

## **ORDINANCE NO. 2021-36**

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING CHAPTER 2, ARTICLE 2.04 (BOARDS, COMMISSIONS AND COMMITTEES), BY AMENDING SECTION 2.04.005 (HOTEL OCCUPANCY TAX ADVISORY COMMITTEE), OF THE CODE OF ORDINANCES; PROVIDING FOR FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

**WHEREAS**, the City of Wimberley ("City") is authorized to establish boards, commissions and committees to receive public input and provide recommendations to the City Council; and,

**WHEREAS**, the City Council shall strive to consider qualified individuals who represent a broad sampling of the lodging community when appointing members to City boards, commissions and committees; and,

**WHEREAS**, the City Council has adopted a hotel occupancy tax, previously created an advisory committee and found that revisions to the creation of a Hotel Occupancy Tax Committee is appropriate and beneficial to City in its administration of the hotel occupancy tax.

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

## I. FINDINGS OF FACT

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.

## II. AMENDMENTS

The City's Code of Ordinances Chapter 2, Article 2.04, Section 2.04.005 is hereby amended to read as follows:

Sec. 2.04.005 Hotel Occupancy Tax Advisory Committee

- (a) Purpose. There is hereby established a seven (7) member Hotel Occupancy Tax Advisory Committee (Committee), which shall provide advice on the implementation, collection, and use of hotel occupancy tax dollars to the Council.
- (b) Membership.
  - (1) Number of members.

The committee will have seven (7) members, one of whom will be the committee chair appointed by the Council.

(2) Terms of members.

(A) Upon initial appointment of the committee, in order to stagger terms of the committee, three (3) members shall serve a one-year term and four (4) members shall serve a two-year term. Members shall draw lots as to which term they shall initially serve. Thereafter, committee members will be appointed to serve a two-year term. There is no limit as to how many terms a member may serve.

(B) Terms shall commence November 1<sup>st</sup> each year.

(3) Member selection.

(A) Each member of the City Council and Mayor shall present their lodging owner nominations for designated non-consensus Board members to the City Council for consideration. One (1) additional lodging owner member shall be appointed by consensus of the City Council. If a vacancy occurs on the Board, the City Council Member who originally appointed that Board member, or his/her successor filling that same term, shall appoint a person, with the approval of a majority of the City Council, to fill the unexpired term. In the case of a vacancy occurring in the consensus position of the Board, the City Council shall by majority vote appoint a person to fill the unexpired term. The terms of initial appointments shall begin upon appointment by City Council and shall serve until October 31, 2023 and October 31, 2024 as appropriate.

(4) Resignation; vacancies. A committee member may resign by notifying the city secretary in writing of his or her intent to resign. A failure to attend three (3) or more sequential committee meetings will constitute a de facto notification of intent to resign. Members appointed to fill a vacancy will complete the unexpired portion of the term.

(c) Responsibilities. The Committee is responsible for the following:

- (1) The Committee shall review revenue received by the City through the Hotel Occupancy Tax and shall make recommendations to the Council regarding appropriate expenditures.
- (2) The Committee shall formulate a plan for expenditures of Hotel Occupancy Tax revenue by the City and shall update the plan as requested by Council.
- (3) The Committee shall submit an annual report to the Council that identifies approved expenditures by the City for the preceding year, discuss approved and proposed expenditures in the context of compliance with state law regarding the use of Hotel Occupancy Tax funds, and evaluates the effectiveness of approved Hotel Occupancy Tax expenditures and programs.

(4) All recommendations of the Committee are subject to formal approval of the Council at a regularly scheduled meeting. The Committee shall not spend any money or authorize the expenditure of any money.

(d) Meetings.

(1) The committee will meet monthly at city hall, as coordinated with and arranged by city staff. Agendas will be drafted by the committee chair, under the advisement of committee members.

(2) The committee chair, or his or her designee(s), will attend the first Council meeting of each month to update the Council on projects and progress.

(e) Authority.

The committee has no authority to make decisions binding on the city. The committee's functions are purely advisory and not subject to the Open Meetings Act.

### **III. SUNSET REVIEW**

(a) **Frequency of Review.** On or after three (3) years from the effective date of this Ordinance, the Council shall conduct a sunset review of the Hotel Occupancy Tax and the work of the Advisory Committee. The Council shall thereafter conduct periodic reviews every two (2) years.

(b) **Review Criteria.** The purpose of the sunset review shall be to determine whether a public need exists for the continuation of the Hotel Occupancy Tax and/or the Advisory Committee. The Council may consider the following criteria as part of its review:

- (1) The benefit(s) enjoyed by the City and the City's tourism industry as a result of the Hotel Occupancy Tax;
- (2) Performance and compliance with applicable statutes and regulations;
- (3) The efficiency with which the Advisory Committee operates;
- (4) The extent to which the Hotel Occupancy Tax and/or the Advisory Committee is needed or used; and
- (5) Any other criteria identified by the Council.

### **IV. 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.

#### **V. 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.

#### **VI. 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.

#### **VII. EFFECTIVE DATE**

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

#### **VIII. 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

[SIGNATURE PAGE FOLLOWS]

PASSED AND APPROVED this 16<sup>th</sup> of December 2021, by a vote of 4 (Ayes) to 0 (Nays) to 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

Gina V. Fulkerson  
Gina V. Fulkerson, Mayor

ATTEST:

Laura J. Calcote  
Laura J. Calcote, City Secretary

APPROVED AS TO FORM:

C. E. R.  
City Attorney

