

ORDINANCE NO. 2016-007

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING TITLE XV (LAND USAGE), CHAPTER 151 (BUILDING REGULATIONS; CONSTRUCTION), SECTION 151.100 (TEMPORARY STRUCTURES) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO PERMIT MOBILE FOOD VENDORS IN THE VILLAGE CENTER OVERLAY; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Wimberley Code of Ordinances currently prohibits temporary structures, including mobile food vendors, in the Village Center Overlay; and

WHEREAS, the Council finds that mobile food vendors may be appropriate in the downtown area on a limited basis to accommodate and encourage aesthetically pleasing and safe structures to promote economic development; and

WHEREAS, the City Council finds the regulations herein are the minimum necessary to accomplish the City's goals and will be in the best interest of the public;

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 ordinance as if copied in their entirety.

SECTION II. AMENDMENT

Title XV (Land Usage), chapter 151 (Building Regulations; Construction), section 151.100 (Temporary Structures) of the City of Wimberley Code of Ordinances is hereby amended to read as follows:

“§ 151.100 Temporary Structures

(A) Definitions

Edible goods include, but are not limited to:

(a) Prepackaged food including, but not limited to candy, beverages, and ice cream.

(b) Prepared food including, but not limited to hot dogs, desserts, and pizza.

(c) On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos.

Mobile Food Vendor means any business that sells edible goods from a non-stationary location within the City of Wimberley. The term shall include, but not be limited to:

(1) Mobile food trucks: A self-contained motorized unit selling items defined as edible goods.

(2) Concession carts: Mobile vending units that must be moved by non-motorized means.

(3) Concession trailers: A vending unit that is pulled by a motorized unit and has no power to move on its own.

Temporary Structure Defined. ~~M~~ means any structure, building, trailer, tent or enclosure of any kind used for storage, commercial or business purposes which any person or business intends to place on the same lot with or on any lot immediately adjacent to, any permanent structure used for business or commercial purposes.

(B) *Temporary Structures Permitted.* Except where prohibited below, a temporary structure is permitted only on commercially zoned property with prior City Council authorization.

(C) *Temporary Structures Prohibited.* Any temporary structure is prohibited from being installed or constructed on residentially zoned property or on property within the Village Center Overlay, as defined in Chapter 155.091, with the exception of temporary structures required for special events authorized by City Council or mobile food vendors that satisfy the requirements of subsection (H).

(D) *Permitted.* Prior to seeking approval, an applicant shall file a permit application with the City stating:

(1) The name and address of the person or business seeking the permit;

(2) A particular description of where the proposed temporary structure or accessory structure will be erected, constructed or placed;

(3) The need for such structure;

(4) The period of time the proposed structure will be present on the property;
and

(5) A particular description, including the dimensions, of the temporary structure or accessory structure to be erected, constructed, or placed upon the property.

(E) *City Council Authorization.* Prior to installation of a temporary structure the City Council must approve an application for a temporary structure subject to the requirements of this ordinance. The Council may impose additional conditions as necessitated by the scope of the application and has discretion to deny an application for any reason. The applicant shall submit a completed application form prescribed by the city and pay any applicable application or inspection fees.

(F) *Emergencies.* A temporary structure may be installed or constructed by a governmental entity in order to address an emergency that affects the public's health safety and welfare. The governmental entity shall advise the city administrator prior to or in no event later than 24 hours after erection of the temporary structure.

(G) *Requirements.* Any permitted temporary structure shall comply with the following:

(1) If the applicant is not the owner of the property where the proposed temporary structure is to be located, the applicant must provide written proof from the property owner documenting permission to use the property.

(2) Any such temporary structure erected, constructed, or placed upon property shall comply with all applicable provisions of this Code of Ordinances, including the fire, electrical, and building codes. No part of a temporary structure shall be located on any public property or in the right-of-way except with express permission of the City Council.

(3) *Inspection.* The temporary structure must have sufficient ingress and egress for the public and must be inspected to ensure it complies with all fire requirements including extinguishers, signage and type of materials used for the structure.

(4) *Food services.* Applicant must have an inspection prior to selling food or beverage products.

(5) *Restrooms.* Applicant must provide adequate restroom facilities or provide written documentation evidencing access to restroom facilities. The applicant's temporary use cannot cause another's septic facility to exceed its capacity limits.

(6) The structure and all decorations shall be compatible with the Hill Country and no products shall be displayed or stored outside of the temporary structure.

(7) Documentation from an engineer may be required depending on the type, construction and location of a temporary structure.

(8) Parking on-site or permission to park on an adjoining property must be secured.

(9) *Signage.* Signage shall be limited to one (1) sign with a face area of two (2) feet by two (2) feet.

(10) All such temporary structures or accessory uses or structures shall be removed from the property at the expiration of the time period defined in the permit.

(H) *Mobile Food Vendor in Village Center Overlay.* A mobile food vendor may be permitted in the Village Center Overlay subject to the following:

(1) A mobile food vendor must apply for and obtain a Mobile Food Vendor-Village Center Overlay permit from the City Council. The maximum duration of such permit shall be three (3) months, but the applicant may apply for renewal;

(2) Operator must comply with all temporary structure requirements under subsection (G);

(3) A mobile food vendor may not be located within one hundred (100) feet of the primary entrance of an open and operating fixed-location eating establishment. This buffer may be reduced upon receiving written permission from said establishments.

(4) Each unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and waste water in an approved fixed-location food service establishment.

(5) Continuous music or repetitive sounds shall not project from the mobile unit.

(6) A five (5) foot clear space shall be maintained around the mobile food vending unit.

(I) *Penalty.* Any person who violates any provision of this chapter for which no other penalty is provided shall, upon conviction, be subject to penalties as set forth in § 10.99 of this code.”

SECTION III. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance 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 ordinance.

SECTION IV. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance 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 ordinance 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 ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VI. EFFECTIVE DATE

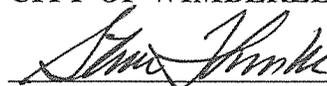
This ordinance shall take effect immediately from and after its passage and publication as may be required by law.

SECTION VII. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this ordinance 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.

PASSED AND APPROVED this 3rd day of March, 2016, 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 Fryer
Catherine Fryer,
City Attorney

