

ORDINANCE NO. 2013- 019

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XI (BUSINESS REGULATIONS), AND CREATING A NEW CHAPTER 111 (LIQUID WASTE HAULER PERMIT); AND PROVIDING FINDINGS OF FACT, A REPEALING CLAUSE, SAVINGS, SEVERABILITY, PROPER NOTICE AND MEETING, AND AN EFFECTIVE DATE.

WHEREAS, the City of Wimberley, Texas, is a Type A General-Law Municipality located in Hays County, Texas, created in accordance with provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

WHEREAS, the City Council seeks to ensure that all businesses operate lawfully within its corporate limits; and

WHEREAS, as the City currently is in the process of designing and constructing a wastewater system, it is vital to the health and welfare of the citizens that the Council provide for the orderly licensing and regulation of commercial liquid waste haulers who service the City's septic systems; and

WHEREAS, section 311.002 of the Texas Transportation Code provides the city with exclusive control over its streets and alleys; and

WHEREAS, section 51.001(1) of the Texas Local Government Code authorizes the City to adopt an ordinance, rule, or police regulation that is for good government, peace, or order of the municipality or for the trade or commerce of the municipality;

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 XI (Business Regulations), is hereby amended to add a new Chapter 111 as follows:

“CHAPTER 111: LIQUID WASTE HAULER PERMIT

§ 111.01. DEFINITIONS.

(A) **GENERATOR.** Any person whose act or process causes a liquid waste, or first causes it to be regulated.

(B) **LIQUID WASTE.** Septage located in or removed from septic tanks, cesspools, portable toilets, Type III marine sanitation devices, or similar facilities. This term does not include hazardous waste or Class 1 nonhazardous industrial solid waste.

§ 111.02. PERMIT REQUIRED

(A) A person commits an offense if the person collects or transports liquid waste inside the city limits without a valid permit issued by the city.

(B) It is an affirmative defense to an enforcement action for a violation of subsection (A), that:

(1) The person was disposing of the person's own waste from the person's own recreational vehicle, boat, or travel trailer; or

(2) The person was transporting liquid waste through the city that was collected outside of the city and that was disposed of outside of the city.

§ 111.03. PERMIT APPLICATION PROCEDURES

A person required by section 111.02 to have a permit shall do the following:

(A) Complete and file a permit application on a form prescribed by the City Administrator;

(B) Submit with the application a photocopy of applicant's driver's license. If applicant is a person other than an individual, the driver's license shall be that of applicant's chief operating officer or manager;

(C) Submit with the application a copy of the applicant's current registration issued by the Texas Environmental Quality Commission (TCEQ), pursuant to 30 TAC § 312.142, to collect and transport liquid wastes;

(D) Submit with the application a copy of the state registration license receipt issued to each vehicle that applicant wants to register under the permit;

(E) Submit with the application a list of all disposers the applicant proposes to use;

(F) Submit to the city proof that applicant's vehicles which will be registered under the permit are insured in at least the minimum amounts as required by state law, or are self-insured as provided by state law to secure payment of all lawful and proper claims arising out of the operation of each vehicle. A written statement from an authorized agent of the applicant's insurance carrier verifying the issuance of such insurance shall be filed with the city before a permit is issued. All such verifications of insurance shall provide for a thirty (30) day cancellation notice to the City Administrator;

(G) Provide any additional information requested by the City Administrator.

§ 111.04. ISSUANCE AND DISPLAY OF PERMIT.

(A) The City Administrator may issue a permit after the applicant pays all applicable fees and satisfies all of the requirements of this Chapter.

(B) A permit shall be valid for one (1) year from the date of its issuance, unless suspended or revoked.

(C) A permit shall not be transferable.

(D) The City Council shall set a permit fee, by separate resolution, for each registered vehicle.

(E) The City Administrator shall issue a vehicle registration number to each vehicle registered under a permit, and shall list these numbers on the permit. A vehicle registration number is not transferable.

(F) The permit holder shall cause a copy of the permit to be kept in each vehicle at all times and presented to the City Administrator or any peace officer upon demand. A copy of the permit holder's transporter registration issued by the TCEQ shall be kept in each vehicle at all times and presented to the City Administrator or any peace officer upon demand.

(G) A person commits an offense if the person operates or causes to be operated a liquid waste transportation vehicle which is not registered under a city permit.

(H) A person commits an offense if the person operates a liquid waste transportation vehicle and fails to display to the City Administrator or any peace officer upon demand, a copy of a valid city permit.

(I) A person commits an offense if the person operates a liquid waste transportation vehicle and fails to display to the City Administrator or any peace officer upon demand, a copy of a valid liquid waste transporter registration issued by the TCEQ.

§ 111.05. PERMIT HOLDER RESPONSIBILITIES.

In the event the permit holder observes a septic system failure on a property for which the permit holder has agreed to transfer liquid waste, the permit holder shall notify the City Administrator in writing within five (5) business days of the date the permit holder first observes such failure.

§ 111.06. GENERATOR RESPONSIBILITIES.

A generator shall have liquid waste removed from its liquid waste facilities only by a transporter holding a valid permit issued by the City Administrator to do so.”

Section 3. Except as expressly amended herein, City of Wimberley Code of Ordinances, Title XI (Business Regulations), 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.

FIRST READING PASSED AND APPROVED this 5th day of September, 2013, by a vote of 4 (Ayes) to 1 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

SECOND READING PASSED AND APPROVED this 19th day of September, 2013, 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
Bob Flocke, Mayor

ATTEST:

Cara McPartland
Cara McPartland, City Secretary

APPROVED AS TO FORM:

Catherine B. Fryer
City Attorney
Catherine B. Fryer

