

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.

SECTION 2. Code Amendment. The following sections of the Rollingwood Code of Ordinances are hereby amended as follows with ~~striketroughs~~ being deletions from the Code and underlines being additions to the Code:

The title to Chapter 107, Division 10, Subdivision 3 is hereby amended to read as follows:

Subdivision 3. Residential Landscape and Tree Canopy Management

Sec. 107-369. Purpose.

- (a) The tree code regulations protect the health, safety, and general welfare of the citizens of the city. In doing so, the appearance of the city is enhanced and important ecological, cultural, and economic resources are protected for the benefit of the city's residents, businesses, and visitors.
- (b) Because the city experiences frequent drought conditions, these regulations are also intended to encourage low water demanding landscapes (Xeriscapes) through the use of native and adapted low water use plants from the Austin Grow Green Guide found on the City of Austin Website. The planting of turfgrass on less than 50% of the total landscaped areas, with that turf grass preferably having summer dormancy capabilities such as Buffalo grass, Zoysia grass, or non-seeding varieties of Bermuda grass is also encouraged.
- (c) It is the intent of these regulations that site plan and project design will preserve the existing natural character of the landscape and the retention of protective trees as much as possible.
- ~~(b)~~(d) The sections within this subdivision address trees in both development and non-development situations and seek to enhance the quality of the tree canopy and optimize the benefits that trees provide.
- ~~(e)~~(e) For development situations, additional requirements to this subdivision are designated in [section] 107-376.

Sec. 107-370. Applicability.

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

Sec. 107-371. Definitions.

In this subdivision:

- (a) *Protected species* means:
 - (1) Ash, Texas

- (2) Cypress, Bald
- (3) Elm, American
- (4) Elm, Cedar
- (5) Madrone, Texas
- (6) Maple, Bigtooth
- (7) All Oaks
- (8) Pecan
- (9) Walnut, Arizona
- (10) Walnut, Eastern Black
- (b) *Protected tree* means a tree that has a trunk with a diameter of 12 inches or more, measured four and one-half feet above ground, and is one of the protected species;
- (c) *Replacement species* means:
- (1) For trees planted within 20 feet of an above-ground power, cable, or telephone line:
- a. Anacacho Orchid Tree
 - b. Common Tree Senna
 - c. Crape Myrtle (dwarf)
 - d. Desert Willow
 - e. Evergreen Sumac
 - f. Eve's Necklace
 - g. Flameleaf Sumac
 - h. Goldenball Leadtree
 - i. Mexican Buckeye
 - j. Mexican Plum
 - k. Possumhaw Holly
 - l. Rough Leaf Dogwood
 - m. Texas Mountain Laurel
 - n. Texas Persimmon
 - o. Texas Pistache
 - p. Texas Redbud
 - q. Wax Myrtle
 - r. Yaupon Holly
 - s. Cherry Laurel
- (2) For all other trees planted within a property, a protected species.
- (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 multi-trunk tree
128 having a total diameter of 24" or higher more for a multi-trunk
129 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 (e)(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) Construction or disturbance that shall occur within an area
148 that constitutes more than 50 percent of the total Critical root
149 zone ("CRZ") and ½ the radial distance of the CRZ for each
150 tree being preserved, including Protected Trees and Heritage
151 Trees. However, flatwork, decking, or similar construction
152 above ground and not disturbing roots is permitted within the
153 CRZ, and such work shall be approved and shall not be
154 classified as removal.

(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 be considered removed and require mitigation in accordance with the terms of this ordinance.

(6) 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 as designated by the City.

~~(i)~~ Mitigation means such remedies as are approved by the city development officer in consultation with the City Arborist.

~~(j)~~ Building Official for the purposes of this subdivision means the 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 ~~Building Official 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. 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. ~~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.

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 a 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 compliance with the requirements of this subsection-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), documentation may be submitted within 72 hours after the action is taken.

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

(3) Any person who prunes or removes a protected tree under the provisions of this subsection shall, within 14 days of such action or as soon as practicable if there is a coinciding declaration of a state of emergency in the city, apply for a tree removal permit providing for replacement trees as required by this subdivision. The application shall include photographs or other documentation to demonstrate the requisite clear and immediate danger. The ~~city arborist~~

~~Building Official City Development Officer~~ will evaluate the information to determine whether a clear and immediate danger existed. A failure to submit an application or a failure to submit information demonstrating the clear and immediate danger shall constitute a violation of this subdivision.

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

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

- (a) An applicant may request a tree removal permit application from the city through the City's application platform located on the City's website. ~~by phone, U.S. mail, fax, email or in person.~~
- (b) An application for removal of a protected tree located on public property, a right-of-way or a public easement may be submitted by:
- (1) An agent of the city, a public utility, or another political subdivision with the authority to install the public facilities and perform the work necessitating the removal of the protected tree; or
 - (2) The owner of the property adjoining the site of the protected tree.
- (c) An application for removal of a protected tree on private property may be submitted by or on behalf of the owner of the property on which the tree is located.
- (d) An application for removal of one or more protected tree(s) must be submitted to the city secretary and approved prior to removal of the protected tree. If the application is approved as provided for in this subdivision, a permit shall be issued indicating each protected tree that is approved for removal and indicating the location(s) and size(s) of any required replacement trees and the dates by which replacement trees must be planted. No tree removal permit shall be issued unless an approved building permit is in place, which includes a detailed building footprint. Any permit application for tree removal must be accompanied by documentation confirming the issuance of the building permit.
- (e) An application that proposes removal of a protected tree shall include the required permit application fee.
- (f) An application for removal of a protected tree shall include any proposal for type(s) and location(s) of replacement trees on a site plan of affected property(s).

- (g) A permit for removal of a protected tree expires on the earlier of either two years after its effective date, ~~or upon removal of the protected tree except that if the protected tree has not been removed, or~~ if any building permit issued for the associated property expires or is revoked for any reason, in which case the permit for removal of a tree shall be revoked as well. If the tree has been removed, the permit will remain open until all requirements and conditions, including mitigation and maintenance of replacement trees, are satisfied. Subject to applicable expiration, a permit for removal of tree(s) is transferable to a subsequent owner of the affected property, provided that any obligation in the permit with respect to replacement trees is assumed by the transferee.

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).~~
- (b) ~~If the Each~~ protected tree ~~removed from an area not within a required yard is not located within an area specified in subsection 107-375(a), the protected tree~~ shall be replaced by one replacement tree under ~~either subsection 107-371(d)(1) or 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, 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~~ Building Official 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 Building Official 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 same 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~~ Building Official City Development Officer may reduce or waive the replacement tree requirement for the protected tree and reduce or waive the tree replacement application fee.

~~(f)~~(g) If a protected tree is required to be removed under section 18-209, the ~~city arborist~~ Building Official City Development Officer may reduce or waive the replacement tree requirement for the protected tree and reduce or waive the tree replacement application fee.

~~(g)~~(h) The mayor may act to waive the replacement tree requirement under this subsection 107-375~~(d)~~ for a storm event, wildfire or other calamity that causes widespread or costly damage to multiple protected trees throughout the city.

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

~~(i)~~(j) If a protected tree has a trunk on a first property and its CRZ roots and/or canopy ~~that~~ extend into a second property, the owner of the second property is required to obtain a tree removal permit for removal of the protected tree prior to performing any actions that constitute removal under subsection 107-371(ge) on the second property. For purposes of determining removal under this subsection for 107-371(ge), damage to the root system is assessed within the area that is a number of feet in diameter from the outer edge of the tree trunk at four and one-half feet from the ground based on a ratio of one foot for each inch of diameter of the tree

Commented [AP1]: Option 2 Language for ANY certified arborist:

"and that ~~the a~~ certified arborist has documented at least two prior actions performed by ~~the a~~ certified arborist within the previous three years to mitigate the condition, the ~~city arborist~~ Building Official may reduce or waive the replacement tree requirement"

trunk. If the actions by the owner of the second property as to the protected tree trigger a requirement for the owner of the first property to apply for a tree removal permit for the protected tree, the application review fee as to the protected tree on the first property is waived.

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

Sec. 107-376. Development application requirements.

- (a) An application for a building permit must:
- (1) Include a tree survey and protection plan of all existing trees on the property that are at least 12 inches in diameter measured four and one-half feet above the ground, ~~including an indication of the CRZ of these trees~~ The plan must also identify the type, size, and species of each tree, indicate whether the tree is designated as a heritage tree, and indicate the CRZ for each tree.
 - (2) Include a grading and tree protection plan for protecting all protected trees that are not approved for removal; The protection plan submitted for these trees must include actions necessary for the best chance of survival of these protected trees, including adequate watering before, during, and after construction until a certificate of occupancy is granted.
 - (3) Demonstrate that the design will preserve the existing natural character of the landscape as to any protected trees not approved for removal; and
 - (4) Include a tree removal permit application with required fees for review of each proposed removal of a protected tree.

- (b) The ~~building official~~ Building Official City Development Officer may not release or renew a building permit until ~~the city arborist issues a tree removal permit for each protected tree proposed to be removed~~ has been submitted. While the tree removal permit and the building permit may be processed and approved concurrently, the tree removal permit shall not be approved prior to approval of the building permit, including the approval of the building footprint.

Sec. 107-377. Administrative variance.

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

Sec. 107-378. Replacement procedure.

- (a) Whenever replacement trees are required by the terms of this subdivision, the owner shall submit to the ~~city arborist~~ Building Official 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~~ Building Official 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~~ Building Official City Development Officer within seven days of the discovery of unforeseen subsurface conditions for approval by the ~~city arborist~~ Building Official City. An

495 amended site plan must provide for no fewer replacement trees
496 or cumulative size of replacement trees than provided in the
497 originally approved replacement plan.

- 498 (b) Installation of the replacement trees must be completed within
499 the time period designated by the ~~city arborist~~ Building Official
500 City Development Officer in the tree removal permit, however,
501 in no event will the time period be longer than one year, however
502 this time period is abated while a property is under construction
503 where replacement trees are required.
- 504 (c) The owner shall notify the ~~city arborist~~ Building Official City
505 Development Officer upon completion of the installation. If more
506 than one protected tree has been replaced, the city arborist may
507 then inspect for compliance with the approved replacement plan.
- 508 (d) All replacement trees must survive at least three years. The
509 Building Official City Development Officer ~~shall track all~~
510 ~~replacement trees, so that at three years post planting, their~~
511 ~~survival and health can be assessed, consulting with an arborist if~~
512 ~~necessary.~~ The ~~city arborist~~ City Development Officer Building
513 Official may contact the owner during this ~~three-year~~ three-year
514 period to arrange for a site visit ~~by the city arborist~~ in order to
515 confirm the replacement trees have survived. Replacement trees
516 that do not survive for three years must be removed and replaced
517 with similar species and sized trees.
- 518 (e) The owner of property from which the removal of one or more
519 protected trees was permitted shall arrange for the transferee(s)
520 of such property to submit to the city secretary a written transfer
521 to and assumption by such transferee(s) of the permit and all
522 obligations of such permit with respect to required replacement
523 trees, if all such obligations have not been satisfied at the time of
524 transfer of the property.

525 **Sec. 107-3789. Violations/penalties; administrative remedies.**

- 526 (a) It shall be an offense for a person:
- 527 (1) To fail to perform an act required by the provisions of this
528 subdivision;
- 529 (2) To fail ~~to timely~~ to comply with any term of a permit issued
530 pursuant to this division, including terms regarding the
531 planting and maintenance of required replacement trees;
- 532 (3) To engage in an act prohibited by the provisions of this
533 subdivision, hire, engage, or permit any person engaged in
534 the business tree planting, maintenance, or removal to
535 perform such services on property in the city without a

536 permit issued by the city pursuant to section 18-217 of this
537 Code;

538 ~~(4) Except as expressly allowed pursuant to this subdivision,~~
539 ~~to remove or to cause the removal of a protected or heritage~~
540 ~~tree without first obtaining a permit therefor;~~

541 ~~(5)~~ To transfer property from which the removal of a protected
542 heritage tree has been permitted if all obligations with
543 respect to replacement trees pursuant to the permit for such
544 removal are not then fulfilled unless the transferee of the
545 property agrees in a writing submitted to the city secretary
546 to assume such permit and all obligations with respect to
547 the planting and maintenance of required replacement
548 trees;

549 ~~(6) To fail to submit an application for a permit as required~~
550 ~~pursuant to subsection (b) of this section or pursuant to~~
551 ~~subsection 107-373(b)(3); or~~

552 ~~(7) To fail to submit photographs or other documentation to~~
553 ~~demonstrate a requisite clear and immediate danger~~
554 ~~pursuant to subsection 107-373(b)(3) in connection with~~
555 ~~an unpermitted removal of a protected or heritage tree.~~

556 (b) An offense shall constitute a Class C misdemeanor punishable by
557 a fine not to exceed \$500.00. ~~An offense committed intentionally,~~
558 ~~knowingly, recklessly, or with criminal negligence shall be~~
559 ~~punishable by a fine not to exceed \$2000.00 per offense.~~ Each
560 protected or heritage tree removed in violation of this division
561 shall constitute a separate offense, and a failure to plant and
562 maintain each replacement tree shall constitute a separate
563 offense. Each day a violation continues shall constitute a separate
564 offense.

565 ~~(c) The owner of affected property and each person who causes or~~
566 ~~directs another person to remove a protected or heritage tree~~
567 ~~without a permit shall immediately submit an application for a~~
568 ~~permit pursuant to this subdivision, including a proposal for the~~
569 ~~provision of replacement tree(s) in compliance with this~~
570 ~~subdivision.~~

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

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

579

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

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

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

591 **APPROVED, PASSED AND ADOPTED** by the City Council of the City of
592 Rollingwood, Texas, on the _____ day of _____, 2025.
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594

595

596

597

598

Gavin Massingill, Mayor

599 ATTEST:

600

601

602 _____
Makayla Rodriguez, City Secretary

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