

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

**AN ORDINANCE**

**WAIVING THE REQUIREMENTS OF CHAPTER 4, SECTION 4-6 (c) (1)-(3), OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON THE EAST 121.1 FEET OF LOT 4, BLOCK 54, NCB 11084, LOCATED AT 4045 COMMERCIAL AVENUE, FOR ON-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF GILLETTE ELEMENTARY SCHOOL, A PUBLIC EDUCATION INSTITUTION LOCATED IN THE HARLANDALE INDEPENDENT SCHOOL DISTRICT, 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 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**, 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; and

**WHEREAS** the subject property is situated within three hundred (300) feet of the nearest property line of the Gillette Elementary, a public education institution located in the Harlendale Independent School District; **NOW THEREFORE**,

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

**SECTION 1.** The requirements of City Code, Chapter 4, Section 4-6 (c) (1)-(3) are waived and the variance to the prohibition of alcohol sales for on premise consumption as requested by

Rodolfo Lopez Jr., applicant for property owner, Habiba Rajpari, to allow the sale of alcoholic beverages for on premise consumption, on the east 121.1 feet of Lot 4, Block 54, NCB 11084, located at 4045 Commercial Avenue within three hundred (300) feet of the Gillette Elementary School, 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 event center; (b) alcohol sales will be for beer and wine 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 on Friday, Saturday and Sunday from 5:00 p.m. – 12:00 a.m.; and (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 \_\_\_\_\_, 2019.

M A Y O R  
**Ron Nirenberg**

**ATTEST:**

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

**APPROVED AS TO FORM:**

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Andrew Segovia, City Attorney