

ORDINANCE NO. 2010- 031

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 155 (ZONING) OF THE CODE OF ORDINANCES, CERTAIN SUBSECTIONS OF SECTION 155.023 (DISTRICTS ESTABLISHED; DESIGNATION AND REVIEW) IN ORDER TO ADD THE "RURAL RETREAT 1; RR-1" AS A BASE ZONING DISTRICT AND REVISE THE PLANNING AREAS ACCORDINGLY; AND PROVIDING FOR THE FOLLOWING: PENALTY; FINDINGS OF FACT; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City 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 City, including the demographics of its inhabitants, the City'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 City; 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 City and necessary and proper for carrying out the power granted by law to the City; and,

WHEREAS, the following enactments are a valid exercise of the City's broad police powers and based upon the City's statutory regulatory authority, including but not limited to Texas Local Government Code Chapters 51, 52, 211 and 213; 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 protect the aesthetic qualities of the City; and,

WHEREAS, parties in interest and citizens have had an opportunity to be heard at numerous public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City'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 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 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 City of Wimberley Code of Ordinances, Chapter 155 (Zoning), that portions of the following subsections of sections (A), (H) and (I) of Section 155.023 (Districts Established; Designation and Review) are hereby amended in their entirety to read as follows:

“§ 155.023 DISTRICTS ESTABLISHED; DESIGNATION AND REVIEW

(A) *Districts authorized.* The districts authorized herein shall be known as (abbreviated designation, zoning district name):

- (a) Base districts:
 - 1. RA, residential acreage;
 - 2. R-1, rural residential 1;
 - 3. R-2, single-family residential 2;
 - 4. R-3, single-family residential 3;
 - 5. R-4, single-family residential 4;
 - 6. R-5, 2-family residential 5;
 - 7. NS, neighborhood services;
 - 8. MH, mobile home;
 - 9. MF-1, multi-family residential 1;
 - 10. MF-2, multi-family residential 2;
 - 11. O-1, office - low impact;
 - 12. O-2, office - high impact;
 - 13. L-1, lodging;
 - 14. L-2, lodging;

15. RR-1, rural retreat;
16. SCD, scenic corridor;
17. C-1, commercial - low impact;
18. C-2, commercial - moderate impact;
19. C-3, commercial - high impact;
20. I-1, industrial - low impact;
21. I-2, industrial - high impact;
22. HC, highway commercial;
23. IP, industrial park;
24. AS/S, animal sales/services;
25. PPU, public protection/utility;
26. PR-1, participant recreation - low impact;
27. PR-2, participant recreation - high impact;
28. PF, public facilities; and
29. WPDD, planned development district.

(H)(1)(e) *Lodging districts (L-1, L-2, RR-1)*. Larger scale facilities (31 or more units) shall be limited to highway commercial (HC) districts.

(H)(1)(g)(2) *Planning area uses*. The Comprehensive Plan of the city notes that it is the responsibility of the City Council, with the assistance of the Planning and Zoning Commission, to develop a system for the general application of zoning districts to the Comprehensive Plan Map planning areas. The following is a listing of the planning areas with the zoning districts that are appropriate for the areas. The boundaries of each planning area are shown in the Comprehensive Plan adopted by Council, and on file with the City. The full district names are as found in division (A)(1) of this section.

<i>Area</i>	Zoning Districts Allowed
I	RA, R-1, R-2, R-3, PPU, PF, WPDD, NS, RR-1
II	RA, R-1, R-2, R-3, R-4, R-5, MF-1, PPU, PF, WPDD, NS, RR-1
III	RA, R-1, R-2, R-3, R-4, R-5, MF-1, MH, O-1, C-1, L-1, PR-1, PPU, PF, WPDD

IV	RA, R-1, R-2, R-3, R-4, R-5, MF-1, MF-2, MH, O-1, O-2, C-1, C-2, L-1, PR-1, PR-2, PPU, PF, WPDD
V	RA, R-1, R-2, R-3, R-4, R-5, MF-1, MF-2, O-1, O-2, C-1, C-2, C-3, L-1, L-2, AS/S, PR-1, PR-2, PPU, PF, WPDD
VI	O-1, O-2, C-1, C-2, C-3, L-1, L-2, I-1, I-2, HC, IP, PPU, PF, WPDD
VII	RA, R-1, R-2, NS, O-1, L-1, PPU, PR-1, PF, SCD, WPDD

(I) *Specific review criteria.*

(1) *Land use intensity gradations.* Land use intensity gradation is an expression of external effects on the environment. In reviewing zoning requests, the Planning and Zoning Commission and the City Council shall consider the intensity of the proposed zoning district in relation to the intensities of adjoining or nearby districts. The land use intensity gradation rankings (from lowest to highest) adopted by the city are as follows:

- (a) RA, R-1, R-2, R-3, R-4, NS;
- (b) R-5, MH, MF-1, MF-2, PPU, NS;
- (c) C-1, SCD, O-1, L-1, PR-1;
- (d) C-2, O-2, L-2, RR-1;
- (e) C-3, PR-2, PF, RR-1;
- (f) I-1, AS/S; and
- (g) HC, I-2, IP.

(2) In order to promote reasonable transitions between districts within the city and ensure the compatibility of neighboring uses, zoning district boundaries may not be approved if the difference between the intensity of the requested district and an adjoining district is greater than 2, as determined in the Council's sole discretion. For example, a permitted use in intensity grade d may be adjacent to a permitted use in intensity grade b.

(3) Note that WPDDs, overlays and CUPs are not subject to the land use intensity gradation rankings. Their external effects on the environment are evaluated on a case-by-case basis. These districts may include specific provisions for mitigation and screening."

Except as amended herein, the Code of Ordinances of the City 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.

PASSED AND APPROVED ON FIRST READING this 19th day of August, 2010, by a 4 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

PASSED AND APPROVED ON SECOND READING this 2nd day of September, 2010, by a 3 (Ayes) 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By:

Bob Flocke
Bob Flocke, Mayor

ATTEST:

Cara McPartland
Cara McPartland, City Secretary

(SEAL)

APPROVED AS TO FORM:

CCrosby
Carolyn J. Crosby, City Attorney

