

1 **ORDINANCE NO.** _____

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 **MANGEMENT, 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)~~ (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)~~ (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.

Commented [AW1]: Changed this to also be 5 inches to follow arborist's recommendation on line 380 regarding 5 inch trees being standard. This can be put back to 6 inches if desired.

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)~~ (g) Removal means an act that causes or may be reasonably
136 expected to cause a tree to die, including:

Commented [AW2]: Arborist Comment: This is unenforceable

- 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)~~ (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.
- ~~(c)~~(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 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(c) 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 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 area but 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 [AW3]: There was discussion of including an alternative for the Heritage Tree Removal Special Exception. Section 107-373 (b) (1) was amended to accomplish that goal, but this section was left in since the commercial code had both options. The special exception option could be removed if the policy makers would prefer that.

Commented [AW4]: 10/16/2024 Council Discussion was to make sure we don't allow trees to be removed until after a building permit has been approved, not just upon a demolition permit. They recommended that the word "proposed" be changed to "approved," or "permitted."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commented [AW5]: This language was added at Council's request that the building footprint must be approved prior to removal of a tree.

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

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

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

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

383 (k) Replacement of a Heritage Tree removed from a yard area or a
384 permitted building footprint area must be replaced with one tree
385 5 inches in diameter, or more, for every 12 inches in diameter of
386 the removed tree. For example: 24 inches = 2 five-inch diameter
387 trees, 36 inches = 3 trees, etc. to be replaced. An exception to
388 these mitigation requirements may be granted by the City
389 Development Officer, after consulting with the City Arborist, and
390 with the approval of the Zoning Board of Adjustment if the
391 applicant demonstrates: (1) the existing tree canopy would
392 prohibit the growth of these replacement tree(s); or (2) the
393 required replacement trees to be installed would have to be
394 planted under the canopy of an existing tree.

Commented [AW6]: Changed from "proposed" to "permitted" consistent with 10/16 City Council Discussion.

Commented [AW7]: Arborist Comment: 6" caliper trees are very complicated. 5" caliper is spec on 100 gallon trees. This is the largest "readily available" size tree. I think it would be good to reduce planting size from 6 to 5" size.

Staff changed this to 5".

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

- 396 (a) An application for a building permit must:
- 397 (1) Include a tree survey and protection plan of all existing
398 trees on the property that are at least 12 inches in diameter
399 measured four and one-half feet above the ground,
400 including an indication of the CRZ of these trees.

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

Commented [AW8]: Arborist Comment: Doesn't agree with the use of the word "ensure." "Best chance of survival" would be better language.

We added this in but left "ensure."

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

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

Commented [AW9]: This language was changed/added to align better with Council's wishes to have the building footprint approved prior to removal of a tree.

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

- 441 (a) Whenever replacement trees are required by the terms of this
442 subdivision, the owner shall submit to the ~~city arborist~~ City
443 Development Officer for approval a replacement site plan
444 showing the locations, species and sizes of all replacement trees
445 and vegetation for final approval by the ~~city arborist~~ City
446 Development Officer. If during installation, the owner is unable
447 to conform to the approved replacement site plan because
448 conformance is not feasible due to subsurface conditions that
449 could not reasonably have been foreseen that make the viability
450 of the tree in the planned location unlikely, then the owner must
451 submit an amended site plan to the ~~city arborist~~ City
452 Development Officer within seven days of the discovery of
453 unforeseen subsurface conditions for approval by the ~~city arborist~~
454 City. An amended site plan must provide for no fewer
455 replacement trees or cumulative size of replacement trees than
456 provided in the originally approved replacement plan.
- 457 (b) Installation of the replacement trees must be completed within
458 the time period designated by the ~~city arborist~~ City Development
459 Officer in the tree removal permit, however, in no event will the
460 time period be longer than one year, however this time period is
461 abated while a property is under construction where replacement
462 trees are required.
- 463 (c) The owner shall notify the ~~city arborist~~ City Development Officer
464 upon completion of the installation. If more than one protected
465 tree has been replaced, the city arborist may then inspect for
466 compliance with the approved replacement plan.
- 467 (d) All replacement trees must survive at least three years. The City
468 Development Officer shall track all replacement trees, so that at
469 three years post planting, their survival and health can be
470 assessed, consulting with an arborist if necessary. ~~The city~~
471 ~~arborist~~ City Development Officer may contact the owner during
472 this three year period to arrange for a site visit ~~by the city arborist~~
473 in order to confirm the replacement trees have survived.
474 Replacement trees that do not survive for three years must be
475 removed and replaced with similar species and sized trees.
- 476 (e) The owner of property from which the removal of one or more
477 protected trees was permitted shall arrange for the transferee(s)
478 of such property to submit to the city secretary a written transfer
479 to and assumption by such transferee(s) of the permit and all
480 obligations of such permit with respect to required replacement
481 trees, if all such obligations have not been satisfied at the time of
482 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

Commented [AW10]: Offense language was amended consistent with 10/16 Council direction.

525 provision of replacement tree(s) in compliance with this
526 subdivision.

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

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

535

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

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

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

547 **APPROVED, PASSED AND ADOPTED** by the City Council of the City of
548 Rollingwood, Texas, on the _____ day of _____, 2024

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554

Gavin Massingill, Mayor

555 ATTEST:

556

557

558 _____
Makayla Rodriguez, City Secretary

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