

ORDINANCE NO. 2016-016

AN ORDINANCE AMENDING TITLE XI (BUSINESS REGULATIONS), CHAPTER 112 (REGULATION OF VACATION RENTALS AND BED AND BREAKFAST LODGINGS) OF THE CITY OF WIMBERLEY CODE OF ORDINANCES TO CREATE A PROCEDURE TO ADDRESS PERMIT VIOLATIONS; 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, sections 215.033 and 215.034 of the Texas Local Government Code provide the City with the authority to issue licenses for businesses to be operated within the City; and

WHEREAS, the City's Code of Ordinances provides that the use of property for new bed and breakfast lodgings or vacation rental facilities requires the property owner to obtain a Conditional Use Permit (CUP); and

WHEREAS, the City requires all operators of bed and breakfast lodgings or vacation rental facilities to obtain an operator's permit, regardless of whether the property has a CUP or is a nonconforming use; and

WHEREAS, the Council finds that it is important for the City to provide an effective avenue for the owners and residents of neighboring properties to report alleged violations of permit terms and for the City to address such violations;

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.

- A. That Title XI (Business Regulations), Chapter 112 (Regulation of Vacation Rentals and Bed and Breakfast Lodgings), section 112.02 (Permit Required) is hereby amended as follows:

"§ 112.02 PERMIT REQUIRED

(A) A person commits an offense if the person owns or operates a bed and breakfast lodging or a vacation rental without a valid permit issued by the City.

(B) A permit holder must satisfy the following requirements:

- (1) The property must have a valid Conditional Use Permit (CUP) for the operation of a bed and breakfast lodging or vacation rental, or the property must be eligible to operate as a bed and breakfast lodging or vacation rental as a nonconforming use:
- (2) Unruly gatherings are prohibited. An “unruly gathering” means a gathering of more than one person that is conducted on a premises within the city and by which, by reason of the conduct of those persons in attendance, results in the occurrence of one or more of the following conditions or events on public or private property: rioting; trespassing; the unlawful sale, furnishing, possession, or consumption of alcoholic beverages; the destruction of property; obstruction of roadways, driveways, or public ways by crowds or vehicles; excessive noise; disturbances, brawls, fights, or quarrels; public urination or defecation; indecent or obscene conduct or exposure; or any other occurrence that results in a call for service by a law enforcement agency.
- (3) The property owner shall comply with all requirements of any applicable CUP.”

B. Title XI (Business Regulations), Chapter 112 (Regulation of Vacation Rentals and Bed and Breakfast Lodgings), is hereby amended to create a new section 112.06 as follows:

“§ 112.06 ENFORCEMENT PROCEDURE

(A) The City shall record a complaint from any person regarding a bed or breakfast lodging or vacation rental.

(B) Upon receipt of such a complaint, the City shall promptly notify the owner of the property and listing agent (if applicable) and take other appropriate action as necessary.

(C) If the City Administrator receives two or more complaints relating to unruly gatherings on a single property within a one-year period, the City Administrator shall place the matter on the next available City Council agenda so that the Council may consider whether the property owner has violated the terms of the permit.

(D) In the event that the Council determines that the terms of the permit have been violated, the Council may revoke the permit.

(E) In the event the Council revokes a permit under this subsection, the City shall not accept a new permit application for that property until the expiration of one year from the date of revocation.”

Section 3. Except as expressly amended herein, the Wimberley Code of Ordinances 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, Chapter 551, Texas Government Code.

PASSED AND APPROVED this 5th day of May, 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



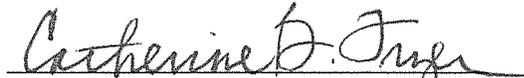
Steve Thurber, Mayor

ATTEST:



Cara McPartland, City Secretary

APPROVED AS TO FORM:



Catherine B. Fryer, City Attorney

