

AN ORDINANCE AMENDING THE CITY CODE OF ORDINANCES, PART 2, CHAPTER 107, ARTICLE II, DIVISION 10, SUBDIVISION 2 RESIDENTIAL TREE CANOPY MANAGEMENT, SECTIONS 107-369, 107-371, 107-372, 107-373, 107-375 and 107-376

(2) Cypress, Bald

- 1 (3) Elm, American
2 (4) Elm, Cedar
3 (5) Madrone, Texas
4 (6) Maple, Bigtooth
5 (7) All Oaks
6 (8) Pecan
7 (9) Walnut, Arizona
8 (10) Walnut, Eastern Black
- 9 (b) *Protected tree* means a tree that has a trunk with a diameter of 12 inches or more, measured
10 four and one-half feet above ground, and is one of the protected species;
- 11 (c) *Replacement species* means:
- 12 (1) For trees planted within 20 feet of an above-ground power, cable, or telephone line:
- 13 a. Anacacho Orchid Tree
14 b. Common Tree Senna
15 c. Crape Myrtle (dwarf)
16 d. Desert Willow
17 e. Evergreen Sumac
18 f. Eve's Necklace
19 g. Flameleaf Sumac
20 h. Goldenball Leadtree
21 i. Mexican Buckeye
22 j. Mexican Plum
23 k. Possumhaw Holly
24 l. Rough Leaf Dogwood
25 m. Texas Mountain Laurel
26 n. Texas Persimmon
27 o. Texas Pistache
28 p. Texas Redbud
29 q. Wax Myrtle
30 r. Yaupon Holly
31 s. Cherry Laurel
- 32 (2) For all other trees planted within a property, a protected species.
- 33 (d) *Replacement tree* means:

- 1 (1) For the replacement species listed in subsection (c)(1), a tree at least eight feet high when
2 planted, which shall be maintained in a healthy condition after planting;
- 3 (2) For the replacement species listed in subsection (c)(2), a tree with a diameter equal to
4 not less than one-fourth the diameter of the protected tree it replaces up to a maximum
5 diameter of six inches, which shall be maintained in a healthy condition after planting.
6 The diameter of protected and replacement trees shall be measured four and one-half feet
7 above the ground when planted.
- 8 (e) *Removal* means an act that causes or may be reasonably expected to cause a tree to die,
9 including:
- 10 (1) Uprooting;
- 11 (2) Severing the main trunk;
- 12 (3) Damaging the root system, including, but not limited to:
- 13 a. Adjusting the grading of a lot to cover or uncover a tree trunk or root system to the
14 extent that the adjusted grading causes or may be reasonably expected to cause the
15 tree to die; or
- 16 b. Placing fixtures over the root system to the extent that the placement of the fixtures
17 causes or may be reasonable expected to cause the tree to die.
- 18 (4) Excessive pruning, including, but not limited to, pruning that exceeds 25 percent of the
19 canopy of the tree.
- 20 (f) *Certified arborist* means an ISA certified arborist.

21
22 Sec. 107-372. - Administration.
23

- 24 (a) A city arborist shall be appointed by the city council to assist in promulgating forms for use
25 under this subdivision and to decide all applications for removal of a protected tree.
- 26 (b) If an applicant requests a variance as permitted under this subdivision, the city arborist shall
27 direct the request to the city council and make a recommendation to the city council whether
28 to approve the variance request.
- 29 (c) The list of eligible protected tree species under subsection 107-371(a) and the list of eligible
30 replacement tree species under 107-371(c) may be supplemented by approval of the city
31 council, in consultation with the city arborist or as provided by subsection ~~(g)~~ (e).
- 32 (d) An applicant may satisfy a tree replacement requirement by planting the required
33 replacement tree(s) on the property affected by the protected tree removal, or on one or more
34 other property(s) approved by the arborist or other designated agent of the city if:
- 35 (1) The benefit to residents of the city would be as great as replacement on the property
36 affected by the protected tree removal; and
- 37 (2) The owner(s) of such other property(s) agree in writing to maintain the replacement
38 trees in a healthy condition and replace same with like trees, as necessary as a result of a
39 death of such tree(s), for a period of not less than three years.

(e) For purposes of subsections ~~107-372(f)~~ (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) 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.

(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.

(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 to determine if the city arborist 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 ~~seven-fourteen~~ (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 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. 107-375. - Conditions for approval.

(a) If the protected tree is located within a setback area and the total width of the setback area is greater than ten feet from the edge of a property, the protected tree shall be replaced with a

total of three replacement trees that may include a selection of replacement trees under subsections 107-371(d)(1) and (d)(2), and shall include at least one replacement trees under subsection 107-371(d)(2).

(b) If the protected tree is not located within an area specified in subsection 107-374(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) If the protected tree trunk straddles an area specified in subsection 107-374(a), the protected tree is deemed to be in the area specified in subsection 107-374(a) if more than half of the diameter of the tree is within the area specified in subsection 107-374(a).

(d) If the city arborist 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 ~~107-374~~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) If the city arborist 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% 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 may reduce or waive the replacement tree requirement for the protected tree and reduce or waive the tree replacement application fee.

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

(eg) The mayor may act to waive the replacement tree requirement under this subsection 107-374(d) for a storm event, wildfire or other calamity that causes widespread or costly damage to multiple protected trees throughout the city.

~~(fh)~~ 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 107-374(b) is greater than seven protected trees, the number of replacement trees required under subsection 107-374(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).

~~(gi)~~ If a protected tree has a trunk on a first property and roots and 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(f) on the second property. For purposes of determining removal under this subsection for 107-371(f), 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 trunk. If the actions by the owner of the second property as to the protected tree trigger a requirement for the owner

1 of the first property to apply for a tree removal permit for the protected tree, the application
2 review fee as to the protected tree on the first property is waived.

3
4 Sec. 107-376. - Development application requirements.

5
6 (a) An application for a building permit must:

7 (1) Include a tree survey and protection plan of all existing trees on the property that are at
8 least 12 inches in diameter measured four and one-half feet above the ground;

9 (2) Include a grading and tree protection plan for protecting all protected trees that are not
10 approved for removal;

11 (3) Demonstrate that the design will preserve the existing natural character of the landscape
12 as to any protected trees not approved for removal; and

13 (4) Include a tree removal permit application with required fees for review of each proposed
14 removal of a protected tree.

15 (b) The building official may not release or renew a building permit until the city arborist issues
16 a tree removal permit for each protected tree proposed to be removed.

17
18 **Section 2.** If any provision of this Ordinance is found by a court of competent jurisdiction to be
19 void or unenforceable, such void or unenforceable provision shall be severed as though it never
20 formed a part of this Ordinance, and all other provisions hereof shall remain in full force and
21 effect.

22
23 **Section 3.** This Ordinance shall be effective immediately upon approval and adoption by the
24 City Council.

25
26 PASSED AND APPROVED BY THE CITY COUNCIL OF ROLLINGWOOD, TEXAS, on the
27 16th day of December 2020.

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30 _____
31 Michael R. Dyson, Mayor

32 ATTEST:

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34 _____
35 Ashley Wayman, City Secretary
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