

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CITY CODE CHAPTER 4-9 REGARDING RESTRICTIONS ON ALCOHOLIC BEVERAGES AND IMPOSING WAITING PERIODS ON APPLICATIONS REQUESTING A WAIVER OF THE MINIMUM DISTANCE FROM CERTAIN USES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The city council makes the following legislative findings:

- (A) Repeated submittals, withdrawals, and indefinite postponements make it challenging for community stakeholders with an interest in a request for a waiver to stay informed and to participate in the decision-making process.
- (B) If a request for a waiver is scheduled for a public hearing for the same property and type of business as is identified in a previous request, there has been no change in circumstances that would warrant waiving the minimum distance requirements from certain uses.

**PART 2.** City Code Section 4-9-5 (*Waiver of Minimum Distances*) is amended to read as follows:

**§ 4-9-5 WAIVER OF MINIMUM DISTANCES.**

- (A) The council may waive the prohibition in Section 4-9-4 (*Minimum Distances from Certain Uses*) if, after notice and a public hearing, the council determines that enforcement of the prohibition in a particular instance:
  - (1) is not in the best interest of the public;
  - (2) constitutes waste or the inefficient use of land or other resources;
  - (3) creates an undue hardship on an applicant;
  - (4) does not serve its intended purpose;
  - (5) is not effective or necessary; or
  - (6) for any other reason the council, 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.

- 1 (B) The council may consider the written consent to a waiver under this section  
2 from each church, public school, public hospital, day-care center or child-care  
3 facility within 300 feet from the applicant's proposed place of business filed by  
4 the applicant with the director of the [~~Watershed Protection and~~] Development  
5 Services [~~Review~~] Department to be a sufficient justification for a waiver.
- 6 (C) To obtain a waiver under this section, an applicant must submit an application  
7 to the director of the [~~Watershed Protection and~~] Development Services  
8 [~~Review~~] Department, on a form approved by the director, requesting a waiver  
9 and specifying the applicable grounds for the waiver under Subsection (A) of  
10 this section [~~that contains the information required by the director~~].
- 11 (D) If the city council denies a waiver request under this section, the director may  
12 not accept an application for the same or a substantially similar waiver request  
13 earlier than 18 months after the date the previous waiver request was denied.
- 14 (E) If a waiver request under this section is withdrawn after notice of a public  
15 hearing on the request is published, the director may not accept an application  
16 for the same or a substantially similar waiver request for a period of 12 months  
17 after the date a previous request was withdrawn.
- 18 (F) If the city council indefinitely postpones a waiver request submitted under this  
19 section, the director shall not schedule a public hearing for the same or a  
20 substantially similar waiver request for at least 12 months after the date of the  
21 postponement.

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23 **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2016.  
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**PASSED AND APPROVED**

\_\_\_\_\_, 2016

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Steve Adler  
Mayor

**APPROVED:** \_\_\_\_\_

Anne L. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_

Jannette S. Goodall  
City Clerk

DRAFT