

RESOLUTION NO. 20160609-046

WHEREAS, the City of Austin receives approximately five requests for alcoholic beverage distance waivers annually; and

WHEREAS, City Code Chapter 4-9-4(A) (*Minimum Distance from Certain Uses*) provides that a person may not sell alcohol within 300 feet of a church, public school, or public hospital; and

WHEREAS, City Code Chapter 4-9-5 (*Waiver of Minimum Distances*) provides that the Council may waive the prohibition in Section 4-9-4 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; and

WHEREAS, an applicant who withdraws a 4-9-5 waiver application from the City Council agenda may resubmit it at any point as the current City Code includes no restrictions or guidelines related to waiting periods; and

WHEREAS, an indefinite postponement for a 4-9-5 waiver application likewise ceases an ongoing discussion that can be restarted at any point; and

WHEREAS, community stakeholders with an interest in a particular 4-9-5 waiver application may spend tremendous time and energy organizing educational and outreach efforts related to a particular proposal; and

WHEREAS, repeated withdrawals or indefinite postponements can make it challenging for community members to be informed and to participate in the decision-making process; and

WHEREAS, other application requests such as proposals for zoning changes must comply with an 18-month waiting period as stated in City Code Chapter 25-2-247 (*Restrictions On New Applications*): “For 18 months from the date an applicant withdraws an application . . . [an applicant] may not file an application to zone or rezone the property... if the application ... is withdrawn [from the Council] agenda before the Council votes on the application”; and

WHEREAS, City Code 25-1-218 (*Restrictions On Similar Applications*) provides that if an application before the Board of Adjustment for a variance or special exception is denied or if a variance or special exception is revoked, a person may not file an application for the same or a similar variance or special exception on the same or substantially the same site for a period of one year from the date of denial or revocation; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

Council directs the City Manager to draft for Council consideration a code amendment imposing waiting periods for alcoholic beverage distance waivers where:

- 1) the applicant withdraws the request;
- 2) the request is indefinitely postponed, or
- 3) Council denies the request.

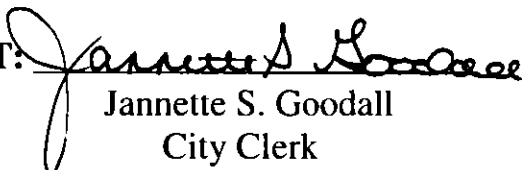
In determining the length of the waiting period, the City Manager shall consider:

- 1) consistency with other city code waiting periods; and
- 2) State law limitations.

BE IT FURTHER RESOLVED:

The City Manager is directed to bring an ordinance back for Council consideration on June 16, 2016.

ADOPTED: June 9, 2016

ATTEST: 
Jannette S. Goodall
City Clerk