

# Golden-cheeked Warblers



## SPECIES HIGHLIGHTS

- Golden-cheeked Warblers Have Been Federally Listed as an Endangered Species since 1990.
- Urban Expansion & Population Growth Threaten Golden-cheeked Warbler Habitat.
- Protecting Golden-cheeked Warbler Habitat Will Also Provide Protection for 56 Additional Rare & Threatened Species in Hays County.

## Why Should We Protect Them?

Golden-cheeked warblers are a rare migratory songbird that nest only in the unique landscape of central Texas. The golden-cheeked warblers arrive in Texas in early March from Central and South America, and then migrate south again when breeding season is over in late August. These rare birds were identified as a Federally Endangered Species under the Endangered Species Act (ESA) by the U.S. Fish and Wildlife Service in 1990.

The golden-cheeked warbler habitat consists mostly of old growth Ashe Juniper mixed with deciduous trees, particularly mature Oaks. Population growth and anthropogenic activities have contributed to habitat degradation for this rare bird species. Hays County has proactively sought to find the balance between urban growth and protecting endangered species habitat for nearly a decade by creating the Hays County Regional Habitat Conservation Plan (RHCP).

[WWW.HAYSCOUNTYTX.COM](http://WWW.HAYSCOUNTYTX.COM)

712 South Stagecoach Trail, Suite 1045, San Marcos , 78666 Telephone:

(512) 393-2156 Email: [RHCP@co.hays.tx.us](mailto:RHCP@co.hays.tx.us)



# HAYS COUNTY ENDANGERED SPECIES ACT (ESA) HABITAT CONSERVATION COMPLIANCE FORM

## 1. Commentary:

For information on endangered species habitat within Hays County see the 2010 Hays County Regional Habitat Conservation Plan, available on Hays County's website, <https://hayscountytexas.com/departments/development-services/hays-county-regional-habitat-conservation-plan/> and Texas Parks and Wildlife Department's *Management Guidelines for the Golden-cheeked Warbler in Rural Landscapes* available at [https://tpwd.texas.gov/publications/pwdpubs/media/pwd\\_bk\\_w7000\\_0013\\_golden\\_cheeked\\_warbler\\_mgmt.pdf](https://tpwd.texas.gov/publications/pwdpubs/media/pwd_bk_w7000_0013_golden_cheeked_warbler_mgmt.pdf).

## 2. Contact Information:

Project Name: _____	
Property Owner: _____	Phone: _____
Address: _____	City: _____
Zip code: _____	E-mail: _____
Authorized Representative: _____	
Phone: _____	
Address: _____	City: _____
Zip code: _____	E-mail: _____
Emergency Contact: _____	
Phone: _____	
Address: _____	City: _____
Zip code: _____	E-mail: _____

## 3. Property Location:

Property address and Hays County CAD Parcel ID: _____	
Acres: _____	USGS Grid: _____
<i>In addition to this form, please submit an aerial map and any property boundaries based on the most recently available imagery.</i>	

## 4. Development Application Type:

- |   |   |
|---|---|
| <input type="checkbox"/> Master Planned Development (MPD) | <input type="checkbox"/> Manufactured Rental Home Community |
| <input type="checkbox"/> Final Plat                       | <input type="checkbox"/> Replat                             |
| <input type="checkbox"/> Amended Plat                     | <input type="checkbox"/> Condominium Regime Plat            |

*If the proposed development project includes anticipated vegetation removal equivalent to 1-acre or more of golden-cheeked warbler habitat, as described by Campbell 2003 in Section 5 of this document, the United States Fish and Wildlife Service highly recommends participating in the Hays County Regional Habitat Conservation Plan to avoid unauthorized "take" of endangered species habitat.*



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## 5. *Golden-cheeked Warbler Habitat:*

According to the Texas Parks and Wildlife Department's *Management Guidelines for the Golden-cheeked Warbler in Rural Landscapes* there are four vegetation types that landowners are advised to treat as occupied habitat until technical assistance is obtained, or a survey is done to determine whether or not specific areas support warblers:

1. Stands of mature Ashe juniper (trees with shredding bark), over 15 feet in height and dbh of about 5 inches, with scattered live oaks (at least 10% total canopy cover), where the total canopy cover of trees exceeds 35% and overall woodland canopy height is at least 20 feet.
2. Bottom lands along creeks and drainages which support at least a 35% canopy of deciduous trees (average canopy height of 20 feet), with mature Ashe juniper (at least 15 feet and 5 inches dbh) growing either in the bottom or on nearby slopes.
3. Mixed stands of post oak and/or blackjack oak (10-30% canopy cover), with scattered mature Ashe juniper (15 feet in height and 5 inches dbh), where the total canopy cover of trees exceeds 35% and overall woodland canopy height is 20 feet.
4. Mixed stands of shin (scalybark) oak (10-30% canopy cover) with scattered mature Ashe juniper (15 feet in height and 5 inches dbh), where the total canopy cover of trees exceeds 35% and overall woodland canopy height is 20 feet.

More details about golden-cheeked warbler habitat is available at [https://tpwd.texas.gov/publications/pwdpubs/media/pwd\\_bk\\_w7000\\_0013\\_golden\\_cheeked\\_warbler\\_mgmt.pdf](https://tpwd.texas.gov/publications/pwdpubs/media/pwd_bk_w7000_0013_golden_cheeked_warbler_mgmt.pdf)

## 6. *Existing Vegetation on Project Site (check one):*

Listed Species in Hays County:	<input type="checkbox"/>	The property parcel subject to the application to Hays County does not contain any vegetation similar to the description above that would qualify as golden-cheeked warbler habitat according to the Texas Parks and Wildlife Department.
Golden-cheeked Warbler	<input type="checkbox"/>	The property parcel subject to the application to Hays County is within a presumptive habitat area according to the vegetation description above by the Texas Parks and Wildlife Department.

## 7. *Owner or Authorized Representative (form is considered incomplete without this section):*

I acknowledge receipt of information and resources about vegetation types that are considered occupied habitat by golden-cheeked warblers.

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

E-mail: \_\_\_\_\_



# HAYS COUNTY ENDANGERED SPECIES ACT (ESA) HABITAT CONSERVATION COMPLIANCE FORM

## 8. Endangered Species Act (ESA) Biological Survey Obligation or Environmental Assessment Obligation for Listed Species:

The Environmental Protection Agency's (EPA) *Managing Your Environmental Responsibilities: A Planning Guide for Construction and Development, Section XI. The Endangered Species Act (ESA) Requirement's for Construction Activities* is available at <https://www.epa.gov/sites/production/files/2015-10/documents/myerguide.pdf>.

Listed Species in Hays County:	<input type="checkbox"/> There is no requirement for ESA compliance or for conducting either a biological survey or an environmental assessment for this listed species because no part of the tract subject to the application to Hays County contains vegetation types that are considered occupied by golden-cheeked warblers as set forth in <i>Section 5</i> of this document.
The Golden-cheeked Warbler	<input type="checkbox"/> The tract subject to the application to Hays County is within a presumptive habitat area and a biological survey or environmental assessment have been completed within the last 3 years for this tract by a Biologist permitted by U.S. Fish and Wildlife Service and copies sent to: U.S. Fish and Wildlife Service (USFWS) Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758 Biologist Name: _____ Scientific Permit #: _____ Month and Year of Survey: _____
	<input type="checkbox"/> The tract subject to the application to Hays County is within a presumptive habitat area and no biological surveys or environmental assessments have been submitted to U.S. Fish and Wildlife by the applicant. ( <i>Selecting this box determines that no biological survey has been conducted by the applicant prior to submitting the application.</i> )

## 9. Current Endangered Species Act Coverage for Project Site (check one)

The U.S. Fish and Wildlife Service (USFWS) has determined that certain land uses may cause “take” of listed species, “take” is defined in the Endangered Species Act (ESA) as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any threatened or endangered species. Harm is further defined to include activities that cause **significant habitat modification** where it actually kills or injures a listed species through impairment of essential behavior (e.g., nesting or reproduction). USFWS allows for *incidental* take of endangered or threatened species in Section 10(a)(1)(B) of the ESA (16 USC § 1539(a)(1)(B)), authorizes the USFWS to issue a permit allowing take of species providing that the taking is “incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.” More information about incidental take can be found in *Chapter 5* of the Hays County Regional Habitat Conservation plan, available at [http://hayscountyhcp.com/docs/FINAL\\_Hays\\_County\\_HCP\\_20100621.pdf](http://hayscountyhcp.com/docs/FINAL_Hays_County_HCP_20100621.pdf)

- The anticipated activity subject to the application to Hays County is covered under an existing USFWS Section 10(a)(1)(B) permit or a Section 7 Biological Opinion (for federal agencies) analyzing the activity as proposed, and the activity is identical or very similar to the activity proposed in permit and located in the same geographic location.

USFWS Section 10(a)(1)(B) permit number: \_\_\_\_\_

USFWS Section 7 permit number: \_\_\_\_\_

- The anticipated activity subject to the application to Hays County is not covered by an existing Section 10(a)(1)(B) permit or a Section 7 Biological Opinion (for federal agencies) nor participation in an approved Regional Habitat Conservation Plan.



# HAYS COUNTY ENDANGERED SPECIES ACT (ESA) HABITAT CONSERVATION COMPLIANCE FORM

## ***10. Hays County Regional Habitat Conservation Plan Opportunity:***

- a) Hays County is home to several species listed as threatened or endangered under the Federal Endangered Species Act, 16 U.S.C. 1531, et seq. (ESA). The U.S. Fish and Wildlife Service (USFWS) has determined that certain land uses may cause “take” of listed species, as that term is defined by the ESA and relevant regulations found at 50 C.F.R. 17.3. Generally, take of listed species of wildlife is prohibited by the ESA, unless USFWS has issued authorization in the form of an incidental take permit (ITP) pursuant to ESA section 10 or a biological opinion and incidental take statement pursuant to ESA section 7. For a list of endangered and threatened species potentially present in Hays County, please visit USFWS’ website at [www.fws.gov/endangered](http://www.fws.gov/endangered).
- b) Hays County has received an ITP from USFWS that authorizes incidental take (take associated with otherwise lawful land use activities such as clearing trees for agriculture or development purposes) of the golden-cheeked warbler so long as the County implements the terms and conditions of the ITP. An updated map depicting potential Covered Species habitat located in Hays County may be accessed at [https://hayscountytexas.com/wp-content/uploads/sites/69/2020/01/Golden-Cheeked-Habitat-Map\\_Dec-2019.pdf](https://hayscountytexas.com/wp-content/uploads/sites/69/2020/01/Golden-Cheeked-Habitat-Map_Dec-2019.pdf). The County may allow individuals and entities to "participate" in the ITP and, thereby, receive incidental take authorization through the County's ITP. Relevant information regarding the participation process may be found at [www.hayscountyhcp.com](http://www.hayscountyhcp.com). For additional information on complying with the ESA, please visit [www.fws.gov/endangered](http://www.fws.gov/endangered) or contact the USFWS Ecological Services Austin Field Office at (512) 490-0057.

## ***11. Potential Penalties Related to Non-Compliance of the Endangered Species Act (ESA):***

According to the Endangered Species Act (ESA) Section 11, there are penalties and enforcement actions associated with violations of the ESA. Further information outlining consequences and activities that qualify as civil penalties, as well as consequences and activities that qualify as criminal violations can be found in more detail at the United States Fish and Wildlife Service (USFWS) website <https://www.fws.gov/endangered/laws-policies/section-11.html>. Section 11(e) covers the enforcement actions if violations of the ESA are to occur. A simplified penalty schedule is available to the public by the National Oceanic and Atmospheric Administration at [https://www.gc.noaa.gov/documents/gces/6-ESA/esa\\_1208.pdf](https://www.gc.noaa.gov/documents/gces/6-ESA/esa_1208.pdf)



# HAYS COUNTY ENDANGERED SPECIES ACT (ESA) HABITAT CONSERVATION COMPLIANCE FORM

## Affidavit of Compliance

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_  
("Affiant") who, being first duly sworn, upon his/her oath states:

My name is \_\_\_\_\_ and I am the owner of the property that is the subject of  
this application to the County of Hays.

I certify that the information provided in this Habitat Compliance Form is true and accurate. I  
acknowledge that Hays County has presented resources pertaining to compliance with the Endangered  
Species Act (ESA) with the option to participate in the Hays County Regional Habitat Conservation Plan  
(RHCP). I understand that participation in the RHCP would obtain ESA compliance for "take" or "harm"  
to a federally listed species that could potentially occur at project sites that contains suitable potential  
habitat according to the Texas Parks and Wildlife Department's description in *Section 5* of this  
document.

I further acknowledge that in undertaking my land use activity, I am obligated to comply with  
all relevant federal, state, and local laws, including specifically the Federal Endangered Species Act, 16  
U.S.C. 1531 et seq., and receipt of development permits from Hays County does not relieve me of the  
obligations set forth in *Section 10 paragraph a)* of this document.

Signed this \_\_\_\_\_ day of \_\_\_\_\_.

Signature: \_\_\_\_\_

STATE OF TEXAS

§  
§  
§

COUNTY OF HAYS

Sworn to and subscribed to before me on \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas