

CITY OF LOWRY CROSSING, TEXAS

ORDINANCE NO. 235

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS AMENDING ORDINANCE NO. 110 OF THE CITY, THE SAME BEING THE ZONING ORDINANCE OF THE CITY, BY (I) AMENDING SUBSECTION 14-2 (USE REGULATIONS) OF SECTION 14 (“HC” HIGHWAY COMMERCIAL DISTRICT) THEREOF BY ADDING A PROVISION CLARIFYING THE USES PERMITTED WITHIN THE DISTRICT, (II) AMENDING SUBSECTION 18-4 (USE REGULATIONS) OF SECTION 18 (SUP SPECIAL USE PERMIT DISTRICT) THEREOF TO ADD “PACKAGE STORE,” “WHOLESALE SALE OF ALCOHOLIC BEVERAGES,” AND “EQUESTRIAN CENTER” TO THE LIST OF USES PERMITTED ONLY UPON THE GRANT OF A SPECIAL USE PERMIT, AND (III) AMENDING SUBSECTION 30-1 OF SECTION 30 (DEFINITIONS) THEREOF BY ADDING DEFINITIONS OF “PACKAGE STORE,” “WHOLESALE SALE OF ALCOHOLIC BEVERAGES,” AND “EQUESTRIAN CENTER,” AND TO CLARIFY THAT THE TERMS “SPECIAL USE PERMIT” AND “SPECIFIC USE PERMIT” ARE INTERCHANGEABLE AND HAVE THE SAME MEANING; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR ANY OFFENSE, AND AN OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lowry Crossing, Texas ("City") heretofore adopted Ordinance No. 110, the same being the Zoning Ordinance of the City ("Zoning Ordinance"); and

WHEREAS, the City Council is authorized, pursuant to Chapter 211, Tex. Loc. Gov. Code, as amended, and Section 28 of the Zoning Ordinance, to amend, supplement, or change the regulations, standards, or requirements of the Zoning Ordinance; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding amending the Zoning Ordinance as set forth herein and as hereinafter described, the said public hearings having been conducted jointly by the Planning and Zoning Commission and the City Council in accordance with law; and

WHEREAS, after public notice was given and a public hearing was conducted in compliance with State law and the Zoning Ordinance, and after considering the information submitted at the said public hearing and all other relevant information and materials, the Planning and Zoning Commission of the City initiated and recommended to the City Council,

and presented a final report to the City Council regarding, the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after public notice was given and a public hearing was conducted in compliance with State law and the Zoning Ordinance, and after due deliberations and consideration of the recommendations and the final report of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council and all other relevant information and materials received by the City Council in connection herewith, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare, and the City Council has determined that the Zoning Ordinance should be amended as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWRY CROSSING, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises and recitals to this Ordinance are true and correct and are incorporated into and made a part of this Ordinance for all purposes.

Section 2. Amendment. Ordinance No. 110 of the City of Lowry Crossing, Texas, the same being the Zoning Ordinance of the City, is hereby amended in the following particulars, and all other sections, subsections, paragraphs, sentences, phrases, and words of the said Ordinance No. 110 are not amended hereby but are hereby ratified and affirmed (additions to Ordinance No. 110 are in *italicized* font, and deletions are ~~struck through~~; where asterisks (*****) are used, the same represents text of Ordinance No. 110 that is not included in this Ordinance and is not amended or modified by this Ordinance):

A. Subsection 14-2 (Use Regulations) of Section 14 (“HC” Highway Commercial District) of the said Ordinance No. 110 of the City is amended to read as follows:

14-2 USE REGULATIONS: A building or premise shall be used only for the following purposes:

- (1) Mixed use for office, retail, commercial, and highway oriented uses, such as hotels, restaurants, and low and mid-rise offices, individually or grouped together under one Special Use Permit or Planned Development located generally along high-volume thoroughfares. The site characteristics for each area should be designed in a manner to create an attractive appearance and an impressive gateway into the community. Because these areas are designated as major thoroughfare entry points, emphasis should be placed on building arrangement, setbacks, parking and landscape treatment, which are intended to be elements influencing the character of entrance into the City. *No use is permitted in the “HC” Highway Commercial District unless, as set forth above, the same is authorized pursuant to a Special Use Permit (as set forth in Section 18, “SUP” Special Use Permit District) or Planned Development (as set forth in Section 19, “PD” Planned Development District).*

(2) Site Plan Review shall be required prior to issuance of building permits, or as the case may be the issuance of certificates of occupancy. See Section 7 above. (Ord. 110)

(3) Temporary amusement activity (approved by the City Council).

B. Subsection 18-4 (Use Regulations) of Section 18 (SUP Special Use Permit District) of the said Ordinance No. 110 of the City is amended to read as follows:

18-4 USE REGULATIONS:

A building, structure or premises used for any of the following purposes shall be permitted only upon the grant of a Specific Use Permit Zoning District Classification.

Airport, Private
Airport, Public
Amusement & Video Games, indoor
Amusement Facility, outdoor
Amusement, Fairgrounds
Amusement, Rodeo Arena
Amusement, Temporary Amusement Approved By Council
Animal Hotel, with Outside Kennel or Pens
Auto Repair, with Outside Storage
Auto, Car Rental Office & Vehicle Storage Lot
Auto/Vehicle Wrecking & Parts Yard
Automobile, Used Sales
Boarding & Rooming Houses
Broadcasting Facilities & Towers
Building Materials Sales. outside storage
Cemetery
Churches
Equestrian Center
Golf Courses & Driving Ranges
Gun & Shooting Ranges
Heliport
Hospital
Hotel
Libraries, Public
Lodges & Fraternal Orders
Manufactured Home Park
Mining Activity
Mobile Home Sales
Mortuary
Motel
Motorcycle Sales & Service
Movie Theater, Outdoor

Night Club
 Nursing Home
Package Store
 Petroleum or Gas Extraction
 Post Office
 Private Club
 Public Utility Services Uses
 Radio, amateur sending or receiving devices
 Radio, TV, & Microwave Receiving Dish
 Restaurant, drive-in type
 Riding Academy
 Rodeo Area
 Sand & Gravel Extraction
 Sand, Gravel, Soil Storage & Sales
 Schools, Business & Trade
 Schools, Private
 Schools, Public
 Self-Storage Facility
 Stadium
 Television Studio
 Temporary Batching Plant
 Thrift Shop
Wholesale Sale of Alcoholic Beverages

Unless noted, all above uses were adopted pursuant to (Ord. 110)

C. Subsection 30-1 of Section 30 (Special Definitions) of the said Ordinance No. 110 of the City is amended by adding thereto the following definitions to read as follows (the said added definitions to be included in the said Subsection 30-1 in the appropriate alphabetical order):

30-1 Certain words in this Ordinance not heretofore defined are defined as follows: Words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word “building” includes the word “structure”; the word “lot” includes the words “plot” or “tract” the word “shall” is mandatory and not discretionary; *and the words or terms “Special Use Permit” and “Specific Use Permit” have the same meaning and are interchangeable.*

* * * * *

Dwelling Unit: A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters of a family and including facilities for food preparation and sleeping.

Equestrian center: *means a building and related facilities for the boarding of horses, the training of horses and the riders thereof, and the staging of equestrian events, but does not include the racing of horses.*

* * * * *

Open Storage: The storage of any equipment, machines, commodities, raw, semi-finished materials, and building materials, not accessory to a residential use which is visible from any point on the building lot line when viewed from ground level to six feet above ground level.

Package Store. *A retail establishment that sells liquor, malt beverages, and vinous liquors, as those terms are defined or described by the Texas Alcoholic Beverage Code, to the public for the purpose of off-premise consumption only.*

* * * * *

Visual Screen: A wall, not of living plant material, permanently affixed to the ground in which the area of all openings and cracks in each square foot of wall is of sufficient height so that the objects being screened are not visible from any point on the lot line when viewed from any height between ground level and six (6) feet above ground level. No wall shall exceed eight (8) feet in height.

Wholesale Sale of Alcoholic Beverages: *An establishment that sells, for wholesale (non-retail) purposes only, liquor, malt beverages, and vinous liquors, as those terms are defined or described by the Texas Alcoholic Beverage Code, for the purpose of off-premise consumption only.*

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Section 3. No Other Amendment; Savings. Except for the amendments and changes made by this Ordinance, Ordinance No. 110 of the City is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. An ordinance passed and approved by the City Council following the passage and approval of this Ordinance that anticipates and implements portions of this Ordinance is not void or voidable because of its anticipatory character.

Section 4. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 5. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid, void, unlawful or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares

that it would have passed such remaining portions of this Ordinance despite such invalidity, voidness, unlawfulness or unconstitutionality, which remaining portions shall remain in full force and effect.

Section 6. Effective date. This Ordinance shall become effective from and after its passage and approval, and after publication as may be required by law.

PASSED AND APPROVED by the City Council of the City of Lowry Crossing, Texas this 27th day of September, 2011.

Leonard Lewis, Mayor Pro Tem

ATTEST:

By: _____
Janis Cable, City Secretary