

ORDINANCE NO. 2008-031

AN ORDINANCE OF WIMBERLEY, TEXAS AMENDING TITLE I, CHAPTER 10, SECTION 10.99, "GENERAL PENALTY," OF THE WIMBERLEY CODE OF ORDINANCES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; CULPABLE MENTAL STATE; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING

WHEREAS the City Council of Wimberley seeks to provide for the health, safety and welfare of its citizens; and

WHEREAS, an amendment to the Texas Penal Code enacted by the 79th Texas Legislature requires the inclusion of a culpable mental state for certain offenses defined by municipal ordinance; and

WHEREAS, the Council seeks to amend that portion of the Wimberley Code of Ordinances relating to the general penalty for violations of the Code to add a general provision relating to culpable mental states.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, COUNTY OF HAYS, STATE OF TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of Wimberley and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II. AMENDMENT

THAT Title I, Chapter 10, Section 10.99, of the Wimberley Code of Ordinances, "General Penalty," is hereby revised and amended to add the following language:

"(C) Unless otherwise specifically stated within the provisions of this Code, any violation of this Code or of any ordinance set forth herein that is punishable by a fine that does not exceed the amount authorized by Section 12.23 of the Texas Penal Code does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense.

(D) Unless otherwise specifically stated within the provisions of this Code, any violation of this Code or of any ordinance set forth herein that is punishable by a fine that

exceeds the amount authorized by Section 12.23 of the Texas Penal Code shall require a culpable mental state of "criminal negligence."

Except as amended herein the Wimberley Code of Ordinances shall remain in full force and effect.

III. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

IV. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

V. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its passage and publication as may be required by governing law.

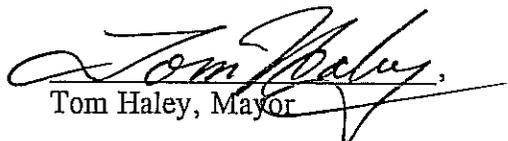
VI. PROPER NOTICE AND MEETING

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, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this 4th day of September, 2008, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By:


Tom Haley, Mayor

ATTEST:

Cara McPartland
Cara McPartland, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby
Carolyn J. Crosby, Assistant City Attorney

