

ORDINANCE NO. 25-02-06-02

AN ORDINANCE OF THE CITY COUNCIL OF LAGO VISTA, TEXAS, AMENDING CHAPTER 6 AND CHAPTER 10 OF THE LAGO VISTA CODE OF ORDINANCES REGARDING OAK WILT CONTROL; IMPROVING THE ORGANIZATION OF THE PROVISIONS WITHIN THOSE CHAPTERS; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the City of Lago Vista, Texas is a Home Rule City; and

WHEREAS, the City Council of the City of Lago Vista has previously established requirements and procedures related to Chapter 6 and Chapter 10 of the Code of Ordinances; and

WHEREAS, oak wilt disease presents an immediate threat to Lago Vista's urban forest with far-reaching implications for tax base, public safety, environmental health, and community character; and

WHEREAS, the City Council reviewed the recommendation and found the changes to be warranted; and

WHEREAS, the City Council desires to amend the Lago Vista Code of Ordinances as described below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, THAT:

SECTION 1. FINDINGS OF FACT. All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

SECTION 2. AMENDMENT. The City Council of the City of Lago Vista, Texas does hereby amend Chapter 6 and Chapter 10 of the Lago Vista Code of Ordinances as shown in **Exhibit "A"** and **Exhibit "B"** respectively.

SECTION 3. REPEALER. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

SECTION 5. CODIFICATION AND PUBLICATION. The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.013 of the Texas Local Government Code.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication in accordance with the provisions of the Texas Local Government Code.

SECTION 7. OPEN MEETINGS. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

AND IT IS ORDERED.

PASSED AND APPROVED this 6th day of February 2025.

CITY OF LAGO VISTA, TEXAS



Kevin Sullivan, Mayor

ATTEST:


Maria Franco, City Secretary

On a motion by Owen, seconded by Prince, the above and foregoing instrument was passed and approved.

If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

EXHIBIT "A"

Sec 6.212 Oak Wilt Control

- (a) Purpose. The provisions of this article are deemed to be necessary to promote the health, safety, and general welfare of the residents of the City.
- (b) Definitions. Words used and not defined in this article shall have their ordinarily accepted meaning. For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Diseased Trees. All Oak Trees infected with oak wilt disease which are dead or partially alive but infected with such disease.

Forester. Any individual qualified in the area of urban forestry, botany or horticulture employed or engaged by the City including but not limited to representatives of the Texas A&M Forestry Service, Travis County or other agency.

Public Nuisance. All Oak Trees that are infected with Oak Wilt Disease are hereby declared and determined a public nuisance.

Contractor. Any person, firm, or corporation engaged in the business of tree trimming, removal, or treatment for compensation.

Live Oak Mott. A group of live oak trees connected via a shared root system, typically extending up to 200 feet.

- (c) Abatement of Nuisance by Owner of Property.

- (1) All Oak Trees that are infected with Oak Wilt Disease, and all other trees and wood diseased with Oak Wilt Disease are hereby declared and determined to be a public nuisance.

It shall be unlawful for an owner of any property within the City, or its Extraterritorial Jurisdiction, to permit or maintain on such lot or parcel any diseased RED OAK TREE which is a public nuisance as defined herein. Red Oak Trees should be removed if infected or suspicious of infection. It shall be the duty of the owner, within thirty (30) calendar days from notice given under subsection (f) below to cause the diseased red oak trees to be removed and destroyed in compliance with City guidelines. Such removal and destruction shall be completed under the supervision and direction of the City or by the property owner in accordance with section (h).

- (2) Should the property owner fail to abate the public nuisance within thirty (30) calendar days following the receipt of notification, the City shall have the right to cause the removal and destruction of the diseased red oak trees. The full cost of such removal and destruction shall be assessed to the owner of the property. Should the property owner fail to pay the City within thirty (30) days from the date of demand, the City may at its discretion file a lien against the property in the amount of all costs incurred by the City plus interest. The assessment of expenses and lien shall follow the procedures established in Chapter 342 of the Texas Health and Safety Code.

- (d) Enforcement. The City Manager or their designee is charged with the enforcement of this article and shall perform the duties as set forth herein. The County is also authorized and requested to enforce this article within the City. The City Manager or their designee shall coordinate and cooperate with the forester to the fullest reasonable extent.
- (e) Inspections. Save and except as provided herein, permission of the owner, occupant, or person in control of any premises shall be necessary for entry onto the subject premises by city personnel or forester pursuant to this article. If such entry is requested and refused, and the City or forester has probable cause to believe there exists on the subject premises a public nuisance, the City code enforcement official or forester shall go before a municipal court judge of the City and request a search warrant. The purpose of that warrant shall be to determine the presence of a public nuisance and to obtain such specimens of trees as are required for the purposes of analysis to determine whether the same are infected with Oak Wilt.
- (f) Notice to Owner.
- (1) If, upon inspection it is determined that a tree or oak wood is infected with Oak Wilt and if the City or forester determines that such tree or any wood thereof is a public nuisance as provided herein, the City shall serve or cause to be served upon the owner of record of the lot or parcel of land on which that diseased tree is located, a written notice requiring such owner to comply with the provisions of this article including but not limited to the removal and destruction of any diseased tree.
- (2) Such service of notice shall be by personal service or certified mail, return receipt requested if the owner of the lot or parcel of land on which the diseased tree is located is a resident of the City. If the owner is temporarily absent from his residence or an owner is determined to be a non-resident, written notice shall be served by certified mail addressed to the named person at the address indicated on the most recent tax appraisal records and by posting notice of the violation on the property at the point of ingress. Certified mail returned as "unclaimed" or "refused" shall be deemed delivered.
- (g) Payment of Cost. The City Council may appropriate money in the annual budget each year for Oak Wilt suppression. The Lago Vista Property Owners' Association has indicated a willingness to share equally with the City in these costs and may contribute money for this purpose. These monies may be used to match state and federal funds to pay for the cost of Oak Wilt suppression. The owner of any lot or parcel of land within the City, and its Extraterritorial Jurisdiction is and shall be responsible to pay for the removal, destruction or treatment of any diseased tree when it has been determined the diseased tree or wood is a public nuisance.
- (h) Tree Trimming Personnel. Personnel hired, contractors, or property owners handling diseased tree removal must adhere to City sterilization and safety guidelines. Property owners may self-perform abatement if they demonstrate compliance with these guidelines. The City shall provide resources and training materials for public use. The name, address and telephone number of all such personnel shall be filed with the City Secretary for record keeping purposes.

- (i) Sterilization of Equipment Used for Trimming and Cutting. Equipment used for treating or removing a diseased tree must be sterilized after each use. Acceptable methods include bleach solutions, alcohol-based disinfectants, or other effective measures as outlined in City guidelines.
- (j) Oak Wilt Prevention and Treatment. In order to help prevent the spread of Oak Wilt Disease, the following measures shall be required:
 - (1) The trimming of limbs and branches on all oak trees shall be prohibited annually between February 1st and June 30th of each calendar year.
 - (2) The City Manager or their designee may approve exceptions to address public safety and welfare concerns, including damaged limbs resulting from storms or similar extraordinary circumstances.
 - (3) Painting wounds is the most proactive measure and should be done year-round, immediately after any cut or damage occurs. Paint every wound on every oak tree promptly to protect against beetles that are attracted to open wounds and spread the disease.
 - (4) Any person(s) or company licensed by the City to perform tree trimming or removal work who discovers or suspects oak wilt infestation or an infected oak tree shall report that information to the City Manager or their designee by the next business day.
 - (5) Within thirty (30) calendar days after being notified of the presence of an infected red oak tree on their property, property owners must remove and properly dispose of the tree.
 - (6) Never store infected red oaks for firewood use. Burn, bury, or chip infected red oaks.
 - (7) The only way to stop oak wilt in Live Oak Motts is by trenching at least 4 feet deep and 100 feet away from trees with symptoms to disconnect the shared root system and stop the spread of oak wilt.
 - (8) Preserve high-value trees with propiconazole fungicide injections such as Alamo products, which are the only ones proven to treat oak wilt and permitted by Texas A&M for this purpose. Fungicide injections do not stop root transmission of the disease, but they can save individual trees.
 - (9) If any person(s), after notice, fails to remove and properly dispose of any red oak tree infected with Oak Wilt that constitutes a public nuisance, the City at its sole discretion, may: a. Do the work necessary to abate the nuisance; b. Charge the expenses to the owner of the property which will be the personal liability of the property owner; or c. The City Council may assess all expenses incurred against the real property.
 - (10) The City Manager or their designee, from time to time, shall display ordinance information on the City's public electronic sign, and conduct citizen outreach programs to educate residents and contractors.

- (11) Cross-Reference to Subdivision Ordinances. Compliance with Oak Wilt prevention measures, as outlined in this section, is a requirement for all subdivision plats, development plans, and construction activities under Chapter 10, Article 10.100 (Subdivision Ordinance). Refer to Section 10.100 (Oak Wilt Control Measures) for additional details on tree management plans, compliance requirements, and enforcement during subdivision development.

Sec 6.214 Penalties

It shall be unlawful for any person, firm or corporation to violate any of the provisions of this article related to oak wilt prevention measures, including but not limited to: pruning oak trees between February 1st and June 30th, failing to immediately paint wounds on oak trees, and failing to properly sterilize equipment used for trimming and cutting oak trees. Any person convicted of violating these prevention measures shall be guilty of a misdemeanor and fined in accordance with the general penalty provision set forth in Section 1.109 of this code. Violations by individual property owners shall be subject to a fine not to exceed \$500.00 per tree for each offense. Violations by contractors shall be subject to a fine not to exceed \$1,000.00 per tree for each offense. Each tree in violation shall constitute a separate offense, and each day a violation continues to occur shall constitute a separate offense.

EXHIBIT "B"

Sec 6.212 Oak Wilt Control

- (a) Purpose. The provisions of this article are deemed to be necessary to promote the health, safety, and general welfare of the residents of the City.
- (b) Definitions. Words used and not defined in this article shall have their ordinarily accepted meaning. For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

- (1) Diseased Trees. ~~Live oak and red oak trees or wood from either species that are infected with oak wilt disease; and a red oak tree or wood from a red oak tree, which is dead or partially alive, but infected with such disease and to which the bark is still attached. All Oak Trees infected with oak wilt disease which are dead or partially alive but infected with such disease.~~
- (2) Forester. Any individual qualified in the area of urban forestry, botany or horticulture employed or engaged by the City including but not limited to representatives from the ~~Texas Forestry Service~~ **Texas A&M Forestry Service**, Travis County or other agency.
- (3) Public Nuisance. ~~Red and live oak trees or wood that are determined to be infected with the fungus which causes Oak Wilt Disease (Ceratoeystis Fagacearum) ("oak wilt"); a dead red oak tree or wood from a red oak tree, that was or is, infected with Oak Wilt Disease; and diseased trees and wood as defined below. Pursuant to Chapter 342, Texas Health and Safety Code, diseased trees are deemed a public nuisance. All Oak Trees that are infected with Oak Wilt Disease are hereby declared and determined a public nuisance.~~

Contractor. Any person, firm, or corporation engaged in the business of tree trimming, removal, or treatment for compensation.

Live Oak Mott. A group of live oak trees connected via a shared root system, typically extending up to 200 feet.

- (c) Abatement of Nuisance by Owner of Property.

- (1) ~~Red oak and live oak trees that are infected with Oak Wilt Disease, a dead red oak tree and wood from a red oak tree that was infected with Oak Wilt Disease, and all other trees and wood diseased with Oak Wilt Disease are hereby declared and determined to be a public nuisance. All Oak Trees that are infected with Oak Wilt Disease, and all other trees and wood diseased with Oak Wilt Disease are hereby declared and determined to be a public nuisance.~~
- (2) It shall be unlawful for an owner of any property within the City **or its Extraterritorial Jurisdiction**, to permit or maintain on such lot or parcel any diseased ~~trees~~ **RED OAK TREE** which is a public nuisance as defined herein. **Red Oak Trees should be removed if infected or suspicious of infection.** It shall be the duty of the owner, within ~~fourteen (14)~~ **thirty (30)** calendar days from notice given under subsection (f) below to cause the diseased ~~trees~~ **red oak trees** to be removed and destroyed. ~~Such removal in compliance with City guidelines. Such~~

removal and destruction shall be completed under the supervision and direction of the City **or by the property owner in accordance with section (h).**

- (3) Should the property owner fail to abate the public nuisance within ~~fourteen (14)~~ **thirty (30)** calendar days following the receipt of notification, the City shall have the right to cause the removal and destruction of the diseased ~~trees~~ **red oak trees**. The full cost of such removal and destruction shall be assessed to the owner of the property. Should the property owner fail to pay the City within thirty (30) days from the date of demand, the City may at its discretion file a lien against the property in the amount of all costs incurred by the City plus interest. The assessment of expenses and lien shall follow the procedures established in Chapter 342 of the Texas Health and Safety Code.
- (d) Enforcement. The City Manager or their designee is charged with the enforcement of this article and shall perform the duties as set forth herein. The County is also authorized and requested to enforce this article within the City. The City Manager or their designee shall coordinate and cooperate with the forester to the fullest reasonable extent.
- (e) Inspections. Save and except as provided herein, permission of the owner, occupant, or person in control of any premises shall be necessary for entry onto the subject premises by city personnel or forester pursuant to this article. If such entry is requested and refused, and the City or forester has probable cause to believe there exists on the subject premises a public nuisance, the city code enforcement official or forester shall go before a municipal court judge of the City and request a search warrant. The purpose of that warrant shall be to determine the presence of a public nuisance and to obtain such specimens of trees as are required for the purposes of analysis to determine whether the same are infected with Oak Wilt.
- (f) Notice to Owner.
- (1) If, upon inspection it is determined that a tree or oak wood is infected with Oak Wilt and if the City or forester determines that such tree or any wood thereof is a public nuisance as provided herein, the City shall serve or cause to be served upon the owner of record of the lot or parcel of land on which that diseased tree is located, a written notice requiring such owner to comply with the provisions of this article including but not limited to the removal and destruction of any diseased tree.
- (2) Such service of notice shall be by personal service or certified mail, return receipt requested if the owner of the lot or parcel of land on which the diseased tree is located is a resident of the City. If the owner is temporarily absent from his residence or an owner is determined to be a non-resident, written notice shall be served by certified mail addressed to the named person at the address indicated on the most recent tax appraisal records and by posting notice of the violation on the property at the point of ingress. Certified mail returned as "unclaimed" or "refused" shall be deemed delivered.
- (g) Payment of Cost. The City Council may appropriate money in the annual budget each year for Oak Wilt suppression. The Lago Vista Property Owners' Association has indicated a willingness to share equally with the City in these costs and may contribute money for this purpose. These monies may be used to match state and federal funds to pay for the cost of Oak

Wilt suppression. The owner of any lot or parcel of land within the City **and its Extraterritorial Jurisdiction** is and shall be responsible to pay for the removal, destruction or treatment of any diseased tree when it has been determined the diseased tree or wood is a public nuisance.

- (h) Tree Trimming Personnel. ~~Personnel hired or contracted to trim, cut, treat or remove diseased tree on improved property shall be, or shall be working under the direct supervision of a competent urban forester, botanist or horticulturist familiar with the identification and control of Oak Wilt Disease.~~ **Personnel hired, contractors, or property owners handling diseased tree removal must adhere to City sterilization and safety guidelines. Property owners may self- perform abatement if they demonstrate compliance with these guidelines. The City shall provide resources and training materials for public use.** The name, address and telephone number of all such personnel shall be filed with the City Secretary for record keeping purposes.
- (i) Sterilization of Equipment Used for Trimming and Cutting. ~~Treating or removing of a diseased tree will be sterilized after each tree is completely cut and before proceeding to the next tree. A solution of nine parts water to one part bleach is recommended for sterilization of all trimming equipment. Equipment shall be sterilized after each cutting.~~ **Equipment used for treating or removing a diseased tree must be sterilized after each use. Acceptable methods include bleach solutions, alcohol-based disinfectants, or other effective measures as outlined in City guidelines.**
- (j) Oak Wilt Prevention ~~.In order to help prevent the spread of Oak Wilt Disease, the trimming of limbs and branches on healthy live oak or red oak trees shall be prohibited annually between February 1 and June 30. The City Manager or their designee may approve exceptions to address public safety and welfare concerns, including damaged limbs resulting from storms or similar extraordinary circumstances.~~ **and Treatment. In order to help prevent the spread of Oak Wilt Disease, the following measures shall be required:**
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 - 5) Within thirty (30) calendar days after being notified of the presence of an infected red oak tree on their property, property owners must remove and properly dispose of the tree.

6) Never store infected red oaks for firewood use. Burn, bury, or chip infected red oaks.

7) The only way to stop oak wilt in Live Oak Motts is by trenching at least 4 feet deep and 100 feet away from trees with symptoms to disconnect the shared root system and stop the spread of oak wilt.

8) Preserve high-value trees with propiconazole fungicide injections such as Alamo products, which are the only ones proven to treat oak wilt and permitted by Texas A&M for this purpose. Fungicide injections do not stop root transmission of the disease, but they can save individual trees.

9) If any person(s), after notice, fails to remove and properly dispose of any red oak tree infected with Oak Wilt that constitutes a public nuisance, the City at its sole discretion, may: a. Do the work necessary to abate the nuisance; b. Charge the expenses to the owner of the property which will be the personal liability of the property owner; or c. The City Council may assess all expenses incurred against the real property.

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