

ORDINANCE NO. 2014-013

**AN ORDINANCE AMENDING TITLE V (PUBLIC WORKS) CHAPTER 50 (SEWERS AND WATER) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO PROHIBIT THE SALE OF CERTAIN DETERGENTS, 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 of the City of Wimberley, Texas (the “City”) seeks to provide for the health, safety and welfare of its citizens; and

**WHEREAS**, the City is authorized by Texas Local Government Code chapters 51, 212, 551 and 552, and Texas Water Code chapters 7 and 26 to regulate pollution and water quality within the City’s corporate limits and its extraterritorial jurisdiction (ETJ); and

**WHEREAS**, the City Council finds that the drainage ways, creeks, tributaries, and rivers of the City are subject to harm caused by increased nutrient load from phosphates in detergents in the waste stream, including but not limited to excessive algal growth, which poses a risk to the environment, wildlife, and the sewer and water infrastructure systems of the City; and

**WHEREAS**, the City Council seeks to protect real property, the drainage ways, creeks, tributaries and rivers of the City from pollution and recognizes its responsibility and authority to impose ordinances and controls that are necessary to that end.

**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.** Title V (Public Works), Chapter 50 (Sewers and Water), is hereby amended to add section 50.43 as follows:

**“§ 50.43 Household detergent containing excessive amounts of phosphorous prohibited.**

(a) In this section:

*Household detergent* means a cleaning compound in liquid, bar, spray, tablet, flake, powder, or other form used as a domestic laundry or dishwashing detergent. Under this section, the following categories of item are exempted from the meaning of household detergent:

- (1) A detergent used in dairy, beverage, or food processing cleaning equipment;

- (2) A phosphorous acid product, including a sanitizer, brightener, acid cleaner or metal conditioner;
- (3) A detergent used in hospitals, veterinary hospitals or medical clinics or health care facilities or in agricultural production;
- (4) A detergent used by industry for metal cleaning or conditioning;
- (5) A detergent manufactured, stored, or distributed for use or sale outside of the state;
- (6) A detergent used in any laboratory, including a biological laboratory, research facility, chemical laboratory or engineering laboratory; or
- (7) A detergent used in a commercial laundry that provides laundry services for a hospital, health care facility, or veterinary hospital.
- (8) Existing stocks of household detergents; provided, however, that such stocks shall be so exempt only for a period of six (6) months after the effective date of this ordinance, and shall not be exempt thereafter.

*Phosphorus* means elemental phosphorus.

- (b) It is unlawful for a firm, corporation, person, or other entity to sell, offer, or expose for sale or give or furnish to any person within the city any household detergent containing more than 0.5 percent phosphorus by weight.
- (c) The concentration of phosphorus by weight, expressed as elemental phosphorus in any synthetic detergent, shall be determined by the current applicable method prescribed by the American Society for Testing and Materials.
- (d) A violation of this provision shall be punishable in accordance with section 10.99 of this Code, or as otherwise provided in this Code or by law.”

**Section 3. Savings.** Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect, and this provision shall not be construed as abandoning, discontinuing, abating, modifying, or altering any action or penalty now pending under or by virtue of said ordinances, nor otherwise affecting any rights of the City under any section or provisions or ordinances at the time of passage of this ordinance.

**Section 4. 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.

**Section 5. 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 Ordinances as a whole.

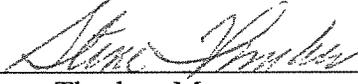
**Section 6. Effective Date.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**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 Texas Open Meetings Act, Chapter 551, Tex. Loc. Gov't. Code.

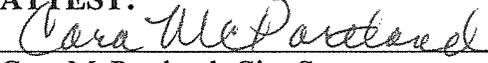
**FIRST READING PASSED AND APPROVED** this 15<sup>th</sup> day of May, 2014, by a vote of 4 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

**SECOND AND FINAL READING PASSED AND APPROVED** this 5<sup>th</sup> day of June, 2014, by a vote of 5 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

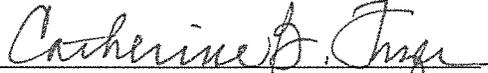
**CITY OF WIMBERLEY, TEXAS**

  
\_\_\_\_\_  
Steve Thurber, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Cara McPartland, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Catherine B. Fryer, City Attorney

