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ORDINANCE NO. 2024-02-21-22

**AN ORDINANCE AMENDING THE CITY’S CODE OF
ORDINANCES, REVISING PENALTY PROVISIONS FOR
CLARITY, CONSISTENCY AND ELIMINATION OF
REDUNDANCIES**

WHEREAS, the City of Rollingwood is a General Law Type A City under the statutes of the State of Texas; and

WHEREAS, the City Council of the City of Rollingwood (“City Council”) previously established a Code of Ordinances; and

WHEREAS, in order to create clarity, provide for consistency, and eliminate redundancies within the Code of Ordinances, the City Council finds and determines it appropriate to make amendments to the penalty provisions in certain sections of the Code of Ordinances.

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

SECTION 1. All 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 2. Part I of the City’s Code of Ordinances is hereby amended as provided in Exhibit A, with deletions from the code delineated as ~~striketroughs~~ and additions as underlined.

SECTION 4. All provisions of the ordinances of the City of Rollingwood in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Rollingwood not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. Should any sentence, paragraph, 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 Code of 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 provides.

APPROVED, PASSED AND ADOPTED by the City Council of the City of Rollingwood, Texas, on the ____ day of _____, 2024.

APPROVED:

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Gavin Massingill, Mayor

ATTEST:

Desiree Adair, City Secretary

DRAFT

67 **EXHIBIT A**
68

69 **Chapter 8 – Emergency Management and Services**

70 **Sec. 8-28. Offenses; penalty.**

71 It is unlawful for any person willfully to obstruct, hinder, or delay any member of the
72 disaster services organization in the enforcement of any rule or regulation issued pursuant to this
73 article, or to do any act forbidden by any rule or regulation issued pursuant to the authority
74 contained in this article. It shall likewise be unlawful for any person to wear, carry or display any
75 emblem, insignia or any other means of identification as a member of the disaster services
76 organization of the city, unless authority to do so has been granted to such person by the proper
77 officials. Conviction for violations of the provisions of this article shall be punishable by the
78 municipal court, by a fine not to exceed \$2,000.00 ~~\$500.00~~.

79
80 **Chapter 10 – Fire Prevention and Protection**

81
82 ~~Sec. 10-94. Enforcement.~~

83 ~~Each violation of this article shall be punished by a penalty of a fine of not more than~~
84 ~~\$2,000.00 for each offense.~~

85
86 **Chapter 12- Health and Sanitation**

87 **Sec. 12-30. Smoking in council chambers.**

88 ~~(b) *Defenses.* It is a defense to prosecution under this article that the council chamber in which~~
89 ~~the offense takes places does not have prominently displayed, at the time of the offense, a~~
90 ~~reasonably sized notice that smoking is prohibited by city ordinance.~~

91 ~~(c) *Violations and penalties.* Any person who violates any provision of this article shall be~~
92 ~~guilty of a misdemeanor and shall, upon conviction, be subject to a fine not to exceed~~
93 ~~\$500.00. Each day of such violation shall constitute a separate offense. Such penalty shall~~
94 ~~be cumulative and shall not be exclusive of any rights or remedies the city may have.~~

95
96 **Chapter 20 – Parks and Recreation**

97
98 **Sec. 20-59. Penalty.**

99
100 ~~Any person who violates any provision of this article will be guilty of a misdemeanor and, upon~~
101 ~~conviction, will be subject to a fine not to exceed \$500.00. Each day of such violation will~~
102 ~~constitute a separate offense. This penalty will be cumulative and not exclusive of any other~~
103 ~~rights or remedies the city may have.~~

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Chapter 24 – Signs and Advertising

Sec. 24-21. Notice of violation; correction of violations; penalty.

- ~~(b) If the owner of the sign fails to remove or alter the sign as required by the building official within 15 days after the mailing of a written notice as required in subsection (a) of this section, the city may remove the sign at the expense of the owner of the sign or the owner of the property on which the sign is located and may use other legal remedies available to the city.~~
- ~~(c) Any person convicted of a violation of any provision of this article by a court of competent jurisdiction shall be fined in an amount not to exceed \$500.00 for each violation. Each day of violation after the 15-day period allowed under subsection (b) of this section constitutes one violation.~~

Chapter 26 – Solid Waste

~~**Sec. 26-2. Penalty.**~~

~~Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction, will be subject to a fine not to exceed \$2,000.00. Each day of violation is a separate offense. This penalty is cumulative and not exclusive of any other rights or remedies the city may have.~~

Chapter 32 – Traffic and Vehicles

Sec. 32-5. Solicitations at street intersections.

- ~~(f) *Penalty.* Any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed \$500.00. A culpable mental state is not required, and need not be proved, for an offense under this section.~~

Sec. 32-6. Aggressive solicitation.

- ~~(e) *Penalty.* Any person, firm, or corporation violating any of the provisions or terms of this section shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$500.00 for each offense, and each and every violation or day such violation shall continue or exist, shall be deemed a separate offense. The penal provisions imposed under this section shall not preclude the city from filing suit to enjoin the violation. The city retains all legal rights and remedies available to it pursuant to local, state and federal law.~~

138

139 **Sec. 32-117. No parking zones; fire zones.**

140 ~~(e) Any person who violates any provision of this section is guilty of a misdemeanor and, upon~~
141 ~~conviction, will be subject to a fine not to exceed \$500.00. Each day a violation continues~~
142 ~~will constitute a separate offense. This penalty will be cumulative of any other rights or~~
143 ~~remedies the city may have.~~

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145 **Sec. 32-197. Penalties.**

146 ~~(g) Any person who violates any of the provisions of this article shall be guilty of a Class C~~
147 ~~misdemeanor and upon adjudication or conviction thereof shall be fined in an amount not to~~
148 ~~exceed \$500.00 for each offense.~~

149

150 **Chapter 34 – Water Service**

151 **Sec. 34-2. Penalty.**

152 ~~Any person who violates any provision set out in this chapter shall be guilty of a~~
153 ~~misdemeanor and, upon conviction, shall be subject to a fine not to exceed \$500.00. Each day of~~
154 ~~such violation shall constitute a separate offense. Such penalty shall be cumulative and not~~
155 ~~exclusive of any other rights or remedies the city may have.~~

156

157 **Chapter 101 Buildings and Construction**

158 **Sec. 101-34. Penalty.**

159 ~~Any person who violates any provision of this article will be guilty of a misdemeanor and,~~
160 ~~upon conviction, will be subject to a fine not to exceed \$2,000.00. Each day of violation will~~
161 ~~constitute a separate offense. This penalty will be cumulative of any other rights or remedies the~~
162 ~~city may have.~~

163

164 **Sec. 101-255. Temporary construction fences.**

165 ~~(b) Any person who violates any provision of this section will be guilty of a misdemeanor and,~~
166 ~~upon conviction, will be subject to a fine not to exceed \$500.00. Each day of violation will~~
167 ~~constitute a separate offense. This penalty will be cumulative of any other rights or remedies~~
168 ~~the city may have.~~

169 **Chapter 103 – Environmental Protection and Control**

170 **Sec. 103-90. Enforcement; penalty.**

- 171 ~~(b) Proof of a culpable mental state is not required for the conviction of an offense under this~~
172 ~~division. Any person in apparent control of the property where a violation occurs or~~
173 ~~originates will be presumed to be the violator, and proof that the violation occurred on the~~
174 ~~person's property will constitute a rebuttable presumption that the person in apparent control~~
175 ~~of the property committed the violation. Parents will be presumed to be responsible for~~
176 ~~violations of their minor children, and proof that a violation, committed by a child, occurred~~
177 ~~on property within the parents' control will constitute a rebuttable presumption that the~~
178 ~~parent committed the violation.~~
- 179 ~~(c) Any person who violates any provision of this division is guilty of a Class C misdemeanor,~~
180 ~~punishable by a fine not to exceed \$2,000.00. Prosecution of an offense under this~~
181 ~~subsection (c) of this section does not preclude the pursuit of any other remedies the city~~
182 ~~may have, including the right to seek injunctive relief. The enforcement of other remedies~~
183 ~~by the city will not prevent prosecution for a violation of this division under this subsection~~
184 ~~(c) of this section.~~
- 185 ~~(d) Each day will constitute a separate offense. If a person is convicted of three or more distinct~~
186 ~~violations of this division, the city may, following notice to the customer, discontinue or~~
187 ~~restrict water service to the premises where the violations occurred.~~
- 188 ~~(e) Any city employee or police officer may issue a citation to a person he reasonably believes~~
189 ~~to be in violation of this division. A citation will be prepared in duplicate and will contain~~
190 ~~the name and address of the alleged violator, if known, and the offense charged, and will~~
191 ~~direct the violator to appear in the city's municipal court on the date shown on the citation,~~
192 ~~which will not be less than three days nor more than 30 days from the date the citation was~~
193 ~~issued. The alleged violator will be served a copy of the citation. Service of the citation will~~
194 ~~be complete upon delivery of the citation to the alleged violator, to an agent or employee of~~
195 ~~the alleged violator, or to a person over the age of 14 who is a member of the alleged~~
196 ~~violator's immediate family or is a resident of the alleged violator's residence. The alleged~~
197 ~~violator must appear in the city's municipal court to enter a plea of guilty or not guilty for~~
198 ~~the violation of this division. If the alleged violator fails to appear, a warrant for his arrest~~
199 ~~may be issued, or a summons to appear may be issued in lieu of an arrest warrant. Cases for~~
200 ~~violation of this division will be expedited and given preferential setting in the city's~~
201 ~~municipal court.~~
- 202 ~~(f) If a customer is irrigating during a time period or on a day when irrigation is not permitted~~
203 ~~for the street address of that customer and a city worker cannot find any person at that street~~
204 ~~address to turn off the irrigation system, the city worker may enter the property and turn off~~
205 ~~the irrigation system.~~

206

207 **Sec. 103-122. Penalties.**

208 ~~(a) The city shall have the power to administer and enforce provisions of this article as may be~~
209 ~~required by governing law. Any person violating any provision of this article is subject to~~
210 ~~suit for injunctive relief as well as prosecution for criminal violations.~~

211 ~~(b) Any person violating any provision of this article shall, upon conviction, be fined a sum not~~
212 ~~exceeding \$500.00. Each day that a provision of this article is violated shall constitute a~~
213 ~~separate offense. An offense under this article is a misdemeanor.~~

214 ~~(c) Nothing in this article shall be construed as a waiver of the city's right to bring a civil action~~
215 ~~to enforce the provisions of this article and to seek remedies as allowed by law, including,~~
216 ~~but not limited to, the following:~~

217 (1) Injunctive relief to prevent specific conduct that violates this article or to require
218 specific conduct that is necessary for compliance with this article;

219 (2) A civil penalty up to \$500.00 a day when it is shown that the defendant was actually
220 notified of the provisions of this article and, after receiving notice, committed acts in
221 violation of this article or failed to take action necessary for compliance with this
222 article; and

223 (3) Other available relief.

224

225 **Chapter 107 - Zoning**

226 **Sec. 107-442. Penalty for violation.**

227 ~~(a) If any building or structure is constructed or altered, or if any premises are used in violation~~
228 ~~of the provisions of this article, the building official is authorized and directed to institute~~
229 ~~any appropriate action to put an end to such violation.~~

230 ~~(b) Any person who violates or fails to comply with any of the requirements of this article shall~~
231 ~~be guilty of a misdemeanor and shall be liable to a fine not to exceed \$2,000.00. Each day~~
232 ~~any such violation occurs shall constitute a separate offense.~~

233 ~~(c) The owner or owners of any land, building or structure, or part thereof, where anything in~~
234 ~~violation of this article shall be placed or shall exist, and any person employed in~~
235 ~~connection therewith and who assists in the commission of such violation, shall be guilty of~~
236 ~~a misdemeanor and shall be liable to a fine not to exceed \$2,000.00.~~

237 ~~(d) Nothing herein contained shall prevent the city from taking such other lawful action as~~
238 ~~necessary to prevent or remedy any violation of this article.~~

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