

**CITY OF HORSESHOE BAY**

**ORDINANCE NO. 2019-16**

**AMENDMENT OF CHAPTER 8 OFFENSES AND  
NUISANCES, ARTICLE 8.09 OAK TREE TRIMMING PROTECTION**

**AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS AMENDING CHAPTER 8 OFFENSES AND NUISANCES, ARTICLE 8.09 OAK TREE TRIMMING PROTECTION EXEMPTING RESORTS AND GOLF COURSES FROM PRUNING OAK TREES FROM FEBRUARY 1 TO FEBRUARY 14, REQUIRING NO RED OAK LOGS BE BROUGHT INTO THE CITY AS FIREWOOD, CHANGING THE REQUIREMENT FOR SPRAY PAINT, AND ALLOWING PRUNING OF OAK BRANCHES RUBBING TOGETHER OR ON A ROOF OR OTHER STRUCTURE CREATING OPEN WOUNDS ANY TIME OF YEAR; AND PROVIDING FOR SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING**

**WHEREAS**, the Mayor and City Council of the City of Horseshoe Bay, Texas recognize the importance and necessity of protecting live oak trees in the city from the oak wilt disease; and

**WHEREAS**, certain regulations are required to be established in order to restrict the cutting of oak trees during certain months of the year, allowing cutting during those months with specific requirements, and requiring specific requirements when damage to branches does occur during months when it is not allowed; and

**WHEREAS**, the City Council of Horseshoe Bay finds that amending Chapter 8 Offenses and Nuisances, Article 8.09 Oak Tree Trimming Protection as provided herein is in the best interests of the City and is necessary and proper for good government.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:**

**I. FINDINGS OF FACT**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**II. AMENDMENT OF CHAPTER 8 OFFENSES AND NUISANCES, ARTICLE 8.09 OAK TREE TRIMMING PROTECTION, SECTION 8.09.003 DEFINITIONS**

**Specific definitions in Section 8.09.003 are hereby amended, and added, to read as follows:**

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

Live oaks. Live oaks are Texas live oak/*Quercus fusiformis* and live oak/*Quercus virginiana*.

Nuisance. Any 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 an approved laboratory analysis or from field diagnosis as performed by the state forest service staff forester, are hereby declared to be a public nuisance.

Oak wilt. Oak wilt is caused by the fungus *Bretziella fagacearum*. It is a vascular wilt disease of oaks. *Bretziella fagacearum* invades the water-conducting tissues of oak roots, trunks, and limbs. *Bretziella 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.

Pruning paint/dressing. Any paint of any color is effective for sealing fresh wounds and cuts as long as it is applied immediately. A gray color is recommended as it blends nicely with the natural color of the bark.

Red oaks. Red oaks are Texas red oak/*Quercus buckleyi*, Shumard oak/*Quercus shumardii*, and blackjack oak/*Quercus marilandica*. Red oak is the only variety of oaks that will host the production of spore/fungal mats.

Spore/Fungal Mats. Spore mats have a sweet aroma that attract insects and can only form on red oak trees. Spores of this fungus can be moved around by certain insects and by humans.

White oaks. (Post oaks, Bur oak, Chinkapin oak, Monterrey oak). White oaks have an extremely low probability of mortality from the oak wilt disease. Spore mats do not form on White oaks.

### **III. AMENDMENT OF CHAPTER 8 OFFENSES AND NUISANCES, ARTICLE 8.09 SECTION 8.09.004 VIOLATIONS, PENALTY AND ENFORCEMENT**

**Section 8.09.004 is hereby amended to read as follows:**

- (a) All species and varieties of oak wilt infected oak trees that are dead or substantially dead, and all red oak wood and firewood, which may serve as a breeding place for any carrier of said disease, are hereby declared to be public nuisances.
- (b) 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. Golf courses and resorts are exempt from this prohibition from February 1 through February 14. Pruning or cutting of oaks is permitted from July through January.
- (c) It shall be unlawful to stack firewood taken from red oaks.
- (d) It shall be unlawful for any person to transport, store or sell firewood within the city that was taken from red oak trees or unknown sources of firewood. Red oaks may not be retained for firewood under any circumstance due to the high risk of fungal mat formation and insect transmission.
- (e) Red oaks 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, with all firewood and woody debris covered and hauled away or disposed of by burying, burning or chipping within three working days.

(f) Regardless of the time of year that a tree is cut or otherwise damaged by natural disaster and a wound occurs, neutral color paint must be applied immediately to all wounds of any size on susceptible oaks, including the cut surface of healthy oak stumps, pruning cuts, rubbing of branches together or on a roof or other structure creating open wounds, or branches with 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 immediately after the wound is discovered or occurs is an unlawful violation of this article.

(g) It shall be unlawful for any person, firm or corporation to knowingly violate the provisions of this article. Any person knowingly violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and each and every day or portion thereof during which any violation of any provision of this article is committed, continued, or permitted, shall be considered a separate offense 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.

(h) The city's code officer is charged with the enforcement of the provisions of this article.

### III. SEVERABILITY

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

### IV. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

### V. EFFECTIVE DATE

This Ordinance shall be and become effective for Building Permits issued after its passage and publication as may be required by governing law.

### VI. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted 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, Chapter 551 of the Texas Government Code.

**ADOPTED AND APPROVED** on this 19<sup>th</sup> day of February, 2019 by a vote of the City Council of the City of Horseshoe Bay, Texas.

**CITY OF HORSESHOE BAY, TEXAS**



**Stephen T. Jordan, Mayor**

**ATTEST:**

  
**Kerri Craig, City Secretary**