

ORDINANCE NO. 2013- 017

**AN ORDINANCE OF THE CITY OF WIMBERLEY TEXAS
AMENDING AND REPLACING CHAPTER 152 (SIGNS) OF THE
CITY OF WIMBERLEY CODE OF ORDINANCES AND
PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT,
SEVERABILITY, REPEALER, AN EFFECTIVE DATE, AND
PROPER NOTICE AND MEETING**

WHEREAS, the City Council of the City of Wimberley, Texas (the "City") seeks to provide for the health, safety and welfare of its citizens and provide for the orderly development of land within its corporate limits and its extraterritorial jurisdiction; and

WHEREAS, the City has the authority to regulate signage pursuant to Texas Local Government Code Chapters 51, 52, 211, 216, and 217; and,

WHEREAS, the regulations established by the Code 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 City recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City, its interest, welfare, and good order of the City as a body politic.

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), Chapter 152 (Signs), is hereby replaced and amended to read as follows:

CHAPTER 152: SIGNS

§ 152.01 PURPOSE.

The purpose of this Chapter is to provide uniform sign standards and regulations in order to ensure public safety and to promote a positive City image reflecting order, harmony and pride, and thereby strengthening the economic stability of Wimberley business, cultural, historical and residential areas.

§ 152.02 GENERALLY.

No person may construct, reconstruct, place, install, repair, maintain, relocate, alter or use a sign after the effective date of this chapter unless such installation, construction, reconstruction, placement, repair, maintenance, relocation, alteration or use meets all the provisions of this and all other applicable ordinances adopted by the City Council of the City of Wimberley, Texas. Any sign that violates the provisions of this Chapter shall constitute a nuisance.

§ 152.03 JURISDICTION.

The provisions of this chapter shall apply within the City limits and its extraterritorial jurisdiction.

§ 152.04 DEFINITIONS.

Words and phrases used in this chapter shall have the meanings set forth in this section. Words and phrases that are not defined in this chapter but are defined in other ordinances of the City of Wimberley shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this chapter.

Abandoned Sign. A sign whose message describes the availability of goods or services at a location where such goods and services are no longer available and have ceased to be available for a period of at least 60 days or, in the alternative, a sign that is non-commercial in nature and the content of the sign pertains to a time, event or purpose that has elapsed or expired in the preceding 60 days.

Area. The entire sign surface within a single contiguous perimeter, excluding support structures. A sign structure with 2 faces back-to-back, oriented in opposite directions and separated by not more than 3 feet, with the same copy on both sides, shall be counted as a single sign. In cases where a sign is composed only of letters, figures, or other characters the dimensions used to compute the area are the smallest simple imaginary figure (circle, triangle, rectangle, or other) that fully contains the sign content.

Awning Sign. A sign that is suspended from the underside of an awning or canopy structure or which projects into the space enclosed within or beneath an awning or canopy structure. A sign that is painted on or attached to the outside of an awning or canopy structure is an awning sign.

Banner. A flexible sign intended to be hung or mounted either with or without frames, made of paper, plastic, fabric or any other flexible material, and that is used by its colors, characters, lettering, illustration or ornamentation to call attention to an establishment on the site or to a community, civic or other event either on or off the site. Flags are distinguished from banners for the purposes of this chapter.

Beacon. Any light with a beam directed into the atmosphere or directed at a point that is not on the same lot or tract of land as the light source, or a light with one or more beams that rotate or move.

Billboard. Any sign that is used or designed to be used to advertise or call attention to any product or service that is produced at a place other than on the premises on which the sign is located, or to advertise or call attention to any establishment that is not located on the same premises as the sign.

Bulletin Board. A sign that is principally devoted to posting announcements of interest to the members or clientele of an organization concerning the activities of the organization, such as is customarily erected by a church, social club, society or charitable organization.

City. The City of Wimberley, Hays County, Texas, an incorporated municipality.

City Administrator. The City administrator or his/her duly authorized representative.

Changeable Copy Sign. A sign or part of a sign on which characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign, such as a theater marquee, a gasoline price sign, or a sign identifying the occupants of a shopping center. Any other sign on which the message changes more than once per day is a flashing sign.

Commercial Complex. Any property such as a shopping center, office park or industrial park, that consists of 2 or more establishments on a single platted lot, or which is designed, developed and managed as a unit.

Copy. The words and/or message displayed on a sign.

Daily Display Sign. A portable sign, regardless of its construction, that is designed to be placed on the ground or sidewalk adjacent to an establishment in order to advertise or call attention to the goods or services offered at that establishment.

Day. Calendar day.

Directional Sign. Signs located on commercial property designed provide direction to pedestrian and vehicular traffic.

Electronic Message Display. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Establishment. A use of land for any purpose that requires a building on the land, regardless of the commercial, nonprofit or public nature of the activity, but excluding a residence or active agricultural use in any form.

Event Sign. A temporary sign, other than a commercial sign, posted to advertise an event sponsored by a public agency, school, church or religious institution, civic-fraternal or other organization.

Flag. A fabric sheet, that is attached at 1 end to a pole, cable or rope.

Free standing sign. Either a monument sign or a self supported sign.

Handheld Sign. A sign that is not permanently or temporarily attached to the ground or to a permanent structure, and that is designed to be transported or carried by an individual.

Height. The distance from ground level to the top of the sign structure. The ground level is the lower of (1) the existing grade prior to construction of the sign or (2) the newly established grade after construction, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the height shall be measured from curb level.

Internally illuminated Sign. A sign that has the light source enclosed within it so the source is not visible to the eye.

Illuminated Sign. A sign with electrical equipment installed for illumination, either internally illuminated through its sign face by a light source contained inside the sign or externally illuminated by reflection of a light source aimed at its surface.

Luminance. An objective measurement of the brightness of illumination, including illumination emitted by an electronic sign, measured in candles per square foot (cd/ft²).

Mobile Billboard. A sign and/or an electronic message sign installed or displayed on a motor vehicle or trailer being towed by a motor vehicle for the purpose of advertising a business or entity that is unrelated to the owner of the vehicle's primary business.

Monument Sign. A sign that is mounted on a base at least as wide as the sign and is of limited height. The opening between the base and the sign must be no greater than 2 inches.

Moving Sign. A sign or any part of a sign that rotates, moves, or uses lighting to simulate motion.

Name Plate. A sign, mounted flat against the wall of a building and not projecting more than one inch from the face of the wall, indicating the name and/or address of the building, and/or the name of an occupant thereof, and/or the practice of a permitted home occupation therein.

New Business Sign. A temporary sign advertising the opening of a new business in an existing structure.

Off-Premises Sign. A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

On-Premises Sign. A sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

Organization. An entity, including a natural person, that owns or operates the premises where an on-premise sign is displayed.

Pennant. a triangular or irregular piece of fabric or other material, commonly attached in strings or strands, or supported on small poles intended to flap in the wind.

Permanent Sign. A sign attached to a building or structure, or to the ground in a manner that enables the sign to resist environmental loads, such as wind, and that precludes ready removal or movement of the sign and whose intended use appears to be indefinite.

Premises. A lot or tract within the City, and contiguous lands in the same ownership, that is not divided by any public highway, street or alley, or right-of-way.

Projecting Sign. A building-mounted sign with the faces of the sign projecting 12 inches or more from and generally perpendicular to the building fascia, excepting signs located on a canopy, awning, or marquee.

Residential Area. Any property within the city limits that is zoned for residential use. Any unzoned property within the city limits or any property within the City's extra-territorial jurisdiction that is vacant, in any form of agricultural use, on which a residence is the principal use, and any portion within 200 feet of any such residence.

Responsible Party. The owner of the property upon which the sign is located, the lessor of the property, and/or the owner of the sign.

Roof Sign. Any sign that is mounted on or above the roof of a building, whose principal support fixtures are attached to a wall and a wall sign that is either painted directly on a sloping roof or mounted directly on a sloping roof in the same plane as the roof.

Rotating Sign. Sign faces or portions of a sign face that mechanically revolve around a central axis as opposed to revolving around an imaginary axis created by a pattern of alternating lights that convey an appearance of rotation.

Sign. Any device, structure, fixture, painting, or visual image using words, graphics, symbols, numbers, or letters designed and used for the purpose of communicating a message or attracting attention.

Signage. A community's inventory of signs used to communicate information or attract attention, including signature building, product displays, and dispensers, as well as traditional projecting, wall, roof, and freestanding signs.

Single Commercial Building. A structure containing a single commercial establishment, office, business, school, church, non-profit organization, charity or government agency.

Temporary Sign. Any sign intended to remain in use for a short period of time that is not permanently installed.

Wall Sign. A building-mounted sign that is either attached to, displayed, or painted on an exterior wall in a manner parallel with the wall surface, and not projecting more than 16 inches from such surface.

Window or Door Sign. A sign that is painted on, attached to, or suspended directly behind or in front of a window or the glass portion of a door.

Vehicular Sign. A vehicle, whether motorized or a trailer, that is mounted above the ground as a sign or part of a sign, or any sign attached to or painted on such a vehicle that is mounted above the ground or which is parked so as to be visible from a street when such vehicle is not actually used for transportation in the day-to-day affairs of its owner. However, this term does not include a customary sign in a vehicle window advertising the vehicle itself for sale or containing an incidental non-commercial statement by the vehicle owner.

§ 152.05 EXEMPTIONS FOR CERTAIN TYPES OF SIGNS.

The following types of signs are exempt from regulation under this chapter:

- (A) Any sign inside a building, or a window or door sign, except for a lighted window sign or lighted door sign.
- (B) Commemorative plaques and historical markers mounted on the face of a building or erected on a site as free-standing monuments, when placed by a governmental entity, historical society or other civic organization to commemorate a person, event, or other matter of historical interest.
- (C) Any sign erected or required to be erected by any governmental entity or public utility to give information, directions or warnings to the general public, regardless of the sign's location on public or private property.
- (D) Signs that advertise sales or "help wanted" not to exceed four (4) square feet, limited to one per street frontage.
- (E) Signs that provide directions to federal, state or local government offices and facilities, public schools and associated facilities, and the Wimberley Visitors Center.
- (F) Handheld signs of a non-commercial nature that do not rest on or otherwise touch the ground.
- (G) Pennants for special-themed, non-profit events that are held at locations in the Entrance Corridor Overlay and City Center Overlay zoning districts and that have received prior written approval by the City Administrator. Such pennants are allowed to be in place no earlier than one (1) calendar day prior to the event and no later than one (1) calendar day after the event.

§ 152.06 GENERAL REGULATIONS.

- (A) The provisions contained in this section shall apply to all signs, with the exception of those referenced in § 152.05, located within the City limits or ETJ.
- (B) No sign or part of a sign shall:
 - (1) Be placed on or attached to any utility pole or pedestal, except by a utility company owning the pole or pedestal or operating facilities mounted on the pole or pedestal.
 - (2) Be placed upon real property without the consent of the property owner.

- (3) Be located in, on, or over any right-of-way, except for regulatory or informational signs erected by government agencies.
- (4) Be located so that it blocks vehicle or pedestrian views and/or safe sight distances at any intersection, curve or corner. This includes signs located on private property.
- (5) Be hung with less than 7-1/2 feet of vertical clearance above the sidewalk or less than fifteen (15) feet of vertical clearance above a street, drive, or parking area. This provision shall apply to any part of a sign, including mounting fixtures and supporting structures, that is mounted above or projects over any sidewalk, street, drive or parking area, whether on public or private land.
- (6) Imitate or resemble an official traffic-control device or signal; attempt to direct the movement of traffic; or hide from view or hinder the effectiveness of an official traffic-control device or signal.
- (7) Be placed closer than six (6) feet to the edge of a road surface.
- (8) Be allowed that moves or has moving components, or has bright flashing lights or other distracting features. This does not include signs with slowly changing messages such as time or temperature.
- (9) Be located so that it is on or in any way obstructs any sidewalk, walkway or pathway used by the public for normal pedestrian access.
- (10) Extend above or beyond the building roof line, parapet or eaves when installed on a wall. A parapet is a low wall built along one or more sides around the perimeter of a roof.
- (11) Be located closer than ten (10) feet to any power line. Any such sign shall constitute a nuisance.
- (12) Be installed so that it faces contiguous residential property.

§ 152.07 SIGNS FOR WHICH NO PERMIT IS REQUIRED.

The following types of signs are regulated under this chapter but do not require a permit:

(A) Public Service Signs.

A public service sign is a sign or part of a sign that is devoted to changeable messages of general public information without commercial content, such as public meeting information.

- (1) A public service sign shall be placed only in a non-residential area and only on the same lot or tract of land as the establishment sponsoring the sign.

- (2) The area of a public service sign shall not exceed thirty-two (32) square feet, regardless of whether the public service sign is a separate sign or integrated as a component of another sign.

(B) Realty Signs.

A realty sign is a sign that advertises the property on which the sign is located for sale, lease, or rent.

- (1) Realty signs may be placed only upon the premises to which they refer, and only one (1) such sign shall be permitted per street fronting the lot or tract.
- (2) The area of a realty sign shall not exceed three (3) square feet in a residential area, eight (8) square feet in a commercial area, and thirty-two (32) square feet in a non-residential area located in the Entrance Corridor overlay zoning district.
- (3) No more than three (3) signs may be placed to advertise or mark the location of a realty open house at a site different from where the open house is occurring. The area of a realty open house sign shall not exceed three (3) square feet and shall only be placed on private property with the permission of the property owner. Such signs are allowed to be in place no earlier than one (1) calendar day prior to the event and no later than one (1) calendar day after the event.

(C) Bulletin Boards.

Bulletin boards shall be located only on the premises of the institution or organization to whose activities it pertains. A bulletin board shall not exceed thirty-two (32) square feet in area.

(D) Community Service Signs.

Community service signs are temporary signs that solicit support for, or participation in, a non-profit, non-political, community, public or social purpose, cause, event or activity, such as one supporting school activities, charitable programs, religious activities, or events of community interest.

- (1) A community service sign shall be erected only by a unit of government, school, Chamber of Commerce, religious organization, or other non-profit agency.
- (2) The area of a community service sign shall not exceed six (6) square feet in a residential area or thirty-two (32) square feet in a non-residential area.
- (3) A community service sign that promotes any particular event shall not be erected more than seven (7) days prior to the event and shall be removed by the responsible party not more than one (1) calendar day after the event.
- (4) Such signs may be placed on private property with the permission of the private property owner.

(E) Event Signs, On-Site.

An on-site event sign is a sign that is placed to advertise or mark the location of an occasional event on the same site, such as a garage sale, estate sale, or private party.

- (1) An on-site event sign shall not exceed an area of three (3) square feet in a residential area or thirty-two (32) square feet at any other location and shall not be lighted.
- (2) Such signs are allowed to be in place no earlier than one (1) calendar day prior to the event and no later than one (1) calendar day after the event.
- (3) Such signs may not be used to advertise a home for sale.

(F) Event Signs, Off-Site.

An off-site event sign is a sign that is placed to advertise or mark the location of an occasional event, such as a garage sale, estate sale, or private party, at a site different from where the sign is placed.

- (1) An off-site event sign shall not exceed an area of three (3) square feet and shall not be lighted.
- (2) Such signs shall be placed only on private property and only with the consent of the owner of the property.
- (3) No more than three (3) such signs may be used to give directions to the same event.
- (4) Such signs are allowed to be in place no earlier than one (1) calendar day prior to the event and no later than one (1) calendar day after the event.
- (5) Such signs may not be used to advertise a home for sale.

(G) Governmental Flag.

A governmental flag is a flag of the United States, the State of Texas, the City, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. Governmental flags are permitted in all zoning districts provided that they meet the following requirements:

- (1) United States flags shall be flown in accordance with the protocol established by the Congress of the United States for the Stars and Stripes, Title 4, Chapter 1 - The Flag.
- (2) When a flagpole is located on the top of a roof, the placement and attachment of the pole shall meet the building code for wind and structural loading requirements. The plan design criteria shall provide the proposed location, attachment method to the structure and wind load resistance. A building permit shall be required for this type of installation.

- (3) Within Planning Areas IV through VII, ground mounted flagpoles shall not exceed forty (40) feet. In Planning Areas I thru III, the flagpole may not exceed the maximum building height of twenty-eight (28) feet. The height is measured from the base of the pole to the top of the pole.

(H) Name Plates.

The area of a name plate shall not exceed one (1) square foot in a residential area or two (2) square feet in a non-residential area. Only one (1) name plate may be permitted per residence or establishment. A name plate is not intended to serve as an address sign.

(I) Political signs.

A political sign is a sign that is primarily political in nature or that supports or opposes any candidate for public office or any proposition to be voted upon at an election, or that makes a political statement in the nature of constitutionally protected non-commercial free speech.

- (1) A political sign that contains primarily a political message and that is located on private real property shall not have an area greater than thirty-six (36) square feet, shall not be more than eight (8) feet in height, shall not be a lighted sign and shall not have any moving elements.
- (2) Political signs may be placed on property only with the consent of the property owner.
- (3) No political sign may be placed in, on or over any street or publicly owned land.

A political sign that refers to a candidate or issue on the ballot in an election shall not be placed at a location more than forty-five (45) days prior to the date of the election and shall be removed by the responsible party within three (3) days after the election.

(J) Single-Family Address Signs.

A single-family address sign is a sign, other than a name plate or commercial sign, that identifies the address of a single family or duplex residence.

- (1) A single-family address sign may contain an incidental personal message from the occupants.
- (2) A single-family address sign shall not contain any commercial content.
- (3) The area of a single-family address sign shall not exceed two (2) square feet.
- (4) Address signage is encouraged to be reflective and placed in a location on the property where it is visible at all times.

- (K) Auxiliary signs that are not part of another sign and that provide information, such as hours of operations, credit cards accepted, restrictions of sale to minors, "no soliciting" or "beware of the dog." The area of such individual signs shall not exceed one (1) square foot, and the aggregate area of all such signs cannot exceed four (4) square feet for any commercial establishment or residence.
- (L) No permit is required to repaint or otherwise repair an existing sign, provided that the area of the sign is not enlarged, the height of the sign is not increased, and the location of the sign is not changed.
- (M) No permit is required to change the copy on a changeable copy sign.
- (N) Temporary decorations or displays, when they are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration, and of a non-advertising nature; provided, that such decorations are maintained in an attractive condition, do not constitute a fire or traffic or pedestrian hazard, and are removed within a reasonable time after the event or celebration has occurred.

§152.08 REGULATION OF COMMERCIAL SIGNS; PERMIT REQUIRED

- (A) Single Commercial Building.

An establishment located in a single commercial building shall be allowed the following permanent signs;

- (1) One (1) free standing sign or monument sign with a maximum sign area of thirty-two (32) square feet and a maximum sign height of ten (10) feet.
- (2) One (1) roof sign or wall sign, sized and placed according to the following standards:
 - (a) One (1) wall sign is allowed per building façade of an establishment. Such wall signage shall comply with the size requirements for wall signage, as set forth in this Chapter.
 - (b) A wall sign that is not painted directly on the surface of a wall must be securely mounted to and supported by the wall throughout the length and width of the sign.
 - (c) The area of all wall signs on any single wall shall not exceed ten (10) percent of the area of the wall of the establishment where the sign is to be located.
 - (d) In the event wall signage does not exist, one (1) roof sign is allowed, per establishment. Such signage shall comply with the size requirements for roof signage, as set forth in this Chapter.

- (e) Roof signs are allowed to be painted on the surface of the roof top or mounted parallel to the building wall face on the roof, but may not extend above the main building ridge line of the establishment.
 - (f) The area of a roof sign shall not exceed ten (10) percent of the area of the building façade of the establishment above which the sign is located.
- (3) One (1) daily display sign, sized and placed according to the following standards:
- (a) Daily display signs must be located on the leased, rented, or owned business premises.
 - (b) Only one (1) daily display sign is permitted per establishment.
 - (c) A daily display sign may be placed or used only during the actual business hours of the establishment to which it refers.
 - (d) It shall be prohibited to erect or cause to be erected a daily display sign in any public right-of-way or on a sidewalk in a manner that endangers public safety, creates a pedestrian or traffic hazard, creates an obstacle or barrier in a sidewalk such that the sidewalk fails to comply with any relevant provision of the Americans with Disabilities Act. Such signs shall not block designated parking areas.
 - (e) Daily display signs are limited to six (6) square feet in area per side a maximum width of two (2) feet.

(B) Commercial Complex.

- (1) A commercial complex shall be allowed one (1) free-standing sign identifying the name and/or address of the complex and/or listing the individual tenants in the complex. Such sign shall be sized and placed in accordance with the following standards:
- (a) A commercial complex with two (2) to five (5) tenants shall be allowed one (1) free-standing sign with a maximum sign area of sixty-four (64) square feet and a maximum sign height of twelve (12) feet.
 - (b) A commercial complex with six (6) to ten (10) tenants shall be allowed one (1) free-standing sign with a maximum base sign area of sixty-four (64) square feet and a maximum sign height of fourteen (14) feet. The base sign area may be increased five (5) square feet per tenant in the complex provided the maximum sign area does not exceed one hundred fourteen (114) square feet.
 - (c) A commercial complex with eleven (11) or more tenants shall be allowed one (1) free-standing sign with a maximum base sign area of sixty-four (64) square feet and a maximum sign height of sixteen (16) feet. The base sign area may be increased five (5) square feet per tenant in the

complex provided the maximum sign area does not exceed one hundred twenty eight (128) square feet.

- (d) A commercial complex with a land area of two (2) acres or more may have one (1) free-standing sign along each street that borders the complex for a distance of two hundred (200) feet or more. The total area of any one (1) free-standing sign shall not exceed one hundred sixty (160) square feet. The maximum height of the free-standing sign shall not be more than sixteen (16) feet.
- (2) Each establishment located in a commercial complex shall be allowed the following permanent signs:
- (a) One (1) wall or roof sign per establishment, sized and placed according to the following standards;
 - (1) A wall sign, that is not painted directly on the surface of a wall must be securely mounted to and supported by the wall throughout the length and width of the sign.
 - (2) The area of all wall signs on any single wall shall not exceed ten (10) percent of the area of the front facade of the establishment.
 - (3) Roof signs are allowed to be painted on the surface of the roof top or mounted parallel to the building wall face on the roof but may not extend above the main building ridge line of the establishment.
 - (4) The area of a roof sign shall not exceed ten (10) percent of the area of the building façade of the establishment above which the sign is located.
 - (b) One (1) awning sign per establishment, sized and placed according to the standards set forth in this chapter:
 - (1) No awning sign shall extend beyond an edge of the awning structure to which it is attached. Except at a street corner, no awning sign shall be closer than five (5) feet from the end of the longer side of the awning structure.
 - (2) An awning sign that is perpendicular to a building face shall not exceed 1/3 of the width of the awning structure. A minimum spacing of ten (10) feet must be provided between such awning signs.
 - (3) An awning sign that is parallel to a building face shall not exceed 1/4 of the length of the awning structure.
 - (4) No awning sign shall extend more than two (2) feet either above or below the horizontal underside of the awning structure. No awning sign shall have less than seven (7) feet ground clearance.

- (c) One (1) daily display sign per establishment sized and placed according to the following standards:
 - (1) Daily display signs must be located on the leased, rented, or owned business premises.
 - (2) Only one (1) daily display sign is permitted per establishment.
 - (3) A daily display sign may be placed or used only during the actual business hours of the establishment to which it refers.
 - (4) A daily display sign shall not be erected in any public right-of-way or on any sidewalk in a manner that endangers public safety, creates a pedestrian or traffic hazard, or creates an obstacle or barrier in a sidewalk such that the sidewalk fails to comply with any relevant provision of the Americans with Disabilities Act. Such signs shall not block designated parking areas.
 - (5) Daily display signs are limited to six (6) square feet in area per side with a maximum width of two (2) feet.
- (d) One (1) free-standing sign for an individual establishment located within a commercial complex may be permitted only if the establishment meets both of the following conditions:
 - (1) The establishment is located along a street bordering, or within, the complex and in a separate building from the principal building of the complex; and
 - (2) The establishment has a separate parking area from the principal parking area of the complex that may connect with the principal parking area but is visually set off from that area by fencing or landscaping.
 - (3) The maximum area of a free-standing sign for an individual business located within a commercial complex shall not exceed thirty-two (32) square feet and a maximum sign height of ten (10) feet.

(C) New Business Signs.

New business signs or banners shall be allowed prior to the installation of a permanent sign. The maximum area of such signs shall not exceed thirty-two (32) square feet and a maximum sign height of ten (10) feet and must be removed upon installation of the permanent sign or within fifteen (15) days after the City issues a certificate of occupancy for the project, whichever comes first.

(D) Commercial Sign Illumination.

A person may illuminate a commercial signs, permitted under the provisions of this chapter, only in accordance with the following requirements:

- (a) No illuminated sign shall have luminance greater than sixty-five (65) foot candles for any portion of the sign within a circle one (1) foot in diameter.
- (b) The lamp and ballast watts of an illuminated shall not exceed 1.5 watts per square foot.
- (c) The light source for an illuminated sign, whether internal or external, shall be shielded from view.
- (d) All illuminated signs should not be illuminated after 10 p.m. or the close of business, whichever is later.
- (e) Flashing, blinking, revolving or rotating lights on a sign are not permitted.
- (f) No illuminated sign shall face a residentially zoned area.
- (g) No sign shall be lighted to such intensity or in such a manner as to cause glare or brightness to a degree that it constitutes a traffic hazard. Any such sign shall constitute a nuisance.

§152.09 OTHER TYPES OF SIGNS FOR WHICH PERMITS ARE REQUIRED

The following types of signs are regulated under this chapter and require a permit:

(A) Temporary Banners.

- (1) Temporary Banners shall not be erected for more than forty-five (45) days in succession.
- (2) Temporary Banners must be kept in good repair throughout the time of their display.
- (3) No establishment may display more than two (2) Temporary Banners at any given time.
- (4) Temporary Banners may not exceed eight (8) square feet in a residential area and eighteen (18) square feet in all other areas.
- (5) Temporary Banners for commercial purposes may not face a residential area.

(B) Bed and Breakfast/Vacation Rental Identifier Signs.

A bed and breakfast identifier sign is a sign located on a property that includes a bed and breakfast (as defined in the City of Wimberley Zoning Ordinance.)

- (1) Bed and breakfast identifier signs, when erected, shall be placed on the same premises on which a bed and breakfast that is registered with the City of Wimberley and the State Comptroller's Office as a bed and breakfast is located.
- (2) The identifier sign shall not exceed two (2) square feet in area and a maximum sign height of four (4) feet.

(C) Construction Signs.

Construction signs are signs placed on a construction site identifying or announcing the character of the project and/or the names of the owners, developers, financiers, architects, engineers, contractors, leasing agents and others associated with the project.

- (1) A construction sign may not exceed thirty-two (32) square feet in a non-residential area or sixteen (16) square feet in a residential area.
- (2) A construction sign must be removed at the time of the installation of the permanent sign or within fifteen (15) days after the City issues a certificate of occupancy for the project, whichever comes first.
- (3) Construction signs that are larger than three (3) square feet in area and not securely mounted on a wall shall be set back at least ten (10) feet from the property line.
- (4) Only one (1) construction sign may be permitted per street that fronts a building project or other project under construction, reconstruction, or repair.

(D) Directional Signs.

A directional sign may not contain any commercial message except the name, logo or other symbolic identification of the establishment to which the sign is secondary. The area of a directional sign may not exceed twelve (12) square feet. The total number of directional signs on a premises shall not exceed the total number of street entrances to the premises. Such signs shall be placed on the premises for which direction is being provided and not in the right-of-way.

(E) Non-Governmental Flags.

A non-governmental flag is a flag adopted by a business, institution or other organization and containing the name, logo or other symbolic emblem of that business, institution or organization.

- (1) One (1) non-governmental flag is allowed per single commercial building with the square footage of such flag not to exceed the permitted square footage for the free-standing sign for that building.
- (2) Three (3) non-governmental flags are allowed per commercial complex location, with a combined square footage equal to the permitted square footage for the free-standing sign for that complex.
- (3) Any flagpole that does not fly a governmental flag shall not exceed twenty (20) feet in height.

(F) Lighted Signs.

An establishment shall only have one (1) lighted window or door sign per store front, not to exceed three (3) square feet in area. These signs shall be turned off when the establishment is not open for business.

(G) Model Home Signs.

A model home sign is a sign that is located on the same lot as a model home in a residential subdivision and that calls the attention of prospective buyers to the model home.

- (1) A model home sign shall be erected only on the actual site of a model home, and only one (1) such sign may be erected on the site.
- (2) The area of a model home sign shall not exceed sixteen (16) square feet, and the height of a model home sign shall not exceed six (6) feet.
- (3) A model home sign shall not be internally illuminated.
- (4) All model home signs must be removed within thirty (30) days after ninety (90) percent of the homes in the subdivision are sold.

(H) Portable Sign.

A portable sign is a non-commercial, non-changeable copy sign that is not permanently attached to the ground or to a permanent structure, or a sign designed to be transported, whether on attached wheels or otherwise, but excluding construction signs, on-site event signs, off-site event signs, realty signs and sidewalk signs.

- (1) Portable signs may be used only to promote a non-profit community event.
- (2) Such signs shall not be illuminated, either by internal or external means.
- (3) Such signs shall not exceed an area of thirty-two (32) square feet.
- (4) Such signs may be placed on private property only with the permission of the owner of such property, on City property only with the prior written approval of the City Administrator, or on other public property only with the permission of the agency owning the property.

- (5) Such signs shall not be erected more than fourteen (14) days prior to the event, and all such signs must be removed by the responsible party not more than three (3) days after the event.

(I) Residential Development Signs.

A residential development sign is a sign at the entrance to a residential development, such as a series of townhouses, or a residential subdivision that identifies the name and/or the address of the residential development.

- (1) In addition to the name and/or the address of the residential development, a residential development sign may incorporate incidental leasing information and/or the contents of a directional sign.
- (2) The area of a residential development sign shall not exceed thirty-two (32) square feet and shall be no taller than ten (10) feet.
- (3) A residential development sign shall not be internally illuminated.
- (4) The landscaped area adjacent to or beneath a residential development sign on private property shall be maintained at all times by the private property owner in such a manner so as not to create a public health and safety hazard and to ensure the visibility of the residential development sign.

§ 152.10 PROHIBITED SIGN TYPES.

The construction, placement, existence, or use of signs of the following nature are prohibited by this chapter.

- (A) Beacons.
- (B) Changeable copy signs except in the categories of gasoline pricing signs, and changeable copy free-standing signs.
- (C) Flashing signs.
- (D) Signs with visible moving parts.
- (E) Exterior Neon signs.
- (F) Roof signs except as allowed in commercial sign regulations of this chapter.
- (G) Mobile Billboards and Vehicular signs, excluding vehicle wraps and magnetic signs affixed to a vehicle being used in the normal course of business and not parked at a location for advertising purposes.
- (H) Posters, pennants, ribbons, streamers, spinners, or other similar devices, provided that flags and banners as regulated in this chapter are not included in this prohibition. This

prohibition does not apply to posters, pennants, ribbons, streamers related to public school events and/or activities.

- (I) Signs, banners or posters that contain statements, words or pictures of an obscene, indecent, or immoral character or that offend public morals or decency.
- (J) Commercial signs of any character, in any form of construction, and at any location except as regulated by this chapter.
- (K) Signs, to include handheld signs, that by reason of their proximity to a public or private street, highway, alley, lane, parkway, avenue, road, sidewalk, or other right-of-way, constitute a hazard to vehicular or pedestrian traffic either because their location interferes with the safe operation of a vehicle, or because they obstruct the view of a traffic sign, signal, or device, or the view of other vehicular or pedestrian traffic, or because their design or content may be confused with any authorized traffic sign, signal or device.
- (L) Off-premise commercial signs.
- (M) Abandoned signs.

§ 152.11 COMMUNITY ELECTRONIC MESSAGE DISPLAY SIGN

A community electronic message display is a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

- (A) A community service electronic message display shall be erected only by the City of Wimberley, in partnership with the Wimberley ISD, on government owned property located in a non-residential area.
- (B) The area of a community service electronic message display shall not exceed twenty (20) square feet and the display shall be at least a 10 mm 80 x 192 RGB LED Matrix Display with dimming capability.
- (C) No more than two (2) community service electronic message display signs shall be allowed within the City limits and/or its ETJ.
- (D) A community service electronic message display shall be used provide government-related message to the general public and to solicit support for, or participation in, a non-profit, non-political, community, public or social purpose, cause, event or activity, such as one supporting school activities, charitable programs, activities or events of community interest.

§ 152.12 SIGN PERMITS.

- (A) *Permit and fee required.* Except as otherwise provided in this chapter, no person may construct, reconstruct, place, install, repair, maintain, or relocate any sign without first obtaining a sign permit from the City through its Administrator. Each application for a sign permit must be accompanied by the appropriate fee established by the City.
- (B) *Expiration of permits.* Permits shall expire if substantial progress on the approved action has not been achieved within six (6) months of approval. Substantial progress shall include good faith initiation of construction of the sign or significant expenditures of funds toward sign construction.
- (C) *Modifications.* After a sign permit has been issued by the City, it shall be unlawful to deviate from the terms and conditions of the permit without prior written approval by the City Administrator.

In the event that a sign was erected, constructed, altered, repaired or relocated in violation of this Chapter, the City Administrator shall provide the party responsible for such sign with written notice requiring removal. If the responsible party fails to remove the sign by the date specified in the notice, then such sign may be removed by the City, and the City's actual cost of removal shall be charged to the responsible party. Any sign so removed shall be impounded and shall not be returned to the party responsible until all applicable charges are paid. If any sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign.

§ 152.13 SIGN MAINTENANCE.

- (A) *General.* All signs must be maintained in a structurally safe condition, and in good repair. The City shall notify, by certified mail, the responsible party for any sign that constitutes a nuisance. The responsible party shall repair or remove the sign or seek an appeal of the nuisance determination within thirty (30) days of receipt of the notice. If the responsible party chooses not to take the instructed action or institute an appeal, the City may repair or remove the sign, to the extent necessary to abate the nuisance. The City may charge to the responsible party all costs associated with the sign's repair or removal. An appeal of a nuisance determination shall be to the City Council.
- (B) *Signs that create imminent hazards to public safety.* Any sign that in the judgment of the City Administrator has become an imminent hazard to public safety shall be repaired or removed by the responsible party without delay. Notice of the existence of the hazard shall specify the maximum time that may be allowed for repairs or removal, and the notice may be served upon the responsible party by any means available. A sign that constitutes an imminent hazard and is not repaired or removed within the time specified in the notice shall be removed by the City and the cost of such removal shall be charged to the responsible party. If a sign has been removed by the City as a hazardous sign and the sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign. A sign presents an imminent hazard when it constitutes a nuisance and necessitates immediate action to avoid harm to the public health or safety.

§ 152.14 PRE-EXISTING NON-CONFORMING SIGNS.

All signs that have been installed, and were lawful at the time of the installation, and are in existence as of the effective date of this chapter that do not conform to this chapter shall be known as "pre-existing non-conforming signs." Such pre-existing non-conforming signs need not comply with the provisions of this chapter except as follows:

- (A) Any changes to a pre-existing non-conforming sign, other than routine repair or maintenance, shall require that said sign be brought into compliance with all applicable City ordinances.
- (B) When a pre-existing non-conforming sign becomes an abandoned sign, its status as a pre-existing non-conforming sign shall terminate.
- (C) A pre-existing non-conforming sign shall be considered destroyed if the cost of repairing the sign, after a part of it has been destroyed or dismantled, is more than sixty (60) percent of the cost of erecting a new sign of the same type at the same location. A destroyed sign must be removed by the responsible party without compensation by the City and within thirty (30) days of the damage, destruction or dismantling. A pre-existing non-conforming sign that has been destroyed may not be replaced or rebuilt except by a sign that is in full conformity with this chapter.
- (D) A change in the ownership of a pre-existing non-conforming sign alone shall not terminate its protected status. The owner or legal possessor of a pre-existing non-conforming sign shall have the right to repair and maintain it. Such repairs shall not terminate the sign's protected status.
- (E) Change of advertising copy is part of reasonable maintenance and repair, but the change of copy may not increase or expand the size of the original non-conforming use.
- (F) Change of facing or sign display area is part of reasonable maintenance and repair, but the change of facing and sign display area may not increase or expand the size of the sign in excess of the original, non-conforming use.

§ 152.15 VARIANCES.

- (A) Application and Fee Required.

A variance is written approval to depart from the strict application of the provisions of this chapter. Any person, business or other organization desiring to construct, reconstruct, place, install, repair, maintain, relocate, alter or use any sign that does not conform to the provisions of this chapter may make application to the for a variance to the provisions of this chapter. The application shall be filed with the City Administrator, accompanied by the appropriate fee established by City. The application shall be processed and presented to the Board of Adjustment for review and consideration.

- (B) Standards for Variances.

The Board of Adjustment may approve a variance only if it makes affirmative findings, reflected in the minutes of the Board of Adjustment's proceedings, as to all of the following:

- (1) The variance will not authorize a type of sign that is specifically prohibited this chapter;
- (2) The variance is not contrary to the goals and objectives outlined by the City of Wimberley Comprehensive Plan; Section VII, D-2;
- (3) The variance is not contrary to the public interest;
- (4) Due to special conditions, a literal enforcement of the chapter would result in unnecessary hardship. Hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not satisfy this requirement;
- (5) The spirit and purpose of the chapter will be observed, and substantial justice will be done.

(C) Conditions of Variances.

The Board of Adjustment may impose such conditions or requirements for a variance as are necessary in the Board's judgment to achieve the fundamental purposes of this chapter. A violation of such conditions or requirements shall constitute a violation of this chapter. A variance, if granted, shall be for a specific event, use or other application of a business and shall not continue with the property. If a variance is granted and the activity authorized is not substantially underway within six (6) months of the date of approval of the variance, the variance shall lapse and become of no force or effect.

§ 152.16 RELATION TO OTHER ORDINANCES.

This chapter shall not be construed to require or allow any act that is prohibited by any other ordinance. This chapter is specifically subordinate to any ordinance or regulations of the City pertaining to building and construction safety or to pedestrian and traffic safety.

§ 152.17 NO VESTED INTEREST.

No person shall acquire any vested interest in this chapter or any specific regulations contained herein. This chapter and any regulation enacted hereby may be amended or repealed by the City Council in the manner provided by law.

§ 152.18 PENALTY.

(A) Civil and Criminal Penalties.

The City shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person violating any provision of this chapter is subject to suit for injunctive relief as well as prosecution for criminal violations.

(B) Criminal Prosecution.

.A violation of the provisions of this chapter is a criminal misdemeanor and shall be governed by section 10.99 of this Code.

(C) Civil Remedies.

Nothing in this chapter shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:

- (1) Injunctive relief to prevent specific conduct that violates the chapter or to require specific conduct that is necessary for compliance with the chapter;
- (2) A civil penalty up to \$250 a day, except that a fine for a violation that relates to fire safety or public health and sanitation may not exceed \$1,000, when it is shown that the defendant was actually notified of the provisions of the chapter and after receiving notice committed acts in violation of the chapter or failed to take action necessary for compliance with the chapter; and
- (3) Other available relief.

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

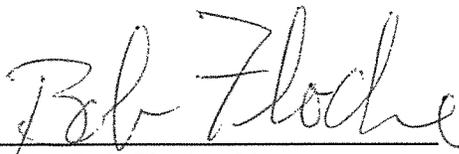
Section 4. Severability. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

Section 5. Effective Date. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law 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 1st day of August, 2013, by a vote of 3 (Ayes) to 2 (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:



Catherine B. Fryer, City Attorney

