

ORDINANCE NO. 2013- 002

**AN ORDINANCE AMENDING TITLE IX (GENERAL REGULATIONS), CHAPTER 92 (OPEN BURNING) OF THE CITY OF WIMBERLEY'S CODE OF ORDINANCES TO MODIFY SECTION 92.03 (BURNING DURING HIGH FIRE HAZARD CONDITIONS) TO ADD PROVISIONS RELATING TO THE DECLARATION OF AN OUTDOOR BURN BAN; 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 prevention and extinguishment of fires as it considers necessary; and

**WHEREAS**, currently the City of Wimberley ("City") in section 92.02 of its Code of Ordinances sets out the requirements for allowable outdoor burning within the city limits; and

**WHEREAS**, the current city ordinance governing outdoor burning may be read to prohibit certain family and recreational activities that involve visible flames, glowing coals or smoke but which, unless otherwise prohibited by law or by an existing burn ban, do not pose a threat to the public health, safety, and welfare; and

**WHEREAS**, the City Council has determined that, in the interest of promoting the public's health, safety, and welfare, Title IX, Chapter 92, of the Wimberley Code of Ordinances should provide an exception for certain family and recreational activities that involve visible flames, glowing coals or smoke unless otherwise prohibited by law or by an existing burn ban.

**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 IX (General Regulations), Chapter 92 (Open Burning), Section 92.03 (Burning During High Fire Hazard Conditions), is added to read as follows:

*Section 92.03 Burning During High Fire Hazard Conditions*

*Notwithstanding the provisions of § 92.02, a person commits an offense if he or she burns an outdoor fire, or orders such burning by others, during a burn ban or during high fire hazard conditions unless such fire is confined in an enclosure that contains all flames and/or sparks. Unless modified by a separate order of City Council following consultation with the Wimberley Fire Chief, the terms and conditions of any county-wide outdoor burn ban issued by Hays County shall apply to all property and persons located*

*within the city limits of Wimberley. The City Council may also issue a burn ban order whenever the Council determines that drought conditions exist according to the standard used to define such conditions by the Texas Forest Service, or whenever the environmental conditions and circumstances create a public safety hazard that would be exacerbated by outdoor burning. The City Council shall consult with the Wimberley Fire Chief prior to the issuance of a burn ban order.*

**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 3rd day of January, 2013, 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*  
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Cara McPartland, City Secretary

**APPROVED AS TO FORM:**

*Catherine B. Fryer*  
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Catherine B. Fryer, City Attorney

