

CITY OF LOWRY CROSSING, TEXAS

ORDINANCE NO. 236

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY, THE SAME BEING ORDINANCE NO. 110, AS AMENDED, BY CHANGING THE ZONING ON A CERTAIN TRACT OF LAND, GENERALLY DESCRIBED AS 1.034 ACRES AND LOCATED AT 4100 E. U.S. HIGHWAY 380 (AND LOCATED GENERALLY 945' WEST OF BRIDGEFARMER ROAD AND U.S. HIGHWAY 380) AND AS MORE PARTICULARLY DESCRIBED HEREIN), FROM "HC" HIGHWAY COMMERCIAL TO "C" COMMERCIAL DISTRICT, AND BY GRANTING THEREON A SPECIAL USE PERMIT FOR A PACKAGE STORE; ESTABLISHING CONDITIONS RELATED TO THE SPECIAL USE PERMIT AND THE DEVELOPMENT AND USE OF THE TRACT OF LAND; CORRECTING THE OFFICIAL ZONING MAP; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a tracts of land located within the City of Lowry Crossing, Texas (the "City"), which contains approximately 1.034 acres and the address of which is 4100 E. U.S. Highway 380 (and which tract of land is generally located 945' west of Bridgefarmer Road and U.S. Highway 380 and as more particularly described in Exhibit A attached hereto and incorporated herein) (the "Property"), is zoned "HC" Highway Commercial District; and

WHEREAS, the owner of the Property, or a representative of the owner having full authority from the owner, filed an application with the City requesting a change of zoning on the Property from "HC" Highway Commercial District to "C" Commercial District and by the granting of a special use permit for a package store, in accordance with City's comprehensive Zoning Ordinance, the same being Ordinance No. 110, as amended (the "Zoning Ordinance"); and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with State law and the Zoning Ordinance, have given the required notices and have held the required public hearings regarding the change of zoning of the Property as described herein; and

WHEREAS, after public notice was given in compliance with State law and the Zoning Ordinance and a public hearing was conducted, 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 recommended to the City Council, and presented a final report to

the City Council regarding, the change in zoning of the Property as set forth in this Ordinance, subject to the conditions set forth herein; and

WHEREAS, after due deliberations and consideration of the recommendation 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, 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; Development, Use of the Property.

A. Ordinance No. 110, as amended (the "Zoning Ordinance"), of the City of Lowry Crossing, Texas (the "City") is hereby amended by changing the zoning on the Property (as described in Exhibit A attached hereto and incorporated herein) as follows:

1. The zoning on the Property is hereby changed from "HC" Highway Commercial District to "C" Commercial District as set forth herein and subject to the terms, conditions and standards set forth in this Ordinance.

2. The zoning on the Property is further hereby changed by granting thereon a Special Use Permit Zoning District classification for a Package Store (as the same is defined in Ordinance No. 110), subject to all of the following conditions:

(a) The only use authorized by this subsection A.2 of Section 2 of this Ordinance is for a Package Store.

(b) Use of the Property, and all improvements to the Property and all buildings and construction on the Property, must comply with the site plan attached hereto as Exhibit B and incorporated herein for all purposes ("Site Plan").

B. With the said amendments included in Section 2.A., above, the zoning on the Property is "C" Commercial District, with a special use permit for a Package Store, subject to all of the conditions set forth herein and to all of the provisions of this Ordinance, the Zoning Ordinance, and all other ordinances of the City and all applicable laws, ordinances, codes, rules, regulations, orders, and standards of the City and of any governmental entity, agency or authority having jurisdiction over the Property.

Section 3. Building Permit, Certificate of Occupancy, Development and Use. As applicable, no building permit or certificate of occupancy relating to the Property and/or the Package Store shall be issued until there has been full compliance with this Ordinance and all other ordinances, codes, rules, regulations, and standards of the City and with all other applicable laws. The construction on, and the development and use of, the Property and of the Package Store shall be only in the manner and for the purpose and in accordance with the terms and conditions of this Ordinance (including, without limitation, the Site Plan), the Zoning Ordinance (Ordinance No. 110), and all other applicable ordinances, codes, laws, rules, regulations, and standards of the City and of any other governmental entity or authority having jurisdiction.

Section 4. Zoning Map. The Zoning District Map of the City shall be amended to reflect the change in zoning made by this Ordinance.

Section 5. Penalty. It shall be unlawful for any person, firm, corporation, or other business entity to violate any provision of this Ordinance, and any person, firm, corporation, or other business entity violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount of not more than Two Thousand and No/100 Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 6. Savings. That Ordinance No. 110, as amended, 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.

Section 7. 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 8. 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