

ORDINANCE NO. 2010-014

AN ORDINANCE AMENDING CHAPTER 50 (SEWERS AND WATER), SECTION 50.63 (CONNECTION TO THE SEWER SYSTEM REQUIRED), OF THE CODE OF ORDINANCES OF THE CITY OF WIMBERLEY, TEXAS, IN ORDER TO ESTABLISH THE REQUIREMENTS FOR MANDATORY CONNECTION TO A PUBLIC WASTEWATER SYSTEM; AND PROVIDING FOR AN EFFECTIVE DATE; PROPER NOTICE AND MEETING, SEVERABILITY AND REPEALER.

WHEREAS, the City Council of the City of Wimberley seeks to promote the health, safety and general welfare of the citizens of the City, and the best interests of the City; and

WHEREAS, pursuant to Texas Local Government Code ordinance 51.001, the City Council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code ordinance 51.012, the City Council is authorized to adopt an ordinance, not inconsistent with state law, that the council considers proper for the government, interest, welfare or good order of the City; and

WHEREAS, the City Council seeks to ensure that water and sewer utility service is adequate and efficient for the citizens of the City; and

WHEREAS, currently the majority of the City operates on-site sanitary sewer systems; and

WHEREAS, the Council is in the process of securing funding and devising plans for a public wastewater sewer system; and

WHEREAS, the Council finds that it is in the best interest of the public health, safety and welfare of the citizens to require connections to the City sewer system once operational as provided by this ordinance; and

WHEREAS, pursuant to chapter 552 of the Texas Local Government Code and other laws, the City is authorized to operate its water and sewer utility systems inside or outside its municipal boundaries, to regulate the systems in a manner that protects the interests of the municipality, and to extend the lines of its utility systems inside and outside the municipal boundaries.

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 Council of Wimberley and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

II. AMENDMENT

1. THAT chapter 50 (Sewers and Water, section 50.63 (Connection to the Sewer System Required) of the Wimberley Code of Ordinances shall be amended in its entirety to read as follows:

“§ 50.63 CONNECTION TO THE SEWER SYSTEM REQUIRED.

(A) This section applies to all properties within the city limits and extraterritorial jurisdiction of the City.

(B) *Connection is required.* All property owners are required to connect their buildings or structures located on the property to the City’s Sewer System in accordance with the following provisions:

(1) *Existing On-Site Sanitary Sewer Systems.* Within forty-five (45) days of notice from the City of the availability of the City’s Sewer System to the public, all property owners that own buildings or properties connected to an on-site sanitary sewer system shall connect to the City’s Sewer System and shall immediately cease using the on-site sanitary sewer system upon such connection. Such connections shall be made subject to the applicable charges provided by current City requirements.

If the building or property is not connected to the City’s Sewer System within the time prescribed or operation of the on-site sanitary sewer system is not discontinued, it shall be a violation of this chapter and subject the property owner to the penalties under section 50.99 of this Code. In addition to the penalties under section 50.99, the city administrator may provide written notice to the person owning or having possession or control of the property required to be connected to the City’s Sewer System. Such notice shall also state that, upon failure of the property owner or occupant to connect to the City’s Sewer System within thirty (30) days from the date of the notice, the City will connect the property to the City’s Sewer System, and will charge the cost and expense incurred by the City to connect the property to the City’s Sewer System to the owner of such property, and that the City may place a lien on such property for those costs and expenses, may institute suit against the owner to collect the costs incurred by the City, or may undertake other measures within the City’s authority to recover the costs. The notice provided for in this section shall be in writing and either served personally or sent by letter addressed to the owner of such property at the address of the property, or at the address as identified by the appraisal district.

(2) *New Connections.* The owner of every new building intended for human habitation or occupancy applying for a certificate of occupancy after the date an operational City Sewer System is operational and available, on property within one-hundred fifty (150) feet of the City’s sewer system or facilities, shall be connected to the sewer system by the owner or agent of the premises in accordance with the City’s sewer service and extension ordinances. A separate connection for each house or building on the property requiring service shall be required unless the City Administrator approves the connection of more than one (1) building located on the single property to a single connection. All new subdivisions platted after the date of an operational City Sewer System within one-hundred fifty (150) feet of a public wastewater system

must be connected to the City's Sewer System. In the extraterritorial jurisdiction, the City Administrator may waive this requirement. If a building or property is to be served by the City's Sewer System, wastewater lines to serve each building or property must be installed before the certificate of occupancy may be issued and the building and property occupied."

Except as provided herein, of the Code of Ordinances of the City of Wimberley 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 immediately from and after its passage and publication as may be required by governing law.

V. PROPER NOTICE AND MEETING

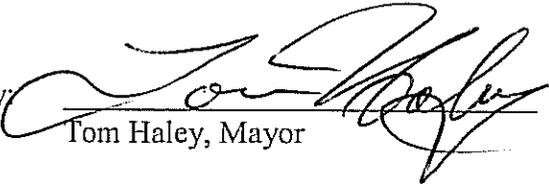
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED ON FIRST READING this 15th day of April, 2010, by a 3 (Ayes) 1 (Nays) 1 (Abstain) vote of the City Council of the City of Wimberley, Texas.

PASSED AND APPROVED ON SECOND READING this 6th day of May, 2010, 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, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby
Carolyn J. Crosby, City Attorney

