

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

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

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

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

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

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

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

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

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

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

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

**SECTION 1.** All 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.

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 3 is hereby amended to read as follows:

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

43 **Sec. 107-369. Purpose.**

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

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

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

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

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

68 **Sec. 107-370. Applicability.**

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

72 **Sec. 107-371. Definitions.**

73 In this subdivision:

74 (a) *Protected species* means:

75 (1) Ash, Texas

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

- 113 (1) For the replacement species listed in subsection (c)(1), a tree  
114 at least eight feet high when planted, which shall be  
115 maintained in a healthy condition after planting;
- 116 (2) For the replacement species listed in subsection (c)(2), a tree  
117 with a diameter equal to not less than one-fourth the diameter  
118 of the protected tree it replaces up to a maximum diameter of  
119 ~~six~~ five inches, which shall be maintained in a healthy  
120 condition after planting. The diameter of protected and  
121 replacement trees shall be measured four and one-half feet  
122 above the ground when planted.
- 123 (e) Heritage tree means a Protected Tree of a protected species,  
124 having a diameter of 24 inches or more, measured 4½ feet above  
125 natural grade. To determine the diameter of a multi-trunk tree,  
126 measure all the trunks; add the total diameter of the largest trunk  
127 to ½ the diameter of each additional trunk. A total diameter of  
128 24” or higher for a multi-trunk tree is a Heritage tree.
- 129 (f) Critical root zone (“CRZ”) means the area around and under a  
130 tree having a radius of one foot per inch of diameter from the  
131 trunk of the tree outwards and twenty-four inches in depth. For  
132 example, for a tree having a 10-inch diameter, the critical root  
133 zone is 10 feet out from the trunk and twenty-four inches deep.
- 134 (g) Removal means an intentional act that causes or may be  
135 reasonably expected to cause a tree to die, including:
- 136 (1) Uprooting;
- 137 (2) Severing the main trunk;
- 138 (3) Damaging the root system, including, but not limited to:
- 139 a. Adjusting the grading of a lot to cover or uncover  
140 a tree trunk or root system to the extent that the  
141 adjusted grading causes or may be reasonably  
142 expected to cause the tree to die; or
- 143 b. Placing fixtures over the root system to the extent  
144 that the placement of the fixtures causes or may be  
145 reasonable expected to cause the tree to die.
- 146 (4) Construction or disturbance that shall occur within an area  
147 that constitutes more than 50 percent of the total Critical root  
148 zone (“CRZ”) and ½ the radial distance of the CRZ for each  
149 tree being preserved, including Protected Trees and Heritage  
150 Trees. Flatwork, decking, or similar construction is permitted  
151 within the CRZ, and such work shall be approved and shall  
152 not be classified as removal.

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(5) If the proposed or actual protection of the CRZ before construction, during construction, and following construction does not meet the requirements of sec 101-256, then the tree shall require mitigation in accordance with the terms of this ordinance.

(5) Excessive pruning, including, but not limited to, pruning that exceeds 25 percent of the canopy of the tree.

- (f)(h) *Certified City arborist* means an ISA certified arborist.
- (i) *City Development Officer* means that individual designated by the City Administrator from time to time.

**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

**Commented [AP1]:** Removed “the tree shall be considered removed” as that seemed repetitive for the section this is placed in.

**Commented [NS2]:** Language added from the 2.19.2025 meeting from language provided by CRCRC member Jay Van Bavel.

193 death of such tree(s), for a period of not less than three  
194 years.

195 (e) For purposes of subsections 107-372(c) and (d) the city and the  
196 owner may consult with an academic organization, state agency,  
197 nonprofit organization, or the city arborist to identify an area for  
198 which tree planting will best address the science-based benefits  
199 of trees and other reforestation needs of the municipality within  
200 and outside of the city limits.

201 (f)(d) The city council shall provide for fees payable for review of  
202 applications for permits and variances pursuant to this division.

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

204 (a) A person may not remove a protected tree without a tree removal  
205 permit for the removal and compliance with the terms of this  
206 subdivision.

207 (1) During removal of protected trees the tree removal permit  
208 shall be displayed on the construction board for the site ~~in~~  
209 ~~present~~ or otherwise displayed on a sign within the first  
210 five feet of the front yard ~~setback~~ and if the house is not  
211 under construction the permit for tree removal shall be  
212 placed on the dashboard of the permitted vendor's vehicle.

213 (2) Removal of a Heritage tree in required yard space is  
214 prohibited unless a Heritage Tree Removal Special  
215 Exception is granted by the Board of Adjustment upon a  
216 finding that: (i) ~~all~~ reasonable efforts have been made to  
217 avoid removing the tree, (ii) the location of the tree  
218 precludes all reasonable access to the property or all  
219 reasonable use of the property, and (iii) removal of the tree  
220 is not based on a condition caused by the method or design  
221 chosen by the applicant to ~~develop~~ the property. A  
222 Heritage Tree Removal Special Exception provided for in  
223 this code will not be required for Heritage Trees removed  
224 from the ~~permitted building footprint buildable~~ area but  
225 such removal ~~is~~are subject to the tree removal permitting  
226 and replacement regulations provide for in this Code.

227 (b) Emergency pruning or removal. Notwithstanding subsection 107-  
228 373(a), a person may perform emergency pruning or removal of  
229 a protected tree as follows:

230 (1) ~~When the condition or location of a protected tree presents~~  
231 ~~a clear and immediate danger to a structure or to the health~~  
232 ~~and safety of the public, the hazardous portion of the~~  
233 ~~protected tree may be removed without first obtaining a~~  
234 ~~required tree removal permit. Upon the report of a certified~~  
235 ~~arborist hired by the property owner that a heritage tree is~~

**Commented [NS3]:** 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.

236 either: (i) dead; (ii) is an imminent hazard to life or  
237 property, and the hazard cannot reasonably be mitigated  
238 without removing the tree, in whole or in part; or (iii) is  
239 diseased and restoration to sound condition is not  
240 practicable or the disease may be transmitted to other trees  
241 and endanger their health. This report must be confirmed  
242 by the city arborist. The city administrator shall have the  
243 authority to determine whether such documentation is in  
244 order and may consider specific safety situations in light  
245 of potential hazards to life or property. In the case of an  
246 imminent hazard to life or property under subsection (ii),  
247 documentation may be submitted within 72 hours after the  
248 action is taken.

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250 (2) In the course of performing emergency repairs to a road or  
251 water, wastewater, or drainage facilities, agents or  
252 contractors of the city may trim, prune or remove a  
253 protected tree as required to perform such work without first  
254 obtaining a tree removal permit. If such activities occur  
255 during normal business hours, the city shall first attempt to  
256 contact the ~~city arborist~~ City Development Officer to  
257 determine if the ~~city arborist~~ City Development Officer can  
258 provide immediate guidance and assistance. If such  
259 assistance is not immediately available, then the pruning or  
260 removal may occur in accordance with the requirements  
261 under chapter 18, article V of this Code.

262 (3) Any person who prunes or removes a protected tree under  
263 the provisions of this subsection shall, within 14 days of  
264 such action or as soon as practicable if there is a coinciding  
265 declaration of a state of emergency in the city, apply for a  
266 tree removal permit providing for replacement trees as  
267 required by this subdivision. The application shall include  
268 photographs or other documentation to demonstrate the  
269 requisite clear and immediate danger. The ~~city arborist~~ City  
270 Development Officer will evaluate the information to  
271 determine whether a clear and immediate danger existed. A  
272 failure to submit an application or a failure to submit  
273 information demonstrating the clear and immediate danger  
274 shall constitute a violation of this subdivision.

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

278 **Sec. 107-374. Application for protected tree removal and tree removal**  
279 **permits.**

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

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

286 (1) An agent of the city, a public utility, or another political  
287 subdivision with the authority to install the public facilities  
288 and perform the work necessitating the removal of the  
289 protected tree; or

290 (2) The owner of the property adjoining the site of the protected  
291 tree.

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

295 (d) An application for removal of one or more protected tree(s) must  
296 be submitted to the city secretary and approved prior to removal  
297 of the protected tree. If the application is approved as provided  
298 for in this subdivision, a permit shall be issued indicating each  
299 protected tree that is approved for removal and indicating the  
300 location(s) and size(s) of any required replacement trees and the  
301 dates by which replacement trees must be planted. ~~No tree  
302 removal permit shall be issued unless an approved building  
303 permit is in place, which includes a detailed building footprint.  
304 Any permit application for tree removal must be accompanied by  
305 documentation confirming the issuance of the building permit.~~

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

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

311 (g) A permit for removal of a protected tree expires on the earlier of  
312 either two years after its effective date, or upon removal of the  
313 protected tree except that if any building permit issued for the  
314 associated property expires or is revoked for any reason, the  
315 permit for removal of a tree shall be revoked as well. Subject to  
316 applicable expiration, a permit for removal of tree(s) is  
317 transferable to a subsequent owner of the affected property,  
318 provided that any obligation in the permit with respect to  
319 replacement trees is assumed by the transferee.

**Commented [NS4]:** Remove because it creates an issue if seeking to remove a tree but not building a house



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

- (a) If ~~the a~~ protected tree is ~~removed from a required yard, located within a yard line and property line setback area and the total width of the setback area within the yard line and the property line is greater than ten feet or greater from the edge of a property,~~ the protected tree shall be replaced with a total of three replacement trees that ~~may~~ **must** include a selection of replacement trees under subsections 107-371 ~~(a), (d)(1) and (d)(2),~~ and shall include at least one replacement trees under subsection ~~107-371 (d)(2).~~
- (c) For protected trees removed from within 20 feet of an above-ground power, cable, or telephone line the species selected from Sec 107-371 (c) (1) ~~may~~ shall be used for replacement.
- ~~(e)(d)~~ If the protected tree trunk straddles an area specified in subsection 107-375(a), the protected tree is deemed to be in the area specified in subsection 107-375(a) if more than half of the diameter of the tree is within the area specified in subsection 107-375(a). If a protected or heritage tree straddles the boundary between the yard and ~~buildable area permitted building footprint~~ area, it shall be considered removed from the yard area if 25% or more of the trunk diameter is in the yard area.
- ~~(d)(e)~~ If the ~~city arborist~~ City Development Officer determines under subsection 107-373(b)(3) that an emergency existed at the time of removal that necessitated expedited removal or an applicant provides documentation from a certified arborist that a protected tree is diseased, dead, or poses an imminent or immediate threat to persons or property due to natural causes only and the protected tree falls under subsection 107-375(a), the city arborist may reduce the replacement tree requirement to one replacement tree under either subsection 107-371(d)(1) or subsection 107-371(d)(2).
- ~~(e)(f)~~ If the ~~city arborist~~ City Development Officer determines that an applicant provides sufficient documentation from a certified arborist that a protected tree is diseased, dead, or poses an imminent or immediate threat to persons or property due to natural causes only, and also not as a result of intentional bleaching, root cutting, or pruning more than 25 percent of the canopy, and that the certified arborist has documented at least two prior actions performed by the certified arborist within the previous three years to mitigate the condition, the ~~city arborist~~ City Development Officer may reduce or waive the replacement tree requirement for the protected tree and reduce or waive the tree replacement application fee.

**Commented [NS5]:** Adjust due to concerns that homeowners may be unfairly penalized for tree deaths that were not the homeowners fault.

- 363 ~~(f)~~(g) If a protected tree is required to be removed under section 18-  
364 209, the ~~city arborist~~ City Development Officer may reduce or  
365 waive the replacement tree requirement for the protected tree and  
366 reduce or waive the tree replacement application fee.
- 367 ~~(g)~~(h) The mayor may act to waive the replacement tree requirement  
368 under this subsection 107-374(d) for a storm event, wildfire or  
369 other calamity that causes widespread or costly damage to  
370 multiple protected trees throughout the city.
- 371 ~~(h)~~(i) For a permit filed with an application for development of any  
372 improvements or structures, if the density of protected trees in an  
373 area described in subsection 107-375(b) is greater than seven  
374 protected trees, the number of replacement trees required under  
375 subsection 107-375(b) for a removal from such area is capped at  
376 seven replacement trees, at least three of which shall meet the  
377 requirements of subsection 107-371(d)(2).
- 378 ~~(i)~~(j) If a protected tree has a trunk on a first property and ~~CRZ roots~~  
379 and canopy that extend into a second property, the owner of the  
380 second property is required to obtain a tree removal permit for  
381 removal of the protected tree prior to performing any actions that  
382 constitute removal under subsection 107-371(e) on the second  
383 property. For purposes of determining removal under this  
384 subsection for 107-371(e), damage to the root system is assessed  
385 within the area that is a number of feet in diameter from the outer  
386 edge of the tree trunk at four and one-half feet from the ground  
387 based on a ratio of one foot for each inch of diameter of the tree  
388 trunk. If the actions by the owner of the second property as to the  
389 protected tree trigger a requirement for the owner of the first  
390 property to apply for a tree removal permit for the protected tree,  
391 the application review fee as to the protected tree on the first  
392 property is waived.
- 393 ~~(k) Replacement of aA Heritage Tree permitted to be removed,~~  
394 ~~including a Heritage Tree within the -from a yard area or a~~  
395 ~~permitted building footprint- buildable area, must be replaced~~  
396 ~~with one tree 5 inches in diameter, or more, for every 12 inches~~  
397 ~~in diameter of the removed tree. For example: 24 inches = 2 five-~~  
398 ~~inch diameter trees, 36 inches = 3 trees, etc. to be replaced. The~~  
399 ~~replacement trees must be of a species listed in subsection 107-~~  
400 ~~371(a). An exception to these mitigation requirements may be~~  
401 ~~granted by the City Development Officer, after consulting with~~  
402 ~~the City Arborist, and with the approval of the Zoning Board of~~  
403 ~~Adjustment, if the applicant demonstrates: (1) the existing tree~~  
404 ~~canopy would prohibit the growth of these replacement tree(s);~~  
405 ~~or (2) the required replacement trees to be installed would have~~  
406 ~~to be planted under the canopy of an existing tree.~~

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

- 408 (a) An application for a building permit must:
- 409 (1) Include a tree survey and protection plan of all existing  
410 trees on the property that are at least 12 inches in diameter  
411 measured four and one-half feet above the ground;  
412 including an indication of the CRZ of these trees.
- 413 (2) Include a grading and tree protection plan for protecting  
414 all protected trees that are not approved for removal; The  
415 protection plan submitted for these trees must include  
416 actions necessary for the best chance of survival of these  
417 protected trees, including adequate watering before,  
418 during and after construction until a certificate of  
419 occupancy is granted.
- 420 (3) Demonstrate that the design will preserve the existing  
421 natural character of the landscape as to any protected trees  
422 not approved for removal; and
- 423 (4) Include a tree removal permit application with required  
424 fees for review of each proposed removal of a protected  
425 tree.
- 426 (b) ~~The building official~~ City Development Officer may not release  
427 or renew a building permit until ~~the city arborist issues~~ a tree  
428 removal permit for each protected tree proposed to be removed  
429 has been submitted. While the tree removal permit and the  
430 building permit may be processed ~~and approved~~ concurrently, the  
431 tree removal permit shall not be approved prior to approval of the  
432 building permit, including the approval of the building footprint.

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

- 434 ~~(a) The city council may grant an administrative variance from the~~  
435 ~~requirements of this division if the city council determines by a~~  
436 ~~simple majority that owing to special conditions pertaining to the~~  
437 ~~affected property, literal enforcement of the provisions of this~~  
438 ~~division will result in unnecessary hardship, and the granting of~~  
439 ~~the variance will not be contrary to the public interest.~~
- 440 ~~(b) In considering any proposed variance, the following rules shall~~  
441 ~~be observed:~~
- 442 ~~(1) The applicant for the variance must present to the city council a~~  
443 ~~set of plans prepared by a certified arborist setting out the~~  
444 ~~applicant's proposal and the nature of the proposed variance;~~
- 445 ~~(2) The proposed variance may not unreasonably affect any~~  
446 ~~adjoining property or the general welfare of the community; and~~

- 447           ~~(3) The city council must find that the applicant did not create the~~  
448           ~~condition necessitating the variance.~~
- 449           ~~(e) If the city council grants a variance under this subdivision, the~~  
450           ~~city arborist may issue a tree removal permit with terms~~  
451           ~~consistent with any terms and conditions of the granted variance.~~

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

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

490 of such property to submit to the city secretary a written transfer  
491 to and assumption by such transferee(s) of the permit and all  
492 obligations of such permit with respect to required replacement  
493 trees, if all such obligations have not been satisfied at the time of  
494 transfer of the property.

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

- 496 (a) It shall be an offense for a person:
- 497 (1) To fail to perform an act required by the provisions of this  
498 subdivision;
  - 499 (2) To fail to timely comply with any term of a permit issued  
500 pursuant to this division, including terms regarding the  
501 planting and maintenance of required replacement trees;
  - 502 (3) To hire, engage, or permit any person engaged in the  
503 business tree planting, maintenance, or removal to perform  
504 such services on property in the city without a permit  
505 issued by the city pursuant to section 18-217 of this Code;
  - 506 (4) Except as expressly allowed pursuant to this subdivision,  
507 to remove or to cause the removal of a protected or heritage  
508 tree without first obtaining a permit therefor;
  - 509 (5) To transfer property from which the removal of a protected  
510 heritage tree has been permitted if all obligations with  
511 respect to replacement trees pursuant to the permit for such  
512 removal are not then fulfilled unless the transferee of the  
513 property agrees in a writing submitted to the city secretary  
514 to assume such permit and all obligations with respect to  
515 the planting and maintenance of required replacement  
516 trees;
  - 517 (6) To fail to submit an application for a permit as required  
518 pursuant to subsection (b) of this section or pursuant to  
519 subsection 107-373(b)(3); or
  - 520 (7) To fail to submit photographs or other documentation to  
521 demonstrate a requisite clear and immediate danger  
522 pursuant to subsection 107-373(b)(3) in connection with  
523 an unpermitted removal of a protected or heritage tree.
- 524 (b) An offense shall constitute a Class C misdemeanor punishable by  
525 a fine not to exceed \$500.00. ~~An offense committed intentionally,~~  
526 ~~knowingly, recklessly, or with criminal negligence shall be~~  
527 ~~punishable by a fine not to exceed \$2000.00 per offense.~~ Each  
528 protected or heritage tree removed in violation of this division  
529 shall constitute a separate offense, and a failure to plant and  
530 maintain each replacement tree shall constitute a separate

531 offense. Each day a violation continues shall constitute a separate  
532 offense.

533 (c) The owner of affected property and each person who causes or  
534 directs another person to remove a protected or heritage tree  
535 without a permit shall immediately submit an application for a  
536 permit pursuant to this subdivision, including a proposal for the  
537 provision of replacement tree(s) in compliance with this  
538 subdivision.

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

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

547

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

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

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

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

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Gavin Massingill, Mayor

567 ATTEST:

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570 Makayla Rodriguez, City Secretary

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