

ORDINANCE NO. 943

**AN ORDINANCE OF THE TOWN OF HOLLYWOOD PARK, TEXAS, AMENDING CHAPTER 72 TREES AND PUBLIC TREE CARE BY ADOPTING ARTICLE II “OAK TREES” TO PROVIDE FOR THE CARE OF OAK TREES AND THE PREVENTION OF OAK WILT; TO MAKE PROVISION FOR THE REMOVAL OF NUISANCE TREES ON PRIVATE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING FOR A PENALTY FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the Town of Hollywood Park recognizes that trees generally protect and enhance the quality of life and general welfare of the town; and

**WHEREAS**, the citizens of Hollywood Park have long valued trees as a natural and often irreplaceable community resource and recognize them as assets for their beauty and service; and

**WHEREAS**, the City Council of the Town of Hollywood Park adopted Ordinance No. 929 on or about July 16, 2013 which addressed public tree care; and

**WHEREAS**, the City Council of Hollywood Park has further determined that the protection and care of oak trees and the prevention of oak wilt is essential to the present and future health, safety, and welfare of all citizens, and accordingly, have determined that the adoption and implementation of a private oak tree care ordinance is meritorious and necessary.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HOLLYWOOD PARK, TEXAS** that Chapter 72 of the Code of Ordinances of the Town of Hollywood Park is hereby amended by adopting a new Article II “Private Oak Tree Care” to read as follows:

**“Article II. Private Oak Tree Care**

**Sec. 72-11. Purpose.**

Oak trees are part of the fabric of Hollywood Park. The abundance of oak trees places a responsibility on the citizens of the town. Trees have a positive economic effect by enhancing property values, mitigating drainage and flooding issues, improving air quality, helping save energy, and improving health and quality of life, thereby making the city a more attractive place in which to live, visit, and do business.

The intent of this article is:

(1) To protect, maintain and manage the city's private oak tree resources by providing regulations relating to the cutting, removal or destruction of privately owned oak trees;

(2) To provide protection for privately owned oak trees.

## **Sec. 72-12. Definitions.**

As used in this Article, the following words and phrases shall have the meanings indicated:

*Director* – The person appointed by the Mayor to act on the behalf of the Town of Hollywood Park in the administration and enforcement of this Article.

*Diseased Trees* - Oaks infected by the fungus *Ceratocystis fagacearum*.

*Live Oak Trees* - Members of a distinct group of the genus *Quercus* including two Texas species: plateau live oak (*Quercus fusiformis*) and coastal live oak (*Quercus virginiana*). Live oaks are intermediate in susceptibility to oak wilt, but are most seriously affected due to their tendency to grow from root sprouts and form vast interconnected root systems that allow movement (or spread) of the fungus between adjacent trees.

*Nuisance* - Any Red Oak tree infected by oak wilt or any firewood and woody debris from a Red Oak tree suspected to have died from oak wilt, as determined by a field diagnosis commissioned by the Director, is hereby declared to be a public nuisance. Any Red Oak wood to which the bark is still attached may serve as a breeding place for any carrier of oak wilt. Red Oak trees known or suspected to have died of oak wilt cannot be retained in the town or used for firewood under any circumstances due to the high risk of fungal mat formation and insect transmission.

*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, in particular, the nitidulid beetles, and by humans moving and storing diseased Red Oak wood.

*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.

*Proprietor* – The owner or lessee of commercial property.

*Red Oak Trees* – Various oak trees including Spanish oak (*Q. buckleyi*), Shumard oak (*Q. shumardii*), and Blackjack oak (*Q. marilandica*), which are extremely susceptible and produce fungal mats that attract beetles and thus play a unique role in the establishment of new oak wilt infections.

*Resident* – The owner or lessee of residential property.

*Tree Contractor* – Any tree service, landscape contractor, person, firm, corporation, business entity, or utility performing trimming, cutting, or removal of oak trees under the direction of a Proprietor, Resident or utility on private property in the Town of Hollywood Park, ordinarily, but not exclusively, for remuneration.

## **Sec. 72-13. Preventive Measures.**

### **(1) Education**

The successful prevention and management of oak wilt depends on informed citizens. The city will provide educational data in the offices of the town, on the website and in community forums promoting an understanding of the fact that oak wilt is the most lethal tree disease in Texas and the manner in which the oak wilt pathogen spreads.

### **(2) Permit Process**

a. No one shall trim, cut or remove any oak tree on private property within the town without first obtaining a permit. There shall be no charge for a permit issued to a Resident or Proprietor who personally trims, cuts or removes an oak tree on his or her property. The cost of a permit for a Tree Contractor will be listed in the schedule of fees available in the office of the city secretary for public examination. A permit shall be valid for ten calendar days and shall be prominently posted and visible from the street.

b. In order to obtain a permit, a Resident, Proprietor or Tree Contractor must apply to the administration department of the town. If the applicant is a Tree Contractor, a representative of the Tree Contractor (not the Resident or Proprietor for whom the Tree Contractor is working) must personally apply for a permit and the Tree Contractor must satisfy the administration department of the town that the applicant has the credentials and is qualified to properly and safely perform the services to be provided. The Director will attempt to maintain a list of Tree Contractors who have the credentials and qualifications to receive permits in the town. The application for a permit must contain a certification that the applicant has read the town's regulations pertaining to oak tree trimming and that the applicant will abide by all of such regulations.

### **(3) Time Frame for Trimming and Remedial Covering**

Oak trees on private property growing within the town may only be cut or trimmed from July 1<sup>st</sup> through January 31<sup>st</sup> when fungal spore formation and beetle



activity are lowest. Such trimming requires that all wounds to the trunk, limbs and root system of oak trees in the town shall be painted immediately, before moving on to the next limb, but no later than 30 minutes of the wound, with asphaltic or black exterior oil or a black latex-based paint. Such painting of the live oak tree is to prevent contact with contaminated nitidulid beetles. Due to the changeable nature of weather in Central Texas, wound dressing should be applied immediately to all wounds/damage to oak trees regardless of the time of year that the wound occurs. The only exception for trimming outside the designated time frame is for clearing branches posing a danger to life or property, and in such event a permit must first be obtained and the remedial covering required in this subsection must be applied.

#### **(4) Protection of Trees During Construction**

Any person, firm, corporation, public utility or city department performing construction in the area of any tree must employ appropriate measures to protect the tree, including, but not limited to, placing protection around the tree to prevent any damage.

### **Sec. 72-14. Management/Enforcement.**

#### **(1) Code Compliance**

a. The Code Compliance Officer of the town will verify that all cutting/trimming projects of oaks on private property will be accompanied by a prominently posted permit, visible from the street. Further, the use of black paint will facilitate the monitoring of the preventive measures.

b. All debris resulting from the cutting/trimming of oaks shall be removed by the Proprietor, Resident or Tree Contractor who created or authorized the creation of the debris from the town within 96 hours.

c. The Code Compliance Officer is 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 or dead Red Oak wood situated thereon as a possible public nuisance.

#### **(2) Notification of Possible Oak Wilt**

a. If a Resident or Proprietor finds or suspects oak wilt on any property, the Director shall be promptly informed of the discovery. The Director shall obtain confirmation of the diagnosis. If oak wilt is confirmed, the measures recommended by the Texas A & M Forest Service to control and prevent the impact of the oak wilt shall be initiated by the Resident or the Proprietor to reduce the impact of the oak wilt infection either through Red Oak removal, replanting and/or treating Live Oaks.



b. The Resident or Proprietor has 45 days to establish a plan of action for treatment. Once the Resident or Proprietor has established a plan of action for treatment, the Director will be notified so that the plan can be monitored for the benefit of all citizens of the town. The plan of action for dead Red Oak tree removal must include removal from the town within 96 hours after plan submission.

## **Sec. 72.15. Violations.**

### **(1) Penalty**

The Code Compliance Officer shall seek voluntary compliance with the provisions of this article to the extent feasible. If the Code Compliance Officer determines that there has been a violation of this article and such violation is not an immediate hazard or nuisance, the Code Compliance Officer shall notify the alleged violator in person or by certified return receipt requested mail of the violation and the action required of the alleged violator. If the alleged violator fails to cure the violation within ten (10) days of delivery in person or of the mailing of a notice of violation, a citation shall be issued to the alleged violator, and the violator shall be subject to a fine as provided in Section 1-15 of the Code of Ordinances. Each day that such violation shall occur, continue or be permitted to exist shall constitute a separate offense. If an alleged violator disputes the violation within ten (10) days after the delivery or mailing of a notice of violation by the Code Compliance Officer, and before a citation is issued, the alleged violator may appeal the notice of violation to the Tree Advisory Board, which shall meet to consider the appeal and seek to reach a settlement of the violation. If a settlement is not reached, or if a settlement is reached and the alleged violator fails to comply with the settlement, the Code Compliance Officer shall proceed to cause a citation to be issued and processed in the Municipal Court of the Town of Hollywood Park the same as other violations of the Code of Ordinances. If the Code Compliance Officer determines that a violation of this article is an immediate hazard or nuisance, the Code Compliance Officer may refrain from issuing a notice of violation and proceed directly to the issuance of a citation in the Municipal Court.

### **(2) Injunctive Relief**

Any person who shall fail to comply with any provision of this article, or who shall commit any of the acts described by this article, or be guilty of any of the omissions thereof, shall be liable to injunctive action, being subject to being enjoined and mandatorily enjoined in any court of competent jurisdiction, and shall be liable and responsible for any and all expenses that may be incurred by the City in connection with any such action, omission or other violation, including reasonable attorney fees.

## **Sec. 72.16 – 72.30. Reserved”**

**NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HOLLYWOOD PARK, TEXAS** that Section 38-46 of Chapter 38 "Offenses" is hereby repealed and said section number shall be reserved for future use.

**NOW, THEREFORE, BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE TOWN OF HOLLYWOOD PARK, TEXAS** that Section 72-35 (g) of Chapter 72 of the Code of Ordinances is repealed and a new Section 72-35 (g) is adopted as follows:

"(g) Oak trees on public property growing within the town may only be cut or trimmed from July 1<sup>st</sup> through January 31<sup>st</sup> when fungal spore formation and beetle activity are lowest. Such trimming requires that all wounds to the trunk, limbs and root system of oak trees in the town shall be painted immediately, before moving on to the next limb, but no later than 30 minutes of the wound, with asphaltic or black exterior oil or a black latex-based paint. Such painting of the live oak tree is to prevent contact with contaminated nitidulid beetles. Due to the changeable nature of weather in Central Texas, wound dressing should be applied immediately to all wounds/damage to oak trees regardless of the time of year that the wound occurs. The only exception for trimming outside the designated time frame is for clearing branches posing a danger to life or property."

This Ordinance shall become effective after its passage and publication according to law.


**PASSED, APPROVED and ADOPTED** by the City Council of Hollywood Park, Texas, on this 17<sup>th</sup> day of June, 2014.

  
Chris Fails, Mayor

**ATTEST:**

  
Janice Alamia, City Secretary

**APPROVED AS TO FORM:**

  
Michael S. Brennan, City Attorney