

ORDINANCE NO. 2011- 026

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING CHAPTER 155 (ZONING), CREATING A NEW SECTION 155.006 (PROHIBITED USES) OF THE CODE OF ORDINANCES TO PROHIBIT WIND TURBINES AND ACCESSORY EQUIPMENT OF SAME AND UTILITY GRID WIND ENERGY SYSTEMS WITHIN THE CITY'S CORPORATE LIMITS; AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, TO PROVIDE A SAVINGS AND SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

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 City is authorized to regulate the aesthetics of real property within its corporate limits, and the prohibitions 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,

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 15<sup>th</sup> 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, TEXAS, THAT:

**Section 1. Findings.** 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.

**Section 2. Amendment.**

THAT the City of Wimberley Code of Ordinances, Title XV (Land Usage), is hereby amended to create a new Section 155.006 (Prohibited Uses) to read as follows:

**“SECTION 155.006 PROHIBITED USES**

**(A) Wind Energy**

**(1) DEFINITIONS.**

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**TOWER.** The monopole, freestanding, or guyed structure that supports a wind energy system.

**TURBINE.** The parts of a wind energy system including the blades, generator and tail.

**UTILITY GRID WIND ENERGY SYSTEM.** A wind energy system designed and built with a primary purpose to provide electricity to the electric utility grid.

**WIND ENERGY SYSTEM or SYSTEM.** A system that is designed and built with a primary purpose to convert wind energy into electricity through the use of a wind turbine, a tower or attached apparatus, and associated control or conversion electronics, and is intended for on-site production and consumption of electricity to serve the needs of the consumer on site. Systems capable of reversing the electric meter, as an ancillary function to on-site consumption, shall be included in this definition.

**(2) GENERAL PROHIBITION.**

No tower, turbine, utility grid energy system, or wind energy system may be constructed, erected, installed, located, operated or used within the city’s corporate limits.”

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

**Section 3.** All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

**Section 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect

the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

**Section 5.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**Section 6. Open Meetings.** That it is hereby officially found and determined that the meeting at which this Ordinance is 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 Meeting Act, Capt. 551, Loc. Gov't. Code.

PASSED AND APPROVED this 6<sup>th</sup> day of Oct., 2011, by a vote of 4 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

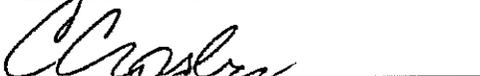


Bob Flocke, Mayor

ATTEST:

  
Cara McPartland, City Secretary

APPROVED AS TO FORM:

  
C. Crosby, City Attorney

