1 2	ORDINANCE NO. 2022-07-20-XX
3	AN ORDINANCE BANNING OUTDOOR BURNING
4	WITHIN THE CORPORATE LIMITS OF THE CITY OF
5	ROLLINGWOOD IN CERTAIN CIRCUMSTANCES; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING
6 7	FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR
8	AN EFFECTIVE DATE
9	WHEREAS the City Council of the City of Rollingwood ("City Council") seeks to
10 11	promote the health, safety and general welfare of the community by preventing wildfires within the City limits, and thereby limiting potential injury to persons or property; and
12 13	WHEREAS the City Council finds that the recent weather conditions have created a substantial risk of fire; and
14 15	WHEREAS the City Council finds that the outdoor burning during a time of extremely dry conditions as currently occurring constitutes a public nuisance; and
16 17 18 19	WHEREAS pursuant to Texas Local Government Code section 51 the City Council has the express authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and
20 21	WHEREAS pursuant to Texas Local Government Code section 217 the City Council has the express authority to prevent and abate any nuisance within the limits of the municipality; and
22 23 24	WHEREAS pursuant to Texas Local Government Code section 217 the City Council has the express authority to have any nuisance removed at the expense of the owner of the nuisance or the person who owns the property on which the nuisance exists; and
25 26 27	WHEREAS pursuant to Texas Local Government Code section 342.003 the City Council has the express authority to adopt rules and for the prevention of fires and the governing body considers necessary; and
28	WHEREAS pursuant to Texas Local Government Code section 54 the City Council has
29	the express authority to enforce local ordinances and to prescribe penalties for the violation of
30	those ordinances in accordance with the guidelines of that section.
31	NOW THEREFORE DE UT ORDANIED DY THE CUTY COLUMN OF THE CUTY OF
32 33	NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLINGWOOD, TEXAS, THAT:
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35	SECTION 1. All the above premises are hereby found to be true and correct legislative and factual
36 37	findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

1 2 3	SECTION 2. Part I of the City's Code of Ordinances is hereby amended by adding the following to Part I, Chapter 10:
4 5 6	ARTICLE IV. – BURN BAN
7	Sec. 10-89 Purpose; scope
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9	(a) Purpose. This article provides restrictions during specific drought-related conditions on
10	the lawful burning outdoors to protect public health, safety and welfare; to preserve
11	public and private property; and maintain trees and wildlife.
12	
13	(b) Scope. This article applies to all property within the city limits.
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15	Sec. 10-90 Definitions
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17	City burn ban. A prohibition on outdoor burning and/or fireworks effectuated by the city council,
18	by and through this article.
19	
20	Combustible material. Any substance that is capable of catching fire.
21	
22	County burn ban. A prohibition on outdoor burning and/or fireworks effectuated by Travis County.
23	
24	Fire marshal. The person designated or appointed by the city council to serve in the capacity of
25	fire marshal for the city. For purposes of this article, the fire marshal may be employed or otherwise
26	engaged by the designated emergency services district providing fire protection to the city.
27	
28	Sec. 10-91 Issuance
29	
30	(a) A city burn ban shall be in effect within the city limits immediately upon the
31	declaration of a county burn ban. Except as provided in (3) of this Section, the city
32	burn ban is to run concurrently with the county burn ban.
33	

1	<u>(b)</u>	The city council may declare a city burn ban for a specified period when:
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3		(1) The city has not had any appreciable rainfall for 90 days; or
4		
5		(2) The Texas Forest Service determines that drought conditions exist;
6		
7	<u>(c)</u>	The city burn ban expires upon the earlier of either, expiration of the county burn
8		ban, or upon action by the City council terminating the burn ban. If the City has
9		enacted a burn ban under subsection (b) above, the ban terminates upon action by the
10		City council terminating the burn ban.
11		
12	Sec. 10-91.	- Prohibited actions
13		
14	During a cit	y burn ban, it is unlawful for any person to:
15		
16	<u>(a)</u>	Burn any combustible material outdoors outside of an enclosure which serves to
17		contain all flames and/or sparks, or order such burning by others.
18		
19	<u>(b)</u>	Engage in any activity outdoors which could allow flames or sparks that could result
20		in a fire, or order such activities by others.
21		
22	(c)	Engage in outdoor welding, including welding of landscape materials, unless before
23		beginning any welding, the person performing the welding has notified Emergency
24		Services District No. 9 of the location and work to be performed, the welding is
25		performed by a welder certified by the American Welding Society, the work area has
26		been cleared of all debris or accumulated fuels, and a second individual with fire
27		extinguishing materials is present at all times at the site of the welding; provided
28		however, no welding may be performed an any day designated by Travis County as
29		a "red flag" day.
30	Sec. 10-92.	- Exceptions

1	The prohibitions established by this section shall not apply to:				
2					
3	(a) Licensed peace officers, as that term is defined by Texas Code of Criminal Procedure,				
4	article 2.12(3), provided that such outdoor fires are made in the course and scope of				
5	the peace officers' official duties.				
6					
7	(b) Activities specifically permitted or expressly authorized by the Texas Commission				
8	on Environmental Quality (TCEQ).				
9					
10	(c) Firefighting training activities properly supervised by a firefighting authority,				
11	department or political subdivision.				
12					
13	(d) Prescribed burns properly conducted and supervised by a prescribed burn manager				
14	certified under Texas Natural Resources Code section 153.048, and that meet the				
15	standards established in Texas Natural Resources Code, section 153.047.				
16					
17	(e) Other exceptions as may be made by the fire marshal in writing on a case-by-case				
18	basis.				
19					
20	Sec. 10-93 Enforcement				
21					
22	Each violation of this ordinance shall be punished by a penalty of a fine of not more than \$2000.00				
23 24	for each offense.				
25 26 27 28 29	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.				
30 31 32 33 34 35	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 invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.				

1	SECTION 5. This ordinance shall take effect immediately from and after its passage and the			
2	publication of the caption as the law provides.			
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4	APPROVED, PASSED AND ADOPTED by the City Council of the City of Rollingwood, Texas,			
5	on the 20th day of July, 2022.			
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7				
8	APPROVED:			
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10				
11				
12	Gavin Massingill, Mayor			
13				
14	ATTEST:			
15				
16				
17	Desiree Adair, City Secretary			