

City of Windcrest



AGENDA CITY COUNCIL MEETING 6:00 PM APRIL 6, 2026

JUDGE STEPHEN P. TAKAS, JR. COURTROOM

CCM @ 6 PM

NOTICE IS HEREBY GIVEN THAT THE CITY OF WINDCREST CITY COUNCIL WILL HOLD A REGULAR CITY COUNCIL MEETING AT WINDCREST CITY HALL LOCATED AT 8601 MIDCROWN, WINDCREST, TEXAS ON MONDAY, APRIL 6, 2026, STARTING AT 6:00 PM.

THE CITY COUNCIL RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF MONDAY, APRIL 6, 2026, AND TO RECONVENE THE MEETING ON THE FOLLOWING BUSINESS DAY, APRIL 7, 2026, AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE AND INVOCATION

IV. CITIZENS TO BE HEARD/CITIZEN PARTICIPATION

- Citizens may address the City Council on topics not on the agenda for no more than three (3) minutes.
- Citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes.
- A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR COUNCIL MEETING:**V. PROCLAMATION**

- a) Proclamation honoring April as National Volunteer Month, celebrating all Windcrest Volunteers the week of April 19 - 25, 2026.
- b) Proclamation celebrating April as the Month of the Military Child, in honor of the strength, sacrifices, and unique challenges that children of military personnel face.
- c) Proclamation declaring April 6 - 10, 2026, as National Animal Control Officers week recognizing the Windcrest Animal Control Officers.

VI. PRESENTATION

- a) City Council will receive a presentation on the City Code of Ordinances website and codification process.

VII. CONSENT AGENDA

- a) Discuss, review, and may act on a resolution approving the Texas Fire Connect Grant through Rural VFD Assistance Program, in the amount of \$165,000 toward the purchase of a brush truck for the Windcrest Fire Department. [Ronnie J. Guest, Jr., City Manager]
- b) Discuss, review and may act on a resolution adopting an administrative policy regarding cash transactions following discontinuation of pennies by the United States Government. [Ronnie J. Guest, Jr., City Manager]

VIII. DISCUSSION AND ACTION

- a) Discuss, review, and may act on approving amendments to the FY 25/26 Windcrest Economic Development Corporation Budget. [Ronnie J. Guest, Jr., City Manager]
- b) Discuss, review, and may act on the City of Windcrest Code of Ordinances related to tree canopy, maintenance, property owner responsibilities and best practice recommendations from the Texas A & M Forestry Service. [Cindy Strzelecki, Council Member Place 2]
- c) Discuss, review, and may act on the publication and development of a Request for Qualifications for an Insurance Agent of Record for employee benefits programs. [Ronnie J. Guest, Jr., City Manager]
- d) Discuss, review, and may act on the publication and development of a Request for Qualifications for Architectural and Engineering Professional Services for pool property improvements at 5609 Winsong. [Susie Hamilton, Council Member Place 1]

IX. EXECUTIVE SESSION

The City Council of the City of Windcrest reserves the right to adjourn into executive session at any time during the course of the meeting to discuss any matter listed below. After the conclusion of the executive session, the City Council will reconvene into open session and may take action on any items discussed in executive session.

- a) Pursuant to Govt. Code § 551.071 (consultation with attorney) deliberation regarding possible

litigation on matters related to the *City of San Antonio and City of Windcrest*.

- b) Pursuant to Govt. Code § 551.071 (consultation with attorney) deliberation regarding existing litigation *Cause No.2025-CI-02429 In the District Court of Bexar County, Texas 57th District Jimmie Cole vs. City of Windcrest*.
- c) Pursuant to Govt Code §551.017 (consultation with attorney) deliberation on enforcement options regarding confidentiality laws.
- d) Pursuant to Govt Code §551.087 (economic development) on Industrial Commercial Properties and Windcrest International Business Park status and update.

X. CITY MANAGER'S REPORT

Any oral report provided by the city manager will be informational only and not for council action. The city manager may provide updates on community and upcoming city events, the status of the operation of individual departments, any unusual activity from any specific department which has occurred since the posting of the agenda, or to provide potential topics of discussion which may appear on a future agenda.

XI. GENERAL ANNOUNCEMENTS & FUTURE AGENDA ITEMS REQUESTED

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

XII. ADJOURNMENT

DECORUM REQUIRED: Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

ACTION BY COUNCIL AUTHORIZED: The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); §551.087 (Economic Development); §551.074 (Personnel Matters); and § 551.071 (Consultation with Attorney) to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person or appear in executive session by conference call in accordance with applicable state law.

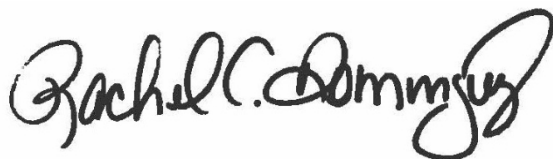
EXECUTIVE SESSIONS APPROVED BY CITY ATTORNEY: This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the

closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS: It is anticipated that members of other city boards, commissions and committees may attend the meeting in numbers that may constitute a quorum of such other city boards, commissions and committees, so that notice is hereby given that the meeting is also a meeting of the other city boards, commissions and committees whose members are in attendance. The members of the other city boards, commissions and committees may participate in discussions which occur at the meeting, but no action will be taken by the other boards, commissions, and committees whose members are in attendance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than three (3) business days prior to the meeting on April 6, 2026.

BY:

A handwritten signature in black ink, reading "Rachel C. Dominguez". The signature is fluid and cursive, with the first name "Rachel" and last name "Dominguez" clearly legible.

Rachel C. Dominguez, TRMC
City Secretary

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS, PROVIDING FOR ADMINISTRATIVE POLICY REGARDING CASH TRANSACTIONS FOLLOWING DISCONTINUATION OF PENNIES BY THE UNITED STATES GOVERNMENT; PROVIDING FOR SEVERABILITY AND REPEALER; SETTING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Windcrest, Texas (“City”) acknowledges that the United States Government ceased production of the penny (\$0.01 coin) in late 2025; and

WHEREAS, the City acknowledges that the pennies will retain their value as valid U.S. currency and indefinitely remain in circulation; and

WHEREAS, the City is a governmental entity that processes various transactions, including cash transactions which may involve pennies, and recognizes that the City may not always have pennies available to make change when needed for certain cash transactions; and

WHEREAS, the City has determined that this Resolution is necessary and appropriate to provide administrative direction to City staff regarding cash transactions involving pennies; and

WHEREAS, the City Council finds that it is in the public interest to provide policies set forth herein;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS

SECTION 1. The recitals above are incorporated herein by reference and constitute findings of fact.

SECTION 2. The Finance Director is hereby authorized to take any and all steps necessary to implement the policies set forth in this Resolution and shall coordinate with the City Manager as needed to implement said policies. This Resolution only addresses cash transactions. Transactions involving payment methods other than cash shall not be affected by this Resolution.

SECTION 3. Upon approval of this Resolution by City Council, City staff shall thereafter process cash payments by rounding up or down to adjust the total amount to the nearest \$0.00 or \$0.05 in accordance with this Section. If the final digit of a purchase amount ends in 3, 4, 8 or 9 cents, then the total amount shall be rounded up. If the final digit of a purchase amount ends in 1, 2, 6 or 7, then the total amount shall be rounded down. If the final digit of a purchase amount is 0 or 5, then the total amount shall not be rounded.

SECTION 4. This Resolution shall become effective immediately upon its passage.

Passed and approved this ___ day of _____, 2026.

City of Windcrest, Texas

Dan Reese, Mayor

Attest:

Rachel C. Dominguez, TRMC
City Secretary

Approved:

Austin Beck, City Attorney

PENDING CC APPROVAL

TREE CITY USA

TREE CITY USA STANDARDS

To qualify as a Tree City USA community, you must meet four standards established by the Arbor Day Foundation and the National Association of State Foresters. These standards were established to ensure that every qualifying community would have a viable tree management program and that no community would be excluded because of size.

Communities must meet all four standards through activities completed between **January 1** and **December 31**.

ACCESS APPLICATION PORTAL

STANDARD 1: A TREE BOARD OR DEPARTMENT

Standard:

A community tree board, department, or position with legal authority and responsibility for public tree care decisions.

On your application you will provide:

- Tree Board Chairperson contact information (when there is a tree board)
- Up to 5 Additional Board Members contact information (when there is a tree board)
- Department Chair or City Manager or equivalent position contact information (when there is a department)
- Tree Board Meeting Frequency (when there is tree board)

Eligibility:

The responsible entity could be a city or volunteer tree board, commission, or committee, a forestry department, a parks and recreation department, a public works department, a planning

department, city manager, or other appropriate community department or position. While only one entity is required to be established for the care of public trees, often, both professional staff and a community tree board are established.

Purpose:

Establishing authority and responsibility over public tree care decisions helps community officials and leaders determine who is responsible for public tree work. The public will also know who is accountable for decisions that impact community trees. Involving residents and business owners creates wide awareness of what trees do for the community and provides broad support for better tree care.

STANDARD 2: A PUBLIC TREE CARE ORDINANCE

Standard:

- Assign authority over and responsibility for the care of public trees through the establishment of a tree board, department, or both.
- Provide clear guidance for planting, maintaining, and/or removing trees from streets, parks, and other public spaces.
- Always be in effect.

On your application you will provide:

Provide a copy of the ordinance (or the individual clauses) that meets the requirements. Provide the name of the person, position, or department with responsibility for oversight of public tree care or urban and community forestry activities. Provide the date (or best estimate) the current tree ordinance was established and whether the ordinance has recently updated.

Eligibility:

Effective public policies are not always contained in a single “Public Tree Care Ordinance”, it is acceptable to have tree care clauses in a single ordinance or throughout a community’s ordinance or policy structure.

The ordinance or policy must:

- Meet the components of the standard.
- Be established in or before the year of recognition.

In some communities the person, position, or department with responsibility for oversight of public tree care or urban and community forestry activities is not explicitly identified but is implied based on the community or state ordinance structures. This is acceptable.

Purpose:

Tree ordinances, and other legally enforceable policies, guide communities in the proper care, establishment, conservation, protection and maintenance of community trees and forests. Codified and enforced ordinances help communities maximize the benefits of community trees, creating more livable communities.

The Arbor Day Foundation recognizes the complexity of developing an ordinance in the diverse legal, cultural, and political landscape of communities. Standard 2 is intentionally broad to allow communities of all sizes to participate in the Tree City USA program.

STANDARD 3: ANNUAL EXPENDITURE OF \$2 PER CAPITA ON COMMUNITY TREE CARE ACTIVITIES

Standard:

The community must document a minimum of \$2 per capita annual expenditure on community tree care related activities.

Expenses can include staff time, contracted work, and/or volunteer time. Qualified expense categories include:

- Tree planting and initial care
- Tree maintenance
- Tree removal
- Management
- Utility line clearance
- Volunteer hours
- Other tree related expenses

On your application you will provide:

- The dollar amount spent (if any) in the following categories:
 - Tree planting and initial care
 - Tree maintenance
 - Tree removal
 - Management
 - Utility line clearance
 - Other tree related expenses
 - Volunteer hours (you submit the total hours, we calculate the hourly rate at a national level in the application).

Eligibility:

Annual expenditures must meet one or more of the qualified expenses and must occur within the year of recognition. Volunteer hours supporting tree related activities are calculated at the national volunteer hourly rate in the application system.

QUALIFIED EXPENSES

Purpose:

Budgets and expenditures require planning and accountability, which are fundamental to the long-term health of community trees and community forestry programs.

By providing support at or above the \$2 per capita minimum, a community demonstrates its commitment to community trees and forests as valuable public assets.

STANDARD 4: AN ARBOR DAY OBSERVANCE AND PROCLAMATION

Standard:

The community must have a public Arbor Day Observance and have an official, annual community proclamation issued and signed by the mayor, city council, or equivalent official or representative.

On your application you will provide:

- The Arbor Day Observation must be documented in photos from the event, social media post, published newspaper articles, or another form of proof showcasing the observance of Arbor Day in your community. Photos, posts, articles, and other documents should clearly depict tree related activities (e.g., tree plantings, holding Arbor Day or Tree City USA signs, children interacting with trees, etc.)
- The signed and dated Arbor Day Proclamation.

Eligibility:

Arbor Day can be observed at any time during the year of recognition. The observance can be part of an Earth Day or other community celebration if trees are a central part of the celebration.

An Arbor Day observance can be simple and brief or an all-day or all-week or all-month celebration of trees and community forests. Arbor Day observances may include tree planting events, tree care activities, education on community trees, an award ceremony that honors community tree planters and organizations, or other programming that raises awareness of the importance and value of trees.

The Arbor Day celebration must occur, and proclamation must be signed within the year of recognition.

Purpose:

To generate excitement, publicity, and educate community members about the value of trees, the importance of tree care, fire prevention, conversation, and other community tree and forest topics.

Gain the support for the community tree program from public officials by passing and reciting an official Arbor Day proclamation.

<https://www.arborday.org/our-work/tree-city-usa/standards#component--id--45366>

ARTICLE I. - COMMERCIAL AND RESIDENTIAL SUBDIVISION TREE PRESERVATION

Sec. 94-1. - Purpose.

(a) This article implements the following provisions of the Helotes Master Plan:

- (1) Preserves the neighborhood character of Helotes;
- (2) Improves the quality of living for Helotes citizens;
- (3) Preserves and enhances the rural atmosphere of Helotes;
- (4) Responsibly protects the natural environmental resources of Helotes;
- (5) Preserves the rugged beauty and natural environment that defines the Hill Country character of Helotes and makes it a unique and desirable community; and
- (6) Prevents the clear-cutting of land.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-2. - Definitions.

For the purposes of this chapter, the following phrases, terms, words, and their derivation shall have the meanings given in this section.

Axe. A tool used for chopping, splitting, felling, chipping, or otherwise cutting wood, typically consisting of a heavy edged head fixed to a handle.

Caliper. The diameter of a tree four feet above the natural grade, measured with a tree caliper instrument or a flexible tape. If a tape is used, the circumference of the tree should be measured and the result divided by 3.14 to determine the diameter.

Categories of tree preservation. The designations "large tree species," "small tree species," and "heritage" are established for the purposes of applying the requirements of this chapter. See table 1.0 for tree preservation categories and preservation rates.

City administrator. The person appointed by the city council to administer city ordinances related to land development. The city administrator is expected to consult with experts, as necessary, to carry out the provisions of this chapter.

City arborist. The person(s) appointed by the city council to implement and enforce provisions of this chapter as requested by the city administrator. A professional arborist certified and/or degreed in horticulture, forestry or a closely related field with expertise in forestry, landscape design, and tree preservation. Reviews, implements, and enforces this chapter, landscaping requirements, tree surveys, landscaping plans, irrigation plans, and tree preservation plans. Inspects, on behalf of the city, parcels to determine compliance with city requirements.

Commercial development. All commercial (industrial, office, multifamily, institutional, and retail) property to be developed or redeveloped, including additions and alterations to the structure or outdoor areas, such as parking lots or driveways.

Covered species. Any existing living tree of any species or type, as defined in table 1.0 "Protected Tree Preservation Categories and Preservation Rates."

Dripline. The area of ground surrounding the trunk of a tree considered essential to protecting the root structure of a tree. For the purposes of this chapter, the dripline shall be calculated at one foot for every one inch of caliper width measured at four feet above natural grade level. Construction may encroach into the dripline area of a tree, provided that alternative construction methods for protecting a tree are approved by the city arborist.

Multi-trunk tree. A tree having two or more trunks arising from the root collar or main trunk.

Preservation rate. The amount of total inches or area, if using the tree stand delineation method, to be preserved onsite and shall be calculated for each category and not as a whole.

Example: Total protected "Large Tree Species" inches onsite = 10,000; Preservation rate = 40%; $10,000 \times 40\% = 4,000$ inches shall be preserved.

Example: Total protected "Small Tree Species" inches onsite = 1,000; Preservation rate = 40%; $1,000 \times 40\% = 400$ inches shall be preserved.

Example: Total "Heritage" inches onsite = 1,000; Preservation rate = 60%; $1,000 \times 60\% = 600$ inches shall be preserved.

Protected tree. Trees that, by virtue of their size or species, are protected by this chapter.

- (1) *Large tree species.* Trees of a covered species. See table 1.0.
- (2) *Small tree species.* Trees of designated small tree species. See table 1.0.
- (3)

Heritage tree. Any protected large tree species that is greater than a 24-inch caliper trunk and any protected small tree species that is greater than an eight-inch caliper trunk. see Table 1.0.

- (4) *Non-protected tree.* Any living tree that the city arborist certifies in writing is injured, dying, diseased, or infested with harmful insects; that is in danger of falling, interferes with utility service, or creates unsafe vision clearance; or, in any manner, creates a hazardous or dangerous condition so as to endanger the public health, welfare, or safety, is not a protected tree.

Regular maintenance. Vegetation management, outside of mowing, performed with the use of hedge trimmers, machetes, hand-held pruning shears, clippers, loppers, and other scissor like hand tools that do not meet the definition of a saw or axe as defined in this section.

Residential subdivision development project. Any and all real property meeting the definition of subdivision as set forth in Code section 78-34 which has been platted for single-family home construction.

Root protection zone (RPZ). The area around the base of a tree in which limited construction may take place.

Saw. A hand or power tool or machine used to cut hard material (such as wood, metal, or bone); usually equipped with a blade, chain, or disk.

Tree stand delineation. An alternative to the standards tree survey methodology. This option can be used in lieu of an "on-the-ground" tree survey required for the tree preservation and removal permit. This methodology uses a current aerial photograph and overlays the proposed development onto a photograph to determine the tree preservation rate, as described in table 1.0. Heritage trees shall be shown on the plan only if they fall within the proposed development.

TABLE 1.0

PROTECTED TREE PRESERVATION CATEGORIES AND PRESERVATION RATES

Covered Species	"Large Tree Species" are any existing living tree of any species or type, <i>excluding</i> the following:	"Small Tree Species" are as follows:	Preservation Requirement

	Ashe juniper (cedar), smaller than 10" caliper Athel tamarisk Brazilian peppertree Chinaberry Chinese elm Chinese tallow cottonwood desert willows five-stamen tamarisk French tamarisk hackberry, smaller than 10" caliper Japanese ligustrum salt cedar tamarisk Siberian elm tallowtree tree of heaven willow species other than desert willows	Condalia Mexican redbud mountain laurel possumhaw Texas crab apple/downy hawthorn Texas persimmon Texas redbud	N/A
Protected category	Large tree species (other than Ashe juniper or hackberry) that are 6" to 24" caliper	Small tree species that are 5" to 8" caliper	40% of the total protected inches or area, if alternative tree stand option used
	Ashe juniper and hackberry: 10" caliper or greater		

Heritage category	Large tree species that are greater than 24" caliper	Any small tree species that are greater than 8" caliper	60% of the total protected inches or area, if alternative tree stand option used
100-year floodplain category	All protected and heritage category trees	All protected and heritage category trees	80% of the total protected inches or area, if alternative tree delineation stand option used

Tree trimming. The use of saws, axes, or any other tool or instrument to remove vegetative growth, limbs, branches, trunks, or any other part of a plant regardless of species or size.

(Ord. No. 376, § 1, 10-9-2008; Ord. No. 553, § 1, 1-8-2015; Ord. No. 24-09, § 2, 6-13-2024)

Sec. 94-3. - Applicability.

- (a) Commercial and residential subdivision developments within the city's corporate limits and its extraterritorial jurisdiction are subject to the tree removal, preservation, and/or pruning restrictions and permitting requirements established within this ordinance.
- (b) Oak wilt restrictions and permit requirements contained within section 94-6, tree pruning restrictions, shall apply to all real property within the city's corporate limits and its extraterritorial jurisdiction.
- (c) All professional tree care or landscaping companies shall obtain a permit from the city prior to any tree trimming, de-mossing, or tree removal within the city's corporate limits and its extraterritorial jurisdiction.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-4. - Exceptions.

The following authorized exceptions from the terms and provisions of this article shall apply:

- (1) In the event that any protected or heritage tree is determined by the city arborist to be in a hazardous or dangerous condition so as to endanger the public health, welfare, or safety, written authorization for removal may be given by the city arborist and such Protected or heritage tree may then be removed.
- (2) During the period of an emergency, such as a tornado, storm, flood, or other act of God, the requirements of this article may be waived by the city council for the affected area or areas.
- (3) All licensed plant or tree nurseries shall be exempt from the terms and provisions of this article only in relation to those trees planted and growing on the premises of said licensee, that are so planted and growing for the sale or intended sale to the general public in the ordinary course of said licensed business.
- (4) Utility companies franchised or otherwise authorized to provide utility service may prune or remove protected or heritage trees that endanger public health, safety, and welfare by interfering with utility service, provided that the removal is the minimum necessary for the utilities to function properly and no other alternative is available.
- (5) The mowing, clearing, and grubbing of brush located within or under the drip lines of protected or heritage trees shall be allowed, provided such mowing, clearing, or grubbing is not implemented by use the of bulldozers, loaders, or other construction or earth moving equipment.
- (6) Areas contained within public and private rights-of-way or utility or drainage easements, provided that the applicant demonstrates that the removal is necessary for the rights-of-way and easements to function properly.
- (7) All municipal functions and activities of the City of Helotes are exempt from the application, terms, and provisions of this chapter.
- (8) Exempt from such restrictions and permit requirements are:
 - a. Non-contiguous established single-family, owner- or lessee-occupied housing, three acres or less, platted or unplatted, located within a district zoned residential;
 - b. Non-contiguous vacant single-family residential lots, three acres or less, platted or unplatted, located within a district zoned residential;
 - c. Items 94-4(8)(a) or (b) greater than three acres, platted or unplatted, within a subdivision regulated by deed restrictions prohibiting subdivision of real property.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-5. - Permit for tree preservation and removal.

- (a) *Purpose.* The purpose of this article is to provide a review process to preserve the existing natural environment, whenever possible, and to encourage the preservation of trees throughout construction and/or development. Commercial and residential subdivision developments within the city's corporate limits and its extraterritorial jurisdiction are subject to the tree removal, preservation, and/or pruning restrictions and permit requirements established within this article.
- (b) *Permit information.* The information required for a tree preservation and removal permit is located on the tree preservation and removal permit application.
- (c) *Original tree survey.* The tree survey submitted with the original application for a tree preservation and removal permit shall be the reference by which all subsequent tree removal permits for the tract(s) or portions of the tract(s) are reviewed. An applicant shall not circumvent the minimum preservation requirements set forth in this article through the filing of multiple tree removal applications.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-6. - Tree pruning restrictions.

- (a) *Applicability.* Tree pruning restrictions shall apply to all real property within the city's corporate limits and its extraterritorial jurisdiction.
- (b) *Required pruning.* The city shall have the right to prune overhanging trees which interfere with the visibility of any traffic control device, sign, or roadway, as necessary, to preserve the public safety.
- (c) *Tree topping.* It shall be unlawful for any commercial or residential subdivision development or utility company to severely cut back limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree without the city arborist's approval.
- (d) *Branch/root pruning and wounded trees.* All broken branches and exposed roots one-half-inch in diameter or greater of any protected, heritage, or replacement tree shall be cut cleanly. In the case of oak species susceptible to oak wilt, wounds must be painted with an acceptable wound dressing within 30 minutes from the time of cutting.
- (e)

Oak wilt. Trimming or cutting of any oak tree susceptible to oak wilt is prohibited within the corporate limits and extraterritorial jurisdiction of the City of Helotes from the first day of February to the last day of May. Permission, however, may be granted to any entity wishing to trim or cut an oak tree susceptible to oak wilt during the prohibited months, provided that the entity contracts with a licensed professional tree care or landscaping company. The professional tree care or landscaping company shall obtain a permit from the city prior to any tree trimming, de-mossing, or removal in the city. In the case of oak species susceptible to oak wilt, wounds must be painted with an acceptable wound dressing within 30 minutes from the time of cutting. All trimming tools shall be cleaned with a disinfectant after each use to prevent spreading of the disease.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-7. - Protected and heritage trees: removal, replacement, relocation, and penalties.

- (a) *Removal of protected and heritage trees.* No commercial or residential subdivision development, directly or indirectly, shall cut down, destroy, remove, or effectively destroy through damaging, any protected or heritage tree within the City of Helotes or extraterritorial jurisdiction without first obtaining a tree preservation and removal permit.
- (b) *Replacement Trees.* Should the required tree preservation percentage fall below the required percentage threshold, it shall be the responsibility of any person obtaining a tree preservation and removal permit for a protected tree to provide replacement tree(s) having a total caliper width equal to that of the trees to be removed. Further, it shall be the responsibility of any person obtaining a tree preservation and removal permit for a heritage tree to provide replacement tree(s) having a total caliper width equal to three times that of the trees to be removed. In considering a mitigation method, the city arborist shall weigh the value of established smaller trees, clumps of trees, and natural vegetation that could be retained to meet the requirements of this article and landscape regulations so that the addition of replacement trees may not be required.
 - (1) Such replacement trees shall:
 - a. Have a minimum caliper width of two inches; and
 - b. Have a minimum height of at least eight feet when planted.
 - (2) No more than 35 percent of replacement trees may be of the same species.
 - (3) A replacement tree that dies within one year of the date it was planted must be replaced by another tree , and a new one year warranty period shall start for that tree.

- (c) *Mitigation in lieu of replacement.* Mitigation may be paid to the City of Helotes instead of providing replacement trees required by this article.
 - (1) This provision is limited to 50 percent of the required protected and heritage tree replacement.
 - (2) Any such payments shall be deposited to the tree mitigation and replacement fund.
 - (3) The per-caliper-inch cash value for replacement trees and planting is \$150.00 per caliper inch.
- (d) *Penalties for unauthorized removal of protected and heritage trees.* If any protected or heritage trees are removed or injured by a commercial or residential subdivision development and such removal or injury constitutes a violation of this article, the city shall have the authority to enact the following administrative and civil penalties on the property owner:
 - (1) A monetary penalty of \$500.00 per caliper inch of each protected or heritage tree removed or injured. Fines paid to the City of Helotes as penalties shall be deposited into the tree mitigation and replacement fund.
 - (2) Replacement with tree(s) having a total tree caliper equal to five times that of the illegally removed or injured tree(s). Such replacement trees shall each have a minimum caliper width of four inches and a minimum height of at least nine feet.
- (e) *Replanting of protected and heritage trees.* No commercial or residential subdivision development, directly or indirectly, shall move any protected or heritage tree on or from any real property within the City of Helotes without first obtaining a tree preservation and removal permit.
- (f) *Replanting standards.* Only those trees meeting the applicable Texas Association of Nurserymen Grades and Standards, as reviewed and approved by the city arborist, shall satisfy the tree replanting requirements contained herein.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-8. - Tree protection measures.

The following tree protection measures shall be required:

- (a) Prior to commercial or residential subdivision development, property owners shall establish and maintain a root protection zone and install four-foot high plastic (or equivalent) safety fencing outside the drip line of protected and heritage trees for the duration of construction and development. Trees shall not be pruned to reduce the root protection zone.
- (b)

During construction or development of commercial or residential subdivision developments, the property owner shall prohibit the cleaning of equipment or materials and/or the disposal of any waste material, including, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc. under the canopy or within the drip line of any protected or heritage tree.

- (c) No attachments or wires of any kind, other than those of a protective nature, shall be attached to any tree during construction or development of commercial or residential subdivision developments.
- (d) With major grade changes of six inches or greater resulting from placement of fill material, a retaining wall or tree well of rock, brick, landscape timbers, or other approved materials shall be constructed around the tree no closer than six feet from the trunk of protected or heritage trees during construction or development of commercial or residential subdivision developments. The top of the retaining wall or tree well shall be at the new finished grade.
- (e) Unless otherwise approved by the city arborist, no commercial or residential subdivision development construction or construction-related activity shall occur within the drip line of any protected or heritage tree.
- (f) Any trees removed during commercial or residential subdivision development shall be chipped or hauled off-site within 30 days of the time the trees were removed.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-9. - Penalty upon failure to comply.

- (a) In addition to any penalties specified elsewhere in this article, any person violating or failing to comply with any provision or requirement of this article shall be fined a minimum of \$250.00 and a maximum of the replacement cost of the tree, as determined by the municipal court. Each tree illegally removed or damaged shall constitute a separate offense. If the precise caliper of a tree cannot be determined, the cost of replacement shall be established by the city arborist based upon his or her estimate of the total caliper inches of the removed or damaged tree(s).
- (b) Failure of any party to follow the procedures of this article shall constitute grounds for withholding or revoking site plan approval, building permits, occupancy permits, or any other appropriate approvals necessary to continue development. Such sanctions, however, may be instituted immediately at the direction of the city administrator after consultation with the city attorney. The city administrator shall inform the mayor of all actions taken pursuant to this subsection and present the matter to the city council without delay. In the case of emergency to prevent the unauthorized removal of trees, the mayor may direct the city attorney to petition a court of competent jurisdiction for injunctive relief directing compliance with this subsection.

- (c) In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this article pursuant to the applicable provisions of Chapter 54 of the Texas Local Government Code, which chapter provides for the enforcement of municipal ordinances.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-10. - Jurisdiction.

- (a) To ensure compatibility with the master plan and this article, the city arborist shall have the authority to review and act on all tree preservation and removal permits for commercial and residential subdivision developments within the city and its extraterritorial jurisdiction (ETJ). Plans shall be approved, approved with conditions, or denied. The city arborist shall provide comments to the property owner or designated representative as to the disposition of each tree preservation and removal permit application.
- (b) *Appeal to city council.* Any applicant or party aggrieved by a decision of the city arborist, city administrator, or municipal employee may appeal such decision to the city council. Such notice of appeal must be filed with the city administrator within ten working days of the decision in question. Such appeal shall stay the issuance of a building permit and shall be placed on the agenda for the next regular or special city council meeting. The board of adjustment shall be without jurisdiction to hear or decide any appeal authorized by this subsection.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-11. - Enforcement.

The city arborist, city administrator, and code compliance officer are hereby charged with the responsibility for the enforcement of this article and may serve notice to any person in violation thereof or institute legal proceedings, as may be required. The city attorney is hereby authorized to institute appropriate proceedings to that end.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-12. - Variances.

- (a) Variances to any decision of the city arborist, city administrator, code compliance officer, municipal employee, or to the terms of this article may be granted by the city council where a literal enforcement of the provisions of this article will result in unnecessary hardship. A variance request must be submitted to the city administrator in writing setting out the basis for the request. No variance shall be granted unless:
- (1) Such variance will not be contrary to public interest;
 - (2) Such variance will be in harmony with the spirit and purposes of this article;
 - (3) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial; and
 - (4) The variance will not substantially weaken the general purposes of this article.
- (b) After review of the variance request, the city council may:
- (1) Approve the variance; or
 - (2) Deny the variance; or
 - (3) Grant the variance with such conditions as may be necessary for the furtherance of the purposes of municipal tree preservation in keeping with the spirit and intent of the ordinance.

(Ord. No. 376, § 1, 10-9-2008)

Sec. 94-13. - Liability.

Nothing in this chapter shall be deemed to impose any liability for damages or a duty of care and maintenance upon the city or upon any of its officers or employees. The person in possession of public property or the owner of any private property shall have a duty to keep the trees and landscaping upon the property and under their control in a safe, healthy condition. Any person who feels a tree located on property possessed, owned, or controlled by them is a danger to the safety of themselves, others, or structural improvements on-site or off-site shall have an obligation to secure the area around the tree or support the tree, as appropriate to safeguard both persons and improvements from harm.

(Ord. No. 376, § 1, 10-9-2008)

Secs. 94-14—94-20. - Reserved.

ARTICLE X. - TREE PRESERVATION

Sec. 32-270. - Purpose and intent.

The purpose and intent of this article is to promote and preserve healthy and desirable tree species as an important public resource, serving to enhance air quality, mitigate flooding and storm water runoff, reduce energy costs, store and sequester carbon dioxide, and enhance quality of life. Tree preservation further assists in protecting the city's unique character and aesthetically-pleasing environment. The purpose shall be accomplished through the protection of trees of certain species and size, regulation of the proper pruning, protection of trees during construction activity, and establishment of procedures for requesting removal of such trees.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-271 - General provisions.

- (a) Permits issued under this article shall only apply to the specific tree(s) and property identified in the permit.
- (b) For work requiring a building permit, the buildings, renovations, additions and site improvements shall be oriented in a manner that allows for preservation of the maximum number of trees to the greatest extent reasonably feasible.
- (c) No more than 50 percent of the critical root zone of any heritage tree shall be covered with impervious cover and no closer than eight feet from the trunk of the tree.
- (d) No more than 30 percent of the critical root zone of any heritage tree shall be trenched, excavated, damaged or removed and no closer than eight feet from the trunk of the tree.
- (e) All tree pruning shall follow ANSI A300 standards.
- (f) The property owner is responsible for trimming, pruning, or maintaining all trees and branches within any portion of their property as required by section 18-67 of the City's Code of Ordinances.
- (g) A "residential structure" means:
 - (i) A detached one-family or two-family dwelling, including the accessory structures of the dwelling;
 - (ii)

Multiple single-family dwelling that is not more than three stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling; or

(iii) Any other multifamily structure.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-272 - City arborist.

The person(s) appointed by the city manager to implement and enforce provisions of this chapter shall be known as the "city arborist." The city arborist shall be a professional arborist, certified and/or degreed in horticulture, forestry or a closely related field, with expertise in forestry, landscape design, and tree preservation. The city arborist shall inspect, review, implement and enforce this article.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-273. - Heritage trees.

(a) The designation of heritage tree species is shown in Table 1. Heritage tree and significant trees designations establish a threshold trunk size, measured in diameter at breast height (DBH) for purposes of applying the requirements of this article.

TABLE 1. DESIGNATION OF HERITAGE TREES

Tree Species	Botanical Name	Heritage Tree (DBH)
Anaqua	Ehretia annacua	24"
Black Chery, Escarpment	Prunus serotina var. eximia	24"
Black Walnut	Juglans nigra	24"
Cedar, Deodora	Cedrus deodara	12"

Crepe Myrtle	Lagerstroemia indica	24"
Cypress, Arizona	Cupressus arizonica	24"
Cypress, Montezuma	Taxodium mucronatum	24"
Elm, Cedar	Ulmus crassifolia	24"
Maple, Uvalde Bigtooth	Acer grandidentatum	24"
Mesquite	Prosopis glandulosa	24"
Oak, Blackjack	Quercus marilandica	24"
Oak, Bur	Quercus macrocarpa	24"
Oak, Chinkapin	Quercus muhlenbergii	24"
Oak, Lacy	Quercus laceyi	24"
Oak, Live	Quercus spp.	24"
Oak, Mexican White	Quercus polymorpha	24"
Oak, Texas Red	Quercus buckleyi	24"
Oak, Shumard Red	Quercus shumardii	24"

Olive, Mexican	<i>Cordia boissieri</i>	8"
Palm, Sabinal	<i>Sabal texana</i>	12"
Pecan	<i>Carya illinoensis</i>	24"
Persimmon, Texas	<i>Diospyros texana</i>	8"
Magnolia, Southern	<i>Magnolia grandiflora</i>	24"
Sycamore, Mexican	<i>Platanus mexicana</i>	24"
Texas Mountain Laurel	<i>Sophora secundiflora</i>	8"

- (b) For the purposes of determining heritage tree designation and for applying the requirements of this article, multi-trunk trees shall be measured in accordance with the International Society of Arboriculture (ISA). To determine heritage designation of multi-trunk trees, measure the largest tree trunk and then take half of the diameter of the remaining trunks and such multi-trunk trees shall be considered a heritage tree if the sum total DBH of all trunks equal or exceeds the threshold trunk size as listed for the tree species in Table 1 designation of heritage trees. Diameter at breast height (DBH) shall be measured four and one-half feet from the ground per ISA standards.
- (c) For the purposes of determining heritage tree designation and for applying the requirements of this article, cluster trees shall be measured in accordance with the ISA. To determine heritage designation of multi-trunk trees, add the measurement from the DBH of the largest tree trunk to half of the DBH of the remaining trunks. Such multi-trunk trees shall be considered a heritage tree if the sum total DBH of all trees in the cluster equal or exceeds the threshold trunk size as listed for the tree species in Table 1 designation of heritage trees.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-274. - Registration of tree service vendors.

- (a) Any business or contractor providing tree services related to installation, heavy pruning or removal of trees within the city must register with the city to become a registered tree service vendor.

Exception: Lawn maintenance professionals hired to provide general landscaping activities on a scheduled basis such as mowing, lawn trimming, planting, tree trimming, pruning, or removal shall not be required to register with the city. This exception shall not apply to any removal of tree(s) in excess of ten feet DBH. This exception shall not apply to any pruning above ten feet in height of the tree.

- (b) The following items shall be required for application for tree service vendor registration:

(1) Application for a registered tree service vendor;

(2) \$100.00 Contractor Registration Fee; and

(3) Valid tree pruning license from the City of San Antonio; or

(4) Verification of ISA certified arborist on staff.

(5) Provide the City of Olmos Park with a certificate of liability insurance policy listing the City of Olmos Park as a certificate holder.

- (c) Limbs, branches and other cuttings from tree services performed by registered tree service vendors shall be removed by the registered tree service vendor by the end of each business day the work was performed.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017; Ord. No. 2024-05, § 2(Exh. A), 3-20-2024)

Sec. 32-275. - Permit required.

- (a) A tree pruning permit is required for the heavy pruning of any trees.

(1) Tree pruning permit fee is \$25.00.

Exception: A pruning permit shall not be required when the pruning is completed by the property owner, or any personnel regularly employed by the owner for the purposes of routine maintenance, or landscaping. This exception shall not apply to any pruning above ten feet in height of the tree.

- (b) A tree removal permit is required for the removal of any tree(s) larger than eight inches DBH within the boundaries of the City of Olmos Park.

- (c) The city shall consider requests for a tree removal permit, except as specified by this article, based on the following criteria:
 - (1) Is the proposed tree to be removed determined to be a heritage tree(s) according to section 32-272.
 - (2) The topography of the site;
 - (3) Whether the removal of the tree would provide more light and airspace for adjacent trees;
 - (4) Whether the existing tree is in a location on the lot that is neither visible by the public or does not contribute to the tree canopy along the street; and
 - (5) Whether exceptional architectural design performed by a registered architect may be achieved by a reduction in trees.
- (d) Requests for a tree removal permit shall include the specific reason(s) for removing the tree(s), as well as:
 - (1) A site plan that identifies the exact locations, the tree species, and the DBH of all trees within the subject property and specifically identifies each tree proposed to be removed; and
 - (2) Photographs that sufficiently illustrate the character and location of each tree proposed to be removed.
- (e) If the tree removal permit is being requested in conjunction with a building permit, the request may also be required to include existing and proposed topographical information, easements, rights-of-way, setbacks, and property lines, the location of all existing and proposed structures, utilities, paved areas, and sidewalks, to the extent such information is available.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017; Ord. No. 2024-05, § 2(Exh. A), 3-20-2024)

Sec. 32-276. - Fees for tree pruning permits, tree removal permits and tree service vendor registrations.

- (a) Fees for tree removal permits and tree service vendor registration shall be listed in the adopted schedule of development fees as maintained by the city. All application fees are non-refundable and due upon receipt of application.
- (b) The city shall issue a tree removal permit with no fee required if a heritage tree is:
 - (1) Determined by a certified arborist to be dead, diseased or dying and is considered a hazard due to such condition, or is considered a hazard due to natural events, including, but not limited to, tornados, floods, storms, or other acts of God or by other events. Determination must be submitted in writing to the city prior to removal of the tree.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-277. - Heritage tree removal mitigation.

A property owner or authorized agent requesting removal of a designated heritage tree which is not certified to be dead, diseased or dying is required to provide these mitigation requirements if removal is approved by the city:

- (1) Planting additional types of trees as listed in table 1 of this article (excluding palms, mountain laurels and crepe myrtles unless the heritage tree being removed is one of these types) with a replacement ratio (measured in inches DBH) which meets the following criteria:
 - a. Minimum 1:1 ratio (one to one) replacement trunk DBH to removed trunk DBH) for individual heritage or multi-trunk heritage trees;
 - b. Minimum 1:1 ratio (one to one) replacement trunk DBH to removed trunk DBH) for individual significant tree as defined within Table 1. Designation of significant/heritage trees.
- (2) Minimum DBH for mitigation purposes is a four-inch caliper replacement specimen.
- (3) Proposed planting shall be permitted on the same lot as such significant/heritage tree(s) was removed.
- (4) *Fees in lieu of mitigation.* A property owner or authorized agent required to provide mitigation shall plant additional trees on the property for which mitigation is required in accordance with section 32-276(a), or shall pay a fee in lieu of planting additional trees in accordance with the following:
 - a. For residentially zoned properties a fee of \$30.00 shall be paid per inch of required mitigation for each heritage tree removed.
 - b. For commercial zoned properties a fee of \$30.00 shall be paid per inch of required mitigation for each heritage tree removed.
 - c. All fees paid in lieu of mitigation shall be placed in a tree mitigation fund. These funds shall be used to plant trees in publicly owned property, public right-of-way or to assist with the elimination of oak wilt.
 - d. In no event does the mitigation fee apply to a one-family or two-family dwelling that is the applicant's residence and involves the removal of a tree that is less than ten inches in diameter at the point on the trunk four and one-half feet above the ground.
- (5) *Trees in lieu of mitigation fee.*
 - a. A property owner or authorized agent may apply for a credit for tree planting under this section to offset payment of the mitigation fee. The application for a credit under this section must be in the form and manner prescribed by the city.
 - b. To qualify for a credit under this section, a tree must be planted on property:

- i. For which the tree mitigation fee was assessed; or
 - ii. Mutually agreed upon by the city and the applicant; and
 - iii. At least two inches in diameter at the point on the trunk four and one-half feet above ground.
- c. For purposes of section 33-277(a)(5)(ii), city and the applicant may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the city.
- d. The amount of a credit provided to the applicant under this section will be applied in the same manner as the tree mitigation fee assessed against the applicant and:
 - i. Equal to the amount of the tree mitigation fee assessed against the person if the property is an existing one-family or two-family dwelling that is the person's residence;
 - ii. At least 50 percent of the amount of the tree mitigation fee assessed against the person if:
 - 1. The property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and
 - 2. The person is developing, constructing, or renovating the property not for use as the person's residence; or
 - iii. At least 40 percent of the amount of the tree mitigation fee assessed against the person if:
 - 1. The property is not a residential structure; or
 - 2. The person is constructing or intends to construct a structure on the property that is not a residential structure.

(6) The city shall have discretion to modify mitigating requirements due to special circumstances.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017; Ord. No. 2020-06, § 1, 6-17-2020; Ord. No. 2024-05, § 2(Exh. A), 3-20-2024)

Sec. 32-278. - Prevention and control of the spread of oak wilt.

- (a) All pruned limbs or wounds to the trunk, limbs and root system of oak tree species in the city that expose sapwood shall be painted within 30 minutes of the wound with asphaltic or exterior oil or latex based paint.
- (b) Firewood from oak wilt infected trees shall not be brought into the city at any time.

- (c) When oak wilt infection is suspected or found, the city shall be contacted within 48 hours to obtain aid from the Texas A&M Forest Service to confirm the diagnosis of oak wilt. When oak wilt is confirmed the measures for control recommended by the Texas A&M Service shall be undertaken to control spread of the infection. The cost of such measures will be the responsibility of the owner of the tree(s), provided that the owner of the tree(s) shall have the option of undertaking the least expensive measures approved by the Texas A&M Forest Service. If funds are available in the tree mitigation fund, a property owner who has oak wilt may request financial assistance from the city to control spread of the infection. Any funds will be paid on a reimbursement basis and must be approved by the city manager or designee.
- (d) It is recommended that any firewood cut from any trees in the city and purchased firewood not be stacked under or close to oak trees and should be burned within one year.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-279. - Tree protection during construction.

To avoid damage or destruction of heritage trees and to enhance the chance of survival of other desirable trees after construction or demolition activities, the owner and contractor shall take and maintain the following measures throughout the course of demolition and construction:

- (1) Erect and maintain a temporary protective barrier that equals the diameter of the tree canopy for each tree to be preserved. The barrier shall be in place before any site work is initiated and maintained throughout the construction process to avoid impact injuries to the tree and the tree's root system during demolition and construction. During demolition and construction, no excess soil, additional fill, construction equipment, liquids or construction debris shall be placed inside the protective barrier nor shall any soil be removed from within the barrier.
- (2) To allow for vehicular access at times required during construction, the protective barrier on one side of the tree may be erected a minimum distance of eight feet from the trunk of a tree or group of trees only temporarily as such access is required. Other adjustments to the location of this barrier shall be approved by the city where site constraints are such that reasonable access for construction would otherwise not be available and where protection of the tree is still assured.
- (3) Protective barriers may be comprised of chain link fencing, plywood and where appropriate "snow" temporary fencing such as vinyl construction fencing, geo-textile material or other material approved by the director.

(4) Trenching within a heritage tree's critical root zone shall have minimal intrusion and require the approval of the director during the building permit review process.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-280. - Right-of-way clearance.

- (a) In the interest of the health, safety and general welfare of all residents by providing transit space for fire trucks, ambulances and other emergency vehicles, it shall be unlawful for any person or his agent, owning, renting, or having under his control any lot or premises, whether vacant or improved, within the city to permit trees to overhang Olmos Drive, Devine Road and McCullough Avenue any less than 15 feet as measured above any drivable portion of the roadway. All other streets must maintain a minimum clearance of 13 feet above any drivable portion of the roadway.
- (b) No provision of this article shall be construed to in any way limit or restrict any and all rights that the city may have to remove any part of a tree or vegetation that is permitted to grow over the public right-of-way and measures at a height above pavement less than permitted in subsection (a) above, or to maintain any civil suit for injunctive relief to require the removal or the prohibition of the same.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-281. - Penalty upon failure to comply.

- (a) Any person violating or failing to comply with any provision or requirement of this section, shall be provided notice and given seven days to take remedial action, if available, as determined by the city arborist.
- (b) Any person violating any provision or requirement of this section or failing to take remedial action per section 32-280(a) shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall, without exception, be fined a minimum of \$250.00 and the maximum amount provided in section 32-4 of this article in addition to other penalties established herein. A separate offense shall be deemed committed upon each day during or on which each separate violation or failure to comply occurs or continues to occur and shall be punishable as such.
- (c)

Notwithstanding the foregoing, any violation by any person of any provision of this section that constitutes an immediate danger or threat to any protected, specimen, majestic or historic tree or to the health, safety and welfare of the public may be enjoined in a suit brought by the city for such purpose.

(d) In addition to any other remedies or penalties contained herein, the city may enforce the provisions of this section pursuant to the applicable provisions of Chapter 54 of the Texas Local Government Code, which chapter provides for the enforcement of municipal ordinances.

(e) Allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this section.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 32-282. - Exceptions.

The following authorized exceptions from the terms and provisions of this article shall apply:

- (1) In the event that any protected, significant or heritage tree is determined by the city arborist to be in a hazardous or dangerous condition so as to endanger the public health, welfare, or safety, written authorization for removal may be given by the city arborist and such protected, significant or heritage tree may then be removed.
- (2) During the period of an emergency after an emergency, such as a tornado, storm, flood, or other act of God, the requirements of this article may be waived by the city arborist for the affected area or areas.
- (3) All municipal functions and activities of the City of Olmos Park are exempt from the application, terms, and provisions of this article.

(Ord. No. 2016-03, § 2, 3-17-2016; Ord. No. 2017-03, § 2, 1-19-2017; Ord. No. 2017-13, § 2, 10-19-2017)

Sec. 14-152. - Tree preservation.

The provisions in this section shall be applicable specifically with regard to tree preservation.

- (1) *Applicability.* This section shall apply to any of the following, except as exempted in subsections (2) and (3) of this section.
 - a. *Private property.* The requirements of this section shall apply to any private property located within the City.
 - b. *Public property.* The requirements of this section shall apply to all public property held by or for the benefit of the City or any City agency, board or commission.
 - c. *Generally.* The requirements of this section shall regulate all activities which involve or may involve the:
 1. Clearing, selective or individual cutting or removal of protected tree or heritage tree.
 2. Clearing, selective or individual cutting or removal of red oak trees.
 3. Chemical or biological treatment of any tree that may result in the death or destruction of any protected tree or heritage tree.
 4. Trenching or excavation of any area that may damage or destroy protected tree or heritage tree.
 5. Grading, filling or clearing of land.
 - d. *Parking lots.* Parking lots in residential zoning districts shall be subject to the mitigation requirements of subsection (8) of this section.
 - e. *Grading/filling/clearing of land.* The requirements of this section shall apply to and regulate any grading, filling or clearing of land within the City.
- (2) *Activities exempt.* The requirements of this section shall not apply to the clearing of understory necessary to perform boundary surveying of real property or the clearing of underbrush required to conduct tree surveys or inventories. Clearing for surveying may not exceed a width of two feet for general survey (i.e., of easement boundary, etc.) and eight feet for survey of property boundary lines. No tree six inches, measured in diameter breast height (DBH), or larger, may be removed in any manner during such boundary or general surveying.
- (3) *Trees exempt.* This section shall not apply to:
 - a. Any protected tree or heritage tree or red oak determined by the City Manager or his designee to be:
 1. Diseased, dying or dead;
 2. Dangerous or hazardous as a result of a natural event such as tornado, storm, flood or other act of God that endangers the public health, welfare or safety and requires immediate removal; or

3. Located within building footprint (not including canopies), right-of-way or easement.
- b. Trees located on property upon which construction of single-family, two-family or three-family residential dwelling units has been completed.
- c. Trees located in the clear vision area.

(4) *Health and safety provisions controlling.* The requirements in this section shall control in the event and to the extent they may conflict with other provisions contained in this article that do not relate to health and safety.

(5) *Protected trees defined.* Table 5 below defines the threshold trunk sizes of protected tree and heritage tree species, measured in DBH.

Table 5. Protected Trees				
Common Name	Scientific Name	Remarks	Protected Size DBH	Heritage Size DBH
Arizona Cypress	Cupressus arizonica	Evergreen conifer; gray-green foliage; pyramidal form	8	24
Bald Cypress	Taxodium distichum	Deciduous conifer; buttressed trunk; fine textured foliage	8	24
Blackjack Oak	Quercus marilandica	Deciduous; dull red fall color; highly tolerant of poor soil	6	18
Black Walnut	Juglans nigra	Deciduous; fine ornamental; sun- shade	6	12

Black Willow	Salix nigra	Deciduous; lance-shaped leaves; extensive root system	6	N.A.
Bur Oak	Quercus macrocarpa	Deciduous; large, coarse canopy; furrowed bark	6	18
Cedar Elm	Ulmus crassifolia	Deciduous; narrow canopy; good shade tree for ROW's	6	18
Condalia	Condalia obovata	Evergreen; lime green leaves; very drought tolerant	4	8
Lacey Oak	Quercus laceyi	Deciduous; rounded crown; blue-green leaves	6	24
Live Oak	Quercus virginiana	Evergreen; twisting limbs; excellent shade tree	6	24
Mesquite	Prosopis glandulosa	Deciduous; narrow leaflets; open crown	12	N.A.

Mexican Plum	Prunus mexicana	Deciduous; white flowers in early spring; characteristic black and white bark	6	16
Mountain Laurel	Sophora secundiflora	Evergreen; dense, glossy foliage; fragrant purple flower clusters	4	12
Post Oak	Quercus stellata	Deciduous; rugged form; dormant leaves persist in winter	6	18
Texas Persimmon	Diospyros texana	Deciduous; smooth gray bark; females with black fruit	6	12
Texas Redbud	Cercis canadensis var texana	Deciduous; heart-shaped leaves, profuse purple flowers in early spring	6	12

(6) *Tree survey.*

- a. *Minimum requirements.* For each activity subject to this section, a tree survey shall be performed on the subject property that, at a minimum, shall contain the following information:

1. The location and size in diameter inches of each protected tree that is located on the subject property
 2. The location and size in diameter inches of each red oak tree that is located on the subject property.
 3. The location and size of each existing or proposed tree, or group of trees, that will be relied upon by the applicant for mitigation.
 4. Tree protection notes, details and specifications.
 5. A summary table, indicating the total number, diameter inches, and species of protected trees to be removed within the surveyed area and the total number of caliper inches of mitigation trees to be planted.
 6. The location of all existing and proposed structures, utilities, paved areas and sidewalks.
 7. The existing and proposed topographical information, easements, rights-of-way, setbacks, parkways and property lines.
- b. *Methods of measurement.*
1. *Single-trunk species.* A tree's DBH shall be measured at a point 4½ feet above the ground level, at the trunk, and recorded as such.
 2. *Multitrunk species.* Trees with more than one trunk shall be measured at a point 4½ feet above the ground level, at the trunk, combining the measurements of the two largest trunks and recording same.

(7) *Minimum tree preservation requirements.*

- a. *Generally.* A minimum of 25 percent of the total diameter inches of protected trees included in the tree survey must be preserved. All percentages relating to preservation stated within this section shall be based upon the initial tree survey. Any subsequent redevelopment of property must preserve, at a minimum, the applicable percentage of the total diameter inches of protected trees, as indicated by the initial tree survey.
- b. *Trees excluded from calculation.* Any tree located within a building footprint, easement, public road, public alley or right-of-way will be excluded in calculating the percentage of protected trees, that must be preserved.

(8) *Mitigation/alternative mitigation methods.*

- a. *Generally.* Protected trees may be removed in excess of the minimum preservation requirement if such excess removal is properly mitigated; provided, however, at least ten percent of the total diameter inches within the surveyed area must actually be preserved in place.
- b.

Mitigation. Mitigation required to compensate for the removal of trees in excess of the number of allowable diameter inches pursuant to minimum preservation requirements may be achieved through the protection and maintenance of existing trees within the surveyed area that are on the protected tree list and at least two inches, measured in DBH, but are smaller than the size requirement for protected trees. Otherwise, such mitigation may be achieved as follows:

1. *Protected trees.* Protected trees shall be mitigated at a ratio of one diameter inch per one diameter inch of protected tree removed.
 2. *Heritage trees.* Heritage trees shall be mitigated at a ratio of three diameter inches per one diameter inch of heritage tree removed.
 - c. *Biodiversity.* In order to encourage ecological biodiversity, whenever protected trees or heritage trees are mitigated in accordance with the requirements of this section, no more than 30 percent of the replacement trees shall be of the same species.
- (9) *Root protection requirements.*
- a. *Root protection zone requirement.* A root protection zone must be established around the trunk of each tree preserved, or mitigation tree planted, pursuant to this section.
 - b. *Root protection zone defined.* The root protection zone shall be an area defined by an average radius extending outward from the trunk of the tree a distance of one-half linear foot for each inch, measured in DBH, of the subject tree. The root protection zone need not be exactly centered on the tree or circular in shape, but it should be positioned so that no disturbance occurs closer than four feet to the tree.
 - c. *Condition of root protection zone.*
 1. *Pervious condition.* The area contained within a root protection zone must be left in pervious condition after construction and development are completed.
 2. *Unpaved.* The root protection zone for each preserved tree must remain unpaved unless otherwise permitted in the approved landscape plan.
 3. *Mulch.* In the event that any vegetation around the base or bases of protected trees is removed, mulch must be provided immediately after such removal.
 - d. *Warranty exception to root protection zone.*
 1. *Generally.*
 - (i) A developer or property owner who wishes to utilize a root protection zone smaller than the zone required by subsection (9)a of this section, may submit a tree preservation warranty to the City Building Inspector, warranting the life of a tree or tree for a period of three years from the completion date of construction and development ("tree warranty period").

(ii)

The tree preservation warranty shall obligate the developer or property owner submitting same, as well as any successor owner of the property (collectively "obligor"), to replace any tree reflected on the tree survey submitted pursuant to subsection (6)a of this section, in the event such tree dies during the term of said warranty.

2. *Replacement tree.* Any tree replaced pursuant to the tree preservation warranty must be of:
 - (i) The same category type or better as the tree reflected on the tree survey submitted pursuant to subsection (6)a of this section; and
 - (ii) At least the same size, measured in DBH (or total diameter inches if more than one tree is planted to replace a single dead tree) as the tree reflected on the tree survey submitted pursuant to subsection (6)a of this section.
3. *Enforcement procedures.*
 - (i) The City may request, in writing, that any obligor replace a tree which is subject to a tree preservation warranty and has died during the term of said warranty.
 - (ii) If the obligor fails to replace such tree within 90 days of the City's written request to replace same, the City shall have the right, but not the obligation, to replace such tree, at the obligor's cost. The City may thereafter file a lien against the subject property in order to collect the cost of same from the obligor.
4. *Warranty provisions.* The tree preservation warranty shall be filed of record, by the City, in the real property records of the County, and shall provide as follows:

"This tree preservation warranty is provided in accordance with the regulations of the City of Shavano Park, Texas ("City"), regarding landscaping and tree preservation in connection with commercial property development within its City limits and extraterritorial jurisdiction.

In consideration of the City's approval of the exception to the root protection zone requirements ("Exception Area") as shown on the _____[plan]_____, related to _____[legal description of property]_____ ("Property"), the undersigned hereby agrees to replace any tree within the Exception Area on the Property, which dies during the period of time from _____[term] to _____, such replacement to occur in the manner required by applicable City regulations.

This warranty is appurtenant to, and shall run with, the property and shall be an obligation of any owner of said Property, and his/its successors and/or assigns, during its term. Conveyance of the property shall relieve neither the undersigned nor his/its successors or assigns from personal liability for fulfillment of the obligations created hereunder."

5. *Fee.* The City may charge a reasonable fee for recordation of the tree preservation warranty. Such fee shall be established by the City Council from time to time.

6. *Expiration/release of warranty.* Upon expiration of the tree warranty period, the obligor may request a tree warranty inspection of the property by the City Building Inspector. If, at the time of such inspection, the trees referenced in the tree survey have not died or, alternatively, have died and been replaced as required herein, the City will execute a release of tree preservation warranty, in recordable form, which the owner of the Obligor may file of record in the real property records of the County. After such filing, the tree preservation warranty and obligor's obligations thereunder shall be of no further force and effect.

(10) *Tree protection.*

a. *Protection barrier.*

1. *Generally.* A protection barrier shall be installed and maintained at the edge of every root protection zone, as defined in subsection (9)b of this section.
 2. *Barrier material.* This protective barrier may be comprised of snow fencing, vinyl construction fencing, chainlink, geotextile material or other similar sturdy material.
 3. *Condition of area within barrier during construction.* During construction, no excess soil, additional fill, equipment, liquids or construction debris shall be placed inside the protective barrier nor shall any soil be removed within the barrier. The protection barrier must be maintained until construction is completed.
- b. *Grading.* The proposed finished grade within the root protection zone of any tree to be preserved shall not be raised or lowered more than three inches, and must always leave the flare of the tree exposed. Welling and retaining methods may be used to protect and/or provide lateral support to the area outside the root protection zone.

c. *Damaged trees.*

1. *Mitigation, protected or heritage trees.* All broken branches and exposed roots of mitigation, protected or heritage tree shall be cut cleanly.
 2. *Oak trees.* When any site work associated with new construction and/or expansion involves any damage, pruning, or removal of any Texas (Spanish) Red Oak or Live Oak trees, all damaged, trimmed and/or exposed, surfaces and wounds shall be painted as soon as possible, and no later than 30 minutes after time of cutting. All work related to oak wilt protection shall comply with the requirements of article II of this chapter, except that pruning and removal shall not be limited to specified months.
- (11) *General maintenance.* Heritage, protected or mitigation trees must be maintained in a healthy condition at all times. The property owner is responsible for irrigating, fertilizing, pruning and other maintenance of all trees, as needed.
- (12) *Replacement of dead trees.*

a.

Generally. Any tree shown on the approved landscape plan that dies must be replaced with another living tree of the same category type or better within 90 calendar days after notification by the City. The Building Inspector may extend this time period up to an additional 90 calendar days due to weather considerations.

- b. *Mitigation trees.* Mitigation trees that are planted on the property and that die within 12 months of final inspection are subject to the mitigation requirements set forth in subsection (7) of this section, at a ratio of one inch mitigation for every one inch of protected tree that dies.
- c. *Heritage trees.* Heritage trees that die from other than natural causes shall be mitigated at a ratio of three inches mitigation for every one inch of heritage tree.

(13) *Public utilities.* If a public utility disturbs a tree and the tree dies, such utility shall be responsible for replacement of the tree. Any such tree must be replaced with another living tree of the same category type or better within 90 calendar days after notification by the City. The Building Inspector may extend this time period up to an additional 90 calendar days due to weather considerations.

(14) *General planting standards.*

- a. *Artificial materials prohibited.* No artificial plant materials may be used to satisfy requirements of this section.
- b. *Minimum requirements.*
 - 1. Mulch material shall be provided and used at the time of planting.
 - 2. Each replacement tree must be planted at least 24 inches away from any impervious surface.
 - 3. Plant areas must be protected from vehicular traffic.
 - 4. Mitigation or replacement trees required by this section must have a minimum diameter of two inches, measured in DBH, at the time of installation, and shall be planted in a pervious area of at least 162 square feet.

(Ord. No. 600-149-05, § 5, 1-18-2005; Ord. No. 0-2015-009, § I, 3-23-2015)