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CITY OF ROLLINGWOOD, TEXAS

ORDINANCE NO. 2023-04-19-21

AN ORDINANCE AMENDING THE CITY’S CODE OF ORIDNANCES SECTION 107-399, SECTION 107-518, AND SECTION 107-520 RELATED TO PUBLIC HEARING NOTICE AND OTHER MATTERS IN CONNECTION THEREWITH; REPEALING PROVISIONS IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Rollingwood (“City”) is a General Law Municipality operating under the laws of the State of Texas; and

WHEREAS, the City Council of the City of Rollingwood (“City Council”) previously established a Land Use Development Code as codified in its Code of Ordinances; and

WHEREAS, the City Council may from time to time choose to amend, supplement, change or modify the Land Use Development Code; and

WHEREAS, the City has given proper notice, as necessary, pertaining to the amendment of the Code of Ordinances; and

WHEREAS, the City Council finds and determines that Section 107-399 *Special use permits*, Section 107-518 *Hearing and notice*, and Section 107-520 *Procedure before the city council* of the City’s Code of Ordinances related to written and published notice of certain public hearings shall be amended as provided herein.

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 II of the City’s Code of Ordinances Chapter 107, Section 107-399, Section 107-518, and Section 107-520, are hereby amended as set forth on **Exhibit A** attached hereto.

SECTION 3. 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provisions of the ordinances of the City of Rollingwood in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Rollingwood not in conflict with the provisions of this ordinance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 4. 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

47 invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a
48 whole.

49
50 **SECTION 5.** It is officially found, determined, and declared that the meeting at which this
51 Ordinance is adopted was open to the public as required and that public notice of the time, place,
52 and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551,
53 Texas Government Code, as amended.

54
55 **SECTION 6.** This ordinance shall take effect immediately from and after its passage and the
56 publication of the caption as the law provides.

57
58 **APPROVED, PASSED AND ADOPTED** by the City Council of the City of Rollingwood, Texas,
59 on the ____ day of _____, 2023.

60
61 APPROVED:

62
63
64 _____
65 Gavin Massingill, Mayor

66
67 ATTEST:

68
69
70 _____
71 Desiree Adair, City Secretary

74 **Exhibit A**

75
76 All text which is underlined denotes addition of new text. All text which is ~~stricken through~~
77 denotes removal of existing text. All other text is existing, unchanged text. Any existing text
78 which has been omitted shall be considered unchanged. All text which is both between braces { }
79 and *italicized*, is for document organization and reference only and is not intended to be adopted.
80 The Code of Ordinances of City of Rollingwood, Texas, Part II, Chapter 107, Section 107-399
81 Special use permits, Section 107-518 Hearing and notice, and Section 107-520 Procedure before
82 the city council, are hereby amended as follows:

83
84 *{Amendment to notice requirements in Sec.107-399 Special use permits}*

85 Sec. 107-399 – Special use permits

- 86
87 a) *Permit required.* No special use shall be established, operated, or maintained except as
88 authorized by a special use permit approved in accordance with the requirements of this
89 article.
90
91 b) *Special use permit approved by city council.* A special use permit may be approved only
92 for the special uses specified in this article, and only for the districts wherein such uses are
93 authorized. A special use permit may be approved by the city council acting after a public
94 hearing and after the council has received a recommendation from the commission relative
95 to the proposed permit.
96
97 c) *Application.* An application for a special use permit shall be made in writing in a form
98 prescribed by the city secretary, and shall be accompanied by such information as may be
99 requested (including a site plan, if required) in order to provide for proper review of the
100 proposed use. Such information may include, but is not limited to, site and building plans,
101 drawings and elevations, traffic plans prepared by a licensed professional engineer with
102 experience in traffic safety that includes an analysis of traffic to be generated by the
103 proposed use and indicates the impact on existing traffic conditions within the city,
104 including residential areas, and provides information on the potential congestion caused by
105 ingress and egress, and operational data.
106
107 d) *Report by city secretary or city inspector.* The city secretary or city inspector shall visit the
108 site of the proposed special use and the surrounding area, and thereafter submit his written
109 findings to the commission and the city council.
110
111 e) *Notice—Public hearing by commission.*
112 1) The commission shall hold a public hearing on each application for a special use
113 permit.
114
115 2) Written notice of such hearing shall be given to the owners of all real property
116 located within 250 feet in all directions of the property that is the subject of the
117 hearing. Notice shall be given not less than ~~30~~ 20 days prior to the date of the
118 hearing either by personal service or by mailing a copy of the notice to each owner
119 at his address shown on the current city tax roll.

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3) Such notice shall state the purpose, date, time, and place of the hearing, together with a brief description of the proposed development, including its nature, scope, and location. The notice shall also describe any variances the applicant has requested and state the location and times at which the special use permit application and supporting documents are available for public inspection. ~~The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the city council will be available at a later date.~~

~~4) The applicant shall be responsible for drafting the notice and serving it after the notice has been approved by the city secretary as to form and content. An affidavit of proof of service shall be filed by the applicant with the city secretary prior to the hearing.~~

f) *Review and recommendation of the commission.*

1) The commission shall review each application for a special use permit to determine whether the proposed special use complies with each of the general criteria in section 107-400, and with each of the specific criteria in section 107-401 applicable to the proposed use, and shall make a separate finding thereon for each criterion.

2) The commission shall not recommend approval of an application unless it finds that the proposed special use as presented or as modified by the commission complies with each applicable general and specific criterion. A recommendation of approval may be conditioned on the applicant's adoption of specified changes, additions, limitations, safeguards, or effective time periods designed to ensure compliance with the criteria.

3) The commission shall forward its findings and recommendations to the city council in writing.

g) *Hearing before city council.* The city council shall review an application for a special use permit at a public hearing after receiving the findings and recommendations of the commission. The following notice shall be given prior to the City Council public hearing:

1) Written notice of such hearing shall be given to the owners of all real property located within 250 feet in all directions of the property that is the subject of the hearing. Notice shall be given not less than 20 days prior to the date of the hearing either by personal service or by mailing a copy of the notice to each owner at his address shown on the current city tax roll. Such notice shall state the purpose, date, time, and place of the hearing, together with a brief description of the proposed development, including its nature, scope, and location. The notice shall also describe any variances the applicant has requested and state the location and times at which the special use permit application and supporting documents are

166 available for public inspection.

- 167
- 168 2) Not less than 16 days prior to the hearing, notice of the date, time and location
- 169 thereof will be published in the official newspaper of the city or in a newspaper of
- 170 general circulation in the city. Such notice shall state the purpose, date, time, and
- 171 place of the hearing.

172

173 h) *Review and action by city council.*

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- 175 1) The city council shall determine whether the proposed special use complies with
- 176 each of the general criteria in section 107-400 and with each of the special criteria
- 177 in section 107-401 applicable to the proposed use, and shall make separate findings
- 178 thereon or adopt the findings made by the commission.
- 179
- 180 2) The city council may condition its approval of an application on the applicant's
- 181 adoption of specified changes, additions, limitations, safeguards, or effective time
- 182 periods designed to ensure compliance with the criteria.
- 183
- 184 3) The city council shall not grant a special use permit unless it finds that the proposed
- 185 special use, as presented or as modified by the council, complies with each
- 186 applicable general and specific criterion; otherwise it shall deny the application.

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188

189 *{Amendment to notice requirements in Sec.107-518 Hearing and notice}*

190 Sec. 107-518 – Hearing and notice

- 191
- 192 a) The commission will hold a public hearing on all proposed changes on zoning regulations
- 193 or boundaries.
- 194
- 195 ~~b) Not less than 16 days prior to the hearing, notice of the date, time and location thereof will~~
- 196 ~~be published in the official newspaper of the city or in a newspaper of general circulation~~
- 197 ~~in the city. In addition, in the case of a proposed change in zoning classification, written~~
- 198 ~~notice of a public hearing will be mailed, not less than 30 days prior to the hearing, to all~~
- 199 ~~owners of property (as such ownership is shown on the current city tax roll) lying within~~
- 200 ~~250 feet of the property that is the subject of the proposed zoning classification change. If~~
- 201 ~~the application for a change in zoning classification requests a change to a zoning district~~
- 202 ~~other than residential district or park district, the notice must be mailed, not less than 30~~
- 203 ~~days prior to the hearing, to all owners of property (as such ownership is shown on the~~
- 204 ~~current city tax roll) within the city. The notice may be served by depositing it in the U.S.~~
- 205 ~~mail with the proper address and postage.~~

206

207 b) Notice Requirements

- 208
- 209 1) Not less than 16 days prior to the City Council public hearing, notice of the date,
- 210 time and location thereof will be published in the official newspaper of the city or
- 211 in a newspaper of general circulation in the city

212
213 2) In the case of a proposed change in zoning classification, written notice of a public
214 hearing will be mailed, not less than 20 days prior to each required public hearing
215 of the Planning and Zoning Commission and City Council, to all owners of property
216 (as such ownership is shown on the current city tax roll) lying within 250 feet of
217 the property that is the subject of the proposed zoning classification change. If the
218 application for a change in zoning classification requests a change to a zoning
219 district other than residential district or park district, the notice must be mailed, not
220 less than 20 days prior to the hearing, to all owners of property (as such ownership
221 is shown on the current city tax roll) within the city. The notice may be served by
222 depositing it in the U.S. mail with the proper address and postage.

223
224 c) Public hearing required. Whenever a public hearing is required, the city administrator or
225 his/her designee shall establish the date, time and place of the public hearing and shall
226 cause any notice required to be prepared and made accordingly.

227
228 d) Joint public hearing. The city council may, at its discretion at a properly noticed public
229 meeting, determine that a public hearing shall be held before both the planning and zoning
230 commission and the city council. If such a determination is made, the planning and zoning
231 commission and the city council may conduct a joint public hearing and take action on the
232 application in the following manner:

233
234 1) The city council on its own motion shall establish the date of the joint public
235 hearing.

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237 2) The city council shall cause notice of the joint public hearing to be provided as
238 required.

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240 3) The planning and zoning commission and the city council shall be convened for the
241 hearing and for any action to be taken on the petition or application.

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243 4) The planning and zoning commission and the city council may take action on the
244 application at the same meeting; however, the city council shall not take action until
245 the report and recommendation of the planning and zoning commission has been
246 received.

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249 *{Amendment to Sec.107-520(a) Procedure before the city council to correct section reference}*
250 Sec. 107-520 – Procedure before the city council.

251
252 a) After receiving the recommendation of the commission, the city council will, at the earliest
253 practicable time, hold a public hearing on the application/petition, at which parties in
254 interest and citizens will have an opportunity to be heard. Notice of the hearing will be
255 given in the manner required under section 107-518(b).