

CITY OF ROLLINGWOOD, TEXAS

ORDINANCE NO. 2019-08-21 (A)

AN ORDINANCE OF THE CITY OF ROLLINGWOOD, TEXAS, AMENDING THE CITY'S ZONING REGULATIONS PROVIDING FOR A MAXIMUM OCCUPANCY OF A DWELLING LOCATED IN THE CITY'S RESIDENTIAL ZONING DISTRICT; DELETING UNNECESSARY PROVISIONS; PROVIDING FOR A PENALTY OF UP TO \$2,000.00 PER DAY FOR A VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE, REPEALING CONFLICTING LAWS AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Rollingwood, Texas is concerned with alleviating overcrowded, unsafe, and unsanitary conditions, including trash, traffic and noise; and,

WHEREAS, the City Council of the City of Rollingwood, Texas recognizes that controlling population density is a step toward alleviating such concerns, while allowing for more efficient and orderly delivery of community services; and,

WHEREAS, the City Council of the City of Rollingwood, Texas desires to ensure privacy and health and safety, while preventing disorderly growth; and,

WHEREAS, the City Council of the City of Rollingwood, Texas recognizes the need to balance associational rights of residents with protecting the neighborhood characteristics and overall needs of the community in relation to public health, safety, and welfare; and,

WHEREAS, the City Council of the City of Rollingwood, Texas recognizes that conditioning associational choices on a subjective definition of "family" or undue scrutiny of "intimate relationships" would be problematic in implementation and would not be in the best interests of the citizens of the City of Rollingwood; and,

WHEREAS, the City Council of the City of Rollingwood, Texas recognizes that interfering with allowing individuals to choose household companions can be unduly burdensome.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The City's Code of Ordinances Article 14, is hereby amended as follows with underlines being additions and strikethroughs being deletions:

Sec. 14.02.051 Definitions

For the purpose of this article, the following terms and words are defined as indicated below. Terms or words not defined herein shall be construed in accordance with customary usage.

Dwelling. A building which:

- (1) Is designed and constructed for occupancy as a residence ~~by not more than one family~~;
- (2) [Includes] bathroom facilities;
- (3) Includes facilities for food preparation and sleeping; and
- (4) Is not attached to any other building by any means.
- ~~(5) For the purpose of uses allowed in a residential zoning district, the term "dwelling" is restricted as provided in section 14.02.202.~~

~~Family. One person living alone, or two or more persons living together as a single housekeeping unit in a dwelling; provided, however, that the term "family" is limited for the purpose of restricting occupancy of a dwelling in a residential zoning district as provided in section 14.02.202.~~

Sec. 14.02.202 Permitted uses; restrictions on dwellings

(a) No land, building or structure shall be used, and no building or structure shall be hereafter constructed or altered, except for one or more of the following uses:

- (1) Dwellings;
- (2) Accessory buildings or structures;
- (3) Home occupations;
- (4) Any use otherwise authorized ~~that may not be restricted~~ in a residential zoning district pursuant to applicable state or federal law, including community homes pursuant to Tex. Human Resources Code, chapter 123, and, as applicable, religious assembly uses pursuant to the Texas Religious Freedom and Restoration Act which are operated in conformance with those applicable laws and in compliance with this Code;
- (5) The following shall be permitted provided that such use of property has continued without interruption or change in ownership of the property since twelve (12) months after the original adoption of this article, but not otherwise:
 - (A) Parks, playgrounds, recreation buildings, city buildings, nonprofit libraries or museums, or fire stations;

(B) Public water or wastewater facilities, including reservoirs, filler beds, surface or below surface tanks, artesian wells, pumping plants, wastewater disposal facilities, or city administration buildings; and

(C) Subdivision sales offices.

(b) Notwithstanding the permitted use of a dwelling as provided in subsection (a), ~~and notwithstanding the definitions of the terms “dwelling” and “family” as provided in section 14.02.051,~~ a permitted use of a dwelling shall not include the following:

(1) Occupancy by a fraternity or sorority;

(2) Residence in a dwelling by 3 or more persons unrelated to each other by blood, marriage, or adoption;

(3) Occupancy of a dwelling that has been subdivided into two or more living areas with separate kitchen and bathroom facilities that are segregated by permanent wall(s) or partition(s), two or more of which living areas have separate and exclusive means of ingress and egress to the exterior of the dwelling.

(c) ~~(1) —~~As used in this section, ~~“residence” in a dwelling shall include~~ “resident” and “residents” shall mean a person or persons who ~~the place the person~~ primarily lives, sleeps, and maintains possessions ~~such as clothes in the dwelling,~~ or for which rent is paid for the person’s use or occupancy, whether pursuant to a lease agreement, ~~or month-to-month tenancy or other agreement.~~

(d) The number of residents in a dwelling, regardless of relationship by blood, marriage, or adoption, may not exceed the lowest number of residents derived from the following with any resulting fraction for the number of residents being rounded down:

(1) The total gross square footage of air-conditioned space in the dwelling divided by 300 square feet;

(2) The number of areas in the dwelling intended as sleeping quarters meeting the requirements of minimum room areas as defined by the most recent International Residential Code adopted by the City and having at least one attached closet, multiplied by two;

(3) A maximum of ten (10) residents.

~~(2) — For purposes of this section, only the persons with the following relationships shall be deemed to be related to each other by blood, marriage, or adoption:~~

~~(A) — A person having legal custody of another person;~~

~~(B) — A person who is the designee of a parent or other person having legal custody (with written permission of the parent or person having legal custody) and the person that is the subject of the legal custody;~~

~~(C) — A person who is in the process of securing legal custody over another person and that other person;~~

~~(D) — Spouses, whether by marriage or at common law; and~~

~~(E) — Persons related to each other within the third degree of consanguinity or affinity, as determined pursuant to Texas Government Code chapter 573, including sections 573.023(c) and 573.025.~~

~~(de)~~ Each person who enters into a lease or other contract that authorizes or provides for residence or occupancy of a dwelling proscribed by subsections (b)(1) and (3), including an owner of the affected property, shall be deemed to have violated the restriction on use applicable to a residential zoning district.

~~(ef)~~ ~~The following persons shall be guilty of an unauthorized occupancy of a dwelling described in this subsection (b)(2):~~ (i) An owner or sub-lessor of the affected property a dwelling who enters into an oral or written lease or other agreement (directly or through an agent) that authorizes or permits a residency or occupancy of a dwelling ~~proscribed by subsection (b)(2)~~ in violation of this section shall be guilty of an unauthorized occupancy of a dwelling when such a residency or occupancy actually occurs.

~~Sec. 14.02.204 — Special uses~~

~~Special uses are not permitted in the residential district.~~

SECTION 3. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a penalty of fine not to exceed the sum of \$2,000.00 for each offense, and each and every day such offense continues shall constitute a new and separate offense.

SECTION 4. 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 5. Should any sentence, paragraph, subdivision, 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.

SECTION 6. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

APPROVED, PASSED AND ADOPTED by the City Council of the City of Rollingwood, Texas, on the 21st day of August, 2019.

APPROVED:

Michael R. Dyson, Mayor

ATTEST:

Amber A. Lewis, City Administrator