

CHAPTER 12: DISEASED TREES AND OAK WILT REGULATIONS

Sec. 12.100 Short Title

This Chapter shall be known and may be cited as the Oak Wilt Diseased Tree and Firewood Regulations.

Sec. 12.101 Purposes

The provisions of this Chapter are deemed to be necessary to promote the health, safety, and general welfare of the residents of the City of Sunset Valley, Texas

Sec. 12.102 Declaration of Public Nuisance

Any tree or part thereof (including but not limited to firewood) which is infected by a lethal communicable disease that is likely to spread to other trees is hereby declared to be a public nuisance.

Sec. 12.103 Duty of Owner to Remove or Control Nuisance

It shall be unlawful for any person, owner or occupant having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to knowingly permit or maintain on any such lot, tract or parcel any tree or part thereof which is a nuisance, and it shall be the duty of such person, owner or occupant to promptly abate the nuisance or otherwise control such condition.

Sec. 12.104 Right of Entry by Urban Forester; Inspection

The Urban Forester is charged with enforcement of this Chapter. The Urban Forester may enter upon private property after making a reasonable effort to locate the owner or other persons who have charge or control of the premises and during normal business hours or by prearranged appointment made with the specific landowner. Entry shall be for purposes of inspecting trees or plants and parts thereof, and the Urban Forester may remove such specimens as are required for the purposes of analysis to determine whether the same are infected. In the event entry is refused, the Urban Forester or any authorized representative shall have recourse to every remedy provided by law to secure entry.

Sec. 12.105 Notice to Owner to Abate

The Urban Forester shall serve to the owner of the premises where a public nuisance as herein defined is found, written notice of the existence of such nuisance and an order detailing the requirements of abatement to be completed within a reasonable time to be specified in such notice. The requirements of abatement may include, but not be limited to, the use of cultural, mechanical, biological or chemical methods to abate the nuisance. In the case of oak wilt epidemics property owners may be required to participate in an Oak Wilt Management Program as described in Section 12.106 of this Code. The order shall advise the owner of a cost sharing program and fund availability offered by the City as described in Section 12.107 of this Code.

The owner of the premises for purposes of this article means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than all but the titled owner. The notice of abatement shall be served by registered mail or personally on the owner. If such owner cannot be found, a copy of said notice shall be placed upon said infected tree or plant or part thereof. Failure of the owner to correct the violation within the specified time shall constitute a misdemeanor.

Sec. 12.106 Establishing an Oak Wilt Management Program

- (a) The City of Sunset Valley Environmental Services Division will establish an Oak Wilt Management Program consisting of three areas:
 - (1) identification and assessment of oak wilt centers;
 - (2) public education to inform citizens about oak wilt and to help identify diseased trees;
 - (3) treatments to suppress oak wilt; and
 - (4) diversified plantings to restore and mitigate damage to affected areas.
- (b) The City Council shall establish funds each fiscal year to administer the program.
- (c) A city wide treatment plan will be established by the Urban Forester in association with the Texas Forest Service and the City of Austin Forestry Department. Priority for management will be based on:
 - (1) Available funding;
 - (2) ability to control spread of disease centers;
 - (3) tree sizes, values, and locations; and
 - (4) size and location of disease centers.

Sec. 12.107 Cost Sharing Program

- (a) The City of Sunset Valley Environmental Services Division will establish a cost share program to reimburse property owners for costs to suppress oak wilt. The program will follow the guidelines of the Texas Forest Service (TFS) Cooperative Oak Wilt Suppression Project. Property owners will be eligible for reimbursement of costs for oak wilt suppression (fifty percent [50%] from the TFS and fifty percent [50%] from the City of Sunset Valley with a limit of ten thousand dollars [\$10,000] per legal parcel or property owner). In addition to costs for oak wilt suppression the City of Sunset Valley will reimburse property owners fifty percent (50%) of the costs for replacement trees purchased through the "Adopt a Tree" program and up to ten dollars (\$10.00) per tree for laboratory analysis to determine the presence of oak wilt.

- (b) Project priority and reimbursements will be:
 - (1) in accordance with the city wide treatment plan (Section 12.106);
 - (2) dependent upon available funding; and
 - (3) in accordance with the Texas Forest Service (TFS) guidelines.
- (c) Information regarding the Texas Forest Service Cooperative Oak Wilt Suppression Project operational policies and technical guidelines is available through the City of Sunset Valley Environmental Service Department and the Texas Forest Service.
- (d) The City of Sunset Valley Environmental Services Department shall maintain a ledger which will be an accounting of funds encumbered for projects awaiting Texas Forest Service plan approval and actual reimbursement payments made to each property owner. All unexpended funds due to cancellations or cost savings shall be returned to the Reimbursement Fund Balance and utilized to reimburse pending applications where possible.

Sec. 12.108 Tree Trimming Personnel

- (a) A governmental entity, private, utility company or public works contractor, shall hire a person to supervise the trim or cut operation of oak tree species (**Quercus spp.**) which have the trunk and/or limbs in the public right-of-way, who is a registered, certified, or licensed Urban Forester or Arborist familiar with the identification and control of oak wilt disease. The trimming and cutting of oak trees (Q. spp.) shall be conducted in accordance with the provisions of this ordinance. The name, address, and telephone number of the above described person will be given to the City Administrative Section for record keeping purposes. The Urban Forester shall determine when an Urban Forester or Arborist is required for tree cut or trim operation. Factors to be used in this determination are:
 - (1) Site location in relation to known areas of oak wilt;
 - (2) Scope or size of trim or cut project - numbers of affected trees;
 - (3) Economic, safety, or aesthetic welfare of owner;
 - (4) Time of year - dormant versus growing seasons;
 - (5) Current land usage at site; and
 - (6) Urgency or justified deadline to complete the project.
- (b) Residential property owners or renters are exempted from the requirement to utilize an Urban Forester or Arborist in the trim or cut operation on their land. However, they are encouraged to utilize the above six factors when contemplating the trimming of oak trees (Q. spp.). When in doubt, contact the Urban Forester for guidance.

Sec. 12.109 Time to Trim and Sealing of Wounds

The trimming or cutting of oak tree species (**Quercus spp.**) for purposes other than protecting public safety should not be conducted between February 1 and June 1 to avoid transmission of the disease by insects. The resulting cut shall be treated immediately with commercial pruning paint to seal the exposed surface from contamination. Any wounds, whether made by trimming, construction, or accident, shall be treated immediately with commercial pruning paint to seal the surface from contamination. The Urban Forester may conduct unannounced inspections to ensure compliance with all provisions of this Chapter.

Sec. 12.110 Disinfection of Equipment

Equipment used for pruning or cutting of oak species (**Quercus spp.**) in public projects will be disinfected 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 disinfection of all pruning and cutting equipment, however spray disinfectants or a solution of four parts water to one part isopropyl alcohol are also suitable. Tool surfaces that contact any part of the tree should be thoroughly coated with the disinfecting solution. On chain saws the drive sprocket and interior surfaces should also be disinfected. This disinfection procedure is highly recommended for private projects.

Sec. 12.111 Handling of Firewood

Wood from red oak varieties (Spanish Oak and Blackjack Oak), suspected of being infected with oak wilt should be disposed of property by either removal to a sanitary landfill or by burying. Firewood from other trees known or suspected of being infected with oak wilt shall not be stacked near healthy trees, and shall be covered with clear plastic and edges held securely by soil.