

**ORDINANCE NO. \_\_\_\_\_**

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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 MANGEMENT, 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 ~~strikethroughs~~ being deletions from the  
40 Code and underlines being additions to the Code:

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

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

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

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

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

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

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

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

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

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

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

74 In this subdivision:

75 (a) *Protected species* means:

76 (1) Ash, Texas

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

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

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

153 (a) A city arborist shall be appointed by the city council who shall  
154 coordinate with the City Development Officer when determined  
155 necessary to assist in promulgating forms for use under this  
156 subdivision and to decide all applications for removal of a  
157 protected tree.

158 (b) ~~If an applicant requests a variance as permitted under this~~  
159 ~~subdivision, the city arborist shall direct the request to the city~~  
160 ~~council and make a recommendation to the city council whether~~  
161 ~~to approve the variance request.~~

162 (e)(b) The list of eligible protected tree species under subsection 107-  
163 371(a) and the list of eligible replacement tree species under  
164 [subsection] 107-371(c) may be supplemented by approval of the  
165 city council, in consultation with the city arborist or as provided  
166 by subsection (e).

167 (d)(c) All protected trees and heritage trees removed from a lot  
168 should be replaced on that lot unless a written permission is  
169 submitted to the City from an adjacent lot owner to replant on the  
170 adjacent lot. An applicant may satisfy a tree replacement  
171 requirement by planting the required replacement tree(s) on the  
172 property affected by the protected tree removal, or on one or more  
173 other property(s) approved by the arborist or other designated  
174 agent of the city if:

175 (1) ~~The benefit to residents of the city would be as great as~~  
176 ~~replacement on the property affected by the protected tree~~  
177 ~~removal; and~~

178 (2) ~~The owner(s) of such other property(s) agree in writing to~~  
179 ~~maintain the replacement trees in a healthy condition and~~  
180 ~~replace same with like trees, as necessary as a result of a~~  
181 ~~death of such tree(s), for a period of not less than three~~  
182 ~~years.~~

183 (e) ~~For purposes of subsections 107-372(c) and (d) the city and the~~  
184 ~~owner may consult with an academic organization, state agency,~~  
185 ~~nonprofit organization, or the city arborist to identify an area for~~  
186 ~~which tree planting will best address the science-based benefits~~  
187 ~~of trees and other reforestation needs of the municipality within~~  
188 ~~and outside of the city limits.~~

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

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

192 (a) A person may not remove a protected tree without a tree removal  
193 permit for the removal and compliance with the terms of this  
194 subdivision.

195 (1) During removal of protected trees the tree removal permit  
196 shall be displayed on the construction board for the site in  
197 present or otherwise displayed on a sign within the first  
198 five feet of the front yard ~~setback~~ and if the house is not  
199 under construction the permit for tree removal shall be  
200 placed on the dashboard of the permitted vendor's vehicle.

201 (2) Removal of a Heritage tree is prohibited unless a Heritage  
202 Tree Removal Special Exception is granted by the Board  
203 of Adjustment upon a finding that: (i) all reasonable efforts  
204 have been made to avoid removing the tree, (ii) the  
205 location of the tree precludes all reasonable access to the  
206 property or all reasonable use of the property, and (iii)  
207 removal of the tree is not based on a condition caused by  
208 the method or design chosen by the applicant to develop  
209 the property. A Heritage Tree Removal Special Exception  
210 provided for in this code will not be required for Heritage  
211 Trees removed from the proposed building footprint area  
212 but are subject to the tree removal permitting and  
213 replacement regulations provide for in this Code.

214 (b) Emergency pruning or removal. Notwithstanding subsection 107-  
215 373(a), a person may perform emergency pruning or removal of  
216 a protected tree as follows:

217 (1) When the condition or location of a protected tree presents  
218 a clear and immediate danger to a structure or to the health  
219 and safety of the public, the hazardous portion of the  
220 protected tree may be removed without first obtaining a  
221 required tree removal permit.

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

234 (3) Any person who prunes or removes a protected tree under  
235 the provisions of this subsection shall, within 14 days of  
236 such action or as soon as practicable if there is a coinciding  
237 declaration of a state of emergency in the city, apply for a  
238 tree removal permit providing for replacement trees as  
239 required by this subdivision. The application shall include  
240 photographs or other documentation to demonstrate the  
241 requisite clear and immediate danger. The ~~city arborist~~ City  
242 Development Officer will evaluate the information to  
243 determine whether a clear and immediate danger existed. A  
244 failure to submit an application or a failure to submit  
245 information demonstrating the clear and immediate danger  
246 shall constitute a violation of this subdivision.

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

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

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

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

258 (1) An agent of the city, a public utility, or another political  
259 subdivision with the authority to install the public facilities  
260 and perform the work necessitating the removal of the  
261 protected tree; or

262 (2) The owner of the property adjoining the site of the protected  
263 tree.

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

267 (d) An application for removal of one or more protected tree(s) must  
268 be submitted to the city secretary and approved prior to removal  
269 of the protected tree. If the application is approved as provided  
270 for in this subdivision, a permit shall be issued indicating each  
271 protected tree that is approved for removal and indicating the  
272 location(s) and size(s) of any required replacement trees and the  
273 dates by which replacement trees must be planted.

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

- 276 (f) An application for removal of a protected tree shall include any  
277 proposal for type(s) and location(s) of replacement trees on a site  
278 plan of affected property(s).
- 279 (g) A permit for removal of a protected tree expires on the earlier of  
280 either two years after its effective date, or upon removal of the  
281 protected tree except that if any building permit issued for the  
282 associated property expires or is revoked for any reason, the  
283 permit for removal of a tree shall be revoked as well. Subject to  
284 applicable expiration, a permit for removal of tree(s) is  
285 transferable to a subsequent owner of the affected property,  
286 provided that any obligation in the permit with respect to  
287 replacement trees is assumed by the transferee.

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

- 289 (a) If the protected tree is located within a yard line and property line  
290 setback area and the total width of the setback area within the  
291 yard line and the property line is ~~greater than~~ ten feet or greater  
292 from the edge of a property, the protected tree shall be replaced  
293 with a total of three replacement trees that may include a selection  
294 of replacement trees under subsections 107-371(d)(1) and (d)(2),  
295 and shall include at least one replacement trees under subsection  
296 107-371(d)(2).
- 297 (b) If the protected tree is not located within an area specified in  
298 subsection 107-375(a), the protected tree shall be replaced by one  
299 replacement tree under either subsection 107-371(d)(1) or  
300 subsection 107-371(d)(2).
- 301 (c) ~~If the protected tree trunk straddles an area specified in subsection~~  
302 ~~107-375(a), the protected tree is deemed to be in the area~~  
303 ~~specified in subsection 107-375(a) if more than half of the~~  
304 ~~diameter of the tree is within the area specified in subsection 107-~~  
305 ~~375(a). If a protected or heritage tree straddles the boundary~~  
306 ~~between the yard and buildable area, it shall be considered~~  
307 ~~removed from the yard area if 25% or more of the trunk diameter~~  
308 ~~is in the yard area.~~
- 309 (d) If the ~~city arborist~~ City Development Officer determines under  
310 subsection 107-373(b)(3) that an emergency existed at the time  
311 of removal that necessitated expedited removal or an applicant  
312 provides documentation from a ~~certified arborist~~ City  
313 Development Officer that a protected tree is diseased, dead, or  
314 poses an imminent or immediate threat to persons or property due  
315 to natural causes only and the protected tree falls under  
316 subsection 107-375(a), the city arborist may reduce the  
317 replacement tree requirement to one replacement tree under either  
318 subsection 107-371(d)(1) or subsection 107-371(d)(2).



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- (e) 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.
- (f) If a protected tree is required to be removed under section 18-209, 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.
- (g) 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.
- (h) 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) If a protected tree has a trunk on a first property and CRZ 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(e) on the second property. For purposes of determining removal under this subsection for 107-371(e), 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 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.
- (j) Replacement of a Heritage Tree removed from a yard area or a proposed a building footprint area must be replaced with one tree

363 6 inches in diameter, or more, for every 12 inches in diameter of  
364 the removed tree. For example: 24 inches = 2 six-inch diameter  
365 trees, 36 inches = 3 trees, etc. to be replaced. An exception to  
366 these mitigation requirements may be granted by the City  
367 Development Officer, after consulting with the City Arborist, and  
368 with the approval of the Zoning Board of Adjustment if the  
369 applicant demonstrates: (1) the existing tree canopy would  
370 prohibit the growth of these replacement tree(s); or (2) the  
371 required replacement trees to be installed would have to be  
372 planted under the canopy of an existing tree.

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

- 374 (a) An application for a building permit must:
- 375 (1) Include a tree survey and protection plan of all existing  
376 trees on the property that are at least 12 inches in diameter  
377 measured four and one-half feet above the ground;  
378 including an indication of the CRZ of these trees.
- 379 (2) Include a grading and tree protection plan for protecting  
380 all protected trees that are not approved for removal; The  
381 protection plan submitted for these trees to include  
382 evidence that sufficient care must be demonstrated to  
383 ensure survival of these protected trees, including  
384 adequate watering before, during and after construction  
385 until a certificate of occupancy is granted.
- 386 (3) Demonstrate that the design will preserve the existing  
387 natural character of the landscape as to any protected trees  
388 not approved for removal; and
- 389 (4) Include a tree removal permit application with required  
390 fees for review of each proposed removal of a protected  
391 tree.
- 392 (b) ~~The building official~~ City Development Officer may not release  
393 or renew a building permit until ~~the city arborist issues~~ a tree  
394 removal permit for each protected tree proposed to be removed  
395 has been issued.

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

- 397 ~~(a) The city council may grant an administrative variance from the~~  
398 ~~requirements of this division if the city council determines by a~~  
399 ~~simple majority that owing to special conditions pertaining to the~~  
400 ~~affected property, literal enforcement of the provisions of this~~  
401 ~~division will result in unnecessary hardship, and the granting of~~  
402 ~~the variance will not be contrary to the public interest.~~

- 403                    ~~(b) In considering any proposed variance, the following rules shall~~  
404                    ~~be observed:~~
- 405                    ~~(1) The applicant for the variance must present to the city council a~~  
406                    ~~set of plans prepared by a certified arborist setting out the~~  
407                    ~~applicant's proposal and the nature of the proposed variance;~~
- 408                    ~~(2) The proposed variance may not unreasonably affect any~~  
409                    ~~adjoining property or the general welfare of the community; and~~
- 410                    ~~(3) The city council must find that the applicant did not create the~~  
411                    ~~condition necessitating the variance.~~
- 412                    ~~(c) If the city council grants a variance under this subdivision, the~~  
413                    ~~city arborist may issue a tree removal permit with terms~~  
414                    ~~consistent with any terms and conditions of the granted variance.~~

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

- 416                    (a) Whenever replacement trees are required by the terms of this  
417                    subdivision, the owner shall submit to the ~~city arborist~~ City  
418                    Development Officer for approval a replacement site plan  
419                    showing the locations, species and sizes of all replacement trees  
420                    and vegetation for final approval by the ~~city arborist~~ City  
421                    Development. If during installation, the owner is unable to  
422                    conform to the approved replacement site plan because  
423                    conformance is not feasible due to subsurface conditions that  
424                    could not reasonably have been foreseen that make the viability  
425                    of the tree in the planned location unlikely, then the owner must  
426                    submit an amended site plan to the ~~city arborist~~ City  
427                    Development Officer within seven days of the discovery of  
428                    unforeseen subsurface conditions for approval by the ~~city arborist~~  
429                    City. An amended site plan must provide for no fewer  
430                    replacement trees or cumulative size of replacement trees than  
431                    provided in the originally approved replacement plan.
- 432                    (b) Installation of the replacement trees must be completed within  
433                    the time period designated by the ~~city arborist~~ City Development  
434                    Officer in the tree removal permit, however, in no event will the  
435                    time period be longer than one year, however this time period is  
436                    abated while a property is under construction where replacement  
437                    trees are required.
- 438                    (c) The owner shall notify the ~~city arborist~~ City Development Officer  
439                    upon completion of the installation. If more than one protected  
440                    tree has been replaced, the city arborist may then inspect for  
441                    compliance with the approved replacement plan.
- 442                    (d) All replacement trees must survive at least three years. The City  
443                    Development Officer shall track all replacement trees, so that at  
444                    three years post planting, their survival and health can be

445 assessed, consulting with an arborist if necessary. The city  
446 arborist City Development Officer may contact the owner during  
447 this three year period to arrange for a site visit ~~by the city arborist~~  
448 in order to confirm the replacement trees have survived.  
449 Replacement trees that do not survive for three years must be  
450 removed and replaced with similar species and sized trees.

451 (e) The owner of property from which the removal of one or more  
452 protected trees was permitted shall arrange for the transferee(s)  
453 of such property to submit to the city secretary a written transfer  
454 to and assumption by such transferee(s) of the permit and all  
455 obligations of such permit with respect to required replacement  
456 trees, if all such obligations have not been satisfied at the time of  
457 transfer of the property.

458 (f) For protected trees removed from within 20 feet of an above-  
459 ground power, cable, or telephone line the species selected from  
460 Sec 107-371 c (1) may be used for replacement.

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

- 462 (a) It shall be an offense for a person:
- 463 (1) To fail to perform an act required by the provisions of this  
464 subdivision;
  - 465 (2) To fail to timely comply with any term of a permit issued  
466 pursuant to this division, including terms regarding the  
467 planting and maintenance of required replacement trees;
  - 468 (3) To hire, engage, or permit any person engaged in the  
469 business tree planting, maintenance, or removal to perform  
470 such services on property in the city without a permit  
471 issued by the city pursuant to section 18-217 of this Code;
  - 472 (4) Except as expressly allowed pursuant to this subdivision,  
473 to remove or to cause the removal of a protected or heritage  
474 tree without first obtaining a permit therefor;
  - 475 (5) To transfer property from which the removal of a protected  
476 heritage tree has been permitted if all obligations with  
477 respect to replacement trees pursuant to the permit for such  
478 removal are not then fulfilled unless the transferee of the  
479 property agrees in a writing submitted to the city secretary  
480 to assume such permit and all obligations with respect to  
481 the planting and maintenance of required replacement  
482 trees;
  - 483 (6) To fail to submit an application for a permit as required  
484 pursuant to subsection (b) of this section or pursuant to  
485 subsection 107-373(b)(3); or

- 486 (7) To fail to submit photographs or other documentation to  
487 demonstrate a requisite clear and immediate danger  
488 pursuant to subsection 107-373(b)(3) in connection with  
489 an unpermitted removal of a protected or heritage tree.
- 490 (b) An offense shall constitute a Class C misdemeanor punishable by  
491 a fine not to exceed \$500.00. An offense committed intentionally,  
492 knowingly, recklessly, or with criminal negligence shall be  
493 punishable by a fine not to exceed \$2000.00 per offense. Each  
494 protected or heritage tree removed in violation of this division  
495 shall constitute a separate offense, and a failure to plant and  
496 maintain each replacement tree shall constitute a separate  
497 offense. Each day a violation continues shall constitute a separate  
498 offense.
- 499 (c) The owner of affected property and each person who causes or  
500 directs another person to remove a protected or heritage tree  
501 without a permit shall immediately submit an application for a  
502 permit pursuant to this subdivision, including a proposal for the  
503 provision of replacement tree(s) in compliance with this  
504 subdivision.
- 505 (d) The building official shall issue a stop work order in connection  
506 with any permitted development of the property from which a  
507 protected or heritage tree is removed upon the occurrence of a  
508 violation of this subdivision or any term of a permit issued  
509 pursuant to this subdivision.
- 510 (e) No certificate of occupancy shall be issued for a building or other  
511 structure that is not then in compliance with any permit issued  
512 pursuant to this subdivision for removal of a protected tree.

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

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

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

525 **APPROVED, PASSED AND ADOPTED** by the City Council of the City of  
526 Rollingwood, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 2024  
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Gavin Massingill, Mayor

533 ATTEST:

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Desiree Adair, City Secretary

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