



CITY OF WEST LAKE HILLS, TEXAS
NOTICE OF CITY COUNCIL WORKSHOP
Wednesday, February 4, 2026 at 12:00 PM

Notice is hereby given that the City Council of the City of West Lake Hills, Texas, will hold a Workshop on the 4th day of February 2026 at 12:00 p.m., in the Council Chambers, Municipal Building, 4010 Bee Cave Road, West Lake Hills, Texas, at which time the following items will be discussed, to-wit:

1. Call to Order
2. Citizen Communications The City Council welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the Council later in the meeting. The Council cannot respond to or discuss matters not listed on the agenda. The Council may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.
3. Administration Discuss proposed scope of work for updating the city's tree ordinances and desired outcomes.
4. Administration Discuss winter weather event preparation and response.
5. Administration Discuss provisions in the City Code related to Noise.
6. Administration Discuss the regulation of e-bikes.
7. Administration Discuss donations to the City and associated policies.
8. Adjournment

Approved by: James Vaughan, Mayor

Certificate

I certify that the above Notice of the February 4, 2026 City Council Workshop was posted on the bulletin board at the Municipal Building, 4010 Bee Cave Road, West Lake Hills, Texas on Thursday, January 29, 2026 by 5:00 pm. and will remain posted continuously until said meeting is convened.

Signed by: Terry Blanchard, City Secretary

The City of West Lake Hills is committed to compliance with the Americans with Disabilities Act. Reasonable accommodation and equal access to communications will be provided upon request.

All items on the agenda are for discussion and/or action. City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).



City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 4, 2026</u>	Item Number:	<u>3</u>
Department:	<u>Administration</u>		
	Trey Fletcher, City		
Prepared By:	<u>Administrator</u>	Cost / Budget:	<u>\$49,025.00</u>
	1. West Lake Hills Proposal		
	2. Draft Plant List		
	Recommendations		
	3. Lakeway, TX – Tree		
	Ordinance Evaluation – Final		
Exhibits:	<u>Report</u>	Source of Funds:	<u></u>

Subject

Discuss proposed scope of work for updating the city’s tree ordinances and desired outcomes.

Recommendation

This item has been prepared for discussion only and no action is being taken.

Discussion

The City Code includes a multitude of references for trees which need to be addressed. Drafting proposed ordinances to address tree related matters can be approached from multiple angles. Issues to resolve include consistency with State Law accounting for recent legislative changes or case law considerations; tracking best management practices generally and accounting for related interests affecting lot development or redevelopment which includes but not limited slopes, stormwater management, erosion and sediment control, fire prevention as well as overall community considerations. Alternative outcomes and methods of accounting for tree replacement can also be contemplated.

PlanIT Geo is an urban forestry consulting firm, based in Arvada, Colorado, that has been identified to propose solutions to these issues and will engage in a discussion regarding their qualifications and experience.

QUOTE FOR CONSULTING SERVICES

TREE ORDINANCE UPDATE PROJECT

City of West Lake Hills, TX

October 2025

SUBMITTED TO:

City of West Lake Hills, TX
mayor@westlakehills.gov

PROPOSED BY:

PlanIT Geo, Inc.
PO Box 1334
Wheat Ridge, CO 80034
sales@planitgeo.com
(630) 333-5176

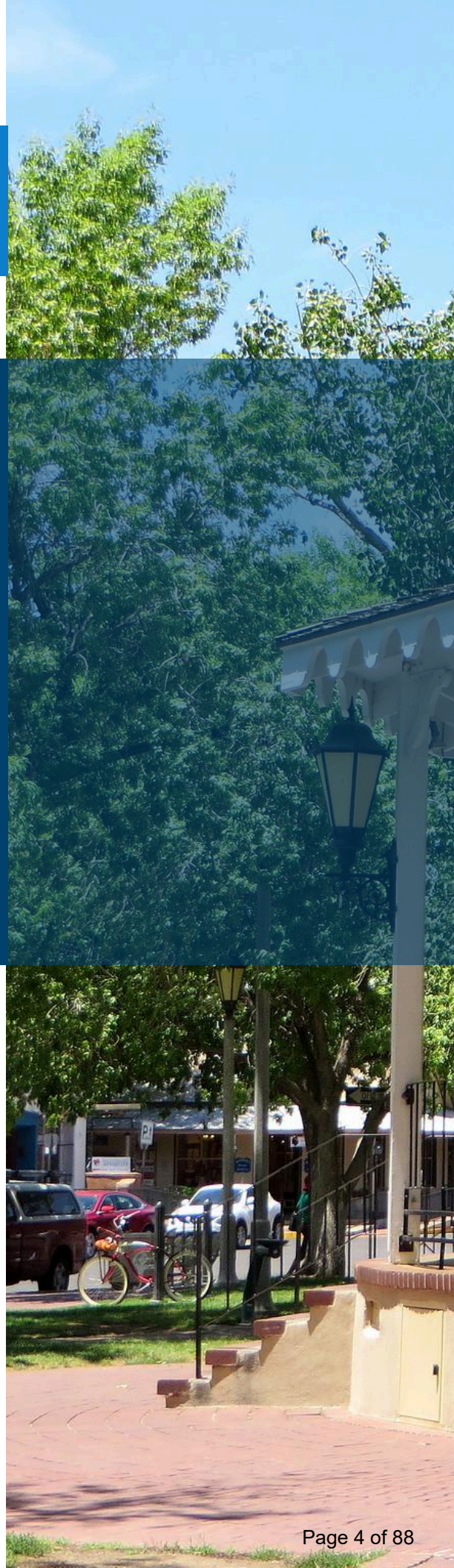


Table of Contents

FIRM BACKGROUND	2
PROJECT UNDERSTANDING	3
PROJECT APPROACH	3
PROJECT MANAGEMENT	4
PROJECT COST SUMMARY	4
PROJECT SCOPE FOR ORDINANCE WORK	4
PROJECT MANAGER	8
PROJECT EXAMPLES	9

FIRM BACKGROUND

PlanIT Geo, Inc. is an urban forestry consulting and software firm with a mission to map the world's urban forests for a greener future by integrating experience with cutting edge technology and planning for urban forestry, parks, and arboriculture. PlanIT Geo has been in the urban forestry business since its establishment by CEO Ian Hanou in 2012 and has expanded to over 50 employees in 2024. PlanIT Geo provides contractual services including tree inventories and risk assessments using TreePlotter™ software, urban forest and risk tree planning, tree inventory and management software, land cover mapping (LiDAR/multispectral imagery), tree canopy assessments, GIS analysis, and i-Tree studies. Over 500 communities, nonprofits, and state/local governments throughout the United States, Canada, the United Kingdom, and Australia have utilized our team to perform tree inventories, write tailored management plans, and conduct tree canopy assessments.

The PlanIT Geo Team provides customized urban forestry solutions, resources, and tools to local governments, nonprofits, universities, and private industries that guide these entities to a holistic approach in sustainable urban forestry and environmental equity. Currently nine US state agencies and hundreds of communities utilize PlanIT Geo's TreePlotter™ INVENTORY and CANOPY software on a regional or statewide basis for cloud hosting of tree inventories, canopy assessments, document storage, community engagement, and interactive dashboards. Over the last 11 years, PlanIT Geo has been involved in hundreds of urban forestry and environmentally related projects around the world. The PlanIT Geo Team has extensive knowledge of urban forestry practices in the Eastern region of the United States. The entire PlanIT Geo Team has a wide array of skill sets related to urban forestry and are committed to serve our clients with the highest quality of products available in the urban forestry industry.

PROJECT UNDERSTANDING

The City of West Lake Hills manages trees in its parks, streets and public spaces. These publicly managed trees are an essential part of the City's infrastructure. The urban forest provides meaningful and measurable benefits such as urban heat mitigation, energy savings, climate resilience, and much more. Strong policies and ordinances are critical to growing a healthy, sustainable, and equitable urban forest.

The City of West Lake Hills has placed a high priority on enhancing and maintaining its existing urban forest. Effective urban forest management requires innovative strategies and accurate information, including an understanding of the current condition of the city's trees, before significant management actions and planning initiatives are undertaken. It is our understanding that, in recognition of this fact, the City of West Lake Hills requires the services of a qualified and experienced urban forest management consultant to undertake a special project, long overdue.

The City of West Lake Hills is considering amendments to its tree-related ordinances. PlanIT Geo has outlined a scope of work options for providing subject matter expertise regarding tree management standards, tree code amendments, facilitated discussions with City staff, support for public engagement, and a results report with presentation of recommendations to City Council. This effort will provide the City with the data, comparisons, input, and recommendations to formally amend City tree ordinances. Implementing this project will support the long-term goals of the urban forest, maintain transparency, sustain tree equity and associated benefits, and align with other goals and plans of the City.

PROJECT APPROACH

Developing recommendations and revisions to tree-related ordinances requires a clear process and well-coordinated public outreach and education efforts. PlanIT Geo has a proven planning framework for managing the many moving parts and developing a final document that ensures management decisions made today build towards beneficial outcomes for decades to come.

Our Consulting Team understands the need to improve existing tree code and the evaluations necessary for new ordinances. Input from City staff, stakeholders, and the community must be integrated and aligned with industry standards, comparable cities, state requirements, and City goals. Our Consulting Team has extensive experience in evaluating existing municipal codes, policies, and ordinances to provide recommendations using best management practices. The following pages outline the proposed scope of work for West Lake Hills' Tree Ordinance Update Project with estimated timelines, task descriptions, and anticipated deliverables.

PROJECT MANAGEMENT

Execution of the draft and final work plan is anticipated to require a focused effort to bring the proposed project into alignment with City expectations and available budget. In addition, a dynamic and cloud-based project management dashboard will be developed to provide a continuous update on the completed and upcoming tasks. The dashboard will also include a detailed project schedule that will be periodically updated throughout the project. Monthly progress reports will be sent to the City’s core project team to give information on progress of deliverables, tasks, and other required information. Upon completion of each project task, we will have remote task review meetings (regular meetings) and staff consultations as needed to present and review completed tasks and deliverables. Project files will be maintained in accordance with the agreed upon work plan with the City of West Lake Hills’ project manager. PlanIT Geo typically uses Google Drive to maintain files but also utilizes other services such as OneDrive or other City-preferred platform.

PROJECT COST SUMMARY

PROJECT COST SUMMARY FOR ORDINANCE PROJECT		
PROJECT TASKS	HOURS	PRICE
A. Project Management	26	\$4,050
B. Research	33	\$4,675
C. Tree Ordinances	104	\$16,200
D. Internal Engagement	50	\$7,350
E. External Engagement	50	\$7,350
F. Recommendations for Implementation	50	\$7,350
G. Final Delivery	14	\$2,050
TOTAL	327	\$49,025

PROJECT SCOPE FOR ORDINANCE WORK

The scope of work outlined on the following pages reflects the goals and objectives as agreed upon between the City of West Lake Hills and PlanIT Geo consultants.

DETAILED SCOPE OF WORK

Task	Qty	Description	Deliverables	Alex Hancock Hours	Alec Sabatini Hours	Total Hours	Total Price
A. Project Management							
Initial Planning Meeting (virtual)	1	Meeting to discuss framework & desired outcomes, summary document of review framework and desired outcomes. Includes prep, meeting, and follow-up.	Meeting, Slides, and Notes	4	2	6	\$950
Internal Kickoff (virtual)	1	Kickoff meeting with key staff to introduce the project, timeline, deliverables, roles, responsibilities, etc.	Meeting, Slides, and Notes	4	2	6	\$950
Client-Facing Task Tracker / Dashboard	1	Project management tool for client-consultant updates on project and task progress. Potential to host in Teamwork.com	Dashboard	4	2	6	\$950
Project Update (email)	8	Routine project updates provided throughout the course of the project via email.	Emails	4	4	8	\$1,200
				16	10	26	\$4,050
B. Research							
Initial Research	1	Review of plans, ordinances, documents, and resources.	Excel File	8	12	20	\$2,900
Request for Information	1	Follow-up after initial research to fill in gaps in information.	PG Fillable Form	1	2	3	\$425
Benchmarking	1	Discovery of 20 cities of similar size and geography, and charts comparing UF program budget and operations based on Tree City USA data.	Summary Document, Benchmarking Workbook	2	8	10	\$1,350
				11	22	33	\$4,675
C. Tree Ordinances							
Internal Team Meetings (virtual)	4	Meetings to review tree ordinance objectives, progress, and recommendations with Project Team.	Meeting, Slides, and Notes	8	8	16	\$2,400
City Tree Ordinances Research & Review	1	Table summarizing existing City ordinances, includes gap analysis using industry frameworks.	Summary Document	8	8	16	\$2,400

DETAILED SCOPE OF WORK

Task	Qty	Description	Deliverables	Alex Hancock Hours	Alec Sabatini Hours	Total Hours	Total Price
Benchmarking Comparison (5 Other Cities)	1	Compare ordinances, goals, and program operations with five(5) cities based on Tree City USA data or as advised by client. Adjust "quantity" column according to how many batches of 5 cities to compare.	Summary Document, Benchmarking Workbook	16	8	24	\$3,800
Strikethrough - Underline Ordinance Revisions	1	Strikethrough-underline version of relevant municipal code sections with one round of revisions.	Ordinance Revisions	16	8	24	\$3,800
Document Prep for Ordinance Adoption	1	Cover sheet, summary, and fiscal analysis for City Council adoption process.	City Council Cover Sheet and Fiscal Analysis	16	8	24	\$3,800
				64	40	104	\$16,200

D. Internal Engagement

Staff Survey and Analysis of Results	1	Development of survey questions and answers, generation of google form, distribution of survey, and summary of results. Google form or other platform as advised by client.	Survey and Summary Document	12	12	24	\$3,600
Staff Consultations (virtual)	2	Meeting with key staff to gather an understanding of current operations, strengths, challenges, and priorities. Includes presentation slides, prep, meeting, and follow-up notes.	Meeting, Slides, and Notes	8	8	16	\$2,400
Internal Engagement Summary	1	Synthesis and summary of all steps completed during the Internal Engagement phase.	Summary Document	2	8	10	\$1,350
				22	28	50	\$7,350

E. External Engagement

External Engagement Plan	1	Schedule and strategies for engagement of the public, focus groups, and other key community stakeholders. Includes development of stakeholder lists, branding and graphics kit, etc.	Summary Document	8	8	16	\$2,400
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DETAILED SCOPE OF WORK

Task	Qty	Description	Deliverables	Alex Hancock Hours	Alec Sabatini Hours	Total Hours	Total Price
Public Meeting Presentation (virtual)	2	Public meetings include presentations to the general public or a specific board, council, or commission where the public is welcome to view, attend, and/or provide input. Each presentation is intended to cover some/all of the following topics: <ul style="list-style-type: none"> - Raising awareness of the urban forest - Project introduction/overview - Updates on analysis, results, etc. - Creating a vision/goals - Getting feedback - Inciting action - Q&A session - Ordinance adoption 	Meeting, Slides, and Notes	12	12	24	\$3,600
Public Engagement Summary	1	Synthesis and summary of all steps completed during the External Engagement phase.	Summary Document	2	8	10	\$1,350
				22	28	50	\$7,350
F. Recommendations for Implementation							
Implementation Framework	1	Work with client to identify the desired framework (i.e. mission, vision, principles, strategies, action, targets, etc.)	Summary Document	4	4	8	\$1,200
Deep Dive: Urban Forestry Program Resources	1	Strategies to improve program structure, staffing, contracting, processes, workflows, etc.	Summary Document	8	8	16	\$2,400
Deep Dive: Tree Ordinances and Policies	1	Recommended updates to the City's ordinances and policies	Summary Document	8	8	16	\$2,400
Implementation Summary	1	Synthesis and summary of all steps completed during the Implementation phase.	Summary Document	2	8	10	\$1,350
				22	28	50	\$7,350
G. Final Delivery							
Final Delivery & Closeout Meeting (virtual)	1	Meeting to review delivery folder containing all project deliverables. Includes prep, meeting, and follow-up.	Meeting, Final Delivery Folder	6	8	14	\$2,050
				6	8	14	\$2,050
				163	164	327	\$49,025

PROJECT MANAGER

Alex Hancock

Director of Urban Forestry Consulting Services, PlanIT Geo

Certifications and Education

- ISA Certified Arborist FL-#8295A, APA member for CO & FL Chapters
- Graduate of 2022 Municipal Forestry Institute (MFI)
- MSc Forest Resources and Conservation, University of Florida (2017)
- Graduate Certificate in Geospatial Analysis (2017)
- Bachelor of Urban Planning - University of Cincinnati (2011)



Alex is an ISA Certified Arborist with a background in urban planning, urban forestry, and sustainability. She is experienced in tree canopy cover analysis, climate action planning, zoning and land use planning, and public policy. Her most recent role as Sustainability Coordinator and Certified Arborist for the City of St. Petersburg, FL focused on programs for climate resilience, clean energy, waste reduction, environmental justice, and urban forestry. Her team developed, published, and is implementing the Integrated Sustainability Action Plan, which emphasizes equity as a primary focus of planning for a sustainable and resilient future.

At PlanIT Geo, Alex applies these experiences and skill sets to support the development of urban forest management plans for communities. Specifically, she is directing the integration of urban forestry into sustainability planning for communities through public engagement, staff consultations, policy analysis, and plan development.

Role: Lead Consultant, Team Meetings, Data Gathering and Reviews, Canopy Analyses, Internal Stakeholder Engagement, External Stakeholder Engagement, Urban Forest Audit, Goal & Strategy Development, Draft Plan, Delivery Training, Draft and Final UFMP

Urban Forestry Project Management Experience (Not Comprehensive)

- Issaquah, WA Tree Canopy Goals & Ordinance Development (PlanIT Geo)
- Lakewood, WA Tree Ordinance Evaluation (PlanIT Geo)
- Camas, WA Parks and Open Space Management Plan (PlanIT Geo)
- Grand Junction, CO Urban Forest Tree Count and Appraisal Study (PlanIT Geo)
- Westminster, CO Urban Forest Management Plan (PlanIT Geo)
- Saratoga Springs, NY Urban Forestry Management Plan (PlanIT Geo)
- Castleton-on-Hudson, NY Community Forest Management Plan (PlanIT Geo)
- Fremont, CA Urban Forest Management Plan (PlanIT Geo)
- Los Banos, CA UFMP Tree Ordinance Review and Revision (PlanIT Geo)
- Lakeway, TX Tree Ordinance Development (PlanIT Geo)

PROJECT EXAMPLES

1) Tree Ordinance Tool Development

Organization: Arbor Day Foundation

Project Manager(s): Alex Hancock (PlanIT Geo)

Date: January 2025 - June 2025

Scope of Services Provided: The ADF Ordinance Tool is a web-based project created by the Arbor Day Foundation to help cities expand and protect their urban tree canopy through modern, effective ordinances and policies. PlanIT Geo served as the lead consultant to the Arbor Day Foundation for this initiative, conducting extensive research into municipal tree ordinances across the country and developing a robust framework for sharing ordinance content online. Our responsibilities included preparing the final project deliverables, curating a comprehensive set of references, examples, and recommendations, and compiling these resources into a user-friendly tool for use by Tree Cities and urban forestry programs. PlanIT Geo's collaboration ensured that the tool is rooted in best practices and provides practical guidance for communities pursuing Tree City USA recognition and sustainable urban forest management.

2) Lakewood, WA Tree Preservation Code & Public Participation Plan

Organization: City of Lakewood, WA and Berk Consulting (Prime)

Project Duration: February 2022 – November 2022 (10 months)

Scope of Services Provided: The Consultant team evaluated the current tree preservation code regarding industry standards, best practices, research, and worksheets to review and cross-examine existing ordinances and policies impacting or affecting trees in the City. The code evaluation and best practice research addressed the range of tree types in Lakewood including Garry Oaks and other species of deciduous and evergreen trees. The process included staff interviews, presentations and meetings to the City's ad-hoc committee for tree preservation, ordinance review, canopy assessment, canopy goal setting scenarios and priority planting areas, and final recommendations for ordinance changes and canopy goals. City Council adopted the amendments to the ordinance on November 7, 2022. View the press release [here](#).

3) Lakeway, TX Tree Ordinance Evaluation and Development

Organization: City of Lakeway, TX

Project Duration: June 10, 2022 – September 23, 2022 (3 months)

Scope of Services Provided: The City did not have a public tree ordinance, only an ordinance for diseased trees, general building requirements, and residential landscaping. The consulting team conducting internal research by reviewing existing code, ordinances, policies, and procedures along with a review of other cities' ordinances requested by the City Forester. From the review and analysis, a draft document of recommended changes

and new language was developed and finalized. The team met with the City Forester and supporting departments to finalize the ordinance language. The ordinance includes a description of trees included in the ordinance, exemptions (e.g., dead trees, prohibited trees, aviation zoning, single-family), definitions, and trees for preservation (private trees 6" or greater, mature ashe-juniper 5" and/or 15' tall, all public trees, and heritage trees). The ordinance also includes the tree removal permitting process, mitigation requirements, tree protection during construction, process for penalties, among other industry standards and best practices to ensure Lakeway's trees are protected.

4) Issaquah, WA Tree Code Consulting Services

Organization: City of Issaquah, WA Community Planning & Development Department
Project Duration: September 8, 2022 – December 12, 2022 (3 months)

Scope of Services Provided: Assisted the City in identifying canopy targets, methodology to track and adjust canopy goals, and an updated tree list using a climate vulnerability assessment to grow a sustainable urban forest guided by canopy goals. To develop the canopy goals, extensive benchmarking research was conducted for analogous communities and cross-examined with industry standards, best practices, and research. The canopy targets and methods for tracking were incorporated into the Department's ordinances.

This document was exported from Numbers. Each table was converted to objects on each Numbers sheet were placed on separate worksheets. If calculations may differ in Excel.

Numbers Sheet Name	Numbers Table Name
Preferred - Shade Trees	Table 1
Preferred - Ornamental Trees	Table 1
Preferred - Shrubs	Table 1
Preferred - Perennials	Table 1
Preferred - Ornamental Grasses	Table 1
Preferred - Vines & Groundcover	Table 1
Controlled Plant List	Table 1
Prohibited Plant List	Table 1
Legend & Keys	Table 1

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Excel Worksheet Name

[Preferred - Shade Trees](#)

[Preferred - Ornamental Trees](#)

[Preferred - Shrubs](#)

[Preferred - Perennials](#)

[Preferred - Ornamental Grasses](#)

[Preferred - Vines & Groundcover](#)

[Controlled Plant List](#)

[Prohibited Plant List](#)

[Legend & Keys](#)

Section	Common Name	Scientific Name	Native
Preferred - Shade Trees	Cedar, Ashe	Juniperus ashei	E
Preferred - Shade Trees	Cedar, Eastern Red	Juniperus virginiana	B
Preferred - Shade Trees	Cherry, Escarpment Black	Prunus serotina var. eximia	E
Preferred - Shade Trees	Cypress, Bald	Taxodium distichum	B/E
Preferred - Shade Trees	Elm, American	Ulmus americana	
Preferred - Shade Trees	Elm, Cedar	Ulmus crassifolia	B/E
Preferred - Shade Trees	Maple, Big Tooth	Acer grandidentatum	E
Preferred - Shade Trees	Oak, Bur	Quercus macrocarpa	B/E
Preferred - Shade Trees	Oak, Chinquapin	Quercus muhlenbergii	B/E
Preferred - Shade Trees	Oak, Escarpment Live*	Quercus fusiformis	B/E
Preferred - Shade Trees	Oak, Lacey	Quercus laceyi	E
Preferred - Shade Trees	Oak, Monterey (Mexican	Quercus polymorpha	T
Preferred - Shade Trees	Oak, Post	Quercus stellata	
Preferred - Shade Trees	Oak, Shin, White Shin,	Quercus sinuata	
Preferred - Shade Trees	Oak, Shumard Red*	Quercus shumardii	E
Preferred - Shade Trees	Oak, Southern Live*	Quercus virginiana	B/E
Preferred - Shade Trees	Oak, Texas Red*	Quercus buckleyi	E
Preferred - Shade Trees	Pecan	Carya illinoensis	B
Preferred - Shade Trees	Sycamore, Mexican	Platanus mexicana	
Preferred - Shade Trees	Walnut, Eastern Black	Juglans nigra	

Height	Spread	Light	Water	Evergreen/Deciduous	Utility
15-40'	10-25'	Sun/part shade	VL	E	
20-50'	15-25'	Sun	M	E	
25-50'	25-35'	Sun/part shade	L	D	
40-100'	25-50'+	Sun/part shade	H	D	
40-90'	50-90'	Sun/part shade	M	D	
25-60'	25-35'	Sun/part shade	L	D	
40-50'	20-30'	Part shade	VL	D	
35-75'	50'+	Sun	VL	D	
30-60'	30-40'	Part shade	M	D	
20-40'	50'+	Sun	L	E	
20-35'	25'	Sun	VL	D	
40-60'	30-40'	Sun	VL	E	
30-50'	60-80'	Sun/part shade	M	D	
Up to 30'	20-30'	Sun	L	E	
30-50'	30'-50'	Sun	M	D	
30-50'	50'+	Sun	M	E	
15-30'	15-30'	Sun	L	D	
60-90'	60-75'	Sun	H	D	
30-50'	40'	Sun/part shade	M	D	
30-80'	40-50'	Sun	M	D	

Section	Common Name	Scientific Name
Preferred - Ornamental Trees	Acacia, Catclaw	<i>Acacia greggii</i>
Preferred - Ornamental Trees	Acacia, Sweet or Huisache	<i>Acacia smallii</i> (<i>Acacia farnesiana</i>)
Preferred - Ornamental Trees	Anacacho Orchid Tree	<i>Bauhinia lunariodes</i>
Preferred - Ornamental Trees	Anacua	<i>Ehretia anacua</i>
Preferred - Ornamental Trees	Arroyo Sweetwood	<i>Myrospurnum sousanum</i>
Preferred - Ornamental Trees	Ash, Fragrant	<i>Fraxinus cuspidata</i>
Preferred - Ornamental Trees	Ash, Greg	<i>Fraxinus gregii</i>
Preferred - Ornamental Trees	Brasil or Bluewood	<i>Condalia hookeri</i>
Preferred - Ornamental Trees	Buckeye, Mexican	<i>Ungnadia speciosa</i>
Preferred - Ornamental Trees	Buckeye, Red	<i>Aesculus pavia</i>
Preferred - Ornamental Trees	Carolina Buckthorn	<i>Frangula caroliniana</i>
Preferred - Ornamental Trees	Cherry Laurel	<i>Prunus caroliniana</i>
Preferred - Ornamental Trees	Chitalpa	<i>Chitalpa tashkentensis</i>
Preferred - Ornamental Trees	Crabapple, Blanco	<i>Malus ioensis</i> var. <i>texensis</i>
Preferred - Ornamental Trees	Cypress, Arizona	<i>Cupressus arizonica</i>
Preferred - Ornamental Trees	Cypress, Arizona	<i>Cupressus arizonica</i>
Preferred - Ornamental Trees	Desert Willow	<i>Chilopsis linearis</i>
Preferred - Ornamental Trees	Dogwood, Rough-leaf	<i>Cornus drummondii</i>
Preferred - Ornamental Trees	Eve's Necklace	<i>Sophora affinis</i>
Preferred - Ornamental Trees	Goldenball Leadtree	<i>Leucaena retusa</i>
Preferred - Ornamental Trees	Hawthorn, Texas	<i>Crataegus texana</i>
Preferred - Ornamental Trees	Holly, Deciduous Possumhaw	<i>Ilex decidua</i>
Preferred - Ornamental Trees	Holly, Deciduous Possumhaw	<i>Ilex decidua</i>
Preferred - Ornamental Trees	Holly, Yaupon	<i>Ilex vomitoria</i>
Preferred - Ornamental Trees	Holly, Yaupon	<i>Ilex vomitoria</i>
Preferred - Ornamental Trees	Hop Tree "Wafer Ash"	<i>Ptelea trifoliata</i>
Preferred - Ornamental Trees	Kidneywood	<i>Eysenhardtia texana</i>
Preferred - Ornamental Trees	Madrone, Texas	<i>Arbutus xalapensis</i>
Preferred - Ornamental Trees	Mountain Laurel, Texas	<i>Sophora secundiflora</i>
Preferred - Ornamental Trees	Mountain Laurel, Texas	<i>Sophora secundiflora</i>
Preferred - Ornamental Trees	Persimmon, Texas	<i>Diospyros texana</i>
Preferred - Ornamental Trees	Pistache, Texas	<i>Pistacia texana</i>
Preferred - Ornamental Trees	Plum, Mexican	<i>Prunus mexicana</i>
Preferred - Ornamental Trees	Plum, Mexican	<i>Prunus mexicana</i>
Preferred - Ornamental Trees	Redbud, Mexican	<i>Cercis canadensis</i> Var.
Preferred - Ornamental Trees	Redbud, Texas	<i>Cercis canadensis</i> Var. <i>texensis</i>
Preferred - Ornamental Trees	Redbud, Texas	<i>Cercis canadensis</i> Var. <i>texensis</i>
Preferred - Ornamental Trees	Retama Palo Verde	<i>Parkinsonia aculeata</i>
Preferred - Ornamental Trees	Silktassel, Mexican	<i>Garrya ovata</i> spp.
Preferred - Ornamental Trees	Smoke Tree, American	<i>Cotinus obovatus</i>
Preferred - Ornamental Trees	Sumac, Evergreen	<i>Rhus virens</i>
Preferred - Ornamental Trees	Sumac, Prairie Flameleaf	<i>Rhus lanceolata</i>
Preferred - Ornamental Trees	Viburnum, Rusty Blackhaw	<i>Viburnum rufidulum</i>
Preferred - Ornamental Trees	Walnut, Texas Little	<i>Juglans microcarpa</i>
Preferred - Ornamental Trees	Wax Myrtle	<i>Myrica cerifera</i>

Native	Height	Spread	Light	Water	Evergreen/Deciduous
E	15-30'	20-30'	Sun/part shade	VL	D
E	15-25'	30-40'	Sun	VL	D
T	6-12'	6-12'	Sun/part shade	L	D
	15-40'	30-45'	Sun/part shade	M	E
	15-20'	15-20'	Sun	VL	D
	10-20'	10-15'	Sun/part shade	L	D
	10-15'	10-15'	Sun/part shade	VL	E
E	8-15'	35'	Sun/part shade	L	E
E	8-15'	12-20'	Sun/part shade	L	D
B/E	10-15'	10-15'	Part shade	M	D
B/E	12-20'	15'	Sun/part shade	L	D
T	15-20'	12-15'	Part shade	H	E
	25-30'	15-20'	Sun/part shade	L	D
E	10-15'	7-9'	Sun/part shade	L	D
T	20-50'	15-25'	Sun	L	E
T	20-50'	15-25'	Sun	L to VL	E
E	10-25'	15-20'	Sun/part shade	VL	D
T	8-15'	10-15'	Sun/shade	M	D
E	10-20'	15-20'	Sun/part shade	L	D
E	15-25'	12-15'	Sun/part shade	VL	D
E	5-16'	20'	Sun/part shade	M	D
B/E	12-15'	12'	Sun/part shade	L	D
B/E	12-15'	12'	Sun/part shade	L	D
B	15-25'	10-15'	Sun/part shade	L	E
B	15-25'	10-15'	Sun/part shade	L	E
B/E	10-15'	6'	Sun/part shade	M	D
E	8-15'	6-8'	Sun/part shade	VL	D
E	15-30'	20-40'	Sun/part sun	L	E
E	10-20'	8-12'	Sun/part shade	L	E
E	10-20'	8-12'	Sun/part shade	L	E
E	8-15'	8-12'	Sun/part shade	VL	D
E	10-30'	30-45'	Sun/part shade	VL	E
B/E	15-25'	15-20'	Sun/part shade	L	D
B/E	15-25'	15-20'	Sun/part shade	L	D
E	15-30'	12-15'	Sun/part shade	VL	D
T	15-30'	12-15'	Sun/part shade	L	D
	15-30'	12-15'	Sun/part shade	L	D
T	12-20'	12-20'	Part shade/ sun	VL	D
E	5-11'	5-11'	Sun/part shade	L	E
E	15-30'	15-25'	Sun/part shade	L	D
E	8-10'	6-8'	Sun/ shade	L	E
T	10-30'	15-20'	Sun/part shade	L	D
B/E	10-30'	10-15'	Sun/shade	L	D
T	18-20'	20'	Sun/part shade	M	D
B	10-15'	6-15'	Sun/part shade	M	E

Utility

| yes

| yes

| yes

| yes

| Yes

| yes

| yes

| yes

| yes

| yes

| yes

| yes

| yes

| yes

| yes

| yes

| yes

Section	Subcategory	Common Name	Scientific Name	Native
Preferred - Shrubs	Screening	Agarita	Berberis trifoliata	E
Preferred - Shrubs	Large	Althea or Rose of Sharon	Hibiscus syriacus	
Preferred - Shrubs		American Beautyberry	Callicarpa americana	B
Preferred - Shrubs		Barbados Cherry	Malpighia glabra	E
Preferred - Shrubs	Screening	Bottlebrush	Callistemon citrinus	
Preferred - Shrubs	Large	Butterfly Bush, Wooly	Buddleja marrubiifolia	T
Preferred - Shrubs		Elbow Bush	Forestiera pubescens	E
Preferred - Shrubs		Esperanza/ Yellow Bells	Tecoma stans	T
Preferred - Shrubs		Flame Acanthus	Anisacanthus quadrifidus var.	E
Preferred - Shrubs	Screening	Germander, Bush	Teucrium fruticans	
Preferred - Shrubs	Screening	Holly, Dwarf Chinese	Ilex cornuta 'Rotunda nana'	
Preferred - Shrubs	Screening	Holly, Dwarf Yaupon	Ilex vomitoria 'Nana'	X
Preferred - Shrubs	Screening	Holly, Nellie R. Stevens	Ilex cornuta 'Nellie R. Stevens'	
Preferred - Shrubs		Honeysuckle Bush, white	Lonicera albiflora	B/E
Preferred - Shrubs		Indigo Spires	Salvia 'Indigo Spires'	X
Preferred - Shrubs	Screening	Jasmine, Primose	Jasminum mesnyi	
Preferred - Shrubs		Lantana, Texas	Lantana urticoides	B/E
Preferred - Shrubs		Mallow, Globe	Sphaeralcea	T
Preferred - Shrubs	Large	Mimosa, Fragrant	Mimosa borealis	E
Preferred - Shrubs		Mistflower, White (Shrubby)	Ageratina havanense	E
Preferred - Shrubs	Large	Mock Orange	Philadelphus coronarius	
Preferred - Shrubs		Palmetto, Texas Dwarf	Sabal minor	B/E
Preferred - Shrubs	Large	Poinciana, Bird of Paradise	Caesalpinia gilliesii	
Preferred - Shrubs		Poinciana, Mex. Bird of Par.	Caesalpinia mexicana	T
Preferred - Shrubs	Large	Pomegranate	Punica granatum	
Preferred - Shrubs		Rose 'Martha Gonzales'	Rosa 'Martha Gonzales'	
Preferred - Shrubs		Rose, 'Belinda's Dream'	Rosa 'Belinda's Dream'	
Preferred - Shrubs		Rose, 'Cecile Bruner'	Rosa, 'Cecile Bruner'	
Preferred - Shrubs		Rose, 'Grandma's Yellow'	Rosa, 'Grandma's Yellow'	
Preferred - Shrubs		Rose, 'Knock Out'	Rosa 'Knock Out'	
Preferred - Shrubs		Rose, 'Livin' Easy'	Rosa 'Livin' Easy'	
Preferred - Shrubs		Rose, 'Marie Pavie' Rose	Rosa 'Marie Pavie' Rosa 'Marie	
Preferred - Shrubs	Large	Rose, Mutabilis	Rosa 'Mutabilis'	
Preferred - Shrubs		Rose, Nearly Wild	Rosa 'Nearly Wild'	
Preferred - Shrubs		Rose, Old Blush	Rosa 'Old Blush'	
Preferred - Shrubs	Screening	Rosemary, Upright	Rosmarinus officinalis	
Preferred - Shrubs	Screening	Sage, Texas	Leucophyllum frutescens	T
Preferred - Shrubs	Large	Senna, Flowering	Cassia corymbosa	
Preferred - Shrubs		Screening	Sumac, Evergreen	Rhus virens
Preferred - Shrubs	Large	Sumac, Fragrant	Rhus aromatica	B/E
Preferred - Shrubs		Screening	Thryallis, Golden Showers	Galphimia glauca
Preferred - Shrubs	Large	Viburnum, Sandankwa	Viburnum suspensum	
Preferred - Shrubs		Screening	Wax Myrtle, Dwarf	Myrica pusilia
Preferred - Shrubs	Screening	Wax Myrtle, Southern	Myrica cerifera	B

Height	Spread	Light	Water	Evergreen/Deciduous
3-6'	3-6'	Sun/Part shade	VL	E
4-12'	10'	Sun	M	D
4-6'	6'	Part shade/shade	L	D
4-6'	3-5'	Sun/Part shade	M	SE
8'	6'	Sun	L	E
5'	5'	Sun/part shade	M	D
4-6'	4-5'	Sun/Part shade	VL	D
4'-8'	4-6'	Sun	L	D
3-4'	3-4'	Sun/part shade	VL	D
4-6'	4-6'	Sun/part shade	L	E
3-4'	3-6'	Sun/Part shade	L	E
2-4'	2-4'	Sun/shade	L	E
8-10	5-6'	Sun	M	E
3-6'	4-5'	Shade/part sun	L	D
3-4'	5-7'	Sun/part shade	M	D
6-8'	8-15'	Sun/Part shade	L	E
2-6'	4-5'	Sun	VL	D
2-5'	2-5'	Sun	L	D
6-8'	6-8'	Sun	VL	D
3-4'	2-3'	Sun/part shade	L	D
8-12'	6-8'	Sun/part shade	M	D
3-5'	4-6'	Sun/shade	M	E
4-6'	5-15'	Sun	L	D
10'	10-15'	Sun/part shade	L	SE
10'	8'	Sun/ part shade	VL	D
3'	3'	Sun/part shade	M	SE
4'	4'	Sun	M	SE
3-4'	3-4'	Sun	M	SE
4-5'	3'	Sun	M	SE
3'	3'	Sun	M	SE
4'	3'	Sun	M	SE
3'	3'	Sun/part shade	M	SE
6'	8'	Sun	M	SE
3'	4'	Sun	M	SE
5'	5'	Sun	M	SE
4'	4-6'	Sun	M	E
4-5'	4-5'	Sun	L	E
6-8'	6-8'	Sun	L	SE
4-10'	4-6'	Sun/Part shade	L	E
6-9'	4-6'	Sun/part shade	L	D
4-6'	4'	Sun	L	E
6-8'	6-8'	Sun/ shade	M	D
3-5'	3-6'	Part shade/ sun	M	E
Shrub to 12'	6-15'	Sun/ part shade	M	E

Section	Subcat	Common Name	Scientific Name	Native
Preferred - Perennial	Small	Agave, Parry's	Agave parryi	T
Preferred - Perennial	Small	Agave, Queen Victoria	Agave victoriae-reginae	T
Preferred - Perennial	Small	Agave, Squid	Agave bracteosa	
Preferred - Perennial	Small	Artemisia	Artemisia 'Powis Castle'	
Preferred - Perennial	Small	Beargrass (Sacahuista); Basket	Nolina texana	E
Preferred - Perennial	Small	Betony, Texas	Stachys coccinea	E
Preferred - Perennial	Small	Blackfoot Daisy	Melampodium leucanthum	E
Preferred - Perennial	Small	Chile Pequin	Capsicum annuum	B
Preferred - Perennial	Small	Coralberry	Symphoricarpos orbiculatus	T
Preferred - Perennial	Small	Dalea, Black	Dalea frutescens	E
Preferred - Perennial	Small	Damianita	Chrysactinia mexicana	E
Preferred - Perennial	Small	Four-nerve Daisy	Tetraneris scaposa	T
Preferred - Perennial		Gregg's Mistflower	Conoclinium greggii	E
Preferred - Perennial		Hedgehog Cactus	Echinocereus dasyacanthus	E
Preferred - Perennial		Holly Fern	Cyrtomium falcatum	
Preferred - Perennial		Lace Cactus	Echinocereus reichenbachii	E
Preferred - Perennial		Lindheimer Crownbeard	Verbesina lindheimeri	E
Preferred - Perennial		Mexican Honeysuckle	Justicia spicigera	
Preferred - Perennial	Small	Milkweed, Antelope Horns	Asclepias asperula	E
Preferred - Perennial	Small	Milkweed, Green	Asclepias viridis	B
Preferred - Perennial	Small	Milkweed, Zizotes	Asclepias oenotherioides	B
Preferred - Perennial		Mock Orange (Texas)	Philadelphus texensis	E
Preferred - Perennial		Prickly Pear, Spineless	Opuntia 'Ellisiana' (sel. of O. d	E
Preferred - Perennial		River Fern	Thelypteris (Christella) kunthii	E
Preferred - Perennial	Small	Rock Rose	Pavonia lasiopetala	E
Preferred - Perennial	Small	Rye, Canada Wild	Elymus canadensis	B/E
Preferred - Perennial	Small	Sage, Cedar	Salvia roemeriana	E
Preferred - Perennial		Sage, Cherry (Autumn Sage)	Salvia greggii	E
Preferred - Perennial		Sage, Henry Duelberg (Blue Sage)	Salvia farinacea 'Henry	X
Preferred - Perennial		Sage, Jerusalem	Phlomis fruticosa	
Preferred - Perennial		Sage, Majestic	Salvia guaranitica	
Preferred - Perennial	Small	Sage, Mealy Blue	Salvia farinacea	B
Preferred - Perennial		Sage, Mexican Bush	Salvia leucantha	
Preferred - Perennial		Sage, Mountain	Salvia regla	T
Preferred - Perennial		Sage, Penstemon Big Red Sage	Salvia penstemonoides	E
Preferred - Perennial	Small	Sage, Scarlet or 'Tropical'	Salvia coccinea	B
Preferred - Perennial		Senna, Lindheimer	Senna lindheimeriana	E
Preferred - Perennial	Small	Skullcap, Pink	Scutellaria suffrutescens	
Preferred - Perennial		Sotol, Texas	Dasylyrion texanum	E
Preferred - Perennial		Texas Milkweed	Asclepias texana	E
Preferred - Perennial		Turk's Cap	Malvaviscus arboreus	E
Preferred - Perennial		Woolly Ironweed	Vernonia lindheimeri	E
Preferred - Perennial		Wormwood	Artemisia ludoviciana	E
Preferred - Perennial	Small	Yucca, Paleleaf	Yucca pallida	B
Preferred - Perennial	Small	Yucca, Red	Hesperaloe parviflora	E
Preferred - Perennial	Small	Yucca, Twistleaf	Yucca rupicola	E
Preferred - Perennial	Small	Zexmenia	Wedelia acapulcensis var.	T

Height	Spread	Light	Water	Evergreen/Deciduous
1-1.5'	1.5'	Sun/part shade	VL	E
1.5'	1.5'	Sun/part shade	VL	E
1-2'	1-2'	Sun/part shade	VL	E
1-2'	3-6'	Sun	VL	E
2-3'	3-4'	Sun/shade	VL	E
1-3'	1-3'	Part shade/shade	M	D
1-2'	1-2'	Sun	L	D
1-3'	2-3'	Sun/part shade	VL	D
2-3'	2-3'	Sun/ part shade	L	D
1-3'	3-4'	Sun	VL	D
1-2'	1-2'	Sun	VL	E
1'	1-2'	Sun	L	D
1-3'	2-3'+	Sun/part shade	L-M	D
0.5-1.5'	0.5-1.5'	Sun	VL	E
2-3'	2-3'	Shade/part shade	M	E
0.5-1'	0.5-1'	Sun	VL	E
3-6'	2-4'	Sun/part shade	L	D
2-4'	2-4'	Part shade	L-M	E
1-2'	1-2'	Sun	VL	D
1-2'	1-2'	c	VL	D
1-2'	1-2'	Sun	VL	D
3-6'	3-5'	Sun/part shade	L	D
3-6'	4-8'	Sun	VL	E
2-3'	2-3'	Part shade/shade	M-H	D
2'	3'	Sun/shade	L	D
2-4'	2-3'	Sun/part shade	M	D
1-2'	1-2'	Part shade/shade	VL	D
2-3'	2-3'	Sun	L	E
3'	3'	Sun	L	D
2-3'	3-4'	Sun	L	E
3-5'	4-5'	Sun/shade	L	D
1-3'	1-3'	Sun/part shade	M	D
4-5'	4-5'	Sun	L	D
2-3'	3'	Part shade/ full shade	M	D
3-4'	1-2'	Sun/part shade	L	D
1.5-3'	1-1.5'	Sun/Shade	L	D
3-4'	3-4'	Part shade/sun	L	D
1'	3'	Sun/ part shade	L	E
3-4'	3-4'	Sun/part shade	L	E
1-3'	1-2'	Part shade	L	D
2-6'	3-5'	Sun or shade	L	E
1-2'	1-2'	Sun	L	D
1-3'	1-3'	Sun/part shade	VL	D
1'	2'	Sun/part shade	VL	E
2-4'	4'	Sun/part shade	VL	E
1-2'	2'	Sun/part shade	VL	E
1-3'	1-3'	Sun	L	D

Section	Common Name	Scientific Name	Nativity	Height
Preferred - Ornamental	Bluestem, Big	Andropogon gerardii	B/E	4-8'
Preferred - Ornamental	Bluestem, Little	Schizachyrium	B/E	2-3'
Preferred - Ornamental	Bunch Cutgrass	Leersia monandra	B/E	1'
Preferred - Ornamental	Fairy Tails Fountaingrass	Pennisetum 'Fairy		3'
Preferred - Ornamental	Fountain Grass, Dwarf	Pennisetum		2.5-3'
Preferred - Ornamental	Grama, Blue	Bouteloua gracilis	E	0.5-2'
Preferred - Ornamental	Indiangrass, Yellow Indian	Sorghastrum nutans	B/E	3-5'
Preferred - Ornamental	Inland Seoats	Chasmanthium	B/E	1-3'
Preferred - Ornamental	Melic Grasses	Melica sp.	B/E	8"
Preferred - Ornamental	Mexican Feathergrass	Stipa tenuissima	T	1-2'
Preferred - Ornamental	Muhly, Bamboo	Muhlenbergia dumosa		4-5'
Preferred - Ornamental	Muhly, Big; Lindheimer	Muhlenbergia	E	3-5'
Preferred - Ornamental	Muhly, Deer	Muhlenbergia rigens	T	1-1.5'
Preferred - Ornamental	Muhly, Gulf Grasses	Muhlenbergia canillaris	T	2-2.5'
Preferred - Ornamental	Muhly, Pine	Muhlenbergia dubia	T	1-3'
Preferred - Ornamental	Muhly, Seep	Muhlenbergia	E	2-3'
Preferred - Ornamental	Nolina; Ribbon Grass, Devil's	Nolina lindheimeriana	E	1-3'
Preferred - Ornamental	Princess Caroline and First	Pennisetum 'Princess		4'
Preferred - Ornamental	Sideoats Grama	Bouteloua	B/E	1-3'
Preferred - Ornamental	Switchgrass	Panicum virgatum	B/E	3-6'

Spread	Light	Water	Evergreen/Deciduous
2-3'	Sun/part shade	L	D
1-1.5'	Sun/part shade	L	D
2'	part shade	L	SE
3'	sun	M	SE
2.5-3'	Sun	M	D
0.5-2'	Sun	VL	D
1-1.5'	Sun/part	L	D
3-6'	Part sun/shade	L	D
2'	part shade	M	D
1-2.5"	Sun/part shade	L	SE
4-5'	Sun/part shade	L	E
3-4'	Sun/part shade	L	D
1-1.5'	Sun/part shade	L	D
2-3'	Sun/part shade	L	D
1-3'	Sun/part shade	VL	E
1.5-2'	Sun	VL	D
4-5'	Sun/part shade	L	E
4'	sun	M	D
2-3'	Sun/part shade	L	D
1-3'	Sun/part shade	M	D

Section	Common Name	Scientific Name	Native	Height
Preferred - Vines &	Carolina snailseed or Moonseed	Cocculus carolinus		
Preferred - Vines &	Clematis, purple leatherflower	Clematis pitcheri		
Preferred - Vines &	Clematis, Scarlet or Texas	Clematis texensis	T	
Preferred - Vines &	Coral Vine	Antigonon leptopus		
Preferred - Vines &	Crossvine	Bignonia capreolata	T	
Preferred - Vines &	Dalea, Gregg	Dalea greggii	T	6-12"
Preferred - Vines &	Fig Vine	Ficus pumila		
Preferred - Vines &	Frogfruit	Phyla incisa	B/E	6-8"
Preferred - Vines &	Germander, Creeping	Teucrium cossonii		4-6'
Preferred - Vines &	Honeysuckle, Coral	Lonicera sempervirens	T	
Preferred - Vines &	Honeysuckle, White	Lonicera albiflora	B/E	3-6'
Preferred - Vines &	Horseherb	Calyptocarpus vialis	B/E	6-10"
Preferred - Vines &	Jessamine, Carolina	Gelsemium sempervirens	T	3'
Preferred - Vines &	Lantana, Trailing	Lantana montevidensis		1-1.5'
Preferred - Vines &	Leadwort Plumbago	Ceratostigma		6-12"
Preferred - Vines &	Mountain Pea	Orbexilum sp. nov.		8-12"
Preferred - Vines &	Oregano	Origanum vulgare		10"-2'
Preferred - Vines &	Passion Flower, Bracted	Passiflora affinis	E	
Preferred - Vines &	Passion Vine/Flower or	Passiflora incarnata	T	
Groundcovers	mavhnon			
Preferred - Vines &	Pigeonberry	Rivina humilis	B/E	1-1.5'
Preferred - Vines &	Purple Heart	Setcreasea pallida;		1'
Groundcovers		Tradescantia		
Preferred - Vines &	Rose, Lady Banksia	Rosa banksiae		10-15'
Preferred - Vines &	Rosemary, Trailing	Rosmarinas officinalis var.		1-2"
Groundcovers		nostratus		
Preferred - Vines &	Santolina (Lavender Cotton)	Santolina		1-1.5'
Preferred - Vines &	Sedge, Berkeley	Carex tumulicola		1'
Preferred - Vines &	Sedge, Blue	Carex flacca		6-12"
Preferred - Vines &	Sedge, Cherokee	Carex cherokeensis	T	2-2.5'
Preferred - Vines &	Sedge, Meadow	Carex perdentata	B/E	1-1.5'
Preferred - Vines &	Sedge, Texas	Carex texensis	T	6-8"
Preferred - Vines &	Sedum (Stonecrop)	Sedum nuttallianum	T	4-12"
Preferred - Vines &	Silver Ponyfoot; Silver Falls	Dichondra argentea	T	2-4"
Preferred - Vines &	Sweet Autumn Clematis	Clematis paniculata		
Preferred - Vines &	Wisteria, Evergreen	Millettia reticulata		15'
Preferred - Vines &	Wisteria, Texas	Wisteria frutescens	T	25-30'
Preferred - Vines &	Wooly Stemodia	Stemodia lanata or	T	4-6"
Groundcovers		Stemodia		

Spread	Light	Water	Evergreen/Deciduous
to 10'	Sun/part shade	M	D
to 10'	Part shade	M	D
to 10'	Shade/part shade	L	D
6-30'	Sun/part shade	M	D
6-30'+	Sun/part shade	L	E
2-4'	Sun/part shade	L	D
6-30'+	Sun/shade	M	E
1.5-2'+	Sun/shade	L	D
1.5-2'	Sun	L	E
6-12'	Sun/part shade	L	SE
4-5'	Shade/part sun	L	D
1'+	Sun/shade	VL	D
6-20'	Sun/part shade	M	E
4+'	Sun/part shade	L	E
3-5'	Sun/part shade	L	D
2-3'+	Sun/shade	L	SE
4'+	Sun	M	E
3-6'	Sun/part shade	L	D
6-15'	Sun/part shade	L	D
2'	Sun	M	D
3'+	Sun/shade	L	E
15-20'	Sun	M	E
2.5-4'+	Sun	L	E
1.5-2.5'	Sun	VL	E
1'	Part shade/shade	L	E
15-18"	Sun/shade	L	E
1'	Part shade	M	E
1.5'	Sun/shade	L	E
6-18"	Sun/shade	L	E
1-2'+	Sun/shade	L	E
2'+	Sun/part shade	L	E
10-20'	Sun/shade	M	D
8'	Sun	M	SE
3-6'	Part shade/sun	M	D
3'+	Sun/part shade	L	D

Section	Common Name	Scientific Name
Prohibited Plant List	Ash, Arizona	Fraxinus
Prohibited Plant List	Bamboo, Bamboo, Running	Phyllostachys aurea
Prohibited Plant List	Cat's Claw Vine	Macfadyena unguis-cati
Prohibited Plant List	Chinaberry	Melia azedarach
Prohibited Plant List	Chinese Parasol Tree	Firmiana simplex
Prohibited Plant List	Chinese Pistache	Pistacia chinensis
Prohibited Plant List	Chinese Tallow	Sapium sebiferum
Prohibited Plant List	Cypress, Italian	Cupressus sempervirens
Prohibited Plant List	Elm, Siberian	Ulmus pumila
Prohibited Plant List	English Ivy	Hedera helix
Prohibited Plant List	Giant Cane; Giant Reed	Arundo donax
Prohibited Plant List	Japanese Honeysuckle	Lonicera japonica
Prohibited Plant List	Jasmine, Asian	Trachelospermum asiaticum
Prohibited Plant List	Jujube	Ziziphus zizyphus
Prohibited Plant List	Kudzu	Pueraria lobata
Prohibited Plant List	Ligustrum, Japanese	Ligustrum, lucidum
Prohibited Plant List	Ligustrum, Wax Leaf	Ligustrum japonicum
Prohibited Plant List	Maple, Silver	Acer saccharinum
Prohibited Plant List	Mimosa (non-native)	Albizzia julibrissin
Prohibited Plant List	Mulberry, Paper	Broussonetia papyrifera
Prohibited Plant List	Mulberry, White	Morus alba
Prohibited Plant List	Myoporum	Myoporum parvifolium
Prohibited Plant List	Nandina (berrying varieties)	Nandina sp
Prohibited Plant List	Pampas Grass	Cortadenia selloana
Prohibited Plant List	Paulownia	Paulownia tomentosa
Prohibited Plant List	Pear, Bradford	Pyrus calleryana
Prohibited Plant List	Photinia, Chinese	Photinia spp.
Prohibited Plant List	Pines, non-native	Pinus elliotii; P. eldarica, P.
Prohibited Plant List	Privet, Common	Ligustrum sinense, Ligustrum
Prohibited Plant List	Pyracantha	Pyracantha spp.
Prohibited Plant List	Russian Olive	Elaeagnus angustifolia
Prohibited Plant List	Tamarsik, Salt Cedar	Tamarix spp.
Prohibited Plant List	Tree of Heaven	Ailanthus altissima
Prohibited Plant List	Vinca, Periwinkle	Vinca major & V. minor
Prohibited Plant List	Vitex, Lilac Tree; Chaste Tree	Vitex agnus-castus
Prohibited Plant List	Wisteria, Chinese	Wisteria sinensis (and others)

Key
Native Codes
Water Codes
Evergreen/Deciduous
Utility
Source

Meaning
E – Edwards Plateau; B – Blackland Prairie; B/E – Both; T – Texas (outside Central Texas); X – Hybrid with native
VL – Very Low; L – Low; M – Medium; H – High
E – Evergreen; SE – Semi-Evergreen; D – Deciduous
Yes indicates suitable under utility lines (where shown)
Georgetown UDC Development Manual – Preferred, Controlled, and Prohibited Plant List (Effective 10.16.2024)



PlanITGeoTM
developers of TreePlotter

TREE ORDINANCE UPDATE

CITY OF LAKEWAY, TX
SEPTEMBER 23, 2022





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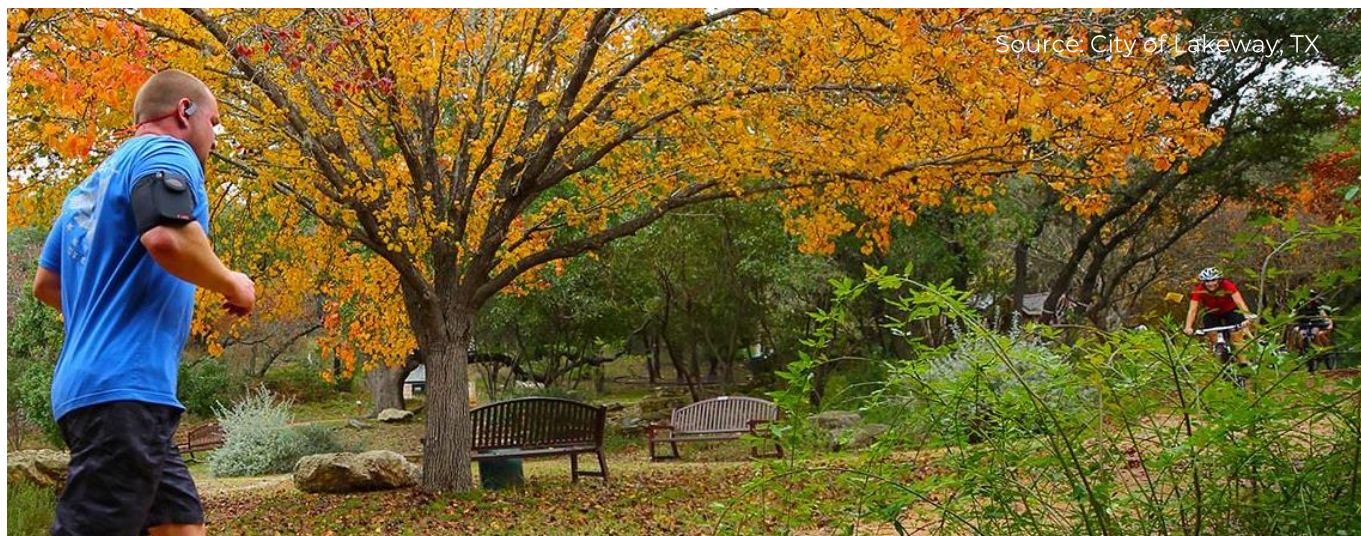
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TABLE OF CONTENTS

Project Overview	4
Desired Outcomes.....	4
Project Framework.....	5
Research and Benchmarking.....	6
Existing Policies and Ordinances.....	6
Code Comparisons.....	8
Proposed Tree Code Changes.....	10
Changes To Existing Code Sections.....	10
Creation of a New Tree Protection Code Section	11
Draft Reviews with City Staff.....	12
Final Proposed Tree Code Changes.....	14
Next Steps	16
Presentation to City Council	16
Manuals, Guides, and Forms.....	16

PROJECT OVERVIEW



The City of Lakeway is updating all tree-related ordinances to protect the urban forest's benefits and support a sustainable and resilient tree canopy. The Consultant Team at PlanIT Geo understands the need to improve existing tree code and the evaluations necessary for new ordinances. To do this, input from the City staff must be integrated and aligned with industry standards, comparable cities, state requirements, and City goals. PlanIT Geo utilizes a proven planning framework for managing ordinance reviews and updates to ensure that urban forest policies created today build towards beneficial outcomes for decades to come.

DESIRED OUTCOMES

The City of Lakeway identified the following desired outcomes for the Tree Ordinance Update project:

Tree City USA Recognition

The City of Lakeway strives to earn recognition as a Tree City USA by the Arbor Day Foundation. The recognition process includes verification of four requirements: maintaining a tree board or department, having a community tree ordinance, spending at least \$2 per capita on urban forestry, and celebrating Arbor Day.

Consolidation and Enhancement of Private Tree Standards

In Lakeway's municipal code, private tree protection standards are found throughout multiple sections and chapters. Combining these existing standards into a single tree protection ordinance would strengthen their organization, resulting in a more enforceable ordinance with greater urban forest management standards. The new private tree standards and public tree standards are recommended as one cohesive and comprehensive Tree Ordinance.

An all-encompassing tree ordinance would incorporate the following sections in *Title II: Building and Development Regulations* of Lakeway's code:

- Chapter 24: Building Regulations → Article 24.02: Building Code
 - o [Division 7. General Building Requirements](#)
 - o [Division 11. Residential Landscaping Requirements](#)
- Chapter 28: Subdivisions and Site Development → Article 28.09 Standards and Specifications → [Sec. 28.09.017 Landscaping](#)

New standards should be developed to address the following:

- Development and land clearing
- Redevelopment on existing single family

Diseased Trees Ordinance will remain separate and retitled specifically for Oak Wilt [Article 14.06: Diseased Trees](#)

Creation of Public Tree Standards

These standards will establish regulations for tree planting, maintenance, and removal of public trees. These standards are proposed to be incorporated into the newly created Tree Ordinance.

PROJECT FRAMEWORK

The project framework and timeline are outlined by Tasks A-E in the chart below.

City of Lakeway, TX Ordinance 2022 Update					
Task List	Meetings + Delivery Dates	Jun	Jul	Aug	Sep
A) Internal Research, Review, & Ordinance Comparison	June				
B) Meeting to Discuss Project Framework & Outcomes	7/1/2022				
C) Draft Recommended Tree Code Revisions	July				
D) Send Draft to City for Review by Staff	7/14/2022				
Meeting to Review Feedback	July				
Incorporate Feedback	July				
E) Delivery of Final Recommended Ordinance Changes	August, 2 weeks from meeting				

RESEARCH AND BENCHMARKING

PlanIT Geo used the Vibrant Cities' Lab's Urban Forest Sustainability and Management Review System as an initial step in assessing Lakeway's existing policies and ordinances. Those results are included as a deliverable to the City, and a summary of key findings is included below.

Additionally, PlanIT Geo utilized the Ordinance Checklist from the *Municipal Tree Care and Management in the United States: A 2014 Urban & Community Forestry Census of Tree Activities* to compare Lakeway's code with three other cities.

EXISTING POLICIES AND ORDINANCES

The Comprehensive Plan includes goals and principles that should guide policies in the Code of Ordinances. Currently, the Code of Ordinances includes tree protection standards throughout multiple sections and chapters. In *Title I: General Ordinances*, a section is provided to specifically address diseased trees. *Title II: Building and Development Regulations* includes landscaping standards for residential and commercial development.

City of Lakeway Comprehensive Plan 2020

The City's Comprehensive Plan includes *Goal 2: Preserve and Enhance our Environment*, which includes a section for *Tree Preservation/Vegetation*. Within this section, the City acknowledges the urban forest as both an asset and a priority for preservation and enhancement. Protection of mature, exceptional trees, particularly live oaks, is recognized as the highest priority. The following threats to the urban forest are identified:

- Oak wilt is identified as a major threat to the urban forest, with 26 known oak wilt centers in the City.
- Increased development, impervious surfaces, and impacts from construction such as root loss, soil compaction, trunk damage during construction, runoff from impervious surfaces, and drainage changes.
- Drought and disease:
 - o Lack of diversity of tree species and the subsequent opportunity for disease and/or exotic pests. Emerald Ash Borer is of particular concern to the Arizona Ash and native Texas Ash species as the pest has been observed in Texas.
 - o Increasing drought frequency provides more potential for wildfires, increasing the need to reduce the available fuel, such as dead trees and vegetation, to a minimum.

The following potential solutions were identified:

1. Developers and builders should be encouraged to save as many of the larger, most desirable trees as reasonably possible.
2. All areas disturbed by construction should be revegetated, including providing sufficient space to re-plant trees.
3. Tree protection during construction, including erosion and silt control, should be a high priority on building sites.

4. Developers and builders should be encouraged to replant with a high diversity of native and well-adapted trees and shrubs from different plant families.
5. Awareness of problems with planting invasive plant species such as bamboo should be readily available.
6. Awareness of proper tree selection, i.e., selecting species that are resistant to oak wilt, should be readily available.

The following actions were identified:

1. Increase public awareness of the seriousness of oak wilt disease and encourage compliance with preferred methods to minimize its spread.
2. Review City landscape ordinance for potential changes to development requirements.

Code of Ordinances: Diseased Trees Ordinance

The location of this code section is found here: *Title I: General Ordinances → Chapter 14: Offenses and Additional Provisions → [Article 14.06: Diseased Trees](#)*

This code section includes policies relating to ceratocystis fagacearum (oak wilt). These policies are vital to the sustainability and resilience of the entire urban forest, but there are opportunities to strengthen this ordinance or combine with other sections to consolidate policies.

Opportunities for Strengthening:

- Retitle as “Oak Wilt Management”
- Reassess the penalty section. Consider a tiered system that includes a lower penalty or warning for cooperative individuals, and maintain a strict penalty for “malicious” intent, repeated offenses, etc.
 - o Potentially survey a few private-sector arborists to understand which portion of this code section is overly-burdensome.
 - o Tiered system for penalty and fines
- Require a report for exemption at approval of forester, if certified for oak wilt, if tree work is needed
- Clarify authority – who should be enforcing this?
 - o City Staff discussing with City Manager
 - o PlanIT Geo exploring options for court system

Code of Ordinances: Landscaping Codes

Standards for residential and nonresidential/commercial landscaping, trees, and lawns are outlined in following code sections of Title II: Building and Development Regulations here:

- *Chapter 24: Building Regulations → Article 24.02: Building Code*
 - o [Division 7. General Building Requirements](#)
 - o [Division 11. Residential Landscaping Requirements](#)
- *Chapter 28: Subdivisions and Site Development → Article 28.09 Standards and Specifications → [Sec. 28.09.017 Landscaping](#)*

Opportunities for Strengthening:

- Create new private tree ordinance section to consolidate these standards relating to trees and expand to include private and public trees.
- Relocate to one of the following Articles in Chapter 28: Subdivision and Site Development
 - o Article 28.09 Standards and Specifications
 - o Article 28.10 Environmental And Impervious Cover Regulations
- Include industry standard definitions such as ISA Certified Arborist, ANSI A300, pruning, dripline, critical root zone, private-protected tree, etc.
- Require ISA Certified arborist report for certain trees/situations
- Expand list of protected, unprotected, and tree species not allowed (include oaks, ash, invasives?) for consistency across all land uses.
 - o Change invasive to prohibited
 - o List 10 most common and reference outside agency list
 - City Staff to determine which agency to reference
- Change protection standard from 16" to 6" DBH
 - o Include mature Ash juniper = mature at 15' height and 5" DBH
 - Reference Goldencheek warbler management plan/guidelines (2016 City plan for 2 parks/preserves)
 - o Expand to include pine species
 - o Multi-trunks – PlanIT Geo to research DBH standards in the area
 - o During site clearing, these would need preservation and/or mitigation
- Recommend/expand on right tree right place practices (utilities, parking lot islands, etc.)
- Make the distinction between land use and zoning
 - o Established and define at the beginning of the new ordinance section
- Clarify if a tree removal permit is required for any protected tree anytime, or only in association with a building permit.
 - o Code section is only applicable when a portion of the site is being (re)developed?
- Introduce fines/fees and specify how funds are used
 - o Environmental enhancement fund or Tree fund
 - o Define the use and sources of funds
 - o Use Jacksonville example
- Make residential and nonresidential requirements consistent

CODE COMPARISONS

City staff identified Greenville, South Carolina as having an ordinance that exemplifies the content, structure, and level of detail that would be appropriate for Lakeway. Additionally, a benchmarking exercise utilized American Forests' Tree City USA data to identify cities of comparable size, in the same geographic proximity, with other similar classification factors. The two cities found in the benchmarking exercise are Taylor, TX and Buda, TX, both of which are in the Austin metropolitan area.

The ordinances from all three cities were compared with Lakeway's ordinance to find opportunities for sharing of urban forestry standards. A spreadsheet deliverable is delivered to the City, and a summary table is included below.

City of Lakeway, TX: Tree Ordinance Comparison					
Ordinance Topic	Type	Lakeway, TX	Greenville, SC	Taylor, TX	Buda, TX
Requires certified arborist for paid private tree work	Credential	No	Yes	No	Yes
Requires certified arborist for public tree work	Credential	No	No	No	No
Requires licensing of private tree care firms	Credential	No	No	No	
Defines official authority for public tree management	Credential	No	Yes	Yes	Yes
Requires annual community tree work plans	Management	No	No	No	No
Identifies formula for determining monetary tree value	Management	No	Yes	No	No
Requires regular public tree maintenance	Management	No	No	Yes	Yes
Requires particular types of maintenance (e.g. pruning)	Management	No	Yes	Yes	Yes
Establishes permit system for work on public trees	Management	No	No	Yes	No
Establishes provisions for penalties for non-compliance	Management	Yes	No	Yes	Yes
Restricts burning of solid wood waste	Management	No	No	No	No
Establishes an insect/disease control strategy	Management	Yes	No	Yes	Yes
Defines tree maintenance requirements on public property	Management	No	No	Yes	Yes
Prohibits tree topping	Management	Yes	Yes	Yes	Yes
Regulates abatement of hazardous or public nuisance trees	Management	No	No	Yes	Yes
Regulates removal of dead or diseased trees	Management	No	No	No	Yes
Regulates tree species which may or may not be planted on private property (approved tree list)	Planting	Yes	Yes	Yes	Yes
Requires tree planting around reconstructed parking lots	Planting	Yes	No	Yes	No
Requires replacement of removed publicly owned trees	Planting	No	No	Yes	No
Requires tree planting around new parking lots	Planting	Yes	No	Yes	No
Requires tree planting in new developments	Planting	Yes	Yes	Yes	Yes
Regulates tree species which may or may not be planted on public property (approved tree list)	Planting	Yes	Yes	Yes	No
Restricts tree cutting on private property	Planting	No	Yes	No	No
Identifies preservation of heritage or significant trees	Preservation	No	Yes	No	Yes
Requires preservation of trees during development	Preservation	Yes	Yes	Yes	Yes

PROPOSED TREE CODE CHANGES

PlanIT Geo identified various sections addressing tree protection standards in Lakeway's existing Code of Ordinances in an effort to consolidate private and public tree standards. The code sections are included below, where a brief summary of proposed consolidation is outlined.

Title I: General Ordinances

- Chapter 14: Offenses and Additional Provisions → Article 14.06: Diseased Trees

Title II: Building and Development Regulations:

- Chapter 24: Building Regulations → Article 24.02: Building Code
 - o [Division 7. General Building Requirements](#)
 - o [Division 11. Residential Landscaping Requirements](#)
- Chapter 28: Subdivisions and Site Development → Article 28.09 Standards and Specifications → [Sec. 28.09.017 Landscaping](#)

Using the research and benchmarking from Tasks A and B, along with input from City staff, additional code research, industry standards, and best management practices, PlanIT Geo proposed a new code section:

Title II: Building and Development Regulations:

- Chapter 28: Subdivisions and Site Development → Article 28.09 Standards and Specifications → **Sec. 28.09.020 Tree Protection**

CHANGES TO EXISTING CODE SECTIONS

Title I: General Ordinances → Chapter 14: Offenses and Additional Provisions → Article 14.06: Diseased Trees

This section of the code is entitled Diseased Trees, however the code specifically addresses oak wilt and the trees affected by it. A change to the title is proposed to "Oak Wilt" from "Diseased Trees" to clarify the specific role of this ordinance. Additionally, staff expressed difficulty around the penalty section being too stringent due to the automatic misdemeanor change for any violation of the code. As a result, a change is proposed to allow for a warning before issuance of misdemeanor. One remaining question is if authority is given to the codes compliance officer, the city forester, or some other entity at the City.

Title II: Building and Development Regulations → Chapter 24: Building Regulations → Article 24.02: Building Code → Division 7. General Building Requirements

This section addresses building code requirements for all different land uses and zoning categories throughout the city. It specifically refers to Division 11 for landscaping, trees, and lawns for maintenance of existing commercial properties. However, there is no reference to Division 11 for trees on any other land use. As a result, the proposed changes include referring to the proposed section 28.09.020 *Tree Protection* for all land use types.

Title II: Building and Development Regulations → Chapter 24: Building Regulations → Article 24.02: Building Code → Division 11. Residential Landscaping Requirements

This section is called Residential Landscaping Requirements, however as we just identified in the above paragraph, Division 11 also currently applies to trees on commercial properties as well. In the first paragraph, this code defers to Chapter 28 for landscaping requirements for nonresidential and multifamily projects. While landscaping requirements can sometime support tree protection standards, they do not always overlap. As a result, it is recommended to have one centralized location for tree protection standards, to exist complementary to landscaping requirements. Sections 24.02.402 through 24.02.405 are struck from this code section. Most of these standards have been absorbed into the proposed section 28.09.020 *Tree Protection* with improvements to strengthen standards and reduce redundancy and inconsistencies. Section 24.02.402 now states, “All trees shall be planted, maintained, and removed in accordance with Sec. 28.09.020 Tree Protection.”

Title II: Building and Development Regulations: → Chapter 28: Subdivisions and Site Development → Article 28.09 Standards and Specifications → Sec. 28.09.017 Landscaping

Similarly to Division 11, this section currently addresses landscaping requirements with sections dedicated to tree standards, although there are inconsistencies between the standards outlined for residential, nonresidential, and multifamily properties. To remedy these inconsistencies, it is proposed to strike tree protection standards from Sec. 28.09.017 and incorporate the standards into the proposed section 28.09.020 *Tree Protection* for all land use types.

CREATION OF A NEW TREE PROTECTION CODE SECTION

The existing code sections discussed above have been combined and consolidated into one comprehensive Tree Protection ordinance. The new ordinance begins with a purpose, authority, applicability and exemptions, and definitions, which lay the ground work for an ordinance that is efficient to read and enforce, and it backed by industry standards and best management practices.

Next, the standards for tree preservation are outlined with definitions and parameters provided for private protected tree, public trees, heritage trees, and prohibited trees. This section is essential to understanding what a protected tree in Lakeway is and is not, which makes enforcement more achievable and successful. Processes are outlined for tree removal permits and mitigation for tree removal.

Trees in public spaces are administered differently than private protected trees or heritage trees, and this section provides guidance for the City to enforce protection standards and require that best management practices are utilized on public trees during maintenance, planting, and removal.

Tree protection standards are outlined for trees during construction and development, including industry standards for fencing, signage, and critical root zones.

Penalties are outlined for removal or damage of protected trees without a permit. A City Tree Fund is proposed as a way to ensure that fees, penalties, donations, grants, and other tree-related funding sources are utilized on purposes relating to tree preservation, planting, maintenance, conservation, and administration of the Tree Preservation code.

DRAFT REVIEWS WITH CITY STAFF

An ordinance and redlines of all pertinent code sections, including the new code section, were drafted and delivered to the City for review. After a preliminary review, the consultant team hosted a meeting to discuss highlights of the recommended changes with City staff from the Parks and Recreation Department and the Building Department. The following comments were compiled, processed, and either incorporated or otherwise addressed.

Topic	Comment	Action Needed
City Tree Fund	Can cities in TX pay into their own mitigation fund?	Benchmark
Ashe-juniper	Consider protection only on City property	Benchmark
In lieu of fees	Where did Jacksonville get the #'s / \$'s ? Will need to justify this – labor and purchasing tree	Benchmark
Penalties	private and commercial – 300 acres at \$75/inch = minimal therefore change to 100x's the amount for developers. Reevaluate the \$'s and #'s	Benchmark
Ashe-juniper	Should not protect.	Benchmark
Ashe-juniper	Should protect. Serve as habitat for endangered species golden warbler Common misconceptions: not more water intensive than oaks, not invasive	Benchmark
Ashe-juniper	Need consistency: Why 5" and not 6" – TX Parks & Wildlife specifically says mature ashe-juniper 5" or 15' tall – can add this resource to the ordinance	Benchmark
Ashe-juniper	Large ones should be protected for warblers to use the bark	Benchmark
Ashe-juniper	Used 5" because that's specifically what's in the BMPs for TX P&W. Can add "specifically due to warbler habitat needs"	Benchmark
Prohibited trees	Confirm Exemptions – tree removal permit not required for prohibited/unprotected trees	Clarify
Ashe-juniper	Clarify ashe-juniper = cedar	Clarify
Removal vs Pruning	"Definition of Utility Disruption" – that section has it defined as removal of a section of the tree	Clarify

Topic	Comment	Action Needed
City Tree Fund	If a tree damaging sidewalk, can money be used to fix sidewalk or install irrigation. Must be directly impacting the specific tree. Jacksonville was sued for misuse of tree fund – water features and plants. Their tree fund did say “anything to prolong the life of that tree” – for example, redoing sidewalk right at the tree site. Or say, “such as and not limited to irrigation, sidewalk repair...”	Clarify
Prohibited trees	Change "prohibited" to "discouraged" or "unprotected."	Update/create definition
Native tree	Need definition	Update/create definition
Removal vs Pruning	Permit required for removal or pruning?	Update/create definition
Tree protection fence	Add “minimum” of 4’ height for tree protection fence	Update/create definition
Arborist	Replace all “Certified Arborist” with “City Forester” to make the final call. Alex review references to Certified Arborist and replace with City Forester if it makes sense. In theory, Certified Arborist should maintain ethical evaluations. Using “City Forester” would add considerable time to Lakeway’s City Forester’s job. City Forester Definition – add that this person is the final word. Therefore City has final discretion	Update/create definition
Tree survey / site list	site tree list referring to a survey? Yes – and how recent should the inventory be? Need to add language about “within 12 months of application”	Update/create definition

FINAL PROPOSED TREE CODE CHANGES

The new code section is summarized into the following table of highlights. Each topic represents a section in the proposed new code section Article 28.09 Standards and Specifications, Sec. 28.09.020 Tree Protection. These highlights reflect input from City Staff.

TOPIC	PROPOSED CODE HIGHLIGHTS
Authority	<ul style="list-style-type: none"> • Code official unless otherwise noted
Applicability	<ul style="list-style-type: none"> • All land-disturbing activities that require a permit. • Public and private property. • New and existing development. • All zoning districts.
Exemptions	<ul style="list-style-type: none"> • Native trees never exempted, permit always required. • No exemption for views or vistas, permit always required. • 7 exemptions (see code for details) <ul style="list-style-type: none"> ○ Existing single-family properties ○ Dead trees ○ Prohibited trees ○ Public safety, subject to code official approval ○ Utility service disruption ○ Aviation zoning ○ Agricultural zoning and uses
Definitions	<ul style="list-style-type: none"> • See definitions
Scope of Preservation	<ul style="list-style-type: none"> • Private protected trees defined as <ul style="list-style-type: none"> ○ Hardwood or pine 12" DBH ○ City discretion for other species regardless of size • Public trees – all trees in streets, ROW, parks, public prop • Heritage trees – additional protection measures for: <ul style="list-style-type: none"> ○ 24"+ DBH within setback or buffer ○ 36"+ anywhere ○ Other historically or culturally significant tree as determined by codes official or City Forester • Unprotected trees <ul style="list-style-type: none"> ○ Invasive or nuisance list ○ Specific oak species within known oak wilt center
Tree removal permits	<ul style="list-style-type: none"> • Application procedure – must submit <ul style="list-style-type: none"> ○ Complete signed application ○ Letter explaining reason for removal ○ Tree survey (site tree inventory, list and location of trees) ○ If applicable, building or land dev. permit application • City decision options: deferral, approval, or refusal

TOPIC	PROPOSED CODE HIGHLIGHTS
Mitigation	<ul style="list-style-type: none"> • Applies to public and private trees • Tree preservation is preferred, then on-site replacement, then fees • On-site tree replacement <ul style="list-style-type: none"> ○ ANSI Z60.1 Nursery Stock standards ○ 1:1 ratio ○ Replacement tree must be 2" caliper, 10' tall ○ Location and spacing standards ○ Credit for existing trees ○ Species and size diversity • In-Lieu-Of-Replacement fees <ul style="list-style-type: none"> ○ \$150/inch DBH for non-residential and land clearing ○ \$75/inch DBH for existing single-family residential ○ Fees are in addition to any other fines or penalties
Public trees	<ul style="list-style-type: none"> • Authority = Parks & Rec Director or designee • Requires coordination between city departments • ROW approval <ul style="list-style-type: none"> ○ Annual contract permit approval • ANSI A-300 Standards • Mitigation – city is subject to same mitigation as anyone else
Tree protection during construction	<ul style="list-style-type: none"> • Critical root zone (CRZ) = min 1' for every 1" of DBH, or dripline, or as defined by arborist • Minimum 4' tall protective fence protecting CRZ • "Keep out" signs on fence • 4" of mulch in CRZ • No activity in CRZ
Penalties	<ul style="list-style-type: none"> • Removal or damage to private protected tree or heritage tree without a permit incurs penalty <ul style="list-style-type: none"> ○ Private tree = \$75/inch of DBH + mitigation ○ Heritage tree = 2x penalty of private tree
City Tree Fund	<ul style="list-style-type: none"> • Defines funding sources and purposes

NEXT STEPS

PRESENTATION TO CITY COUNCIL

In preparation of future a City Council meeting for ordinance adoption, the updates to Lakeway's municipal code were completed and combined into a package consisting of an ordinance with five exhibits (included as an attachment). The exhibits each contain an existing code with redlines or a proposed new code section.

Draft Ordinance with Exhibits A-E:

- A) Redlines to Article 14.06: Diseased Trees
- B) Redlines to Article 24.02: Building Code, Division 7. General Building Requirements
- C) Redlines to Article 24.02: Building Code, Division 11. Residential Landscaping Requirements
- D) Redlines to Article 28.09 Standards and Specifications, Sec. 28.09.017 Landscaping
- E) Proposed new code section Article 28.09 Standards and Specifications, Sec. 28.09.020 Tree Protection.

MANUALS, GUIDES, AND FORMS

Should the Lakeway City Council adopt the Tree Ordinance Updates, City Staff will need to update all existing manuals, guides, and forms that reference outdated tree and landscape codes. New guides should be easily understood by staff in any City Department and any resident of Lakeway. Often, permit application forms need to be created or heavily modified upon adoption of new tree-related regulations so that the process is streamlined for both the applicant and City staff.

ORDINANCE NO. 22-####

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWAY, TEXAS REGARDING TREE PROTECTION REQUIREMENTS FOR PUBLIC AND PRIVATE TREES; CREATING SECTION 28.09.020 IN CHAPTER 28, THE SUBDIVISIONS AND SITE DEVELOPMENT ORDINANCE; AMENDING DIVISION 7 GENERAL BUILDING REQUIREMENTS AND DIVISION 11 RESIDENTIAL LANDSCAPING REQUIREMENTS OF CHAPTER 24 BUILDING REGULATIONS; AMENDING SECTION 28.09.017 LANDSCAPING OF CHAPTER 28; AMENDING CHAPTER 14.06 DISEASED TREES; AND PROVIDING FOR SAVINGS, SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lakeway, Texas (“City”) seeks to protect trees and the ecosystem benefits provided to the community by the urban forest; and

WHEREAS, development growth and potential throughout Lakewood require that the City provide more detailed tree protection measures during construction for the safety and welfare of community members as well as the long-term sustainability of new and existing trees; and

WHEREAS, the City Council of the City of Lakeway seeks to strengthen the code of ordinances by consolidating various code sections that currently protect trees and creating one code section to protect both public and private trees; and

WHEREAS, the City of Lakewood seeks to achieve designation as a Tree City USA, which requires a tree protection ordinance.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Lakeway, Texas **that:**

1. FINDING OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. AMENDMENTS

The City of Lakeway Code of Ordinances, Title I (General Ordinances), Chapter 14 (Offenses and Additional Provisions), Article 14.06 (Diseased Trees), is hereby amended in **Exhibit “A.”**

The City of Lakeway Code of Ordinances, Title II (Building and Development Regulations), Chapter 24 (Building Regulations), Article 24.02 (Building Code), Division 7 (General Building Requirements) is hereby amended in **Exhibit “B.”**

The City of Lakeway Code of Ordinances, Title II (Building and Development Regulations), Chapter 24 (Building Regulations), Article 24.02 (Building Code), Division 11 (Residential Landscaping Requirements) is hereby amended in Exhibit “C.”

The City of Lakeway Code of Ordinances, Title II (Building and Development Regulations), Chapter 28 (Subdivisions and Site Development), Article 28.09 (Standards and Specifications), Section 28.09.017 (Landscaping) is hereby amended in Exhibit “D.”

The City of Lakeway Code of Ordinances, Title II (Building and Development Regulations), Chapter 28 (Subdivisions and Site Development), Article 28.09 (Standards and Specifications), is hereby amended by adding Section 28.09.020 (Tree Protection) in Exhibit “E.”

2. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance any rights of the City under any section or provisions of any ordinances at the time of passage of this Ordinance.

4. SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.

5. REPEALER

All Ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, and Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the [DATE] day of [MONTH] 2022, by the City Council of the City of Lakeway, Texas.

CITY OF LAKEWAY:

By: _____

Thomas Kilgore, Mayor

ATTEST:

EXHIBIT A

ARTICLE 14.06 ~~DISEASED TREES~~OAK WILT

Sec. 14.06.001 Title

This article shall be known and may be cited as the ~~diseased tree~~oak wilt ordinance. (Ordinance 2006-12-18-1, sec. 1, adopted 12/18/06)

Sec. 14.06.002 Purpose

The provisions of this article are deemed to be necessary to promote the health, safety, property and general welfare of the residents of the city. (Ordinance 2006-12-18-1, sec. 2, adopted 12/18/06)

Sec. 14.06.003 Definitions

Words used in this article and not defined in this article shall have their ordinarily accepted meaning. For the purposes of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Diseased trees. Oaks confirmed to be infected by the fungus *Ceratocystis fagacearum* (oak wilt).

Firewood. Wood larger than two inches in diameter cut from diseased oaks; also wood from an unknown source that may potentially harbor the oak wilt fungus.

Fungicide. A chemical treatment used on non-symptomatic or slightly symptomatic trees within the trench line that could be vulnerable to infection.

Live oaks. Members of a distinct group of the genus *Quercus* characterized by leathery oval leaves that includes two Texas species: plateau live oak (*Quercus fusiformis*) and coastal live oak (*Quercus virginiana*).

Nuisance. Any tree infected by oak wilt or any firewood and woody debris from a tree suspected to have died from oak wilt, as determined by an approved laboratory analysis or from field diagnosis as performed by the city forester or state forest service staff forester, are hereby declared to be a public nuisance.

Oak wilt. A vascular wilt disease of oaks. The fungus responsible, *Ceratocystis fagacearum*, invades the water-conducting tissues of oak roots, trunks, and limbs. *Ceratocystis fagacearum* does not actively grow anywhere in nature except in oak trees. Spores of this fungus can be moved around by certain insects and by humans.

Oak wilt center. A site where the oak wilt fungus is spreading through the roots of diseased trees to infect healthy oaks, creating an area of sick, dead and dying oaks.

Preventive measures. Actions that prevent the spread of oak wilt from diseased to healthy oaks, including but not limited to oak wilt suppression trench installation and the removal and destruction of diseased oaks and firewood.

EXHIBIT A

Red oaks. Members of a distinct group of the genus *Quercus* characterized by lobed leaves tipped by small soft spines, including but not limited to Texas red oak (*Quercus texana*, also called *Quercus buckleyi*), Shumard oak (*Quercus shumardii*), Southern red oak (*Quercus falcata*), and blackjack oak (*Quercus marilandica*).

Substantially dead tree. Oaks in which more than 90 percent of the previously healthy branches have died due to oak wilt infection.

Susceptible species. All varieties of the genus *Quercus* that may be infected and killed by *Ceratocystis fagacearum*, including live oaks and all species of red oaks.

Trenching. Short for “oak wilt suppression trench installation,” a method used to isolate the infected area between healthy and diseased trees. Trenching equipment is used to cut connecting roots so that the fungus cannot spread between trees.

Woody debris. Branches and limbs smaller than 2 inches in diameter cut from diseased trees.

(Ordinance 2006-12-18-1, sec. 3, adopted 12/18/06)

Sec. 14.06.004 Penalty

It shall be unlawful for any person, firm or corporation to violate the provisions of this article. Any person violating any of the provisions of this article shall first be given the opportunity to comply within 24 hours from issuance of a warning. Persons in violation of this chapter with repeat offenses and/or malicious intent are deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this article is committed, continued, or permitted, and upon the conviction of any such violation such offense shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) per day.

(Ordinance 2006-12-18-1, sec. 10, adopted 12/18/06)

Sec. 14.06.005 Abatement required; preventive measures

(a) All species and varieties of diseased oak trees that are dead or substantially dead, and all dead diseased oak wood to which the bark is still attached, which, because of their condition, may serve as a breeding place for any carrier of said disease, are hereby declared to be public nuisances.

(b) Upon receipt of written notice by the city as described in [section 14.06.008](#), it shall be unlawful for any owner of any lot or parcel of land within the city to permit or maintain on any such lot or parcel any dead oak wood or oak tree which is a public nuisance as defined herein, and it shall be the duty of the owner of such to promptly remove and destroy such oak tree by cutting the tree off at ground level and removing all dead oak wood and woody debris as directed by the city.

(c) ~~Red-o~~Oaks known or suspected to have died of oak wilt may not be retained for firewood under any circumstances due to the high risk of fungal mat formation and insect transmission.

EXHIBIT A

(d) ~~Red~~eOaks that are dead or dying of oak wilt as determined by the city staff or the state forest service shall be cut at ground level by the owner of the diseased tree, with all firewood and woody debris covered and hauled away or disposed of by burying, burning or chipping within three working days.

(e) It shall be unlawful to stack firewood taken from ~~live~~oaks known to be infected or suspected of being infected by the oak wilt fungus around or near healthy oaks unless the entire stack is completely wrapped in clear plastic with the ends buried, tucked under, or completely secured with weights.

(f) It shall be unlawful for any person to transport or sell firewood within the city that was taken from trees known or suspected to be infected by the oak wilt fungus.

(Ordinance 2006-12-18-1, sec. 4, adopted 12/18/06)

(g) Pruning or cutting of oak trees shall be prohibited in the spring months of February through June when fungal spore formation and beetle activity are highest unless such activities are completely unavoidable in order to protect the safety of people and property or the health of the tree.

(h) Pruning or cutting of oaks is permitted from July through January.

(Ordinance 2009-1-20-1 adopted 1/20/09)

(i) Regardless of the time of year that the wound occurs, black tree wound dressing must be applied immediately to all wounds of any size on susceptible oaks, including the cut surface of healthy oak stumps, pruning cuts, construction damage, or any spot where the bark has been removed to expose the wood beneath, in order to discourage potential insect/disease contamination. Failure to seal any wound within 10 minutes of creation of the wound is an unlawful violation of this article. (Ordinance 2006-12-18-1, sec. 4, adopted 12/18/06)

Sec. 14.06.006 Enforcement

The city is charged with the enforcement of the provisions of this article. (Ordinance 2006-12-18-1, sec. 5, adopted 12/18/06)

Sec. 14.06.007 Inspections

(a) The city and the state forest service and its agents are authorized and empowered to enter upon any lot or parcel of land in the city at any reasonable hour for the purpose of inspecting any oak tree(s) or dead oak wood situated thereon.

(b) If such premises are occupied, the above personnel shall first present credentials and request entry.

(c) If such premises are unoccupied, the city shall first make a reasonable effort to locate the owner or other persons who have charge or control of the premises and request cooperation for entry.

(d) Permission of the owner, occupant, or person in control of the premises is necessary for entry. If such entry is refused and the city has probable cause to believe that there exists on the premises a nuisance

EXHIBIT A

as defined herein, the city shall go before the municipal court judge and seek to obtain a search warrant. The purpose of the warrant is to determine the presence of a nuisance and to obtain such specimens of trees as are required for the purposes of analysis to determine whether the same are infected.

(Ordinance 2006-12-18-1, sec. 6, adopted 12/18/06)

Sec. 14.06.008 Notice

(a) If, on laboratory analysis of specimens removed from any oak tree, it is determined that ~~such the~~ tree is **infected with oak wilt and is** a public nuisance, as provided herein, or if the forester determines that any dead or substantially dead oak trees, or dead oak wood, are a public nuisance as provided herein, and if the forester determines that the tree should be removed, the city may serve or cause to be served upon the owner of record and upon all lienholders of the lot or parcel of land on which the tree or dead oak wood is located a written notice requiring such owner to comply with the provisions of this article.

(b) Service of notice provided for in this article shall be by certified mail to the owner's address as listed on the Travis County Appraisal District's tax roll. Notice to a lienholder or its agent may be made by personal service or by certified mail.

(Ordinance 2006-12-18-1, sec. 7, adopted 12/18/06)

Sec. 14.06.009 Payment of costs of preventive measures, treatment or removal

(a) The city shall appropriate funds as deemed appropriate by the city council for oak wilt suppression.

(b) The city has no obligation to pay for preventive measures on any private property. However, in order to encourage participation by property owners, the city may enter into written agreements with certain property owners to pay for all or part of the costs of preventive measures.

(c) The city has entered into a cooperative oak wilt suppression cost-sharing project with the state forest service. Providing funds are available, the state will reimburse the city for a limited portion of the cost absorbed in conducting some aspects of oak wilt suppression.

(d) The city may enter into an agreement with the property owner(s) for cost-sharing of trenching or removal of dead red oaks.

(e) Fungicide treatment for non-symptomatic or slightly symptomatic trees or removal of infected or dead trees shall be the responsibility of the landowner.

(Ordinance 2006-12-18-1, sec. 8, adopted 12/18/06)

Sec. 14.06.010 Administrative policies for city-funded trench installation projects

Additional administrative policies for city-funded oak wilt trench installation projects are in a separate document not included in this article. This document and revisions are subject to formal approval by the city council. A copy of the most current version may be acquired from the city forester or at the

EXHIBIT A

planning, development and code enforcement [building services] office. (Ordinance 2006-12-18-1, sec. 9, adopted 12/18/06)

EXHIBIT B

Division 7. General Building Requirements

Sec. 24.02.241 Position of structures on lot

(a) Encroachments. Structures, including overhangs, may not encroach into any setback, public utility easement, or drainage easement. Exceptions:

- (1) Retaining walls;
- (2) Fences;
- (3) Signs.

Sec. 24.02.242 Exterior finishes

The use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building shall be a building product or material approved for use by a national model code published within the last three (3) code cycles that applies to the construction.

Sec. 24.02.243 Identification and address numbers

- (a) House numbers will be installed on the residence so that they are readily visible from the street. House numbers shall not be less than four (4) inches in height.
- (b) Building numbers on nonresidential structures shall be at least eight (8) inches in height and shall be located near the front entrance. The number shall be easily identified from the street.
- (c) Each mailbox shall have the address number clearly posted on both sides of the box/structure or on the front if at the end of a cul-de-sac. Address numbers shall not be less than three inches (3") in height and shall be in colors that contrast with the color of the mailbox and supporting structure to ensure visibility.

Sec. 24.02.244 Minimum completion

All habitable rooms, garages, basements, hangars, carports, etc., will be finished out including sheetrock and the minimum requirements for electric, light and ventilation. Residential plans indicating "future" construction will not be approved.

Sec. 24.02.245 Garages, carports and hangars

- (a) Entrances. Entrances to garages, carports, hangars, and maintenance bays shall not face onto any street, public or private unless allowed for through the designated zoning use regulations ([article 30.03](#)).
- (b) Residential (districts R-1 through R-6). Dwelling units within the city shall be designed with a garage with a minimum capacity of two (2) standard sized cars. Garages and hangars shall be directly attached to the house or connected to the house by a covered breezeway and must be completely enclosed with access doors. The enclosing of any existing garage or carport shall not be approved unless additional garage space is added to provide covered parking for at least two (2) standard sized automobiles, adequate storage space, and there remains upon the lot ample off-street parking for at least two (2) standard sized cars.
- (c) Retirement living (district R-7). Garages or carports shall be provided at the minimum rate of one and one-half (1-1/2) per unit for all dwelling units within an R-7 zoning district.
- (d) Multifamily residential (district R-8). Garages or carports shall be provided at the minimum

EXHIBIT B

rate of one (1) for each one- and two-bedroom unit and two (2) for each three- or four-bedroom unit.

(e) Nonresidential. Not required.

Sec. 24.02.246 Solid waste container storage

(a) Residential. Each dwelling shall have concealed solid waste containers which must be inaccessible to dogs and other animals and which must not be visible from a public street or adjoining properties.

(b) Commercial or multifamily. Commercial buildings or multifamily developments shall have completely screened commercial solid waste containers. The containers must be placed on concrete slabs and must be accessible without obstructing traffic flow, parking spaces, driveways, or fire lanes. Gates and container lids must be kept closed at all times.

Sec. 24.02.247 Existing construction

(a) Asbestos survey. Prior to applying for a renovation or demolition permit for an existing building that has been used as a public or private commercial building, the applicant must produce an asbestos survey. This includes re-roofing.

(b) Maintenance. All structures (including pools, hot tubs, and similar facilities) will be well maintained, and will not be allowed to deteriorate into a run-down condition. The property owner shall be responsible for maintenance of the structure as described below. The property owner or, in the case of a foreclosed property, the mortgage lienholder, shall be liable for violations of this article, regardless of any agreement between the owner or lienholder and another person that imposes or attempts to delegate responsibility for the premises.

- (1) Residential properties. Vacant residential structures shall be maintained in the same manner and to the same standard as those properties that are occupied, including, but not limited to, the following:
 - (A) Utility service accounts shall be kept active;
 - (B) Litter and trash shall not be allowed to accumulate on the premises;
 - (C) Doors and windows shall be locked, and locks shall be kept in good working condition, in order to minimize the threat of trespassing and vandalism;
 - (D) Window coverings such as curtains, blinds, or shutters shall be used so as to give the appearance that the property is occupied;
 - (E) Unless otherwise approved by the code official or authorized designee, boarding of windows and barricading of driveways in any manner shall not be permitted;
 - (F) Fences and gates shall be maintained and kept secure against trespassing and vandalism;
 - ~~(G)~~ Landscaping and lawns shall be maintained in accordance with [division 11](#) of this article;
 - ~~(G)~~~~(H)~~ Trees shall be planted, maintained, and removed in accordance with Sec. 28.09.020 Tree Protection;
 - ~~(H)~~~~(I)~~ Mail, newspapers, circulars, flyers, etc. shall not be allowed to accumulate; and
 - ~~(H)~~~~(J)~~ Pools, hot tubs, and similar facilities shall be maintained to a level suitable for use.
- (2) Residential properties, revoked building permits. In the instance that a residential building permit is revoked by the code official or authorized designee, that property shall be maintained in accordance with the applicable standards listed in [division 6](#) of this article, and in accordance with the following standards:
 - (A) Unfinished structure.
 - (i) Litter and trash shall not be allowed to accumulate on the premises;
 - (ii) Site shall be revegetated to protect against erosion and sedimentation;

EXHIBIT B

- and
- (iii) If construction on the project has not resumed for a period of 6 months following revocation of the building permit, the city shall require restoration of the site to pre-construction conditions.
- (B) Unfinished structure, exterior completed.
- (i) Litter and trash shall not be allowed to accumulate on the premises;
 - (ii) Doors and windows shall be locked, and locks shall be kept in good working condition, in order to minimize the threat of trespassing and vandalism;
 - (iii) Window coverings such as curtains, blinds, or shutters shall be used so as to give the appearance that the property is occupied;
 - (iv) Fences and gates shall be maintained and kept secure against trespassing and vandalism; ~~and~~
 - (v) Landscaping and lawn installation shall be completed and shall be maintained in accordance with [division 11](#) of this article; ~~and-~~
 - ~~(v)~~(vi) Trees shall be planted, maintained, and removed in accordance with Sec. 28.09.020 Tree Protection.
- (3) Commercial properties. Vacant commercial properties shall be maintained in the same manner and to the same standard as those properties that are occupied and operational, including, but not limited to, the following:
- (A) Utility service accounts shall be kept active and timed lighting employed to discourage trespassing;
 - (B) Litter and trash shall not be allowed to accumulate on the premises;
 - (C) Doors and windows shall be locked, and locks shall be kept in good working condition, in order to minimize the threat of trespassing and vandalism;
 - (D) Window coverings such as curtains, blinds, or shutters shall be used so as to give the appearance that the property is occupied;
 - (E) Unless otherwise approved by the code official or authorized designee, boarding of windows and barricading of driveways, parking areas and drive aisles in any manner shall not be permitted;
 - (F) Fences and gates shall be maintained and kept secure against trespassing and vandalism;
 - (G) Landscaping, trees, and lawns shall be maintained in accordance with [division 11](#) of this article;
 - ~~(G)~~(H) Trees shall be planted, maintained, and removed in accordance with Sec. 28.09.020 Tree Protection;
 - ~~(H)~~(I) Mail, newspapers, circulars, flyers, etc. shall not be allowed to accumulate; and
 - ~~(I)~~(J) Pools, hot tubs, and similar facilities shall be maintained to a level suitable for use.

Secs. 24.02.248–24.02.280 Reserved

EXHIBIT C

Division 11. Residential Landscaping Requirements

Sec. 24.02.401 Generally

(a) These landscaping requirements are intended to enhance the natural aesthetic beauty of the Lakeway area, to ensure safe sight views along roadways, and to assist slope stabilization and prevent erosion, rapid runoff and sedimentation. Landscaping requirements for nonresidential and multifamily projects can be found in [chapter 28](#).

(b) Plan requirements.

- (1) A landscape plan for new residences must be submitted prior to requesting a certificate of occupancy inspection. The plans must demonstrate compliance with the landscape requirements contained herein.
- (2) No landscaping plan shall be approved unless it shows all improvements reasonably necessary to prevent erosion from occurring after completion of development. No certificate of occupancy shall be issued unless the improvements and landscaping shown on the site plan have been installed, constructed or created.
- (3) Prior to the completion of a project or the issuance of a certificate of occupancy, all disturbed areas on the lot or adjacent lots must be stabilized with sod. Restoration shall be acceptable when the grass has grown at least 1-1/2 inches high with 95% coverage, provided no bare spots larger than 9 square feet exist.

(c) Maintenance and irrigation.

- (1) The property owner or lessee shall be responsible for maintenance of the landscaped areas including the rights-of-way in front of the property. This maintenance includes ensuring that drainage ditches and culverts are functioning properly and are free from obstruction.
- (2) Plants and grass shall present a healthy, neat and orderly appearance and be free of debris, refuse and disease. Deceased plantings shall be replaced no later than one (1) month after dying and shall be replaced on an inch per inch basis.

(d) Site-specific regulations.

- (1) Planting of vegetation which, when mature, will obstruct visibility and endanger safe vehicular and pedestrian traffic shall not be permitted.
- (2) Retaining walls shall not exceed one (1) foot above the material being retained.
- (3) Artificial turf may be approved by the code official or authorized designee provided it is not visible from the right-of-way or if the property is zoned GUI.
- (4) No trees, shrubs, retaining walls, driveway markers, or other vertical construction shall be constructed or erected nearer than eight (8) feet from the pavement edge of a street without curb and gutter. Shrubs, retaining walls, driveway markers and other vertical construction are permitted up to the back of curb of a street with curb and gutter provided they are no higher than 36 inches.
- (5) Surface water is not permitted to drain laterally across a property line. Drainage from a residential lot shall be directed to within five (5) feet of a property corner before it crosses the property line to the downstream lot. All drainage must be directed to dedicated drainage easements. Surface water may not drain onto a public street. Approved subdivision drainage plans do not take the place of or preclude the city from requiring individual residential drainage plans conforming to the city's requirements.

(e) Landscaping in rights-of-way. Landscaping in the city right-of-way, other than grass or natural ground cover, must be approved by the code official or authorized designee through a landscape permit.

EXHIBIT C

(f) Street (front) yard requirements.

- (1) In determining landscaping requirements, the street yard shall extend from a line beginning twelve (12) feet behind the front corners of each building fronting or facing a public or private street and thereafter extend to the side property lines and shall then run to the hard surface of the street.
- (2) A corner lot shall be considered as having two property lines fronting or facing a street and consequently will have two street yards.
- (3) Ground cover of lawn grass or other material approved by the city shall be provided to the hard surface of the street unless specifically prohibited by city, county or state for a particular right-of-way.
- (4) A minimum five-foot-deep landscaping area shall abut the front and at least twelve (12) feet down the sides of a building except for the building entrance walkway (foundation plantings).

(g) Golf course yard requirements.

- (1) In determining landscaping requirements, the golf course yard shall extend from a line beginning twelve (12) feet behind the corners of each building fronting or facing golf course property and thereafter extend to the side property lines and shall then run to the property line abutting the golf course.
- (2) Properties abutting a golf course shall landscape the golf course yard in the same manner required for landscaping in the street yard unless structure is not visible from the golf course.

Sec. 24.02.402 Trees

All trees shall be planted, maintained, and removed in accordance with Sec. 28.09.020 Tree Protection.

Sec. 24.02.402—Prohibited trees

The following tree species shall not be planted in the city due to their high susceptibility to oak wilt:

- ~~(1) Live oak (Quercus virginiana, Quercus fusiformis);~~
- ~~(2) Texas red oak or Spanish oak (Quercus texana, Quercus buckleyi);~~
- ~~(3) Shumard oak (Quercus shumardii);~~
- ~~(4) Southern red oak (Quercus falcata);~~
- ~~(5) Blackjack oak (Quercus marilandica); and~~
- ~~(6) Other members of the red or black oak group.~~

Sec. 24.02.403—Tree survey

~~All tree surveys must be certified by a surveyor and shall be submitted with the site plan. The survey shall show all existing hardwood trees six (6) inches in diameter and larger as measured four and one half (4.5) feet off natural ground. Each tree shall be tagged and a tree list shall show type and size. The tree survey shall show a calculated tree dripline drawn for each tree at one (1) foot radius per inch of diameter. The tree survey shall have been performed by a registered professional licensed surveyor within one year of submittal to the city.~~

Sec. 24.02.404—Protected trees

~~(a) A protected tree is any hardwood tree that has a trunk sixteen (16) inches in diameter as measured four and one half (4.5) feet above natural ground level. At the discretion of the city, certain~~

EXHIBIT C

~~native, rare, and unusual trees and plant species may also be designated as protected regardless of size.~~

~~(b) For multi trunk trees, the calculated size of the tree shall be equal to the caliper of the largest trunk between ground level and four and one half (4.5) feet high plus half (1/2) the sum of all remaining trunk diameters larger than three (3) inches.~~

~~(c) Unless otherwise specified by this article, a person must not, directly or indirectly, cut down, destroy, move, remove, or effectively destroy through damaging any protected tree situated on property regulated by this article without first obtaining a tree removal permit.~~

Sec. 24.02.405—Tree removal

~~(a) A permit application must be filed with the BDS department before a protected tree may be removed.~~

~~(b) A tree removal permit shall not be required under the following circumstances:~~

~~(1) The tree is dying, dead, or diseased to the point that restoration is not practical.~~

~~(2) Public safety. A tree removal permit shall not be required if a tree endangers the public health, welfare or safety, and immediate removal is required as determined in writing by an official of the city.~~

~~(3) Utility service disruption. A tree removal permit shall not be required if a tree has disrupted a public utility service due to a tornado, storm, flood or other act of God. Removal shall be limited to the portion of the tree reasonably necessary to establish or maintain reliable utility service.~~

~~(4) Landscape nurseries. All licensed plant or tree nurseries shall be exempt from the tree protection and replacement requirements and from the tree removal permit requirements only in relation to those trees planted and growing on the premises of said licensee which are so planted and growing for the sale or intended sale to the general public in the ordinary course of said licensee's business. This may also apply to a nursery established and so designated by a developer of a large project within the city, where trees are intended for landscaping future phases of such larger project.~~

~~(1) (c) In the event that a tree removal permit is granted, the applicant shall replace the protected trees being removed with a sufficient number of trees equal, in caliper, to the diameter of the tree removed.~~

~~(2) (d) The first nine (9) inches of replacement trees shall be single trunked, 3" diameter or larger trees when measured four and one half (4.5) feet from the ground. The balance of the replacement trees shall be a minimum of one (1) inch diameter measured four and one half (4.5) feet from the ground.~~

~~(3) (e) The total caliper required for replacement may be reduced by one (1) inch for every four (4) inches of existing trees on site. To be counted against the replacement total, existing trees must be a minimum of three (3) inches caliper measured four and one half (4.5) feet from the ground.~~

~~(4) (f) Replacement trees shall be located on the subject site unless approved by the code official or authorized designee.~~

~~(5) (g) A request for a tree removal permit must be submitted and approved prior to the removal of any protected tree in the city unless the tree is exempt under a provision of this article.~~

~~(6) (h) Trees not approved for removal within the limits of construction shall be provided with tree protection as approved by the city.~~

Secs. 24.02.406–24.02.440 Reserved

EXHIBIT D

Sec. 28.09.017 Landscaping

(a) General.

- (1) These landscaping requirements are intended to enhance the natural aesthetic beauty of the Lakeway area, to ensure safe sight views along roadways, and to assist slope stabilization and prevent erosion, rapid runoff and sedimentation.
- (2) Any nonresidential or multifamily site that has any portion of the site redeveloped, as defined in [section 22.02.001](#), shall install landscaping as required by this section in the redeveloped areas.

(b) Plan requirements.

- (1) A landscape plan and underground irrigation plan shall be submitted with the application for a site development permit. The plans must demonstrate compliance with the landscape requirements contained herein.
- (2) Plans shall show all dimensions, types of materials, width of buffer zones, screening, planting areas, size and spacing of vegetative materials, and plans for providing water to plants. The plans shall demonstrate that materials used will abate objectionable noise, light, glare, visual clutter, dust, or erosion and adequately accomplish the purpose for which they were intended.
- (3) No site plan shall be approved unless it shows all improvements reasonably necessary to prevent erosion from occurring after completion of development. No certificate of acceptance shall be issued unless the improvements and landscaping shown on the site plan have been installed, constructed or created and comply with this chapter. Restoration shall be acceptable when the grass has grown at least 1-1/2 inches high with 95% coverage, provided no bare spots larger than 9 square feet exist.

(c) Maintenance and irrigation.

- (1) The property owner shall be responsible for maintenance of the landscaped areas, including the right-of-way from the property line to the hard surface of the street.
- (2) Plants and grass shall present a healthy, neat and orderly appearance and be free of debris, refuse and disease. Deceased plantings shall be replaced no later than one (1) month after dying and shall be replaced on an inch per inch basis.
- (3) The landscaping shall be irrigated by an automatic underground irrigation system designed and certified by a licensed irrigator in accordance with state law.

(d) Site-specific regulations.

- (1) No structure shall be erected and no vegetation exceeding thirty (30) inches in height shall be maintained in the area of a corner lot between the side lines of the intersecting streets and a straight line joining points on such side lines ten (10) feet distance from their point of intersection. Planting of vegetation which, when mature, shall obstruct visibility and endanger safe vehicular and pedestrian traffic shall not be permitted.
- (2) No retaining walls, corner posts, light supports, boulders or rocks larger than six (6) inches, pillars or driveway markers, etc., shall be constructed or erected nearer than eight (8) feet from the pavement edge. In no case shall any vertical construction, including shrubs, rocks, driveway markers, etc. be permitted within four (4) feet of the pavement edge (mailboxes not included).

(e) Landscaping in public utility easements. Landscaping within public utility easements is permitted. However, any plantings over dedicated utility easements may have to be removed and/or replaced at the property owner's expense should such easements be required by any authorized utility company or be required to provide adequate drainage from areas of higher elevation. Trees shall not be planted where the mature canopy of the tree will interfere with overhead utility lines.

EXHIBIT D

(Ordinance 2011-05-16-05, rev. 2, adopted 5/16/11)

(f) Landscaping in rights-of-way.

- (1) No person, firm or corporation shall construct, erect or maintain any post, pillar, wall, fence or reflector, or plant or maintain any hedge, tree, shrub, or other growth (except grass and ground cover), or deposit any rocks, trash, dirt spoil, cuttings, or other material on the right-of-way of any street in the city, without first obtaining the written approval of the code official or the city building commission.
- (2) Exception: At the property owner's risk, shrubs may be planted no closer than four (4) feet to the hard surface of the street to preclude damage to landscaping. Shrubs must be maintained so that they do not exceed two (2) feet in height. Plantings/grading shall not interfere with drainage or utilities. This applies to vegetation only. Landscape rocks must remain a minimum of eight (8) feet off the hard surface of the street unless otherwise approved by the city building commission.
- (3) All landscaping within the city's rights-of-way requires the prior written approval of the code official or city building commission. No vegetation except lawn grass is permitted within eight (8) feet of the hard surface of a city street. Shrubs, bushes, etc., when mature, shall not encroach closer than eight (8) feet to the hard surface of a street. Gravel, stones, and rocks are not permitted in the city's rights-of-way without specific approval of the city building commission.
- (4) Vegetation proposed for county or state rights-of-way must receive approvals from the appropriate authority.
- (5) Vegetation shall be irrigated to the hard surface of adjacent roadways.
- (6) In addition to the penalty provisions of this chapter, the city may remove, from the street rights-of-way, any of the structures, growth, and material prohibited by this chapter and in so doing, the city, its officers, agents, and employees shall not be liable to the owners thereof. Any expense incurred by the city for such removals will be charged to the property owner.

(Ordinance 2018-10-15-05 adopted 10/15/18)

(g) Nonresidential and multifamily landscaping requirements.

- (1) Ground cover of lawn grass or other material approved by the city shall be provided to the hard surface of the street unless specifically prohibited by city, county or state for a particular right-of-way. All areas disturbed by construction shall be revegetated.
- (2) A minimum five (5) foot deep landscaping area shall abut the front and at least twelve (12) feet down the sides of a building except for the building entrance.
- (3) Minimum landscape quantity requirements:
 - (A) One and one-fourth (1.25) trees required per 1,000 ft² of site impervious cover; and
 - (B) Three (3) shrubs required per 1,000 ft² of site impervious cover[.]

In calculating required landscaping, quantity totals from 0.5 and greater shall be rounded up to the next number. Quantity totals 0.49 and less may be rounded down. A "landscape calculation" table, "tree list," and "shrub list" shall be included on the landscape plan within the construction plan set.

(h) Parking lot and pond screening requirements.

- (1) Off-street parking areas, water quality ponds and detention ponds, including outfall and diversion improvements, shall be screened from adjacent properties and roadways by dense vegetation. Such landscaping shall consist of massed evergreen shrubs of such species and

EXHIBIT D

- size as will produce a screen at least three (3) feet in height within two (2) growing seasons, so as to continually restrict a clear view beyond the vegetation.
- (2) Planting areas shall be a minimum of five (5) feet deep.
 - (3) Ponds that are primarily constructed of earthen material may be exempted from the strict application of the screening requirements at the discretion of the code official depending on the location of the pond and the aesthetic impact it will have on neighboring property owners.
 - (4) Landscaping for interior parking lot areas shall consist of at least one (1) landscaped island every twelve (12) parking spaces and one (1) landscaped island at each end of a parking space row.
 - (A) Each landscaped island shall have a minimum of one (1) tree located in the center of the island along with plantings.
 - (B) Landscaped islands shall have a minimum width of nine (9) feet and a minimum depth of eighteen (18) feet.
- (i) Landscape buffer zones.
- (1) Nonresidential or multifamily lots whose side or rear lot lines are adjacent to a residential use shall be screened from such residential use by landscaped buffer zones reserved for landscaping only. No other improvements may be placed within a landscape buffer zone without prior approval of the code official.
 - (2) The width of the landscaped buffer zone shall be a minimum of twenty-five (25) feet.
 - (3) A solid and continuous landscape screen shall be planted and maintained within the full width of the buffer zone in order to restrict a clear view beyond such buffer zone. Plantings shall consist of massed evergreen trees and shrubs of such species and size to produce a screen at least six (6) feet in height within two (2) growing seasons. In cases where the elevation of the planting location is less than the elevation of the edge of adjacent area, the required height of the screen shall be increased in an amount equal to such difference in elevation.
 - (4) Landscape buffer zones shall be maintained by the property owner and kept clean of all debris and rubbish. Plantings shall be replaced within one (1) month should they die. All landscape buffer zones shall be irrigated with an approved underground irrigation system unless otherwise approved by the code official.
 - (5) A minimum 8-foot masonry screening wall, or other such screening as approved by the city, may be submitted as an alternative to massed evergreen shrubs and trees. The required full width of landscape buffer zone shall still be provided. Compliance with all city building codes is required when a screening wall is used.
 - (6) All of the requirements and specifications for landscaping, as noted in this section, shall apply to landscaping installed within the landscape buffer zone.
- (j) Specifications.
- (1) Lawn grass shall be as required for permanent erosion control and must also comply with the requirements of this chapter.
 - (2) Shrubs and vines shall be good, healthy nursery stock. Shrubs used to satisfy landscape requirements must be a minimum of five (5) gallon container size.
 - ~~(3) Trees used to satisfy landscape requirements must be a minimum of three (3) inches in diameter at planting, measured four and a half (4.5) feet above finished [grade].~~
 - ~~(4)(3)~~ Turf and landscape areas shall have a minimum of three (3) inches of topsoil.
 - ~~(4)~~ A minimum of three (3) inches of organic mulch shall be added to landscape areas. after planting. Nonporous material such as sheet plastic shall not be placed under the mulch.
 - (5) Trees shall be planted, maintained, and removed in accordance with Sec. 28.09.020 Tree Protection.

EXHIBIT D

- ~~(1) — (6) —~~
- ~~(A) — The following tree species shall not be planted in the city due to their high susceptibility to oak wilt:~~
- ~~(i) — Live oak (*Quercus virginiana*, *Quercus fusiformis*);~~
 - ~~(ii) — Texas red oak or Spanish oak (*Quercus texana*, *Quercus buckleyi*);~~
 - ~~(iii) — Shumard oak (*Quercus shumardii*);~~
 - ~~(iv) — Southern red oak (*Quercus falcata*);~~
 - ~~(v) — Blackjack oak (*Quercus marilandica*); and~~
 - ~~(vi) — Other members of the red or black oak group.~~
- ~~(B) — The following oak species are usually oak wilt resistant and may be planted:~~
- ~~(i) — Monterey or Mexican white oak (*Quercus polymorpha*);~~
 - ~~(ii) — Lacey oak (*Quercus laceyi*, *Quercus glaucooides*);~~
 - ~~(iii) — Bur oak (*Quercus macrocarpa*);~~
 - ~~(iv) — Chinkapin oak (*Quercus muhlenbergii*);~~
 - ~~(v) — Durand oak (*Quercus durandii*); and~~
 - ~~(vi) — Other members of the white oak group.~~
- ~~(C) — A high diversity of native and well-adapted trees and shrubs from different plant families is encouraged. The size classification of trees shall be determined by the city. Large trees shall comprise a minimum of 50% of the required inches of trees. The remaining required trees shall be equally distributed between medium and small trees. No more than 25% of the planted trees may be from the same species.~~

(Ordinance 2011-05-16-05, rev. 2, adopted 5/16/11)

~~(k) — Credit for existing trees. Any existing hardwood tree remaining on the lot may be counted toward the required number of trees as long as the tree is a minimum of six (6) inches in diameter, measured four and one-half (4.5) feet above finished grade. One (1) inch of tree credit will be given for every inch of existing trees that remain on site.~~

~~(l) — Tree regulations.~~

- ~~(1) — Tree survey requirements. All hardwood trees 6 inches in diameter and greater shall be identified with individual tree number tags and a survey included in all site development and subdivision improvement plan sets. Trees are to be represented on plans by a concentric circle centered on the trunk location, with a critical root zone (CRZ) diameter equal in feet to twice the number of inches of the tree's trunk diameter. No disturbance is permitted within the critical root zone unless otherwise approved by the city.~~
- ~~(2) — For multi-trunk trees, the calculated size of the tree shall be equal to the caliper of the largest trunk between ground level and four and one-half (4.5) feet height plus 1/2 the sum of all remaining trunk diameters larger than 3 inches.~~
- ~~(3) — Protected trees. A protected tree is any single hardwood tree or calculated multi-trunk tree that has a trunk sixteen (16) inches in diameter as measured four and one-half (4.5) feet above natural ground level. The following species are not considered to be protected trees:~~
- ~~(A) — *Ailanthus altissima* (Tree of Heaven).~~
 - ~~(B) — *Alibizzia julibrissen* (Mimosa).~~
 - ~~(C) — *Maclura pomifera* (female only) (Bois d'Arc).~~
 - ~~(D) — *Melia azedarach* (Chinaberry).~~
 - ~~(E) — *Salix nigra* (Black Willow).~~

EXHIBIT D

- (F) ~~Celtis occidentalis laevigata (Hackberry).~~
- (G) ~~Ashe Juniper.~~
- (4) ~~Tree removal permits.~~
 - (A) ~~Unless otherwise specified by this chapter, a person must not, directly or indirectly, cut down, destroy, move, remove, or effectively destroy through damaging, any protected tree situated on property regulated by this chapter without first obtaining a tree removal permit.~~
 - (B) ~~A tree removal permit shall not be required under the following circumstances:~~
 - (i) ~~Existing residential home.~~ A tree removal permit shall not be required if the tree to be removed is on the property of a residential singlefamily home that is occupied on or before the effective date of this article.
 - (ii) ~~Dead tree.~~ A tree removal permit shall not be required if the tree is dead as agreed upon by an official of the city.
 - (iii) ~~Public safety.~~ A tree removal permit shall not be required if a tree endangers the public health, welfare or safety, and immediate removal is required as determined in writing by an official of the city.
 - (iv) ~~Utility service disruption.~~ A tree removal permit shall not be required if a tree has disrupted a public utility service due to a tornado, storm, flood or other act of God. Removal shall be limited to the portion of the tree reasonably necessary to establish or maintain reliable utility service.
- (5) ~~Tree replacement.~~
 - (A) ~~Protected tree inches approved for removal shall be mitigated at a 1:1 ratio.~~
 - (B) ~~Replacement trees shall be a minimum of three (3) inch caliper measured four and one half (4.5) feet from the ground.~~
 - (C) ~~Replacement trees shall be located on the subject site. If the city agrees that it is not feasible, the code official has the authority to allow the planting to take place on another property having the approval of its owner.~~
 - (D) ~~Except when otherwise approved by the city, replacement trees shall not be planted in the following locations:~~
 - (i) ~~Where the mature canopy of the tree will interfere with overhead utility lines.~~
 - (ii) ~~Where the mature root zone of the tree will interfere with underground public utility lines.~~
 - (iii) ~~Within ten (10) feet of a fire hydrant.~~
 - (iv) ~~Within the public right of way.~~
- (6) ~~Tree removal permit procedures.~~
 - (A) ~~A request for a tree removal permit must be submitted and approved prior to the removal of any protected tree in the city unless the tree is exempt under a provision of this chapter.~~
 - (B) ~~All requests for tree removal permits must be accompanied by a tree removal application, a letter explaining the reason for the request, and an exhibit showing the location of the tree(s) in reference to the proposed site improvements.~~
 - (C) ~~The city may take one of the following actions regarding the application:~~
 - (i) ~~Deferral of decision.~~ The code official may defer the approval of a tree removal permit to the city building commission for any reason.
 - (ii) ~~Approval.~~ A tree removal permit may be issued if it is determined that:
 - a. ~~The tree constitutes a hazard to life or property, which cannot be reasonably mitigated without removing the tree;~~
 - b. ~~The tree is dying, dead, or diseased to the point that restoration is not practical; or~~

EXHIBIT D

- ~~e.—All reasonable efforts have been made to avoid removing the tree for the development and removal cannot be avoided.~~
- ~~(iii) — Refusal. A tree removal permit shall not be issued if it is determined that:
 - ~~a.— Removal of the tree is not reasonably required in order to conduct anticipated activities; or~~
 - ~~b.— A reasonable accommodation can be made to preserve the tree.~~~~
- ~~(D) — A decision made by the code official may be appealed to the city building commission.~~
- ~~(E) — Tree removal permits issued in conjunction with a building permit, site development permit, subdivision improvement permit, or small project permit shall be valid for the period of that permit's validity. Permit(s) for tree removal not issued in connection with a building permit, site development permit, subdivision improvement permit, or small project permit shall become void one hundred eighty (180) days after the issue date on the permit.~~
- ~~(7) — Tree protection. Trees not approved for removal within the limits of construction shall be provided with tree protection approved by the city.~~

(Ordinance 2018-10-15-05 adopted 10/15/18)

EXHIBIT E

Sec. 28.09.020 Tree Protection

(a) General.

- (1) *Purpose.* The purpose and intent of Section 28.09.020 is to protect Lakeway's public and private trees and their associated ecosystem benefits, encourage site and building designs that preserve and enhance the existing natural environment, support a sustainable and resilient tree canopy for future generations, and establish guidelines and best management practices for tree planting and maintenance in Lakeway.
- (2) *Authority.* The code official is the final authority for the administration of this section unless otherwise specified herein.
- (3) *Applicability and exemptions.* Except as stated herein, the requirements of this section shall apply to all land-disturbing activities that require permit for existing and new development in all zoning districts. Exemption shall not be granted to native trees, or naturally growing trees that inhibit a view or vista. However, in certain instances, trees classified as nuisance species may require trimming or removal in accordance with the city's vista protection ordinance. The requirements of this section shall not apply to the following circumstances:
 - (A) *Existing single family residential properties.* Tree removal permits shall not be required for any tree located on a private property containing a single-family residential home, provided that:
 - i. The lot is not capable of further subdivision;
 - ii. The single family dwelling is occupied or used for residential purposes or capable of occupancy in compliance with applicable law; and
 - iii. The property owner acquired the title to said developed property on or before [insert date of adoption].
 - (B) *Dead tree.* A tree removal permit shall not be required if the tree is dead. This exemption is subject to approval by the code official, who may require a report and/or approval by the City Forester.
 - (C) *Unprotected tree.* A tree removal permit shall not be required for trees identified in Sec. 28.09.020(b)(4) as unprotected.
 - (D) *Public safety.* A tree removal permit shall not be required if a tree endangers the public health, welfare or safety, and immediate removal is required. This exemption is subject to approval by the code official, who may require a report and/or approval by the City Forester.
 - (E) *Utility service disruption.* A tree removal permit shall not be required if a tree has disrupted a public utility service due to a tornado, storm, flood or other act of God.
 - (F) *Aviation zoning.* A tree removal permit shall not be required for the removal of trees on properties zoned for Aviation, to comply with the requirements mandated

EXHIBIT E

by federal or State law or regulation.

- (G) *Agricultural zoning and uses.* A tree removal permit shall not be required for the removal of trees on land zoned or lawfully used for agriculture, forestry purposes, commercial garden centers, greenhouses, or nurseries.

(4) *Definitions.*

- (A) “ANSI A300 Standards” means the industry standards for tree care in the United States.
- (B) “Caliper” means the diameter of a sapling to be planted measured six (6) inches above the top of the root flare up to and including four-inch caliper size. If the caliper at six (6) inches above the top of the root flare exceeds four (4) inches, the caliper should be measured at twelve (12) inches above the top of the root flare.
- (C) “Certified Arborist” means a specialist in the care and maintenance of trees who is certified by and in good standing with the International Society of Arboriculture (ISA).
- (D) “City Forester” means a Certified Arborist employed by the City of Lakeway in support of this code section.
- (E) “Critical root zone (CRZ)” means the area of soil around a tree where the minimum amount of roots considered critical to the structural stability or health of the tree are located. CRZ can be defined as a circle with a minimum radius of 1 foot for every 1 inch in trunk diameter at 4.5” above ground, or otherwise can be determined by the City Forester and/or by using the dripline of the tree.
- (F) “Diameter at Breast Height (DBH)” means the tree diameter measured 4.5 feet above ground. For multi-trunked trees, DBH is the total of all individual trunks added together.
- (G) “Dripline” means the outermost edge of a tree’s canopy. When viewed from above, the drip line will appear as a line that follows the contour of the tree’s branches. At a minimum, the drip line is a circle whose diameter is 15 times a tree’s DBH.
- (H) “Native tree” means any tree species identified by the Texas A&M Forest Service to have Texas origin.
- (I) “Pruning” means removing branches from a tree to achieve a specified objective using approved practices according to ANSI A300 industry standards. At no time shall topping, tipping or flush cutting of trees be deemed a form of “pruning.”
- (J) “Public property” means all grounds and rights-of-way (ROWs) owned or maintained by the city.
- (K) “Topping” means using inappropriate pruning techniques to reduce tree size that may result in unnecessary risk, tree stress, or decay.

(b) Tree preservation. Provisions for trees and vegetation on public and/or private land.

EXHIBIT E

- (1) *Private Protected trees.* A private protected tree is any hardwood tree or pine species (genus *Pinus*) on private property that has a trunk twelve (12) inches in diameter as measured four and one-half (4.5) feet above natural ground level. At the discretion of the city, certain native, rare, and unusual trees and plant species may also be designated as protected regardless of size.
 - (A) In the instance that a private protected tree is counted towards mitigation credits, the tree is preserved in perpetuity.
- (2) *Public trees.* All trees located in city streets, rights-of-way, city parks, and other public property, herein referred to as “public trees” are regulated by code section 28.09.020(e) herein.
- (3) *Heritage trees.* The heritage tree designation provides additional protection measures for healthy trees meeting the following criteria:
 - (A) Not an unprotected species identified in Sec. 28.09.020(b)(4) below; and
 - (B) Measured at twenty-four (24) inches or greater DBH, located within the setback or buffer area of any property within the city; or
 - (C) Measured at thirty-six (36) inches or greater DBH, located anywhere within the city; or
 - (D) Is determined by the codes official or City Forester to be of cultural importance located anywhere within the city. "Cultural importance" for the purposes of this subsection shall mean the historic significance of the tree as it may relate to an event or person.
- (4) *Unprotected trees.* Unprotected trees are not recognized as protected by this code section and do not require a permit for removal.
 - (A) The following species are discouraged from planting and are not considered to be protected trees due to their invasive and/or nuisance status:
 - i. *Ailanthus altissima* (Tree of heaven)
 - ii. *Alibizzia julibrissen* (Mimosa)
 - iii. *Koelreuteria elegans* (Golden rain tree)
 - iv. *Ligustrum ssp.*
 - v. *Maclura pomifera* (female only) (Bois d’Arc)
 - vi. *Melia azeoarach* (Chinaberry)
 - vii. *Pistacia chinensis* (Chinese Pistache)
 - viii. *Pyrus calleryana* (Callery pear or Bradford pear)
 - ix. *Triadica sebifera* (Chinese tallow)
 - x. *Ulmus parvifolia* (Chinese elm)
 - xi. Other species as designated by the Texas Invasives partnership on their website or other current publication.
 - (B) The following tree species shall not be planted within known oak wilt centers due to their high susceptibility to oak wilt:

EXHIBIT E

- i. Live oak (*Quercus virginiana*, *Quercus fusiformis*);
- ii. Texas red oak or Spanish oak (*Quercus texana*, *Quercus buckleyi*);
- iii. Shumard oak (*Quercus shumardii*);
- iv. Southern red oak (*Quercus falcata*);
- v. Blackjack oak (*Quercus marilandica*); and
- vi. Other members of the red or black oak group unless approved by the Texas Forest Service.

(c) **Tree removal permits.**

- (1) A request for a tree removal permit must be submitted and approved prior to the removal of any private protected tree in the city unless the tree is exempt under a provision of this section.
- (2) *Procedures for application.* All requests for tree removal, land clearing, and/or grubbing must be accompanied by the following materials:
 - (A) A complete tree removal application signed by the property owner;
 - (B) A letter explaining the reason for the request; and
 - (C) A tree survey dated within 12 months of the date of application shall include:
 - i. Trees greater than twelve (12) inches DBH to be removed; and
 - ii. Trees greater than three (3) inches DBH to be retained, in reference to the proposed site improvements; and
 - iii. Heritage trees, as defined in section Sec. 28.09.020(b)(3); and
 - iv. The critical root zone (CRZ) of all trees to be retained shall be clear of all proposed site improvements.
 - (D) If applicable, a copy of the associated land development or building permit application for reference. No land development or building permit shall be approved without final approval of the tree removal permit and/or mitigation plan.
- (3) *Actions on application.* The city may take one of the following actions regarding the application:
 - (A) Deferral of decision. The code official may defer the approval of a tree removal permit to the city building commission for any reason.
 - (B) Approval. A tree removal permit may be issued if it is determined that:
 - i. The tree constitutes a hazard to life or property, which cannot be reasonably mitigated without removing the tree;
 - ii. The tree is dying, dead, or diseased to the point that restoration is not practical; or
 - iii. All reasonable efforts have been made to avoid removing the tree for the development and removal cannot be avoided.
 - (C) Refusal. A tree removal permit shall not be issued if it is determined that:
 - i. Removal of the tree is not reasonably required in order to conduct

EXHIBIT E

anticipated activities; or

ii. A reasonable accommodation can be made to preserve the tree.

(4) A decision made by the code official may be appealed to the city building commission.

(5) Tree removal permits issued in conjunction with a building permit, site development permit, subdivision improvement permit, or small project permit shall be valid for the period of that permit's validity. Permit(s) for tree removal not issued in connection with a building permit, site development permit, subdivision improvement permit, or small project permit shall become void one hundred eighty (180) days after the issue date on the permit.

(d) Mitigation.

All efforts for tree preservation must be exhausted before mitigation is considered. When on-site tree replacement is not possible, the last option is for the applicant to pay in-lieu-of funds to the City Tree Fund as prescribed herein. When a private protected tree, or public tree maintained by the City or other public entity, is permitted for removal, the applicant shall provide mitigation as prescribed below:

(1) On-site tree replacement.

(A) All planting and maintenance of mitigation trees shall conform to the American Standard for Nursery Stock (ANSI Z60.1) and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(B) Protected tree inches approved for removal shall be mitigated at a 1:1 ratio.

(C) Replacement trees shall be a minimum of two (2) inch caliper measured four and one-half (4.5) feet from the ground, and a minimum of ten (10) feet in height at the time of planting.

(D) *Planting location.* Except when otherwise approved by the city, replacement trees shall not be planted in the following locations:

i. Where the mature canopy of the tree will interfere with overhead utility lines.

ii. Where the mature root zone of the tree will interfere with underground public utility lines.

iii. Within ten (10) feet of a fire hydrant.

iv. Within the public right-of-way.

(E) *Credit for existing trees.* Any existing hardwood tree or pine species, so long as the tree is not an unprotected species listed in Sec. 28.09.020(b)(4), which is preserved on the lot, may be counted toward the required number of trees as long as the tree is a minimum of twelve (12) inches in diameter, measured four and one-half (4.5) feet above finished grade. One (1) inch of tree credit will be given for every one (1) inch of existing trees that remain on site.

(F) *Species diversity.* A high diversity of native and well adapted trees and shrubs from different plant families is encouraged. It is recommended that no more than 50% of the trees planted are from the same species.

EXHIBIT E

(G) *Size and spacing.* Large trees shall comprise a minimum of 50% of the required inches of trees. The remaining required trees shall be equally distributed between small, medium, and large trees. The code official or City Forester shall determine any deviation from the following classification and spacing of trees planted for small, medium, and large trees at the time of maturity (see Minimum Tree Spacing Requirements chart below).

Minimum Tree Spacing Requirements*			
Tree Size	Min. Spacing	Min. Spacing From Wall Of 1-Story Building	Min. Spacing From Corner Of 1-Story Building
Small trees (30' or less)	6-15'	8-10'	6-8'
Medium trees (30-70')	30-40'	15'	12'
Large trees (70' or more)	40-50'	20'	15'

*Source: Arbor Day Basic Spacing Guide <https://www.arborday.org/trees/righttreeandplace/size.cfm>

(2) *Payment in lieu of replacement trees.*

(A) In the event that mitigation is not feasible on the same site as the proposed development, an applicant may provide a fee in-lieu of payment to the City Tree Fund.

(B) *Fee schedule.*

- i. \$150 per inch of DBH removed for trees located on non-residential property and trees removed during land development (land clearing or grubbing)
- ii. \$75 per inch of DBH removed for trees located on existing single-family residential property

(C) Fees in lieu of mitigation are applied in addition to any penalties issued, if applicable.

(e) Trees in public spaces.

(1) *Authority.* The Director of Parks and Recreation, or his or her designee, herein referred to as the "director", is the final authority for the administration of this subsection referring to all trees located in city streets, rights-of-way, city parks, and other public property, herein referred to as "public trees".

(A) *Coordination among city departments.* All city departments will coordinate as necessary with the director and will provide services as required to ensure compliance with this subsection as it relates to streets, rights-of-way, and other public properties not under direct jurisdiction of the director.

(B) *Right-of-way approval.* In accordance with code section Sec. 28.09.017(f), no entity shall plant or maintain trees in the public right-of-way without first obtaining written approval from the code official or the city building commission.

- i. Contract permits must be reviewed, approved, and renewed on an annual basis by the Director.

EXHIBIT E

(C) *Interference.* No person shall hinder, prevent, delay, or interfere with the director or his agents while engaged in carrying out the execution or enforcement of this section.

(2) *Standards for the planting and care of public trees.* All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(3) *Mitigation.* The City is subject to mitigation as defined in section Sec. 28.09.020(d).

(f) Tree protection during construction.

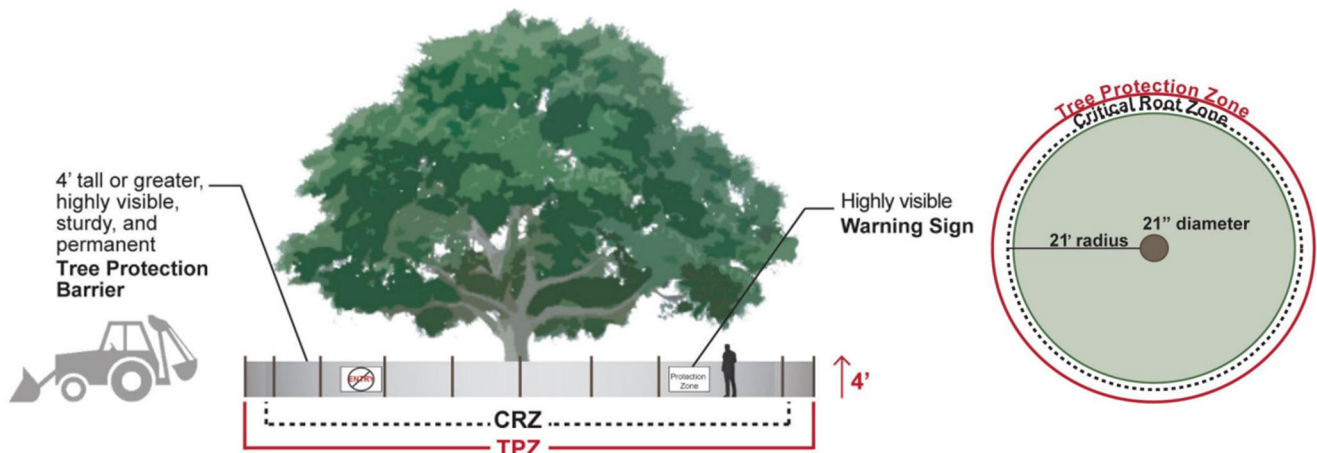


Figure: Best Management Practices for Tree Protection, Texas A&M Forest Service

(1) *Private protected trees, heritage trees and public trees.* Any person, firm, corporation, or city department performing construction in the area of any heritage, public, or private protected tree shall meet the following tree protection specifications.

- (A) All trees shall be protected by a fence constructed to be a minimum of four (4) feet tall around the tree protection area, which shall be based on the tree's critical root zone (CRZ).
- (B) Signs shall be installed on the protective fence visible on all sides of the fenced-in area (minimum one on each side and/or every 300 linear feet). The size of each sign must be a minimum of one (1) foot by one and one half (1.5) feet and shall contain the following bilingual text in both English and Spanish: "TREE PROTECTION ZONE: KEEP OUT."
- (C) A minimum of four (4) inches of mulch or compost shall be spread beneath the CRZ of the preserved tree unless other recommendations are made by the City Forester. Equipment or materials storage shall not be allowed within tree protection areas.
- (D) No construction, grading, parking, equipment, or material storage, or any other activity, shall be allowed within the fenced area at any time during the project.

EXHIBIT E

(E) Trenching shall not be allowed without code official's approval. Boring shall be allowed with consultation by the City Forester and approval of the code official.

(g) Penalties.

(1) *Removal of or damage to a private protected tree without a permit.* Any private protected tree that is damaged or removed without a tree removal permit, including those damaged during construction, shall be subject to the following penalties:

(A) Fine equivalent to \$75 per inch of DBH removed; and

(B) Mitigation of the removed tree(s) in accordance with 28.09.020(d)(1-2); and

(2) *Removal of or damage to a heritage tree without a permit.* Any heritage tree that is damaged or removed without a tree removal permit, including those damaged during construction, shall incur exactly double the penalties calculated for a private protected tree as indicated above.

(h) City Tree Fund.

(1) *Funding sources.* The following sources of funding may contribute to the City Tree Fund:

(A) Penalties or payments in-lieu-of penalties received from this code section;

(B) Tree permit fees and fines;

(C) Donations and grants for tree-related purposes; or

(D) Other moneys as identified by City Council.

(2) *Funding purposes.* The City shall only use the City Tree Fund for the purposes of:

(A) Purchase and installation of new public trees;

(B) Maintenance tasks which are intended to prolong the life of existing trees on public property and rights-of-way, such as but not limited to: pruning, treatment of pests and diseases, irrigation, and mulching.

(C) Purchase of real property for the purposes of tree plantings or land conservation;
or

(D) Administration of the above.



City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 4, 2026</u>	Item Number:	<u>4</u>
Department:	<u>Administration</u>		
	<u>Trey Fletcher, City</u>		
Prepared By:	<u>Administrator</u>	Cost / Budget:	<u></u>
Exhibits:	<u>None</u>	Source of Funds:	<u></u>

Subject

Discuss winter weather preparation and response.

Recommendation

This item has been prepared for discussion only and no action is being taken.

Discussion

Once again, the region experienced a winter weather event roughly January 24-27, 2026 in the mist of an otherwise mild season. This item is intended to afford a brief discussion the city's preparation and response regarding the winter weather.



City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 4, 2026</u>	Item Number:	<u>5</u>
Department:	<u>Administration</u>		
Prepared By:	<u>Trey Fletcher</u>	Cost / Budget:	<u>n/a</u>
Exhibits:	<u>n/a</u>	Source of Funds:	<u>n/a</u>

Subject

Discuss provisions in the City Code related to Noise

Recommendation

No action is being taken. Provide direction as appropriate.

Discussion

The purpose of this item is to discuss the extent to which the city regulates noise and related provisions. The City Code addresses noise issues in Article 12.02 Noise as well as within various other sections of the code.

Section 22.03.015 states: Noise emanating from construction projects shall be subject to the limitations in Section [12.02.001](#) et seq. and the zoning ordinance, as amended.

[Prohibited uses and performance standards.](#) is addressed in Section 24.02.003 of the City Code. These provisions are in the context of business and residential performance standards where in subsection 2, the maximum permissible sound pressure levels at the lot line for noise radiated continuously from a facility between the hours of 7:00 p.m. and 7:00 a.m.



City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 4, 2026</u>	Item Number:	<u>6</u>
Department:	<u>Administration</u>		
	<u>Trey Fletcher, City</u>		
Prepared By:	<u>Administrator</u>	Cost / Budget:	<u>n/a</u>
	<u>Texas Transportation Code</u>		
Exhibits:	<u>Chapter 664</u>	Source of Funds:	<u>n/a</u>

Subject

Discuss the regulation of e-bikes.

Recommendation

No action is being taken. Provide direction as appropriate.

Discussion

The purpose of this item is to discuss the extent to which the city of West Lake Hills may regulate e-bikes. State law constrains the city's ability to regulate e-bikes. Applicable State Law is attached for reference.

TRANSPORTATION CODE

TITLE 7. VEHICLES AND TRAFFIC

SUBTITLE G. MOTORCYCLES AND ELECTRIC BICYCLES

CHAPTER 664. STANDARDS FOR ELECTRIC BICYCLES

Sec. 664.001. DEFINITIONS. In this chapter:

- (1) "Class 1 electric bicycle" means an electric bicycle:
 - (A) equipped with a motor that assists the rider only when the rider is pedaling; and
 - (B) with a top assisted speed of 20 miles per hour or less.
- (2) "Class 2 electric bicycle" means an electric bicycle:
 - (A) equipped with a motor that may be used to propel the bicycle without the pedaling of the rider; and
 - (B) with a top assisted speed of 20 miles per hour or less.
- (3) "Class 3 electric bicycle" means an electric bicycle:
 - (A) equipped with a motor that assists the rider only when the rider is pedaling; and
 - (B) with a top assisted speed of more than 20 but less than 28 miles per hour.
- (4) "Electric bicycle" means a bicycle:
 - (A) equipped with:
 - (i) fully operable pedals; and
 - (ii) an electric motor of fewer than 750 watts; and
 - (B) with a top assisted speed of 28 miles per hour or less.
- (5) "Top assisted speed" means the speed at which the bicycle's motor ceases propelling the bicycle or assisting the rider.

Added by Acts 2019, 86th Leg., R.S., Ch. 485 (H.B. [2188](#)), Sec. 8, eff. September 1, 2019.

Sec. 664.002. LABELING. (a) A person who manufactures or sells an electric bicycle shall apply a permanent label to the electric bicycle in a prominent location that shows in Arial font in at least 9-point type:

- (1) whether the electric bicycle is a Class 1, Class 2, or Class 3 electric bicycle;
- (2) the top assisted speed of the electric bicycle; and
- (3) the motor wattage of the electric bicycle.

(b) A person who changes the motor-powered speed capability or engagement of an electric bicycle shall replace the label required by Subsection (a) to show accurate information about the electric bicycle.

Added by Acts 2019, 86th Leg., R.S., Ch. 485 (H.B. [2188](#)), Sec. 8, eff. September 1, 2019.

Sec. 664.003. FEDERAL STANDARDS. A person who manufactures or sells an electric bicycle shall ensure that the bicycle complies with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission under 16 C.F.R. Part 1512.

Added by Acts 2019, 86th Leg., R.S., Ch. 485 (H.B. [2188](#)), Sec. 8, eff. September 1, 2019.

Sec. 664.004. SPEEDOMETER. A person who manufactures or sells a Class 3 electric bicycle shall ensure that the bicycle is equipped with a speedometer.

Added by Acts 2019, 86th Leg., R.S., Ch. 485 (H.B. [2188](#)), Sec. 8, eff. September 1, 2019.

TRANSPORTATION CODE

TITLE 7. VEHICLES AND TRAFFIC

SUBTITLE C. RULES OF THE ROAD

CHAPTER 551. OPERATION OF BICYCLES AND MOPEDS, GOLF CARTS, AND OTHER LOW-POWERED VEHICLES

SUBCHAPTER A. APPLICATION OF CHAPTER

Sec. 551.001. APPLICABILITY. Unless specifically provided otherwise, a provision of this chapter that applies to a person operating a bicycle applies only to a person operating a bicycle on:

- (1) a highway; or
- (2) a path set aside for the exclusive operation of bicycles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1318, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 485 (H.B. [2188](#)), Sec. 3, eff. September 1, 2019.

Sec. 551.002. MOPED AND ELECTRIC BICYCLE INCLUDED. A provision of this subtitle applicable to a bicycle also applies to:

- (1) a moped, other than a provision that by its nature cannot apply to a moped; and
- (2) an electric bicycle, other than a provision that by its nature cannot apply to an electric bicycle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 9, eff. Sept. 1, 2001.

SUBCHAPTER B. BICYCLES

Sec. 551.101. RIGHTS AND DUTIES. (a) A person operating a bicycle has the rights and duties applicable to a driver operating a vehicle under this subtitle, unless:

- (1) a provision of this chapter alters a right or duty; or
 - (2) a right or duty applicable to a driver operating a vehicle cannot by its nature apply to a person operating a bicycle.
- (b) A parent of a child or a guardian of a ward may not knowingly permit the child or ward to violate this subtitle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 551.102. GENERAL OPERATION. (a) A person operating a bicycle shall ride only on or astride a permanent and regular seat attached to the bicycle.

(b) A person may not use a bicycle to carry more persons than the bicycle is designed or equipped to carry.

(c) A person operating a bicycle may not use the bicycle to carry an object that prevents the person from operating the bicycle with at least one hand on the handlebars of the bicycle.

(d) A person operating a bicycle, coaster, sled, or toy vehicle or using roller skates may not attach either the person or the bicycle, coaster, sled, toy vehicle, or roller skates to a streetcar or vehicle on a roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 551.103. OPERATION ON ROADWAY. (a) Except as provided by Subsection (b), a person operating a bicycle on a roadway who is moving slower than the other traffic on the roadway shall ride as near as practicable to the right curb or edge of the roadway, unless:

- (1) the person is passing another vehicle moving in the same direction;
 - (2) the person is preparing to turn left at an intersection or onto a private road or driveway;
 - (3) a condition on or of the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal, or surface hazard prevents the person from safely riding next to the right curb or edge of the roadway; or
 - (4) the person is operating a bicycle in an outside lane that is:
 - (A) less than 14 feet in width and does not have a designated bicycle lane adjacent to that lane; or
 - (B) too narrow for a bicycle and a motor vehicle to safely travel side by side.
- (b) A person operating a bicycle on a one-way roadway with two or more marked traffic lanes may ride as near as practicable to the left curb or edge of the roadway.
- (c) Persons operating bicycles on a roadway may ride two abreast. Persons riding two abreast on a laned roadway shall ride in a single lane. Persons riding two abreast may not impede the normal and reasonable flow of traffic on the roadway. Persons may not ride more than two abreast unless they are riding on a part of a roadway set aside for the exclusive operation of bicycles.
- (d) Repealed by Acts 2001, 77th Leg., ch. 1085, Sec. 13, eff. Sept. 1, 2001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 10, 13, eff. Sept. 1, 2001.

- Sec. 551.104. SAFETY EQUIPMENT. (a) A person may not operate a bicycle unless the bicycle is equipped with a brake capable of making a braked wheel skid on dry, level, clean pavement.
- (b) A person may not operate a bicycle at nighttime unless the bicycle is equipped with:
- (1) a lamp on the front of the bicycle that emits a white light visible from a distance of at least 500 feet in front of the bicycle; and
 - (2) on the rear of the bicycle:
 - (A) a red reflector that is:
 - (i) of a type approved by the department; and
 - (ii) visible when directly in front of lawful upper beams of motor vehicle headlamps from all distances from 50 to 300 feet to the rear of the bicycle; or
 - (B) a lamp that emits a red light visible from a distance of 500 feet to the rear of the bicycle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 11, eff. Sept. 1, 2001.

- Sec. 551.105. COMPETITIVE RACING. (a) In this section, "bicycle" means a nonmotorized vehicle propelled by human power.
- (b) A sponsoring organization may hold a competitive bicycle race on a public road only with the approval of the appropriate local law enforcement agencies.
- (c) The local law enforcement agencies and the sponsoring organization may agree on safety regulations governing the movement of bicycles during a competitive race or during training for a competitive race, including the permission for bicycle operators to ride abreast.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 551.106. REGULATION OF BICYCLES BY DEPARTMENT OR LOCAL AUTHORITY. (a) The department or a local authority may not prohibit the operation of an electric bicycle:

- (1) on a highway that is used primarily by motor vehicles; or
 - (2) in an area in which the operation of a nonelectric bicycle is permitted, unless the area is a path that:
 - (A) is not open to motor vehicles; and
 - (B) has a natural surface tread made by clearing and grading the native soil without adding surfacing materials.
- (b) The department or a local authority may:
- (1) prohibit the operation of a bicycle on a sidewalk; and
 - (2) establish speed limits for bicycles on paths set aside for the exclusive operation of bicycles and other paths on which bicycles may be operated.
- (c) The department may establish rules for the administration of this section if necessary.

Added by Acts 2001, 77th Leg., ch. 1085, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 485 (H.B. [2188](#)), Sec. 5, eff. September 1, 2019.

Sec. 551.107. OPERATION OF ELECTRIC BICYCLE. (a) Subtitles A, B, and D and Chapter [551A](#) do not apply to the operation of an electric bicycle.

(b) A person may not operate an electric bicycle unless the electric motor disengages or ceases to function either:

- (1) when the operator stops pedaling; or
- (2) when the brakes are applied.

(c) A person may not operate a Class 3 electric bicycle, as defined by Section [664.001](#), unless the person is at least 15 years of age. This subsection does not prohibit a person who is under 15 years of age from riding on a Class 3 bicycle as a passenger.

Added by Acts 2019, 86th Leg., R.S., Ch. 485 (H.B. [2188](#)), Sec. 6, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 20.007, eff. September 1, 2021.



City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 4, 2026</u>	Item Number:	<u>7</u>
Department:	<u>Administration</u>		
	<u>Trey Fletcher, City</u>		
Prepared By:	<u>Administrator</u>	Cost / Budget:	<u>n/a</u>
	<u>Legal Q&A Donations to</u>		
	<u>City</u>	Source of Funds:	<u>n/a</u>

Subject

Discuss donations to the City and associated policies.

Recommendation

No action is being taken. Provide direction as appropriate.

Discussion

The purpose of this item is to discuss the conditions for which donations to the city may be received and utilized. As a general law city in Texas, the City of West Lake Hills may have less flexibility, but in all cases, deductible donations must serve a public purpose.

A Legal Q&A published by the Texas Municipal League is attached related to this topic.

Legal Q&A
By Christy Drake-Adams, TML Legal Counsel
July 2015

May a general law city accept a donation of property (including money) from an individual or other private entity?

Most attorneys would agree that a general law city must identify express or implied statutory authority in order to accept a donation. General law cities are, without question, expressly authorized to receive donations in some circumstances. For example, a city may accept a gift of land, money, or personal property to use in support of public recreation facilities and programs. TEX. LOC. GOV'T CODE § 332.006. Cities may also acquire by gift any object or collection of historic significance to the city. *Id.* § 331.002.

The question arises as to whether a general law city has *broad* authority (outside of the specific circumstances like those set out above) to accept donations. Some city attorneys cite to state statutes that give general law cities authority to “hold” property as the authority to accept donations. *Id.* §§ 51.015, 51.034. Others question the sufficiency of that authority arguing, for instance, that the attorney general has opined that if the legislature allows an entity to receive donations in certain limited instances only, then it did not intend to grant such authority generally. *See, e.g.*, Tex. Att’y Gen. Op. No. GA-0562 (2007).

A general law city should: (1) consult its local legal counsel in making a final decision about its authority to accept a donation; and (2) exercise such authority in compliance with any requirements in the city’s local ordinances or policies.

May a home rule city accept a donation of property (including money) from an individual or other private entity?

A home rule city has express statutory authority to “hold property . . . that it receives by gift, deed, devise, or other manner.” TEX. LOC. GOV'T CODE § 51.076(a). And this authority is often mirrored in the city charter. *See, e.g., Whitley v. City of San Angelo*, 292 S.W.2d 857, 861 (Tex. Civ. App.—Austin 1956, no writ) (“Sec. 9 of the Charter of the City provides that it is authorized to acquire any character of property by gift.”). This power should, of course, be exercised in compliance with any limitations and requirements in the city’s charter, ordinances, or policies.

If a citizen is considering donating property to a city, will the donation be tax-deductible for the citizen?

Maybe. A city is a “qualified entity” to which tax-deductible charitable donations may be made. 26 U.S.C. § 170(c); DEP’T OF THE TREASURY INTERNAL REVENUE SERVICE, CHARITABLE CONTRIBUTIONS: PUBLICATION 526 at 3 (2014), *available at* <http://www.irs.gov/uac/Publication->

526,-Charitable-Contributions-1. However, a donation is only deductible if the gift is made exclusively for public purposes. Moreover, the full value of the deduction may not be deductible. Donors should consult with their own tax professionals prior to making donations.

May a city employee or official accept a gift of property (including money) from an individual or other private entity?

State and/or local law would likely prohibit a city employee or official from accepting a gift from a private individual or entity. State law prohibits a person from soliciting, accepting, or agreeing to accept from another any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant (i.e., this law prohibits bribery). TEX. PENAL CODE § 36.02.

State law also prohibits the acceptance of gifts in various other instances, including the following:

(a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency. . . .

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal. . . .

Id. § 36.08; *see also id.* § 1.07 (defining “public servant”); Tex. Att’y Gen. Op. No. KP-0003 (2015) (indicating that it is a fact question as to whether a sheriff, who has no authority to accept donations from the public to the county, engaged in illegal solicitation by attempting to raise funds to purchase scanning sonar for use in a lake patrol program). A public official or employee who receives an unsolicited and prohibited benefit under Section 36.08 “may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.” TEX. PENAL CODE § 36.08(i). It is important to note, there are exceptions to the prohibition against a public servant accepting gifts. *Id.* § 36.10. For example, a public servant may receive birthday gifts from family members and may receive items with a value of less than \$50 (excluding cash or checks). *Id.*

In addition to state law prohibitions, many cities have adopted local laws or policies that prohibit an official or employee from accepting donations and gifts. These prohibitions may be set out in various places, including an employment handbook or an ethics ordinance.

May a city make a gift of money or donate other property to an individual or other private entity?

As a general rule, a gratuitous donation or gift by a city is prohibited by the Texas Constitution. TEX. CONST. arts. III, § 52(a) (providing the legislature shall have no power to authorize any city “to lend its credit or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever,”); XI, § 3 (providing no city “shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in anywise loan its credit”). The purpose of the constitutional prohibitions is not to bar all transactions between cities and private entities and individuals. Rather, “[t]he purpose of these provisions of the Texas Constitution is to prevent the gratuitous application of public funds for private purposes.” *Zimmelman v. Harris Cnty.*, 819 S.W.2d 178, 184 (Tex. App.—Houston [1st Dist.] 1991, no writ). An expenditure that directly accomplishes a legitimate city purpose may still be valid even when it incidentally benefits a private interest. *Barrington v. Cokinos*, 338 S.W.2d 133, 145 (Tex. 1960) (discussing article XI, section 3); *Walker v. City of Georgetown*, 86 S.W.3d 249, 260 (Tex. App.—Austin 2002, pet. denied) (discussing article III, section 52). The Texas Supreme Court has held that “[a] political subdivision’s paying public money is not ‘gratuitous’ if the political subdivision receives return consideration.” *Texas Mun. League Intergovernmental Risk Pool v. Tex. Worker’s Comp. Comm’n*, 74 S.W.3d 377, 383 (Tex. 2002). Before making a gift or donation to a private entity, the city council should determine that: (1) the conveyance will serve a predominantly public purpose of the city; (2) the city will retain sufficient control to ensure the public purpose is carried out; and (3) the city will receive return benefit. *Id.*

What constitutes a public purpose of the city is not clearly defined. The Supreme Court has held that:

No exact definition can be made [of public purposes]. Suffice it to say that, unless a court can say that the purposes for which public funds are expended are clearly not public purposes, it would not be justified in holding invalid a legislative act or provision in a city charter providing funds for such purposes.

Davis v. City of Lubbock, 326 S.W.2d 699, 709 (Tex. 1959) (discussing “public purpose” in a tax context and quoting *Davis v. City of Taylor*, 67 S.W.2d 1033, 1034 (Tex. 1934)). In other words, the city council must, in the first instance, determine whether an expenditure serves a public purpose of the city. That determination is subject to judicial review, but a court would be hesitant to second-guess such a legislative determination.