

AN ORDINANCE 2012-04-19-0297

**WAIVING THE REQUIREMENTS OF SECTIONS 4-6(c), 4-6(d) (6) AND 4-6(e) (1) AND AUTHORIZING A VARIANCE REQUEST TO SELL ALCOHOLIC BEVERAGES AT 2619 SOUTHEAST MILITARY DRIVE, SUITE 111, FOR ON-PREMISE CONSUMPTION WITHIN THREE HUNDRED FEET OF SEIDEL LEARNING CENTER, A PUBLIC EDUCATIONAL INSTITUTION LOCATED IN COUNCIL DISTRICT 3.**

\* \* \* \* \*

**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; 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) 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 Seidel Learning Center located within the San Antonio Independent School District, 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, Part 2, Chapter 4, Article I, Sec. 4-6, and established a procedure for the granting of a variance to the prohibition; and

**WHEREAS**, staff recommends approval of the variance be conditioned such that the authorization for the sale of alcoholic beverages shall not transfer to future property owners or to different land uses and 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; **NOW THEREFORE**,

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

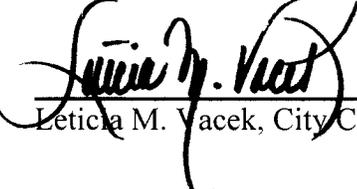
**SECTION 1.** The requirements of Sections 4-6 (c), 4-6(d) (6) and 4-6 (e) (1) of the City Code of the City of San Antonio are waived and the variance request of City Base West, LP, D/B/A The Flying Tiger Sports Bar located at 2619 Southeast Military Drive, Suite 111, is hereby granted. This variance to sell alcoholic beverages for on premise consumption is based on the following conditions: (a) that this authorization shall not transfer to future property owners or to different land uses; (b) that such authorization shall terminate in the event of non-operation or non-use of the identified establishment, The Flying Tiger Sports Bar, for a period of twelve or more successive calendar months.

**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.

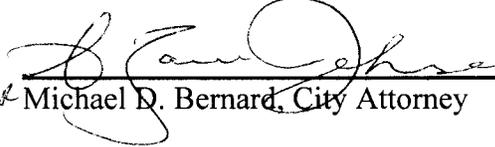
**PASSED AND APPROVED** this 19th day of April, 2012.

  
M A Y O R  
Julián Castro

**ATTEST:**

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

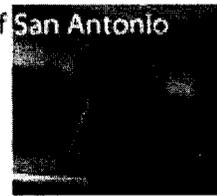
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Michael D. Bernard, City Attorney



Request for  
**COUNCIL**  
ACTION

City of San Antonio



## Agenda Voting Results - 26

<b>Name:</b>	25, 26						
<b>Date:</b>	04/19/2012						
<b>Time:</b>	02:17:09 PM						
<b>Vote Type:</b>	Motion to Appr w Cond						
<b>Description:</b>	An Ordinance waiving the requirements of Sections 4-6(c), 4-6(d)(6) and 4-6(e)(1) of the City Code and authorizing a variance request to allow City Base West, L.P., D/B/A the Flying Tiger Sports Bar, located at 2619 SE Military Drive, Suite 111, to sell alcoholic beverages for on-premise consumption as a "Food Service Establishment without cover charge 3 or more days per week (with or without accessory live entertainment)" within three hundred (300) feet of the Seidel Learning Center, a Public Educational Institution located in Council District 3.						
<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>
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x			x	
Rey Saldaña	District 4		x				
David Medina Jr.	District 5	x					
Ray Lopez	District 6		x				x
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				