

ORDINANCE NO. 2012-027

AN ORDINANCE AMENDING TITLE VII (TRAFFIC CODE), CHAPTER 70 (TRAFFIC REGULATIONS) OF THE CITY OF WIMBERLEY'S CODE OF ORDINANCES TO AMEND SECTION 70.03 (E) (TRAFFIC-CONTROL DEVICES) TO CREATE A PRESUMPTION THAT THE REGISTERED OWNER OF A VEHICLE IS THE PERSON WHO STOPPED, STOOD, OR PARKED THE VEHICLE AT THE TIME AND PLACE THAT AN OFFENSE OCCURS WITH RESPECT TO THAT VEHICLE; AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, A SAVINGS AND SEVERABILITY CLAUSE, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council may adopt ordinances for the good government, peace or order of the municipality; and

WHEREAS, currently the City of Wimberley ("City") in section 70.03 (E) of its Code of Ordinances declares that a person commits an offense if the person performs an action prohibited by the subchapter or fails to perform an act required by the subchapter; and

WHEREAS, violations of the City's traffic regulations regularly occur in which the City has no evidence of the identity of the person who was in control of the vehicle at the time of the violation; and

WHEREAS, the City Council has determined that, in the interest of promoting the public's health, safety, and welfare, Title VII, Chapter 70, of the Wimberley Code of Ordinances should be amended to provide a presumption that the registered owner of a motor vehicle is the person who is responsible for any violation of the City's traffic regulations that involves that individual's motor vehicle.

**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.**

That Title VII (Traffic Code), chapter 70 (Traffic Regulations), section 70.03 (E) (Violations), of the City of Wimberley's Code of Ordinances, is amended to read as follows:

"Section 70.03 (E) *Violations*

- (1) A person commits an offense if the person performs an act prohibited by this subchapter or fails to perform an act required by this subchapter, and it is presumed

that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred.

- (2) A person who owns a vehicle or employs or otherwise directs the operator of a vehicle commits an offense if the person requires or knowingly permits the operator of the vehicle to operate the vehicle in a manner that violates the provisions of this subchapter.”

**Section 3.** Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect.

**Section 4.** 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 5.** 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 6.** 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 7.** 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 19<sup>th</sup> day of July, 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 Flocke  
Bob Flocke, Mayor

**ATTEST:**

Cara McPartland  
Cara McPartland, City Secretary

**APPROVED AS TO FORM:**

Catherine B. Fryer  
City Attorney Catherine B. Fryer

