

CITY OF ROLLINGWOOD, TEXAS

ORDINANCE NO. 2012-05-16 (A)

AN ORDINANCE OF THE CITY OF ROLLINGWOOD, TEXAS, AMENDING CHAPTERS 1 AND 12 OF THE CITY OF ROLLINGWOOD CODE OF ORDINANCES TO ESTABLISH THE RANGES IN COURT FINES IN COMPLIANCE WITH STATE LAW; AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO MODIFY PROVISIONS RELATED TO MUNICIPAL JUDGES AND TO ESTABLISH THE OFFICE OF COURT CLERK; PROVIDING FOR PUBLICATION, FOR SEVERABILITY, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City desires to make uniform all maximum fines in the City's Code of Ordinances ("Code");

WHEREAS, amendments to the Code are desired to conform to existing State laws;

WHEREAS, the City desires to modify the provisions related to judges of the Municipal Court; and

WHEREAS, the City desires to create the establish clerk positions of the Municipal Court;

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

SECTION 1. Code Chapter 1, Section 1.01.009, subsections (a) and (b), are amended as follows:

- (a) Whenever in this code, an ordinance of the city, or state law enforced by the city,
 - (1) an act is prohibited;
 - (2) an act is made or declared to be unlawful, an offense or a misdemeanor;
 - (3) an act is required; or
 - (4) the failure to do an act is declared to be unlawful,

and no specific penalty is provided therefor, the violation of such provision shall be punished by a fine not to exceed five hundred dollars (\$500.00).

- (b) Unless otherwise authorized by state law, no fine established by this code or in any ordinance of the city may exceed five hundred dollars (\$500.00) unless it penalizes a violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation, including the dumping of refuse. This section shall govern in the case of conflicts with other sections of this code or any ordinance.

SECTION 2. Code Chapter 12 is amended by deleting Sections 12.02.042 and subsection (b) of 12.04.003 in their entirety and by amending the sections and subsections noted as follows:

Section 12.01.002 State laws adopted, penalties

For the purpose of regulating traffic on the streets, alleys and thoroughfares of the city, there are hereby adopted Chapters 1 through 750 of the Texas Transportation Code and all other state motor vehicle laws, which act and laws, together with the provisions contained in this chapter, shall be controlling in the regulation of traffic in the city. A violation of said act or any state motor vehicle law for which the municipal court has jurisdiction shall constitute and be punishable as a violation of this traffic code and by fine as provided in said act or other state motor vehicle law.

Section 12.03.051 Violations

All of the streets of this city, and all portions of such streets, are hereby declared to be public streets, and it shall be a violation of this section for any person to operate any motor vehicle on or along any portion of any street of this city at a rate of speed that is greater than the maximum rate of speed for said portion of said street as fixed by this traffic code or city ordinance.

Section 12.04.002 (b) Violations

(1) It shall be a violation of this section for any person to:

(A) Park, cause to be parked or permit to remain parked any motor vehicle in those locations indicated without displaying a valid permit.

(B) Falsely represent himself as being eligible for a permit, submitting false documents or otherwise making a false statement of material fact on an application for a permit.

(2) Any motor vehicle parked in violation of this section without displaying a valid permit may be issued a citation or be subject to immediate towing and impoundment or both.

(3) In any prosecution for a violation of this section, proof that a temporary traffic-control device was actually in place shall constitute prima facie evidence that the same was installed by the chief of police or his designee pursuant to the authority of this section; provided however, it shall not be a defense in a prosecution under this section that there was no sign, that the sign was overturned, or that such sign was not sufficiently legible or in a proper position to be seen by the defendant or by an ordinarily observant person.

Section 12.04.004

Chapter 681 of the Texas Transportation Code, as amended from time to time, will apply to any parking space or area for the disabled on private property designated as handicap accessible.

SECTION 3. A caption that summarizes the purpose of this Ordinance and the penalty for violating this Ordinance shall be published as provided by Section 52.011 of the Texas Local Government Code.

SECTION 4. Code Chapter 7 is amended by modifying Sections 7.01.002 and 7.01.003 as follows:

Sec. 7.01.002 Judges

(a) Municipal judge. The city council shall appoint a municipal judge, who shall be an attorney licensed to practice law in the state, and may fix compensation for that office. The municipal judge shall be the presiding magistrate of the municipal court, and shall have all of the powers and authority granted by the laws of the state. The presiding judge shall furnish such surety bond as may be required by the city council, with the premiums therefor being paid by the city. The municipal judge shall serve at the will of the city council for a two-year term that runs concurrently with that of the mayor unless he or she is removed by vote of the council prior to completion of a term in the manner provided by state law for removal of municipal officers. The municipal judge shall be the presiding magistrate of the municipal court, and shall have all of the powers and authority conferred upon him by the laws of the state.

(b) Alternate municipal judge. The city council may appoint an alternate municipal judge, who shall have the same qualifications and be appointed in the same manner as the municipal judge. Alternate municipal judges shall perform the same duties and have the same powers and authority as that prescribed for the municipal judge, shall be subject to the same provisions relating to compensation and a surety bond, and shall also serve at the will of the city council.

(c) Associate municipal judge. The city council may appoint an associate municipal judge, who shall not be required to be an attorney. The associate municipal judge shall be a magistrate of the court with authority to accept a plea, sign a judgment, sign an uncontested order, administer oaths, issue a warrant under Article 15.07 of the Code of Criminal Procedure, affix the seal of the court, and set fees within the range authorized by state law for matters subject to mandatory dismissal. The associate municipal judge shall not preside over or decide contested cases or motions and may not sign any order, warrant, capias, or capias pro fine that relies upon his or her own affidavit. The associate municipal judge has no authority to supervise the court clerk, deputy clerk, or interim clerk. To the extent not performed by any acting clerk, the associate municipal judge shall keep the minutes of the proceedings of the court, issue all process, receive and file all papers, and perform other duties assigned by the municipal judge or city council. The associate municipal judge may receive all fines and court costs for violations of city ordinances and the laws of the state, and shall perform other duties incident to the operations of the municipal court. The associate municipal judge shall receive such compensation as may be fixed by the city council, shall furnish a surety bond in the amount required by the city council, with the premium therefor being paid by the city, and shall serve at the will of the city council.

Sec. 7.01.003 Sessions

The proceedings of the municipal court shall be conducted at city hall, at such times as may be deemed appropriate by the municipal judge. Regular sessions of the municipal court shall be held for the hearing and determination of unresolved cases coming before the court.

SECTION 5. Code Chapter 7 is amended to add Section 7.01.004 as follows:

Sec. 7.01.004 Clerks

(a) Clerk. The city council may appoint a clerk of the municipal court. The clerk shall keep minutes of the proceedings of the court, issue all process and generally perform all the duties of the clerk of a court as prescribed by law for a county clerk, as far as may be applicable. The clerk shall serve at the will of the city council for a two-year term that runs concurrently with that of the mayor unless he or she is removed by the council prior to completion of a term. A clerk appointed to assume the post during a term shall hold office for the remainder of the unexpired term of the mayor who is in office at the time of the assumption of the post.

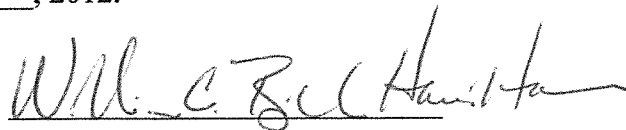
(b) Deputy clerk. The city council may appoint a deputy clerk. All duties imposed upon the clerk may lawfully be performed by the deputy clerk. Deputy clerks serve at the will of the city council.

(c) Interim clerk. The city council may appoint an interim clerk of the municipal court. Unless the council provides otherwise, an interim clerk shall have the same powers and authority as the clerk. Unless the council provides a shorter term, the interim clerk shall serve at the will of the council for not longer than the remainder of the unexpired term described in (a).

SECTION 6. This Ordinance shall be effective immediately upon adoption.

SECTION 7. If any provision of this Ordinance is found by a court of competent jurisdiction to be void or unenforceable, such void or unenforceable provision shall be severed as though it never formed a part of this Ordinance, and all other provisions hereof shall remain in full force and effect.

PASSED AND APPROVED BY THE CITY COUNCIL OF ROLLINGWOOD, TEXAS,
on the 16th day of May, 2012.



William C. (Bill) Hamilton, Mayor

ATTEST:



Robyn Ryan, City Secretary