

CITY OF DRIPPING SPRINGS

**THIRD AMENDMENT TO THE CONDITIONAL  
OVERLAY ORDINANCE**

**Peabody Plaza**

ORDINANCE NO. 1220.139

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS AMENDING THE RESTRICTIONS OF THE CONDITIONAL OVERLAY GOVERNING CERTAIN REAL PROPERTY IN THE CITY LIMITS KNOWN AS LOTS 5 AND 6 OF PEABODY PLAZA (ALSO KNOWN AS DEEP EDDY VODKA DISTILLERY) INCLUDING MOBILE FOOD VENDORS AS AN ALLOWED USE; DEFINING MOBILE FOOD VENDORS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

**WHEREAS**, the Dripping Springs City Council (“City Council”) seeks to guide development in unique circumstances; and

**WHEREAS**, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authority to zone and rezone property; and

**WHEREAS**, Section 4 of Chapter 30, Exhibit A: Zoning of the City of Dripping Springs (“City”) Code of Ordinances allows for the creation of Conditional Overlay Districts; and

**WHEREAS**, the City regulates Mobile Food Vendors in Chapter 30, Article 30.05 of the Code of Ordinances; and

**WHEREAS**, the City received an application to amend the Conditional Overlay District to allow Mobile Food Vendors as a permitted use; and

**WHEREAS**, the proposed changes were reviewed by City staff with the consensus being that the proposed changes are reasonable under the circumstances and consistent with the Comprehensive Plan; and

**WHEREAS**, after notice and hearing required by law, a public hearing was held before the Dripping Springs Planning and Zoning Commission on April 25, 2017 to consider the proposed amendment; and

**WHEREAS**, the Planning and Zoning Commission recommended approval of the proposed amendment; and

**WHEREAS**, after a public hearing was held by the City Council on May 16, 2017, the City Council voted in favor to adopt the proposed amendment per the recommendation of the Planning and Zoning Commission.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRIPPING SPRINGS, TEXAS, THAT:**

### **1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

### **2. ENACTMENT**

The amendment to the existing Conditional Overlay District governing Peabody Plaza is hereby created, and after such enactment, it shall read in accordance with Attachment A, which is attached hereto and incorporated into this Ordinance and the City Code for all intents and purposes.

### **3. REPEALER**

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

### **4. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law of administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

### **5. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

### **6. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon passage and publication.

**7. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.


**PASSED & APPROVED** this, the 16<sup>th</sup> day of May, 2017, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Dripping Springs, Texas.



**CITY OF DRIPPING SPRINGS:**

by:   
Mayor Todd Purcell

**ATTEST:**

  
Deborah L. Loesch,  
Deputy City Secretary

City of Dripping Springs

# CODE OF ORDINANCES

## CHAPTER 30: ZONING

### EXHIBIT A

#### 1.1. **Applicability**

This Ordinance shall apply solely to the following tract, which shall herein be referred to as the subject property:

Lots 5 and 6 of Peabody Plaza Section One

#### 1.2. **Definitions**

*Distillery*: a place where distilling takes place to create a lawful liquor (i.e., vodka, gin, etc.)

*Gift Shop*: a place in or adjacent to the Distillery where items related to the Distillery, such as memorabilia, are sold.

*Mobile food establishment*: A vehicle-mounted food establishment that is readily moveable.

*Mobile store/mobile vendor*: A vehicle-mounted retail store that is readily moveable, and provides goods and/or services directly to a consumer. A mobile store includes (but is not limited to) a self-propelled motor vehicle or trailer, including a recreational vehicle, motor home, travel trailer or camper trailer. A mobile food establishment is an example of a mobile store. The term mobile store includes a mobile vendor.

*Special Events*: gatherings sponsored by a business for its employees, business partners, clients and/or prospective clients, private parties, wedding receptions, and fundraising events.

*Tasting Room*: an area within a Distillery where visitors can sample the Distillery's products.

#### 1.3. **Base Zoning District**

Except as provided in section 1.4 (below), the subject project shall be governed by the rules applying in Industrial (I) zoning district.

#### 1.4. **Overlay**

- 1.4.1** A Conditional Overlay is hereby created and effectuated upon the subject property. The boundary of the Overlay District shall be coterminous with the perimeter of the subject properties.
- 1.4.2** Though application of the Conditional Overlay, the following rules, requirements and restrictions apply to the subject property:
- (a) Prohibited Uses:** All uses are prohibited except for the following permitted uses: (1) Distillery and Tasting Room; (2) Gift Shop; (3) hosting of Special Events; and (4) Mobile Food Establishments/Mobile Food Vendors.
  - (b) Alcohol Sales:** The sale of alcohol to be consumed on the permitted premises and/or off the permitted premises is allowed as long as the sale of alcohol is made in compliance with state law.
  - (c) Hours of Operation:** The hours of operation shall be limited to 10a.m. to 9p.m. Sunday through Thursday, and 10:00a.m. to 11:00p.m. on Fridays and Saturdays.
  - (d) Noise:** Outdoor music that is amplified mechanically or electronically is prohibited.
  - (e) Number of People:** The total number of people occupying the premises of the Property both indoors and outdoors at any one time shall not exceed the number of people limited by the Certificate of Occupancy.
  - (e) Mobile Food Establishments/Vendors:** At any given time, one (1) Mobile Food Establishment/Vendor shall be allowed to locate on the Subject Property on a permanent basis (longer than ten days), in addition to one short-term Mobile Food Establishment/Vendor (ten days or fewer) in association with designated Special Event. Mobile Food Establishments/Vendors shall comply with provisions in Chapter 30, Article 30.05: Mobile Food Vendors and shall also comply with provisions outlined in the Conditional Use Permit for the Subject Property.