

**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 SECTIONS 4-6 OF THE CITY
CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES
ON LOTS 2, AND 3, BLOCK 1, NCB 8347, LOCATED AT 838 BANDERA
ROAD, FOR OFF-PREMISE CONSUMPTION WITHIN THREE-
HUNDRED (300) FEET OF JAMES MADISON ELEMENTARY SCHOOL,
A PUBLIC EDUCATION INSTITUTION LOCATED IN THE SAN
ANTONIO INDEPENDENT SCHOOL DISTRICT, COUNCIL DISTRICT 7.**

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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 it 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 James Madison Elementary School, a public education institution located in the San Antonio Independent School District; 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 off-premise consumption pursuant to the City Code of San Antonio, Texas, are waived and the

variance request of Jamshed Manasiya., applicant/owner, to sell alcoholic beverages for off-premise consumption, on Lots 2, and 3, Block 1, NCB 8347, located at 838 Bandera Road within three hundred (300) feet of the James Madison Elementary School, is hereby granted. This variance to sell alcoholic beverages for off-premise consumption is based on the following conditions: (a) authorization shall be limited to a convenience store; (b) alcohol sales will be for beer and wine for off-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 will be sold between the hours of 7:00 a.m. to 12:00 a.m. (midnight), Monday –Saturday, and 12:00 p.m. (noon) to 12:00 a.m. (midnight) on Sunday;

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 _____, 2020.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Tina J. Flores, City Clerk

Andrew Segovia, City Attorney