

ORDINANCE NO. 2023-07-19-16

AN ORDINANCE OF THE CITY OF ROLLINGWOOD, TEXAS, AMENDING PART II, CHAPTER 107, ARTICLE V, DIVISION III, SECTION 107-489 TO ADD SUBSECTION (e) OF THE CITY OF ROLLINGWOOD CODE OF ORDINANCES, AS AMENDED, BY ADDING LANGUAGE TO INCLUDE THAT ANY WITNESS BEFORE THE BOARD OF ADJUSTMENT MUST BE DULY SWORN IN AND PLACED UNDER OATH BY THE PRESIDING OFFICER, BEFORE PRESENTING ANY TESTIMONY OR EVIDENCE BEFORE THE BOARD, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Rollingwood, Texas (“City”) observes under the current language provided in Article IV, Division I titled “Boards and Commissions” does not include language mandating witnesses before the Board of Adjustment be sworn in and placed under oath before presenting testimony or evidence; and

WHEREAS, the City has deemed it necessary for the purposes of record keeping, good order, and legal protection of the City, that any and all witness before the Board of Adjustment who may testify or present evidence in any matter before the Board be duly sworn in and placed under oath prior to presentation of testimony or evidence before the Board; and

WHEREAS, the City having determined that the weight of testimony of witnesses under oath before the Board may provide evidence, proper records, and legal protections for the City in future legal proceedings or review of Board of Adjustment actions or procedures;

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

SECTION 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. The City Council finds:

That it is in the best interest of the City to have any and all witnesses testifying before the Board of Adjustment to be duly sworn in and placed under oath by the presiding officer prior to any testimony or the presentation of any evidence to the Board for any purposes.

SECTION 3: The City Council hereby amends Part II, Chapter 107, Article V, Division III, Sec 107-489 of the City's Code of Ordinances to read as follows, with added language being underlined:

Sec. 107-489. - Rules and regulations.

(a) The board shall adopt rules necessary to the conduct of its affairs and shall furnish a copy of such rules to the building official. Rules adopted by the board shall be consistent with the provisions of this division.

(b) All orders and other enactments adopted by the board shall be in accordance with its rules and regulations.

(c) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be promptly filed in the office of the board and shall be a public record. The office of the board shall be the office of the city administrator where such records shall repose.

(d) The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the building official or to decide in favor of the applicant on any matter upon which the board is required to pass under this chapter

(e) A person who gives evidence and/or testifies before the Board of Adjustment in any proceeding or meeting held by the Board, shall be properly and duly sworn in and placed under oath by the presiding officer prior to presenting any testimony or evidence before the board in accordance with Texas Local Government Code Sec. 211.008(e).

SECTION 4. Cumulative and Repealer Clause. This ordinance shall be cumulative of all other ordinances of the City and shall not operate to repeal or affect any other ordinances of the City except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed to the extent of such conflict.

SECTION 5. Severability Clause. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or

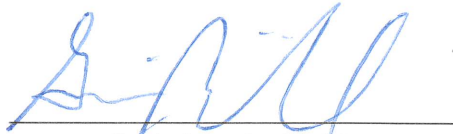
section of this Ordinance shall be declared unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

SECTION 6. Effective Date. That this Ordinance will become effective on its adoption and passage by the City Council.

PASSED AND APPROVED this 19th day of July, 2023.

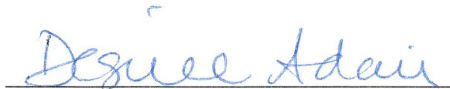
CITY OF ROLLINGWOOD,
TEXAS

by:



Gavin Massingill, Mayor

ATTEST:



Desiree Adair, City Secretary