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ORDINANCE 2021-05-19-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROLLINGWOOD TEXAS AMENDING THE CITY OF ROLLINGWOOD CODE OF ORDINANCES PART II LAND DEVELOPMENT CODE BY CREATION CHAPTER 100 TITLED GENERAL ADMINISTRATION, SECTION 100-1 PERMITS, PROJECTS AND VESTED RIGHTS; PROVIDING FOR EXPIRATION DATES FOR PERMITS AND PROJECTS; AND PROVIDING FOR A PROCESS FOR DETERMINING VESTED RIGHTS

WHEREAS, Texas Local Government Code Chapter 245, (the “Code”) provides an opportunity for landowners or developers to “grandfather” or “vest” government regulations that apply to development at the time of the filing of a permit application; and,

WHEREAS, the Code authorizes municipalities to place expiration dates on permits and projects; and,

WHEREAS, the City Council of the City of Rollingwood finds that it is in the best interest of the City to establish an administrative procedure for consideration of a claim of vested rights.

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

SECTION 1. Part II Land Development Code, of the Rollingwood Code of Ordinances, is hereby amended by adopting Chapter 100 General Administration, Section 100-1 Permits, Projects and Vested Rights as set forth in the attached Exhibit A.

SECTION 2. The provisions of this ordinance are declared to be severable. If any section, subsection, sentence, clause, phrase, or portion of this ordinance shall for any reason to be held invalid or unconstitutional by any court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance, but they shall remain in effect; it being the legislative intent that this ordinance shall remain in effect notwithstanding the validity of any part.

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provisions of the ordinances of the City of Rollingwood in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Rollingwood not in conflict with the provisions of this ordinance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. The provisions of this ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED ON THIS ____ DAY OF _____, 2021

Mike Dyson, Mayor

ATTEST:

Ashley Wayman, City Secretary

EXHIBIT A

Chapter 100 General Administration

Section 100-1 PERMITS, PROJECTS AND VESTED RIGHTS

- (a) *Vested Rights*. Texas Local Government Code Chapter 245 (LGC) – Issuance of Local Permits, commonly referred to as the State’s “Vested Rights Law”, provides an opportunity for landowners or developers to “grandfather” or “vest” government regulations that apply to development at the time of the filing of a permit application. The City has established in this section an administrative procedure for consideration of any claim of a vested right.
- (b) *Definitions*. The following words when used in this section shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:
- Official* means the City Administrator or designee who administers the provisions of this section.
- Permit* shall have the meaning ascribed to it in Local Government Code § 245.001.
- Project* shall have the meaning ascribed to it in Local Government Code § 245.001.
- (c) *Permit applications - expiration*. Unless otherwise specified in this Code, all permit applications shall expire as stated herein. Any approved permit or authority to construct, build or execute any project pursuant to a permit or series of permits shall expire as follows:
- (1) A permit application or plan for development, filed on or after April 27, 2005, shall expire on the 45th day after said application or plan is filed, unless approved, if:
 - (A) The applicant fails to provide documents or other information necessary to comply with the city's technical requirements relating to the form and content of the application;
 - (B) The city provides written notice to the applicant of the failure not later than the 10th business day after the date the application is filed specifying the necessary documents or other information and the date the application will expire if the documents or other information are not provided; and,
 - (C) The applicant fails to provide the specified documents or other information within the time provided in the notice.

(2) The Official may, but is not required, to extend the time only for issuance of a building permit to erect or improve a building or other structure, in which event the permit application shall expire when said extension expires. Any such extension shall be in writing and signed by the Official or his designee.

(d) *Permits and projects - expiration.*

(1) Only a Project which was in progress (as defined by LGC Section 245.003) or for which a completed Permit application was filed after September 1, 1997 may be eligible to claim vested rights; any Project for which the completed Permit application was filed prior to September 1, 1997, or has expired, is not eligible.

(2) The following Permits (as well as other Permits satisfying the requirements of LGC Chapter 245), which include Plat Applications, and Plats, may be relied on by a property owner or developer to establish certain vested rights for a Project unless otherwise exempted by LGC 245.004. A Project will expire in five (5) years from the date the first Permit application was filed for the Project with the City if progress, as defined in LGC Section 245.005, has not been made towards completion of the Project. An expired Project is considered dormant, vested rights lapse and the Project must comply with current ordinances and requirements.

(A) Plat Applications

Vested rights under LGC Chapter 245 will be recognized for the Project that is the subject of a completed application for a plat that has been filed with the City, provided all necessary fees have been paid.

(B) Plats

Vested rights under LGC Chapter 245 will be recognized for a Project associated with the property which is the subject of a plat that has been approved by the City Council or Official for the City provided that fair notice is provided with the plat application in accordance with LGC Chapter 245.

(C) Other Permits

For the purposes of determining whether any vested rights exist, any other Permit for which an expiration date is not specifically set forth in this Code of Ordinances or in other applicable law shall expire two (2) years after the date the application for the Permit was filed with the City if progress, as defined in LGC Section 245.005, has not been made towards completion of the Project.

(e) *Administrative Procedure for Consideration of Claim of Vested Rights.*

Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, shall submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from

1 or not subject to a particular current regulation, ordinance, rule, expiration date, or
2 other requirement. Such written submission shall include, at a minimum, the
3 following:

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- 5 (1) The name, mailing address, telephone number and email address of the property
6 owner (or the property owner's duly authorized agent);
- 7 (2) Identification of the property, including the address (if it exists) and the plat
8 reference (if it exists) or metes and bounds (if not platted), for which the property
9 owner claims a vested right;
- 10 (3) Provide Project name, type of Permit and date the Permit was filed;
- 11 (4) If a property owner claims that certain regulations do not apply to the Project, the
12 property owner must identify, with particularity, all requirements that the property
13 owner claims do not apply; and
- 14 (5) Attach all supporting documents, if any.

15 The letter should be addressed to the City of Rollingwood Vested Rights Official.

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17 (f) *Vested Rights Determination.*

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19 The Official will review the request and supporting documents and issue a final
20 administrative determination of whether a vested right exists in relation to the
21 Project, and shall identify in writing to the property owner all claims for which
22 vested rights have been granted (the "Vested Rights Determination").

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24 (g) *Appeal.*

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26 If the property owner believes that the Vested Rights Determination is in error, the
27 property owner shall have the right to appeal such Vested Rights Determination to
28 the City Council, which will have jurisdiction to hear and decide the appeal. The
29 appeal provide for herein is a required condition precedent to any other appeal
30 authorized by law.