Sunday 11:00 a.m. to 11:00 p.m. (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 _____ day of _____, 2021.

M   A   Y   O   R

Ron Nirenberg

ATTEST: **APPROVED AS TO FORM:**

_____   _____
Debbie Racca-Sittre, Acting City Clerk   Andrew Segovia, City Attorney