

ORDINANCE NO. 2012-607

AN ORDINANCE AMENDING TITLE XV (LAND USAGE), CHAPTER 151 (BUILDING REGULATIONS; CONSTRUCTION) OF THE CITY OF WIMBERLEY'S CODE OF ORDINANCES TO CREATE SECTION 151.100 (TEMPORARY STRUCTURES) IN ORDER TO PROHIBIT THE INSTALLATION OF TEMPORARY STRUCTURES WITH CERTAIN EXCEPTIONS; AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, TO PROVIDE A SAVINGS AND SEVERABILITY CLAUSE, PENALTY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has adopted construction and zoning regulations to manage development within the City limits; and

WHEREAS, the Council finds that temporary structures should be allowed on a limited basis to accommodate and encourage aesthetically pleasing and safe structures to promote economic development; and

WHEREAS, the City Council finds the regulations herein are the minimum necessary to accomplish the City's goals and will be in the best interest of the public.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, HAYS COUNTY, TEXAS

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.

(A) That Title XV (Land Usage), Chapter 151 (Building Regulations; Construction) of the Wimberley Code of Ordinances be amended to create Section 151.100 (Temporary Structures) to read as follows:

“§ 151.100 Temporary Structures

(A) *Temporary Structure Defined.* Means any structure, building, trailer, tent or enclosure of any kind used for storage, commercial or business purposes which any person or business intends to place on the same lot with or on any lot immediately adjacent to, any permanent structure used for business or commercial purposes.

(B) *Temporary Structures Permitted.* Except where prohibited below, a temporary structure is permitted only on commercially zoned property with prior City Council authorization.

- (C) *Temporary Structures Prohibited.* Any temporary structure is prohibited from being installed or constructed on residentially zoned property or on property within the Village Center Overlay, as defined in Chapter 155.091, with the exception of temporary structures required for special events authorized by City Council.
- (D) *Permitted.* Prior to seeking approval, an applicant shall file a permit application with the City stating:
- (1) The name and address of the person or business seeking the permit;
 - (2) A particular description of where the proposed temporary structure or accessory structure will be erected, constructed or placed;
 - (3) The need for such structure;
 - (4) The period of time the proposed structure will be present on the property; and
 - (5) A particular description, including the dimensions, of the temporary structure or accessory structure to be erected, constructed, or placed upon the property.
- (E) *City Council Authorization.* Prior to installation of a temporary structure the City Council must approve an application for a temporary structure subject to the requirements of this ordinance. The Council may impose additional conditions as necessitated by the scope of the application and has discretion to deny an application for any reason. The applicant shall submit a completed application form prescribed by the city and pay any applicable application or inspection fees.
- (F) *Emergencies.* A temporary structure may be installed or constructed by a governmental entity in order to address an emergency that affects the public's health, safety and welfare. The governmental entity shall advise the city administrator prior to or in no event later than 24 hours after erection of the temporary structure.
- (G) *Requirements.* Any permitted temporary structure shall comply with the following:
- (a) If the applicant is not the owner of the property where the proposed temporary structure is to be located, the applicant must provide written proof from the property owner documenting permission to use the property.
 - (b) Any such temporary structure erected, constructed, or placed upon property shall comply with all applicable provisions of this Code of Ordinances, including the fire, electrical, and building codes. No part of a temporary structure shall be located on any public property or in the right-of-way except with express permission of the City Council.

- (c) Inspection. The temporary structure must have sufficient ingress and egress for the public and must be inspected to ensure it complies with all fire requirements including extinguishers, signage and type of materials used for the structure.
- (d) Food services. Applicant must have an inspection prior to selling food or beverage products.
- (e) Restrooms. Applicant must provide adequate restroom facilities or provide written documentation evidencing access to restroom facilities. The applicant's temporary use cannot cause another's septic facility to exceed its capacity limits.
- (f) The structure and all decorations shall be compatible with the Hill Country and no products shall be displayed or stored outside of the temporary structure.
- (g) Documentation from an engineer may be required depending on the type, construction and location of a temporary structure.
- (h) Parking on-site or permission to park on an adjoining property must be secured.
- (i) Signage. Signage shall be limited to one sign with a face area of two feet by two feet.
- (j) All such temporary structures or accessory uses or structures shall be removed from the property at the expiration of the time period defined in the permit.

(H)Penalty. Any person who violates any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.”

Section 2. 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 11th day of February, 2012, by a vote of 5 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS

Bob Floche

Bob Floche, Mayor

ATTEST:

Cara McPartland

Cara McPartland, City Secretary

APPROVED AS TO FORM:

Carolyn J. Crosby

Carolyn J. Crosby, City Attorney

