

1                                   **ORDINANCE NO. 2025-XX-XX-XX**

2                   **AN ORDINANCE AMENDING CHAPTER 107 OF THE CITY OF**  
3                   **ROLLINGWOOD’S CODE OF ORDINANCES RELATED TO**  
4                   **RESIDENTIAL TREE CANOPY AND LANDSCAPE**  
5                   **MANAGEMENT, PROVIDING FOR SEVERABILITY AND AN**  
6                   **EFFECTIVE DATE.**

7                   **WHEREAS**, the City of Rollingwood is a General Law Type A City under the  
8 statutes of the State of Texas; and

9                   **WHEREAS**, the Texas Local Government Code Chapter 211 provides authority to  
10 regulate land for residential purposes; and

11                   **WHEREAS**, the City Council of the City of Rollingwood (“City Council”) finds  
12 that proper landscaping and tree canopies management provide critical environmental  
13 benefits, including improved air quality, reduced urban heat island effect, enhanced  
14 biodiversity, and stormwater management. The preservation and expansion of tree  
15 canopies contribute to the overall health and sustainability of urban ecosystems; and

16                   **WHEREAS**, the City Council finds and determines that proper landscaping and  
17 trees play a vital role in enhancing public health and well-being by promoting mental  
18 health, providing recreational opportunities, and reducing noise pollution. The presence of  
19 mature trees and well-maintained green spaces is associated with improved quality of life  
20 for residents; and

21                   **WHEREAS**, the City Council finds and declares that heritage trees, which are of  
22 significant age, size, or historical importance, represent irreplaceable cultural and historical  
23 assets. These trees contribute to the city’s identity and historical character, offering  
24 aesthetic and educational value to current and future generations; and

25                   **WHEREAS**, the Comprehensive Residential Code Review Committee (the  
26 “CRCRC”) was appointed, among other issues, to study the need for amendments to the  
27 City’s tree canopy and landscape regulations in residential areas; and

28                   **WHEREAS**, the CRCRC has made recommendations consistent with the amended  
29 regulations herein; and

30                   **WHEREAS**, the CRCRC, the Planning and Zoning Commission and the City  
31 Council have held public meetings and/or hearings and received public input regarding the  
32 proposed amendments.

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

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

38 **SECTION 2.** Code Amendment. The following sections of the Rollingwood Code of  
39 Ordinances are hereby amended as follows with ~~strike-throughs~~ being deletions from the  
40 Code and underlines being additions to the Code:

41 The title to Chapter 107, Division 10, Subdivision 2 is hereby deleted and amended to read  
42 as follows:

43 **Subdivision 2. Residential Landscape and Tree Canopy Management**

44 **Sec. 107-369. Purpose.**

45 (a) The tree code regulations protect the health, safety, and general  
46 welfare of the citizens of the city. In doing so, the appearance of  
47 the city is enhanced and important ecological, cultural, and  
48 economic resources are protected for the benefit of the city's  
49 residents, businesses, and visitors.

50 (b) Because the city experiences frequent drought conditions, these  
51 regulations are also intended to encourage low water demanding  
52 landscapes (Xeriscapes) through the use of native and adapted  
53 low water use plants from the Austin Grow Green Guide found  
54 on the City of Austin Website. The planting of turfgrass on less  
55 than 50% of the total landscaped areas, with that turf grass  
56 preferably having summer dormancy capabilities such as Buffalo  
57 grass, Zoysia grass, or non-seeding varieties of Bermuda grass is  
58 also encouraged.

59 (c) It is the intent of these regulations that site plan and project  
60 design will preserve the existing natural character of the  
61 landscape and the retention of protective trees as much as  
62 possible.

63 ~~(b)~~(d) The sections within this subdivision address trees in both  
64 development and non-development situations and seek to  
65 enhance the quality of the tree canopy and optimize the benefits  
66 that trees provide.

67 ~~(e)~~(e) For development situations, additional requirements to this  
68 subdivision are designated in [section] 107-376.

69 **Sec. 107-370. Applicability.**

70 This subdivision applies to property in the residential zoning  
71 district and to any other property to which section 107-341 of this  
72 Code does not apply.

73 **Sec. 107-371. Definitions.**

74 In this subdivision:

75 (a) *Protected species* means:

76 (1) Ash, Texas

- 77 (2) Cypress, Bald  
78 (3) Elm, American  
79 (4) Elm, Cedar  
80 (5) Madrone, Texas  
81 (6) Maple, Bigtooth  
82 (7) All Oaks  
83 (8) Pecan  
84 (9) Walnut, Arizona  
85 (10) Walnut, Eastern Black
- 86 (b) *Protected tree* means a tree that has a trunk with a diameter of 12  
87 inches or more, measured four and one-half feet above ground,  
88 and is one of the protected species;
- 89 (c) *Replacement species* means:
- 90 (1) For trees planted within 20 feet of an above-ground  
91 power, cable, or telephone line:
- 92 a. Anacacho Orchid Tree  
93 b. Common Tree Senna  
94 c. Crape Myrtle (dwarf)  
95 d. Desert Willow  
96 e. Evergreen Sumac  
97 f. Eve's Necklace  
98 g. Flameleaf Sumac  
99 h. Goldenball Leadtree  
100 i. Mexican Buckeye  
101 j. Mexican Plum  
102 k. Possumhaw Holly  
103 l. Rough Leaf Dogwood  
104 m. Texas Mountain Laurel  
105 n. Texas Persimmon  
106 o. Texas Pistache  
107 p. Texas Redbud  
108 q. Wax Myrtle  
109 r. Yaupon Holly  
110 s. Cherry Laurel
- 111 (2) For all other trees planted within a property, a protected  
112 species.
- 113 (d) *Replacement tree* means:

- 114 (1) For the replacement species listed in subsection (c)(1), a tree  
115 at least eight feet high when planted, which shall be  
116 maintained in a healthy condition after planting;
- 117 (2) For the replacement species listed in subsection (c)(2), a tree  
118 with a diameter equal to not less than one-fourth the diameter  
119 of the protected tree it replaces up to a maximum diameter of  
120 ~~six~~ five inches, which shall be maintained in a healthy  
121 condition after planting. The diameter of protected and  
122 replacement trees shall be measured four and one-half feet  
123 above the ground when planted.
- 124 (e) Heritage tree means a Protected Tree of a protected species,  
125 having a diameter of 24 inches or more, measured 4½ feet above  
126 natural grade. To determine the diameter of a multi-trunk tree,  
127 measure all the trunks; add the total diameter of the largest trunk  
128 to ½ the diameter of each additional trunk. A total diameter of  
129 24” or higher for a multi-trunk tree is a Heritage tree.
- 130 (f) Critical root zone (“CRZ”) means the area around and under a  
131 tree having a radius of one foot per inch of diameter from the  
132 trunk of the tree outwards and twenty-four inches in depth. For  
133 example, for a tree having a 10-inch diameter, the critical root  
134 zone is 10 feet out from the trunk and twenty-four inches deep.
- 135 (g) Removal means an intentional act that causes or may be  
136 reasonably expected to cause a tree to die, including:
- 137 (1) Uprooting;
- 138 (2) Severing the main trunk;
- 139 (3) Damaging the root system, including, but not limited to:
- 140 a. Adjusting the grading of a lot to cover or uncover  
141 a tree trunk or root system to the extent that the  
142 adjusted grading causes or may be reasonably  
143 expected to cause the tree to die; or
- 144 b. Placing fixtures over the root system to the extent  
145 that the placement of the fixtures causes or may be  
146 reasonable expected to cause the tree to die.
- 147 (4) Excessive pruning, including, but not limited to, pruning that  
148 exceeds 25 percent of the canopy of the tree.
- 149 (h) Certified City arborist means an ISA certified arborist.
- 150 (i) City Development Officer means that individual designated by the  
151 City Administrator from time to time.

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**Sec. 107-372. Administration.**

- (a) A city arborist shall be appointed by the city council who shall coordinate with the City Development Officer when determined necessary to assist in promulgating forms for use under this subdivision and to decide all applications for removal of a protected tree.
- (b) ~~If an applicant requests a variance as permitted under this subdivision, the city arborist shall direct the request to the city council and make a recommendation to the city council whether to approve the variance request.~~
- (e)(b) The list of eligible protected tree species under subsection 107-371(a) and the list of eligible replacement tree species under [subsection] 107-371(c) may be supplemented by approval of the city council, in consultation with the city arborist. ~~Or as provided by subsection (e).~~
- (d)(c) All protected trees and heritage trees removed from a lot ~~should~~ shall be replaced on that lot unless a written permission is submitted to the City from an adjacent lot owner to replant on the adjacent lot. An applicant may satisfy a tree replacement requirement by planting the required replacement tree(s) on the property affected by the protected tree removal, or on one or more other property(s) approved by the arborist or other designated agent of the city if:
  - (1) ~~The benefit to residents of the city would be as great as replacement on the property affected by the protected tree removal; and~~
  - (2) ~~The owner(s) of such other property(s) agree in writing to maintain the replacement trees in a healthy condition and replace same with like trees, as necessary as a result of a death of such tree(s), for a period of not less than three years.~~
- (e) ~~For purposes of subsections 107-372(e) and (d) the city and the owner may consult with an academic organization, state agency, nonprofit organization, or the city arborist to identify an area for which tree planting will best address the science based benefits of trees and other reforestation needs of the municipality within and outside of the city limits.~~
- (f)(d) The city council shall provide for fees payable for review of applications for permits and variances pursuant to this division.

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**Sec. 107-373. Removal of protected trees.**

- (a) A person may not remove a protected tree without a tree removal permit for the removal and compliance with the terms of this subdivision.
  - (1) During removal of protected trees the tree removal permit shall be displayed on the construction board for the site ~~in present~~ or otherwise displayed on a sign within the first five feet of the front yard ~~setback~~ and if the house is not under construction the permit for tree removal shall be placed on the dashboard of the permitted vendor's vehicle.
  - (2) Removal of a Heritage tree in required yard space is prohibited unless a Heritage Tree Removal Special Exception is granted by the Board of Adjustment upon a finding that: (i) ~~all~~ reasonable efforts have been made to avoid removing the tree, (ii) the location of the tree precludes all reasonable access to the property or all reasonable use of the property, and (iii) removal of the tree is not based on a condition caused by the method or design chosen by the applicant to develop the property. A Heritage Tree Removal Special Exception provided for in this code will not be required for Heritage Trees removed from the ~~permitted building footprint buildable~~ area but such removal ~~is~~are subject to the tree removal permitting and replacement regulations provide for in this Code.
- (b) Emergency pruning or removal. Notwithstanding subsection 107-373(a), a person may perform emergency pruning or removal of a protected tree as follows:
  - (1) ~~When the condition or location of a protected tree presents a clear and immediate danger to a structure or to the health and safety of the public, the hazardous portion of the protected tree may be removed without first obtaining a required tree removal permit. Upon the report of a certified arborist hired by the property owner that a heritage tree is either: (i) dead; (ii) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree, in whole or in part; or (iii) is diseased and restoration to sound condition is not practicable or the disease may be transmitted to other trees and endanger their health. This report must be confirmed by the city arborist. The city administrator shall have the authority to determine whether such documentation is in order and may consider specific safety situations in light of potential hazards to life or property. In the case of an imminent hazard to life or property under subsection (ii),~~

**Commented [NS1]:** Section 107-373(a)(2) prohibits the removal of a heritage tree unless a special exception is granted. This section should be reviewed and modified to address concerns about the removal of heritage trees and the special exception process.

235 documentation may be submitted within 72 hours after the  
236 action is taken.

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238 (2) In the course of performing emergency repairs to a road or  
239 water, wastewater, or drainage facilities, agents or  
240 contractors of the city may trim, prune or remove a  
241 protected tree as required to perform such work without first  
242 obtaining a tree removal permit. If such activities occur  
243 during normal business hours, the city shall first attempt to  
244 contact the ~~city arborist~~ City Development Officer  
245 to determine if the ~~city arborist~~ City Development Officer can  
246 provide immediate guidance and assistance. If such  
247 assistance is not immediately available, then the pruning or  
248 removal may occur in accordance with the requirements  
249 under chapter 18, article V of this Code.

250 (3) Any person who prunes or removes a protected tree under  
251 the provisions of this subsection shall, within 14 days of  
252 such action or as soon as practicable if there is a coinciding  
253 declaration of a state of emergency in the city, apply for a  
254 tree removal permit providing for replacement trees as  
255 required by this subdivision. The application shall include  
256 photographs or other documentation to demonstrate the  
257 requisite clear and immediate danger. The ~~city arborist~~ City  
258 Development Officer will evaluate the information to  
259 determine whether a clear and immediate danger existed. A  
260 failure to submit an application or a failure to submit  
261 information demonstrating the clear and immediate danger  
262 shall constitute a violation of this subdivision.

263 (c) The requirements of this subdivision apply to trees on public and  
264 private property. To the extent of conflict with another section of  
265 the Code, this subdivision applies.

266 **Sec. 107-374. Application for protected tree removal and tree removal**  
267 **permits.**

268 (a) An applicant may request a tree removal permit application from  
269 the city through the City's application platform located on the  
270 City's website. ~~by phone, U.S. mail, fax, email or in person.~~

271 (b) An application for removal of a protected tree located on public  
272 property, a right-of-way or a public easement may be submitted  
273 by:

274 (1) An agent of the city, a public utility, or another political  
275 subdivision with the authority to install the public facilities

276 and perform the work necessitating the removal of the  
277 protected tree; or

278 (2) The owner of the property adjoining the site of the protected  
279 tree.

280 (c) An application for removal of a protected tree on private property  
281 may be submitted by or on behalf of the owner of the property on  
282 which the tree is located.

283 (d) An application for removal of one or more protected tree(s) must  
284 be submitted to the city secretary and approved prior to removal  
285 of the protected tree. If the application is approved as provided  
286 for in this subdivision, a permit shall be issued indicating each  
287 protected tree that is approved for removal and indicating the  
288 location(s) and size(s) of any required replacement trees and the  
289 dates by which replacement trees must be planted. ~~No tree  
290 removal permit shall be issued unless an approved building  
291 permit is in place, which includes a detailed building footprint.  
292 Any permit application for tree removal must be accompanied by  
293 documentation confirming the issuance of the building permit.~~

294 (e) An application that proposes removal of a protected tree shall  
295 include the required permit application fee.

296 (f) An application for removal of a protected tree shall include any  
297 proposal for type(s) and location(s) of replacement trees on a site  
298 plan of affected property(s).

299 (g) A permit for removal of a protected tree expires on the earlier of  
300 either two years after its effective date, or upon removal of the  
301 protected tree except that if any building permit issued for the  
302 associated property expires or is revoked for any reason, the  
303 permit for removal of a tree shall be revoked as well. Subject to  
304 applicable expiration, a permit for removal of tree(s) is  
305 transferable to a subsequent owner of the affected property,  
306 provided that any obligation in the permit with respect to  
307 replacement trees is assumed by the transferee.

308 **Sec. 107-375. Conditions for approval.**

309 (a) ~~If the a protected tree is removed from a required yard, located  
310 within a yard line and property line setback area and the total  
311 width of the setback area within the yard line and the property  
312 line is greater than ten feet or greater from the edge of a property,  
313 the protected tree shall be replaced with a total of three  
314 replacement trees that may must include a selection of  
315 replacement trees under subsections 107-371(a), (d)(1) and (d)(2),  
316 and shall include at least one replacement trees under subsection  
317 107-371 (d)(2).~~

Commented [NS2]: Remove because it creates an issue if seeking to remove a tree but not building a house



- 318 (b) ~~If the Each~~ protected tree ~~removed from an area not within a~~  
319 ~~required yard is not located within an area specified in subsection~~  
320 ~~107-375(a), the protected tree~~ shall be replaced by one  
321 replacement tree under ~~either subsection 107-371(d)(1) or~~  
322 subsection 107-371(d)(2).
- 323 (c) For protected trees removed from within 20 feet of an above-  
324 ground power, cable, or telephone line the species selected from  
325 Sec 107-371 (c) (1) may shall be used for replacement.
- 326 (e)(d) ~~If the protected tree trunk straddles an area specified in~~  
327 ~~subsection 107-375(a), the protected tree is deemed to be in the~~  
328 ~~area specified in subsection 107-375(a) if more than half of the~~  
329 ~~diameter of the tree is within the area specified in subsection 107-~~  
330 ~~375(a). If a protected or heritage tree straddles the boundary~~  
331 ~~between the yard and buildable area permitted building footprint~~  
332 ~~area, it shall be considered removed from the yard area if 25% or~~  
333 ~~more of the trunk diameter is in the yard area.~~
- 334 (d)(e) If the ~~city arborist~~ City Development Officer determines  
335 under subsection 107-373(b)(3) that an emergency existed at the  
336 time of removal that necessitated expedited removal or an  
337 applicant provides documentation from a certified arborist that a  
338 protected tree is diseased, dead, or poses an imminent or  
339 immediate threat to persons or property due to natural causes only  
340 and the protected tree falls under subsection 107-375(a), the city  
341 arborist may reduce the replacement tree requirement to one  
342 replacement tree under either subsection 107-371(d)(1) or  
343 subsection 107-371(d)(2).
- 344 (e)(f) If the ~~city arborist~~ City Development Officer determines that an  
345 applicant provides sufficient documentation from a certified  
346 arborist that a protected tree is diseased, dead, or poses an  
347 imminent or immediate threat to persons or property due to  
348 natural causes only, and also not as a result of intentional  
349 bleaching, root cutting, or pruning more than 25 percent of the  
350 canopy, and that the certified arborist has documented at least two  
351 prior actions performed by the certified arborist within the  
352 previous three years to mitigate the condition, the ~~city arborist~~  
353 City Development Officer may reduce or waive the replacement  
354 tree requirement for the protected tree and reduce or waive the  
355 tree replacement application fee.
- 356 (f)(g) If a protected tree is required to be removed under section 18-  
357 209, the ~~city arborist~~ City Development Officer may reduce or  
358 waive the replacement tree requirement for the protected tree and  
359 reduce or waive the tree replacement application fee.
- 360 (g)(h) The mayor may act to waive the replacement tree requirement  
361 under this subsection 107-374(d) for a storm event, wildfire or

**Commented [NS3]:** Adjust due to concerns that homeowners may be unfairly penalized for tree deaths that were not the homeowners fault.

362 other calamity that causes widespread or costly damage to  
363 multiple protected trees throughout the city.

364 ~~(h)~~(i) For a permit filed with an application for development of any  
365 improvements or structures, if the density of protected trees in an  
366 area described in subsection 107-375(b) is greater than seven  
367 protected trees, the number of replacement trees required under  
368 subsection 107-375(b) for a removal from such area is capped at  
369 seven replacement trees, at least three of which shall meet the  
370 requirements of subsection 107-371(d)(2).

371 ~~(i)~~(j) If a protected tree has a trunk on a first property and ~~CRZ roots~~  
372 and canopy that extend into a second property, the owner of the  
373 second property is required to obtain a tree removal permit for  
374 removal of the protected tree prior to performing any actions that  
375 constitute removal under subsection 107-371(e) on the second  
376 property. For purposes of determining removal under this  
377 subsection for 107-371(e), damage to the root system is assessed  
378 within the area that is a number of feet in diameter from the outer  
379 edge of the tree trunk at four and one-half feet from the ground  
380 based on a ratio of one foot for each inch of diameter of the tree  
381 trunk. If the actions by the owner of the second property as to the  
382 protected tree trigger a requirement for the owner of the first  
383 property to apply for a tree removal permit for the protected tree,  
384 the application review fee as to the protected tree on the first  
385 property is waived.

386 ~~(k) Replacement of a~~ Heritage Tree ~~permitted to be removed,~~  
387 ~~including a Heritage Tree within the -from a yard area or a~~  
388 ~~permitted building footprint- buildable area, must be replaced~~  
389 ~~with one tree 5 inches in diameter, or more, for every 12 inches~~  
390 ~~in diameter of the removed tree. For example: 24 inches = 2 five-~~  
391 ~~inch diameter trees, 36 inches = 3 trees, etc. to be replaced. The~~  
392 ~~replacement trees must be of a species listed in subsection 107-~~  
393 ~~371(a). An exception to these mitigation requirements may be~~  
394 ~~granted by the City Development Officer, after consulting with~~  
395 ~~the City Arborist, and with the approval of the Zoning Board of~~  
396 ~~Adjustment, if the applicant demonstrates: (1) the existing tree~~  
397 ~~canopy would prohibit the growth of these replacement tree(s);~~  
398 ~~or (2) the required replacement trees to be installed would have~~  
399 ~~to be planted under the canopy of an existing tree.~~

400 **Sec. 107-376. Development application requirements.**

- 401 (a) An application for a building permit must:
- 402 (1) Include a tree survey and protection plan of all existing  
403 trees on the property that are at least 12 inches in diameter

- 404 measured four and one-half feet above the ground;  
405 including an indication of the CRZ of these trees.
- 406 (2) Include a grading and tree protection plan for protecting  
407 all protected trees that are not approved for removal; The  
408 protection plan submitted for these trees must include  
409 actions necessary for the best chance of survival of these  
410 protected trees, including adequate watering before,  
411 during and after construction until a certificate of  
412 occupancy is granted.
- 413 (3) Demonstrate that the design will preserve the existing  
414 natural character of the landscape as to any protected trees  
415 not approved for removal; and
- 416 (4) Include a tree removal permit application with required  
417 fees for review of each proposed removal of a protected  
418 tree.
- 419 (b) ~~The building official~~ City Development Officer may not release  
420 or renew a building permit until ~~the city arborist issues~~ a tree  
421 removal permit for each protected tree proposed to be removed  
422 has been submitted. While the tree removal permit and the  
423 building permit may be processed and approved concurrently, the  
424 tree removal permit shall not be approved prior to approval of the  
425 building permit, including the approval of the building footprint.

426 **~~Sec. 107-377. Administrative variance.~~**

- 427 (a) ~~The city council may grant an administrative variance from the~~  
428 ~~requirements of this division if the city council determines by a~~  
429 ~~simple majority that owing to special conditions pertaining to the~~  
430 ~~affected property, literal enforcement of the provisions of this~~  
431 ~~division will result in unnecessary hardship, and the granting of~~  
432 ~~the variance will not be contrary to the public interest.~~
- 433 (b) ~~In considering any proposed variance, the following rules shall~~  
434 ~~be observed:~~
- 435 (1) ~~The applicant for the variance must present to the city council a~~  
436 ~~set of plans prepared by a certified arborist setting out the~~  
437 ~~applicant's proposal and the nature of the proposed variance;~~
- 438 (2) ~~The proposed variance may not unreasonably affect any~~  
439 ~~adjoining property or the general welfare of the community; and~~
- 440 (3) ~~The city council must find that the applicant did not create the~~  
441 ~~condition necessitating the variance.~~
- 442 (c) ~~If the city council grants a variance under this subdivision, the~~  
443 ~~city arborist may issue a tree removal permit with terms~~  
444 ~~consistent with any terms and conditions of the granted variance.~~

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**Sec. 107-3778. Replacement procedure.**

- (a) Whenever replacement trees are required by the terms of this subdivision, the owner shall submit to the ~~city arborist~~ City Development Officer for approval a replacement site plan showing the locations, species and sizes of all replacement trees and vegetation for final approval by the ~~city arborist~~ City Development Officer. If during installation, the owner is unable to conform to the approved replacement site plan because conformance is not feasible due to subsurface conditions that could not reasonably have been foreseen that make the viability of the tree in the planned location unlikely, then the owner must submit an amended site plan to the ~~city arborist~~ City Development Officer within seven days of the discovery of unforeseen subsurface conditions for approval by the ~~city arborist~~ City. An amended site plan must provide for no fewer replacement trees or cumulative size of replacement trees than provided in the originally approved replacement plan.
- (b) Installation of the replacement trees must be completed within the time period designated by the ~~city arborist~~ City Development Officer in the tree removal permit, however, in no event will the time period be longer than one year, however this time period is abated while a property is under construction where replacement trees are required.
- (c) The owner shall notify the ~~city arborist~~ City Development Officer upon completion of the installation. If more than one protected tree has been replaced, the city arborist may then inspect for compliance with the approved replacement plan.
- (d) All replacement trees must survive at least three years. The City Development Officer shall track all replacement trees, so that at three years post planting, their survival and health can be assessed, consulting with an arborist if necessary. The ~~city arborist~~ City Development Officer may contact the owner during this three year period to arrange for a site visit by the ~~city arborist~~ in order to confirm the replacement trees have survived. Replacement trees that do not survive for three years must be removed and replaced with similar species and sized trees.
- (e) The owner of property from which the removal of one or more protected trees was permitted shall arrange for the transferee(s) of such property to submit to the city secretary a written transfer to and assumption by such transferee(s) of the permit and all obligations of such permit with respect to required replacement trees, if all such obligations have not been satisfied at the time of transfer of the property.

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**Sec. 107-3789. Violations/penalties.**

- (a) It shall be an offense for a person:
  - (1) To fail to perform an act required by the provisions of this subdivision;
  - (2) To fail to timely comply with any term of a permit issued pursuant to this division, including terms regarding the planting and maintenance of required replacement trees;
  - (3) To hire, engage, or permit any person engaged in the business tree planting, maintenance, or removal to perform such services on property in the city without a permit issued by the city pursuant to section 18-217 of this Code;
  - (4) Except as expressly allowed pursuant to this subdivision, to remove or to cause the removal of a protected or heritage tree without first obtaining a permit therefor;
  - (5) To transfer property from which the removal of a protected heritage tree has been permitted if all obligations with respect to replacement trees pursuant to the permit for such removal are not then fulfilled unless the transferee of the property agrees in a writing submitted to the city secretary to assume such permit and all obligations with respect to the planting and maintenance of required replacement trees;
  - (6) To fail to submit an application for a permit as required pursuant to subsection (b) of this section or pursuant to subsection 107-373(b)(3); or
  - (7) To fail to submit photographs or other documentation to demonstrate a requisite clear and immediate danger pursuant to subsection 107-373(b)(3) in connection with an unpermitted removal of a protected or heritage tree.
- (b) An offense shall constitute a Class C misdemeanor punishable by a fine not to exceed \$500.00. ~~An offense committed intentionally, knowingly, recklessly, or with criminal negligence shall be punishable by a fine not to exceed \$2000.00 per offense.~~ Each protected or heritage tree removed in violation of this division shall constitute a separate offense, and a failure to plant and maintain each replacement tree shall constitute a separate offense. Each day a violation continues shall constitute a separate offense.
- (c) The owner of affected property and each person who causes or directs another person to remove a protected or heritage tree without a permit shall immediately submit an application for a permit pursuant to this subdivision, including a proposal for the

530 provision of replacement tree(s) in compliance with this  
531 subdivision.

532 (d) The building official shall issue a stop work order in connection  
533 with any permitted development of the property from which a  
534 protected or heritage tree is removed upon the occurrence of a  
535 violation of this subdivision or any term of a permit issued  
536 pursuant to this subdivision.

537 (e) No certificate of occupancy shall be issued for a building or other  
538 structure that is not then in compliance with any permit issued  
539 pursuant to this subdivision for removal of a protected tree.

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541 **SECTION 3.** All provisions of the ordinances of the City of Rollingwood in conflict with  
542 the provisions of this ordinance are hereby repealed to the extent of such conflict, and all  
543 other provisions of the ordinances of the City of Rollingwood not in conflict with the  
544 provisions of this ordinance shall remain in full force and effect.

545 **SECTION 4.** Should any sentence, paragraph, sub-article, clause, phrase or section of this  
546 ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not  
547 affect the validity of this ordinance as a whole, or any part or provision thereof other than  
548 the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity  
549 of the Code of Ordinances as a whole.

550 **SECTION 5.** This ordinance shall take effect immediately from and after its passage and  
551 the publication of the caption, as the law and charter in such cases provide.

552 **APPROVED, PASSED AND ADOPTED** by the City Council of the City of  
553 Rollingwood, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 2024

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Gavin Massingill, Mayor

560 ATTEST:

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563 \_\_\_\_\_  
Makayla Rodriguez, City Secretary

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