

ORDINANCE NO. 2015-005

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 155 (ZONING), SECTIONS 155.005 (DEFINITIONS), 155.047 (COMMERCIAL – LOW IMPACT; C-1), 155.048 (COMMERCIAL – MODERATE IMPACT; C-2), 155.049 (COMMERCIAL – HIGH IMPACT; C-3), AND 155.050 (HIGHWAY COMMERCIAL; HC), OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO AMEND AND CLARIFY PERMITTED AND CONDITIONAL USES RELATING TO THE SALE OF ALCOHOLIC BEVERAGES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Wimberley (“City Council”) seeks to provide for the orderly arrangement and regulation of compatible uses within its corporate limits; and

WHEREAS, on May 9, 2009, a majority of the voters of Hays County voted to allow the public to purchase alcohol in stores and to purchase and consume alcoholic drinks at restaurants and bars in Justice of the Peace Precinct Three of Hays County; and

WHEREAS, amendments to the City’s Zoning Code are necessary to allow certain sales and on-premise consumption of beer, wine, and liquor in order to permit such uses in the City’s various zoning districts; and

WHEREAS, in the course of reviewing the proposed amendments detailed in this Ordinance, the Planning and Zoning Commission and City Council have given careful consideration to the unique qualities of the City, including the demographics of its inhabitants, the City’s history, geography, natural resources, existing structures, property values, workforce, education levels, commercial base, surrounding communities, public facilities, and infrastructure, and

WHEREAS, the Planning and Zoning Commission and City Council have considered, among other things, the character of each zoning district and its peculiar suitability for the particular uses, with a view toward conserving property values and encouraging the most appropriate use of land in the City; and

WHEREAS, the regulations established by this Ordinance 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 following enactments are a valid exercise of the City’s broad police powers and based on the City’s statutory regulatory authority, including, but not limited to, Texas Local Government Code Chapters 51, 52, and 211; and

WHEREAS, the City Council finds that the provisions of this Ordinance will serve to promote the public health, safety, morals, and general welfare; and

WHEREAS, parties in interest and citizens have had an opportunity to be heard at public hearings conducted by the Planning and Zoning Commission and City Council, notice of which was published in the City's official newspaper before the 15th day before the first public hearing, and agendas for each hearing were posted at City Hall more than seventy-two (72) hours prior to the respective hearings;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

SECTION I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Article as if copied in their entirety.

SECTION II. AMENDMENTS

- A. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.005 (Definitions), is hereby amended to read as follows:

“EATING ESTABLISHMENTS: SIT-DOWN. Establishments or places of business where customers are seated and served, and that are primarily engaged in the sale of prepared foods and beverages, and, depending on the zoning district, may include alcoholic beverages for on-premises consumption either as a permitted use or upon approval of a conditional use permit. They are located at high capacity or high volume sites that are easily accessed by vehicles and pedestrians. Typical uses include restaurants, short-order eating places, cafeterias, and coffee shops.

...

FOOD AND BEVERAGE RETAIL SALES. Establishments or places of business primarily engaged in the retail sale of food and beverages for home consumption, ~~including beer and wine beverages.~~ Typical uses include grocery stores and delicatessens, but does not include sale of beer, wine, or alcoholic beverages for on or off premise consumption.”

- B. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.047 (Commercial – Low Impact; C-1), Subsection B (Permitted Uses), is hereby amended to read as follows:

- “(7) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;”
- C. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.047 (Commercial – Low Impact; C-1), Subsection C (Conditional Uses), is hereby amended to read as follows:
- “(6) ~~Sale of beer and wine for off-premise consumption~~ Package store; and
- (7) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption.”
- D. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.048 (Commercial – Moderate Impact; C-2), Subsection B (Permitted Uses), is hereby amended to read as follows:
- “(8) Eating establishments: sit-down, not including the sale of beer, wine, or alcohol for on-premise consumption;
- ...
~~(22) Sale of beer and wine for off-premise consumption.”~~
- E. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.048 (Commercial – Moderate Impact; C-2), Subsection C (Conditional Uses), is hereby amended to read as follows:
- “(9) Eating establishments: sit-down, including the sale of beer, wine, and alcohol for on-premise consumption;
- (10) Package store; and
- (11) Liquor store.”
- F. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.049 (Commercial – High Impact; C-3), Subsection B (Permitted Uses), is hereby amended to read as follows:
- “(3) Food and beverage retail sales (such as grocery), ~~not including the sale of beer, wine, or alcohol for on or off premise consumption;~~
- ...
(5) Eating establishments: sit-down, ~~not~~ including the sale of beer, wine, or alcohol for on-premise consumption;

...

~~(22) Sale of beer and wine for off premise consumption.”~~

G. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.049 (Commercial – High Impact; C-3), Subsection C (Conditional Uses), is hereby amended to read as follows:

“(2) Alcoholic Beverage Sales and consumption in a private club as defined and registered by the Texas Alcoholic Beverage Code;

~~(2) Liquor and package stores;~~

~~(3) Bars/taverns (50% sales derived from alcohol);~~

...

~~(17) Eating establishments: sit down, including the sale of beer, wine, and alcohol for on premise consumption.~~

(17) Liquor store; and

(18) Package store.”

H. The City of Wimberley Code of Ordinances, Title XV (Land Usage), Chapter 155 (Zoning), Section 155.050 (Highway Commercial; HC), Subsection C (Conditional Uses), is hereby amended to read as follows:

~~“(2) Bars/taverns (50% sales derived from alcohol);”~~

SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Article shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Article.

SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Article be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Article in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION V. REPEALER

The provisions of this Article shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Article are hereby expressly repealed to the extent that such inconsistency is apparent. This Article shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE

This Article shall take effect immediately from and after its passage and publication as may be required by law.

SECTION VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Article was 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 Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

FIRST READING OF ORDINANCE PASSED AND APPROVED this 15th day of January, 2015 by 5 (Ayes) to 0 (Nays) 0 (Abstain) of the City Council of the City of Wimberley, Texas.

SECOND AND FINAL READING OF ORDINANCE PASSED AND APPROVED this 19th day of February, 2015 by 4 (Ayes) to 0 (Nays) 0 (Abstain) of the City Council of the City of Wimberley, Texas.



Steve Thurber
Mayor

ATTEST:

Cara McPartland
Cara McPartland,
City Secretary

APPROVED AS TO FORM:

Catherine B. Fryer
Catherine B. Fryer,
City Attorney

