

ORDINANCE NO. 2011- 002

AN ORDINANCE AMENDING PORTIONS OF SECTIONS 155.107 (PLANNING AND ZONING COMMISSION) AND 155.108 (BOARD OF ADJUSTMENT; VARIANCES AND APPEALS) OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS IN ORDER TO REVISE THE REMOVAL PROCESS FOR BOARD MEMBERS APPOINTED TO THE ABOVE REFERENCED BOARDS; AND PROVIDING FOR FINDINGS OF FACT, AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, AND SEVERABILITY.

WHEREAS, the City of Wimberley ("City") is authorized to establish boards and commissions to receive public input and provide recommendations to the City Council; and,

WHEREAS, the City Council strives to consider qualified individuals who represent a broad sampling of the community when appointing members to City boards and commissions; and,

WHEREAS, the City Council desires to amend the removal process of the boards referenced in this ordinance to ensure each board's members attend scheduled meetings, and is able to conduct its business as well as ensure the removal process is fair.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, 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 of Wimberley and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II. AMENDMENTS

A. THAT Subsections 155.107(B)(5) and (6) (Planning and Zoning Commission) of the Code of Ordinances of the City of Wimberley, Texas is hereby amended to read as follows:

"(B)(5) Removal of Board members. The City Council may by majority vote remove a Board member for lack of confidence, incompetence, corruption, misconduct, or malfeasance. Any Board member who misses three (3) consecutive meetings within a 12-month period of time or four (4) meetings within a 12-month time period shall be deemed to have automatically vacated his or her position on the Board. Individuals deemed to have automatically vacated his or her position on the Board may appeal the vacation to the City Council. Such an appeal shall be submitted in writing to the City Council within ten (10) days of receiving written notification of the vacation. A super majority vote of City Council is required to reverse a vacation. For the purpose of this meeting attendance requirement, it shall be considered a missed meeting for any Board member who leaves a meeting prior to the completion of all action items on the posted agenda for a meeting, for any other reason than to avoid a potential conflict of interest. Any Board member who is removed or automatically vacates his or her position on a Board shall not be considered for appointment to a Board by City Council for a period of six (6) months from the date of their removal or vacation.

(6) Members of the Commission shall regularly attend meetings and public hearings of the Commission, and shall serve without compensation.”

B. THAT Subsection 155.108(B)(4) (Board of Adjustment; Variances and Appeals) of the Code of Ordinances of the City of Wimberley, Texas is hereby amended to read as follows:

“(B)(4) *Removal of Board members.* The City Council may by majority vote remove a Board member for lack of confidence, incompetence, corruption, misconduct, or malfeasance. Any Board member who misses three (3) consecutive meetings within a 12-month period of time or four (4) meetings within a 12-month time period shall be deemed to have automatically vacated his or her position on the Board. Individuals deemed to have automatically vacated his or her position on the Board may appeal the vacation to the City Council. Such an appeal shall be submitted in writing to the City Council within ten (10) days of receiving written notification of the vacation. A super majority vote of City Council is required to reverse a vacation. For the purpose of this meeting attendance requirement, it shall be considered a missed meeting for any Board member who leaves a meeting prior to the completion of all action items on the posted agenda for a meeting, for any other reason than to avoid a potential conflict of interest. Any Board member who is removed or automatically vacates his or her position on a Board shall not be considered for appointment to a Board by City Council for a period of six (6) months from the date of their removal or vacation.”

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

III. 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.

IV. EFFECTIVE DATE

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

V. 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.

PASSED AND APPROVED ON FIRST READING on this 16th day of December, 2010, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

PASSED AND APPROVED ON SECOND READING on this 6th day of January, 2011, by a 5 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

Bob Floche

Bob Floche, Mayor

ATTEST:

Cara McPartland
Cara McPartland, City Secretary

APPROVED AS TO FORM:

C. Crosby
C. Crosby, City Attorney

