

## Exhibit A

### Amendments to Chapter 28, Article II – Construction in City Rights-of-Way

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*The City of Rollingwood Code of Ordinances, Chapter 28 - Streets, Sidewalks and Other Public Places, Article II - Construction in City Rights-Of-Way is hereby amended to add a new Division 4 – Right-of-Way Encroachments as follows:*

#### **DIVISION 4. - RIGHT-OF-WAY ENCROACHMENTS**

##### **Sec. 28-140 Purpose**

To establish a process and standards that allows encroachments into the public right-of-way in order to:

- (1) Encourage investment and improvements in the City by allowing businesses and homeowners limited use of the public right-of-way adjacent to their properties.
- (2) Provide an option to allow minor encroachments to be approved administratively.
- (3) Ensure public safety by maintaining minimum construction and design standards in the public right-of-way.
- (4) Protect and enhance the streetscape of business districts and neighborhoods within the City.

##### **Sec. 28-141 Application**

- (a) Any person desiring to place or modify a structure, equipment, or other material on, above, or below a public right-of-way of the City, including but not limited to fencing, landscaping, parking, signs, lighting, fixtures, or other appurtenance, unless exempt, shall make an application to the City Administrator for review and approval.
- (b) The City Administrator, or designee, shall circulate an application to City departments and outside agencies as necessary to ensure compliance with applicable ordinances and statutes.
- (c) The City Administrator, or designee, may require additional information from the applicant as needed, including review by a professional engineer for structural improvements, to ensure compliance and to ensure public health and safety.
- (d) Any building or structure to be placed within the public right-of-way shall obtain any building permits as required.

##### **Sec. 28-142 Exceptions**

The following exceptions do not require an encroachment application:

- (1) Freestanding mailboxes not located within a sidewalk, other pedestrian path, vehicle parking or maneuvering area, or sight triangle.
- (2) Landscaping up to three feet in height.

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- (3) Trees with a vertical clearance of at least seven feet underneath their branches and not located within 15 feet of a street intersection nor within 10 feet of a driveway intersection with a street.
  - (4) Encroachments already governed or authorized under a separate ordinance or process which may include but not be limited to signs, wireless communication facilities, utilities and utility poles, street and traffic-control signs or signals, temporary construction and barricades for public safety, and transit shelters.

**Sec. 24-143 Administrative review by City Administrator**

- (a) The City Administrator, or designee, may review and approve, conditionally approve or disapprove applications for the following types of encroachments:
  - (1) Trees and landscaping not excepted above;
  - (2) Steps or ramps to comply with Texas Accessibility Standards;
  - (3) Sidewalk furniture and surfacing, lighting, fixtures, and other appurtenances not associated with a patio or dining area.
- (c) An approval may require the applicant and/or adjacent property owner(s) to obtain a right-of-way license use agreement and/or an aerial easement, and certificate of insurance, as determined by the City Administrator.
- (d) The City Administrator may refer any application to the City Council for review and approval.
- (e) An applicant or designated representative may appeal a decision of the City Administrator, or designee, made under this Section to City Council by filing a written, signed notice of appeal stating the grounds for appeal with the City Administrator within 30 days of the written decision.

**Sec. 24-144 Review by city council**

- (a) City Council shall review applications for all other encroachments not otherwise authorized administratively under this article, including those referred by City Administrator, or designee.
- (b) An approval may require the applicant and/or adjacent property owner(s) to obtain a right-of-way license use agreement and/or an aerial easement, and certificate of insurance, as determined by the City Administrator.

**Sec. 24-145 Minimum standards**

All encroachments, including the exceptions, shall adhere to the following minimum development standards to the satisfaction of the City Administrator, or designee:

- (1) Be incidental and accessory to a primary use located on an adjacent property.

- (2) Shall not be located adjacent to any designated fire lane, loading or unloading zone, or block ingress or egress to any facility or utility.
- (3) Maintain a minimum four-foot unobstructed sidewalk clearance.
- (4) Maintain a minimum 18 inches from back of curb, or three feet from the edge of pavement in the absence of a curb.
- (5) Maintain a minimum vertical clearance of:
  - a. Between three and nine feet within 15 feet of the intersection of the street surfaces of two streets, and
  - b. Between three and nine feet within 10 feet of where a driveway intersects the edge of pavement or curb of a street.

**Sec. 24-146 Revocation**

- (a) Revocation.
  - (1) City Council reserves the right to revoke, in its sole discretion, any encroachment authorized under this article subject to the terms of any applicable written agreement or easement executed by the City.
  - (2) The City Administrator, or designee, may temporarily prohibit encroachments excepted under section 28-142 or authorized under section 28-143 subject to the same right of appeal granted by section 28-143(e). Encroachments may be temporarily prohibited when such encroachments interfere with public construction or improvement projects, emergency management measures, or any other matter pertaining to the public health, safety, and welfare.