

ORDINANCE NO. 2008- 023

AN ORDINANCE OF THE VILLAGE OF WIMBERLEY, TEXAS AMENDING NUMEROUS SECTIONS OF CHAPTER 155 (ZONING) OF THE CODE OF ORDINANCES, IN ORDER TO PERMIT CONSTRUCTION AND INSTALLATION OF SEPTIC TANK SYSTEMS AND UTILITIES IN THE SETBACK AREA; AND PROVIDING FOR THE FOLLOWING: PENALTY; FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the Village of Wimberley ("City Council") seeks to provide for the orderly arrangement and regulation of compatible uses within its corporate limits; and,

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the Village, including the demographics of its inhabitants, the Village's history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities and infrastructure; and,

WHEREAS, further the P&Z and Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses; with a view of conserving property values and encouraging the most appropriate use of land in the Village; and,

WHEREAS, the regulations established by this Ordinance are in furtherance of the public interest, for the good government, peace, order, trade and commerce of the Village and necessary and proper for carrying out the power granted by law to the Village; and,

WHEREAS, the following enactments are a valid exercise of the Village's broad police powers and based upon the Village's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, and 211; and,

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals and general welfare; and,

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the Village's official newspaper before the 15th day before the first public hearing and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearing.

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

II. AMENDMENTS

A. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.035(D)(3) is hereby amended to read as follows:

“§ 155.035 RESIDENTIAL ACREAGE; RA.

(D) Development regulations.

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 50 feet;
- (b) Secondary street: 25 feet; and
- (c) Interior side and rear: 15% of lot width, but need not be greater than 25 feet.”

B. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.036 (D)(3) is hereby amended to read as follows:

“§ 155.036 RURAL RESIDENTIAL 1; R-1.

(D) Development regulations.

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 50 feet;
- (b) Secondary street: 25 feet; and
- (c) Interior side and rear: 15% of lot width, but need not be greater than 25 feet.”

C. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.037 (D)(3) is hereby amended to read as follows:

“§ 155.037 SINGLE-FAMILY RESIDENTIAL 2; R-2.

(D) Development regulations.

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 40 feet;

- (b) Secondary street: 15 feet;
- (c) Interior side yard: 10 feet; and
- (d) Rear yard: 20 feet.”

D. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.038 (D)(3) is hereby amended to read as follows:

“§ 155.038 SINGLE-FAMILY RESIDENTIAL 3; R-3.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 30 feet;
- (b) Secondary street: 15 feet;
- (c) Interior side yard: 5 feet; and
- (e) Rear: 20 feet.”

E. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.039 (E)(3) is hereby amended to read as follows:

“§ 155.039 SINGLE-FAMILY RESIDENTIAL 4; R-4.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 30 feet;
- (b) Secondary street: 15 feet;
- (c) Interior side yard: 5 feet; and
- (d) Rear yard: 20 feet.”

F. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.040 (D)(3) is hereby amended to read as follows:

“§ 155.040 TWO-FAMILY RESIDENTIAL (DUPLEX); R-5.

(D) Development regulations.

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Primary street: 30 feet;
- (b) Secondary street: 25 feet;
- (c) Interior side yard: 5 feet; and
- (d) Rear yard: 20 feet.”

G. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.041 (D)(3) is hereby amended to read as follows:

**“§ 155.041 MULTI-FAMILY RESIDENTIAL 1
(TRIPLEX/QUADRIplex/APARTMENTS); MF-1.**

(D) Development regulations.

(9) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Primary street: 30 feet;
- (b) Secondary street: 15 feet;
- (c) Interior side yard: 5 feet, 20 feet when adjacent to a single-family residential district;
- (d) Rear yard: 20 feet, 60 feet when adjacent to a single-family residential district; and
- (e) Building separation: 10 feet.”

H. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.042 (D)(10) is hereby amended to read as follows:

“§ 155.042 MULTI-FAMILY RESIDENTIAL 2 (APARTMENTS); MF-2.

(D) Development regulations.

(10) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Primary street: 30 feet;
- (b) Secondary street: 15 feet;
- (c) Interior side yard: 5 feet, 20 feet when adjacent to a single-family district;
- (d) Rear yard: 20 feet, 80 feet when adjacent to a single-family district; and
- (f) Building separation: 10 feet.”

I. **THAT** the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.043 (E)(7) is hereby amended to read as follows:

“§ 155.043 **MOBILE HOME; MH.**

(E) *Development regulations.*

(7) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 40 feet;
- (b) Secondary street: 25 feet; and
- (c) Interior side or rear: 15 feet, 20 feet if next to any single-family residential district.”

J. **THAT** the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.045 (D)(3) is hereby amended to read as follows:

“§ 155.045 **OFFICE - LOW IMPACT; O-1.**

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 25 feet;
- (b) Secondary street: 15 feet; and
- (c) Interior side and rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.”

K. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.046 (D)(3) is hereby amended to read as follows:

“§ 155.046 OFFICE - HIGH IMPACT; O-2.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 35 feet;
- (b) Secondary street: 25 feet; and
- (c) Interior, side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.”

L. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.047 (D)(3) is hereby amended to read as follows:

“§ 155.047 COMMERCIAL - LOW IMPACT; C-1.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 10 feet;
- (b) Secondary street: 10 feet; and
- (c) Interior side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.”

M. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.048 (D)(3) is hereby amended to read as follows:

“§ 155.048 COMMERCIAL - MODERATE IMPACT; C-2.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 15 feet;

- (b) Secondary street: 15 feet; and
- (c) Interior side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.”

N. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.049 (D)(3) is hereby amended to read as follows:

“§ 155.049 COMMERCIAL - HIGH IMPACT; C-3.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 25 feet;
- (b) Secondary street: 15 feet; and
- (c) Interior side or rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.”

O. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.050 (D)(3) is hereby amended to read as follows:

“§ 155.050 HIGHWAY COMMERCIAL; HC.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 25 feet;
- (b) Secondary street: 15 feet; and
- (c) Interior side and rear yard: 0 feet, 40 feet when adjacent to a residential district and the building is more than 1 story.”

P. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.036 (D)(3) is hereby amended to read as follows:

“§ 155.051 INDUSTRIAL - LOW IMPACT; I-1.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 50 feet;
- (b) Secondary street: 25 feet; and
- (c) Interior side and rear yard: 0 feet, 80 feet when adjacent to a residential district and the building is more than 1 story."

Q. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.052 (D)(3) is hereby amended to read as follows:

"§ 155.052 INDUSTRIAL - HIGH IMPACT; I-2.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 50 feet;
- (b) Secondary street: 25 feet; and
- (c) Interior side and rear yard: 0 feet, 80 feet when adjacent to a residential district and the building is more than 1 story."

R. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.053 (D)(3) is hereby amended to read as follows:

"§ 155.053 ANIMAL SALES/SERVICES; AS/S.

(D) *Development regulations.*

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 50 feet;
- (b) Secondary street: 25 feet; and
- (c) Interior side and rear yard: 10 feet, 80 feet when adjacent to a residential district and the building is more than 1 story."

S. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.054 (E)(6) is hereby amended to read as follows:

“§ 155.054 LODGING; L-1.

(E) Development regulations.

(6) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

(a) Dominant street: 30 feet;

(b) Secondary street: 30 feet;

(c) Interior side yard: 10 feet, 30 feet when adjacent to a residential district, 50 feet if the building is more than 1 story; and

(d) Rear yard: 20 feet, 40 feet when adjacent to a residential district, 60 feet if the building is more than 1 story.”

T. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.055 (E)(6) is hereby amended to read as follows:

“§ 155.055 LODGING; L-2.

(E) Development regulations.

(6) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

(a) Dominant street: 30 feet;

(b) Secondary street: 30 feet;

(c) Interior side yard: 10 feet, 30 feet when adjacent to a residential district, 50 feet if the building is more than 1 story; and

(d) Rear yard: 20 feet, 40 feet when adjacent to a residential district, 60 feet if the building is more than 1 story.”

U. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.056 (D)(8) is hereby amended to read as follows:

“§ 155.056 INDUSTRIAL PARK; IP.

(D) Development regulations.

(8) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Front yard: 80 feet;
- (b) Street side yard: 40 feet; and
- (c) Interior side and rear yard: 20 feet; 40 feet when adjoining a residential property.”

V. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.057 (D)(4) is hereby amended to read as follows:

“§ 155.057 PUBLIC PROTECTION/UTILITY; PPU.

(D) *Development regulations.*

(4) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Front yard: same as most restrictive district adjacent to PPU;
- (b) Street side yard: same as most restrictive district adjacent to PPU;
- (c) Interior side yard: same as most restrictive district adjacent to PPU; and
- (d) Rear yard: same as most restrictive district adjacent to PPU.”

W. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.058 (D)(6) is hereby amended to read as follows:

“§ 155.058 PARTICIPANT RECREATION - LOW IMPACT; PR-1.

(D) *Development regulations.*

(6) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Front yard: same as most restrictive district adjacent to PR-1;
- (b) Street side yard: same as most restrictive district adjacent to PR-1;
- (c) Interior side yard: same as most restrictive district adjacent to PR-1; and
- (e) Rear yard: same as most restrictive district adjacent to PR-1.”

X. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.059 (D)(6) is hereby amended to read as follows:

“§ 155.059 PARTICIPANT RECREATION - HIGH IMPACT; PR-2.

(D) Development regulations.

(6) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Front yard: same as most restrictive district adjacent to PR-2;
- (b) Street side yard: same as most restrictive district adjacent to PR-2;
- (c) Interior side yard: same as most restrictive district adjacent to PR-2; and
- (d) Rear yard: same as most restrictive district adjacent to PR-2.”

Y. **THAT** the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.060 (D)(5) is hereby amended to read as follows:

“§ 155.060 PUBLIC FACILITIES; PF.

(D) Development regulations.

(5) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: same as most restrictive district adjacent to PF;
- (b) Secondary street: same as most restrictive district adjacent to PF; and
- (c) Interior side and rear yard: same as most restrictive district adjacent to PF.”

Z. **THAT** the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.061 (D)(3) is hereby amended to read as follows:

“§ 155.061 NEIGHBORHOOD SERVICES DISTRICT; NS.

(D) Development regulations.

(3) The minimum setbacks shall be the larger of the dimensions in § 155.078(A), Table A, or the following:

- (a) Dominant street: 25 feet;
- (b) Secondary street: 15 feet; and

- (c) Interior side and rear yard: 10 feet, 20 feet when adjacent to a residential district and the building is more than 1 story.”

AA. THAT the Village of Wimberley Code of Ordinances, Chapter 155 (Zoning), Subsection 155.078 (A) is hereby amended to revise subsection (2) and add subsection (3) to read as follows:

“§ 155.078 SUPPLEMENTAL REGULATIONS.

(2) Setbacks in non-residential districts and multi-family (MF-1 and MF-2) residential districts shall be the larger of the dimensions in Table A, or the dimensions in the district description.

(3) Unless otherwise provided in the Code, no construction, including buildings, parking areas, and driveways, shall be permitted except entry driveways, septic tank systems complying with state law and other utility infrastructure to include water, wastewater, telephone, electric, cable and gas.

(4) No placement or display of commercial material and equipment shall be allowed in setbacks.

Except as amended herein, the Code of Ordinances of the Village of Wimberley 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.

FIRST READING PASSED AND APPROVED this 19th day of June, 2008, by a 4 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the Village of Wimberley, Texas.

SECOND READING:

PASSED AND APPROVED this 17th day of July, 2008, by a 3 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the Village of Wimberley, Texas.

VILLAGE OF WIMBERLEY

By: Tom Haley
Tom Haley, Mayor

ATTEST:

Cara McPartland
Cara McPartland, City Secretary

(SEAL)

APPROVED AS TO FORM:

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