



## COUNTY OF SANTA BARBARA

### OAK TREE PROTECTION AND REGENERATION

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### ARTICLE IX OF CHAPTER 35 SANTA BARBARA COUNTY CODE

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# DIVISION 1.

## IN GENERAL.

### Sec. 35-900. Preamble.

The goal of the Oak Tree Protection and Regeneration Program is to sustain and, where possible, enhance the native oak resources of Santa Barbara County. Specifically, the program seeks to ensure that there is no net loss of native oak trees and that, if possible and with the help of incentives, the number and extent of remaining valley, blue, and live oak trees grow greater. To accomplish this, the program combines elements of landowner flexibility and voluntary oak regeneration with oak protection. This approach will benefit the county's oaks, avoid undue burdens on private property, and foster trust between land stewards, concerned citizens and local government.

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### **Sec. 35-901. Title and Purpose.**

1. The regulations contained in this Article shall be known as and referred to as "The County Oak Tree Protection and Regeneration Ordinance" adopted by the Santa Barbara County Board of Supervisors as Ordinance No.4490 on April 15, 2003 and amended as Ordinance No. 05ORD-00000-00011 on August xx, 2005.
2. The purpose of this Article is to implement those goals and policies of the Santa Barbara County Comprehensive Plan that promote the protection of oak trees, which are important to the people's well-being and the ecological integrity of Santa Barbara County, and the continuation and intensification and expansion of agriculture, the leading production industry and a land use that is considered beneficial to the county. These regulations address oak tree removal in the inland rural areas of the County (as defined below) if such removal is not associated with development that requires a permit under Articles III or IV of Chapter 35 of the County Code or Ordinance 661.

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## In General

### Sec. 35-902. Applicability.

1. The regulations contained in this Article apply to all property in the unincorporated area located outside the coastal zone and urban boundary lines as depicted on the County's land use maps, in the Agriculture I (AG-I), Agriculture II (AG-II), Resource Management (RES), and Mountainous Goleta (MT-GOL) [and Mountainous Toro Canyon \(MT-TORO\)](#) zone districts of Article III of Chapter 35 of the Santa Barbara County Code; Agriculture I (AG-I), and Resource Management (RES) zone districts of Article IV of Chapter 35 of the Santa Barbara County Code; and the Unlimited Agriculture (U), Exclusive Agriculture (A-1-X), Watershed Agriculture (WA), General Agriculture (AG), Intensive General Agriculture (AGI) and Limited Agriculture (AL) zone districts of Article V of Santa Barbara County Zoning Ordinance 661.
2. These regulations do not apply within the environmentally sensitive habitat overlay areas for Goleta (ESH-Gol) and Toro Canyon (EHS-TCP).
3. The regulations contained in this Article apply to protected oak trees as defined in Sec. 35-906. Definitions.
4. The regulations contained in this Article apply only where no development permit (e.g. Development Plan, Land Use Permit, Conditional Use Permit) required under Articles III or IV of Chapter 35 of the County Code or under Ordinance 661, applies. However, depending on the method and/or circumstances of the oak tree removal operation, other permits, such as a grading permit, may also be required.
5. [Oak tree removal not triggering an Oak Tree Removal Permit as set forth in sections 35-908 and 35-909 is addressed in Appendix A to this Article. Divisions 2 through 4 of this Article apply to the removal of deciduous oak trees requiring an Oak Tree Removal Permit.](#)
6. [Deciduous oak tree protection is governed by this Article, including Appendix A, Guidelines for Native Oak Tree Removal. Live oak tree protection is governed by Appendix A to this Article as well as the general provisions described in Division 1, as no Oak Tree Removal Permit is required under this Article.](#) The Agricultural Commissioner is the administering authority for [Appendix A to this Article, while Planning and Development administers Divisions 2 through 4 of this Article related to deciduous oak tree removals requiring a permit.](#) The Agricultural Commissioner is also

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responsible for making certain determinations under [Divisions 2 through 4 of this Article](#).

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**Sec. 35-903. Exemptions.**

The provisions of this [Article](#) do not apply to removal of oak trees: by the Federal Government on leased or federally-owned property; by the County of Santa Barbara or any district of which the Board of Supervisors is the governing body; by the State of California or an agency of the State acting in its sovereign (governmental) capacity; on any state university or college; or, on certain facilities of local agencies as defined in Government Code Sec. 53090 et. seq.

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**Sec. 35-904. Fees.**

The County Board of Supervisors shall establish by resolution a schedule of fees for processing the [permit](#) applications required by this [Article](#). All required fees shall be paid at the time of filing the applications with Planning and Development and no processing shall commence until the fee is paid.

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**Sec. 35-905. Conflicts with Other County Regulations.**

If any provision of this Article conflicts with any provision of any regulation contained in any previously adopted ordinance of the County, the provisions of this Article shall be controlling.

**Sec. 35-906. Definitions.**

For the purpose of this Article, certain terms and words are defined as follows:  
Words used in the present tense shall include the future tenses; words in the singular number include the plural and words in the plural number include the singular except where the natural construction of the writing indicates otherwise. The word “shall” is mandatory and not discretionary and the word “may” is permissive.  
ACORN: The fruit and viable seed of an oak tree.

## In General

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AGRICULTURE: For the purposes of this ordinance, agriculture includes the production of food and fiber, the growing of plants and the raising and keeping of animals along with their associated normal and usual agricultural practices as set out in Sec. 14-8.a of the County Grading Ordinance.

BLUE OAK TREE. (*Quercus douglasii*) A very slow growing deciduous oak tree that inhabits the inland mountains and higher elevations of Santa Barbara County.

CANOPY: The foliar cover of a tree or trees (including twigs, branches, and leaves). Where more than one tree's branches touch or overlap, they form one continuous cover or canopy.

CRITICAL ROOT ZONE: An oak tree's root zone providing a sufficient amount of soil volume and root system needed to reestablish a rooting network after disturbance. The formula for determining the critical root zone for a single trunk tree is for every one inch of the tree's diameter at breast height (dbh), the protection zone equals one foot radius around the tree. For multi-trunked trees, the dbh used in the critical root zone calculation is determined by summing the diameters of the individual stems.

DECIDUOUS OAK TREE: An oak tree with leaves that fall seasonally. For the purposes of this ordinance deciduous oaks include valley oaks (*Quercus lobata*) and blue oaks (*Quercus douglasii*).

DIAMETER AT BREAST HEIGHT (DBH): The total cross-sectional diameter between the outside bark of an oak tree measured in inches at a height four and one-half (4½) feet above the ground on the uphill side of the tree. In the case of trees with multiple stems (trunks), the diameter of all stems at breast height shall be combined to calculate the diameter at breast height of the tree.

EXEMPT OAK TREE: Oak trees that are below protected size as herein defined, that are voluntarily planted, or began growing after January 1, 2005 (unless credited as pre mitigation or counted as a replacement tree) naturally occurring seedlings or volunteers that are nurtured for purposes other than mitigation after January 1, 2005, are exempted from protection under this Article.

Deleted: DRIPLINE: A vertical line extending from the outermost edge of the oak tree's natural canopy to the ground.¶

FOREST: A community of oak trees characterized by a more or less dense, contiguous and extensive canopy cover.

LIVE OAK TREE: (*Quercus agrifolia*) An evergreen species of oak tree that occurs primarily in forest, woodland, and riparian habitats throughout Santa Barbara County.

LOT: For the purposes of this ordinance, a single lot, or where applicable, contiguous lots under single ownership, as determined by the Agricultural Commissioner, the boundaries of which are delineated in the latest recorded parcel map, subdivision map, or Certificate of Compliance recorded in the County Recorder's Office or deed provided that such recorded deed does not create or attempt to create a lot in violation of the provisions of any applicable California law or County ordinance.

MITIGATION: A process of minimizing or compensating for damages to Native Oak Trees, caused by human developments. These activities are designed to decrease the degree of damage and may include restoration, enhancement, replacement, compensation or any other prescribed means.

MITIGATION NURTURING – A prescribed plan for the planting and care of trees planted for mitigation purposes.

NATIVE: Indigenous; of a species occurring naturally in an area.

NON-AGRICULTURAL REMOVAL: For the purposes of this Ordinance in relation to oak tree removal, any removal of protected oak trees for a purpose other than for agriculture.

NURSERY: Plot of ground where nursery stock is propagated, grown or cultivated for future transplantation.

NURSERY STOCK: Plants grown in a nursery.

NURTURE: To promote the growth of a tree through means such as watering, weeding, fertilizing or protecting. Protecting may include physically protecting seedlings and/or managing livestock densities and grazing seasons.

OAK TREE REMOVAL: Causing an oak tree to die, be uprooted or removed from the ground by any means, including, but not limited to, cutting, uprooting, poisoning, or burning (unrelated to controlled burns)<sup>1</sup>. Excessive pruning or topping, or severing an oak tree's roots enough to lead to the death of the tree, would also be considered oak tree removal. Death by natural causes (e.g. sudden oak death syndrome) or removals required due to disease or regulatory requirements shall not be considered a removal.

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<sup>1</sup> The Oak Tree Specialist shall work with landowners, APCD, the Range Improvement Association and the Fire Districts to coordinate protocols for controlled burns that protect native oaks where feasible.

## In General

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OAK TREE REMOVAL PERMIT: A discretionary permit required as prescribed by this ordinance prior to removal of a specified number of protected deciduous oak trees within the inland rural areas of the County.

OAK TREE REMOVAL THRESHOLDS: An amount of oak tree removal that [triggers a mitigation requirement or permit under this Article.](#)

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PROTECTED OAK TREE: A deciduous oak tree four inches or greater in diameter at breast height [and a live oak tree eight inches or greater in diameter at breast height.](#) [Trees that are voluntarily planted or began growing after January 1, 2005](#) naturally occurring seedlings or volunteers that are nurtured for purposes other than mitigation after January 1, 2005, [are not considered protected for the purposes of this Article unless credited as pre-mitigation.](#)

[Replacement trees required as mitigation under Tiers 2, 3 and 4 of this Program, as described in Appendix A to this Article, are protected regardless of size or when they began growing.](#)

PRE-MITIGATION: Tree protection or improvement actions taken expressly for the purpose of compensating for unavoidable, necessary losses from specific future development actions.

REMOVAL TRACKING PERIOD: A period of time in which removal, both exempt and non-exempt, of protected oak trees is tracked cumulatively. The first removal tracking period begins on the effective date of this [Article](#). For the purposes of this [Article](#), the removal tracking period is thirty (30) years.

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SAVANNA: Grasslands usually on flat to rolling terrain with sporadic oak trees found singly or in very small clusters.

UPROOTED: Where a tree is no longer supported in an upright position by its roots anchored in the soil; its trunk or main limbs are now resting on the ground and the roots are partially or wholly out of the soil.

VALLEY OAK: (*Quercus lobata*) A species of deciduous oak tree that inhabits inland valleys and hills at lower elevations in central California. In Santa Barbara County, valley oaks are found north of the Santa Ynez Mountain Range. *Quercus lobata* is the largest oak tree found in California.

WATERSHED: A region or land area drained by a single stream, river or drainage network.

WOODLAND: A community of oak trees with an open canopy and with the intervening area occupied by lower vegetation, commonly grass.



## DIVISION 2. REGULATIONS.

### Sec. 35-907. Oak Tree Removal Exempt from This Article.

The removal of protected oak trees (as defined in Sec. 35-906) that are naturally dead or uprooted, or that are within 50 feet of an existing residential structure, or that pose an immediate threat to safety<sup>2</sup>, shall be exempt from requirements of this Article, and will not be counted towards removal thresholds.

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### Sec. 35-908. Oak Tree Removal for Agricultural Purposes.

1. Within a thirty-year removal tracking period, the removal of protected deciduous oak trees for agricultural purposes from a lot, within the limits set forth in the table below, shall be exempt from the permit requirements of Sec. 35-908.2, provided the number of protected deciduous oak trees removed from the lot does not equal or exceed 50% of all protected deciduous oak trees on the lot if such lot is less than 100 acres in size or 30% of all protected deciduous oak trees on the lot if such lot is 100 acres or greater in size, and provided that the landowner complies with all applicable provisions of the Guidelines for Native Oak Tree Removal, included as Appendix A to this Article, prior to the oak tree removal.

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2. Guidelines for Native Oak Tree Removal for the removal of Coast Live Oak Trees for agricultural practices are found in Section II.A. of Appendix A.

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<sup>2</sup> An example of “an immediate threat to safety” would be an oak tree that, through natural causes, is imminently and highly likely to fall directly onto a structure, such as a residence, barn, or shed.

## Regulations

Acreage of lot	Maximum number of protected deciduous oak trees exempt from the permit requirements of Sec. 35-908.2
Less than 50	8
50 – <100	17
100 – <150	26
150 – <200	34
200 – <250	42
250 – <300	50
300 – <350	58
350 – <400	66
400 – <450	74
450 – <500	82
500 – <550	90
550 – <600	98
600 – <650	106
650 – <700	114
700 – <750	122
750 – <800	131
800 – <850	138
850 – 899	146
Greater than 899	154

2. Within the 30-year removal tracking period, the removal of protected deciduous oak trees for agricultural purposes from a lot in excess of the limits set forth in Sec. 35-908.1 or the removal of 50% or more of all protected deciduous oak trees for agricultural purposes from a lot less than 100 acres in size or 30% or more of all protected deciduous oak trees from a lot 100 acres or greater in size shall require approval of an Oak Tree Removal Permit.
3. All protected deciduous oak trees removed from a lot under the Guidelines for Native Oak Tree Removal (Appendix A to [this Article](#)) and this Section within the same tracking period shall be counted cumulatively to determine whether a permit is required for removals performed in the same tracking period.
  - a. Failure to comply with all relevant provisions of [Appendix A](#), as determined by the Agricultural Commissioner, may subject the landowner to the [permit](#) requirements of this [Article](#). A violation which is determined by the Agricultural Commissioner to

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require a permit pursuant to [this Article](#), shall be considered to be a violation of this [Article](#).

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**Sec. 35-909. Oak Tree Removal for Non-Agricultural Purposes.**

1. Within the 30-year removal tracking period, the removal of protected deciduous oak trees for non-agricultural purposes from a lot, within the limits set forth in the table below, shall be exempt from the permit requirements of Sec. 35-909.2, provided that the landowner complies with all applicable provisions of [Appendix A to this Article](#) prior to the oak tree removal.

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Lot acreage	Maximum allowable number of protected deciduous oak trees removed for non-agricultural purposes exempt from permit requirements of Sec. 35-909.2
<50	2
50 – <100	3
100 – <200	4
200 – <300	5
300 – <400	6
400 – <500	7
500 – <600	8
600 – <700	9
700 – <800	10
800 – 899	11
Greater than 899	12

2. Within a removal tracking period, the removal of protected deciduous oak trees for non-agricultural purposes (as defined in Sec. 35-906) from a lot in excess of the limits set forth in Sec. 35-909.1 shall require approval of an Oak Tree Removal Permit.
3. All protected deciduous oak trees removed from a lot under the Guidelines for Native Oak Tree Removal (Appendix A to [this Article](#)) and this Section within the same tracking period shall be counted cumulatively to determine whether a permit is required for removals performed in the same tracking period.
4. Failure to comply with all relevant provisions of [Appendix A](#), as determined by the Agricultural Commissioner, may subject the landowner to the [permit](#) requirements of this

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## Regulations

Article. A violation which is determined by the Agricultural Commissioner to require a permit pursuant to this Article shall be considered to be a violation of this Article.

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5. Guidelines for Native Oak Tree Removal for non-agricultural purposes are found in Section II.B. of Appendix A.

### Sec. 35-910. Oak Tree Removals Not to Count Toward Thresholds.

Where a public utility or other public entity has an easement over a portion of a lot, and if a public utility or other public entity removes protected oak trees within a utility or other public easement located over a portion of a lot, those protected oak tree removals shall not be counted toward the thresholds set out in Sec. 35-908, Sec. 35-909, or Appendix A for the remainder of the lot.

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### Sec. 35-911. Standards for Oak Tree Replacement.

Where deciduous oak tree removal requires a permit under this ordinance, the following standards shall be adhered to:

1. The preparation and implementation of an Oak Tree Management Plan for the lot on which the oak tree removal will take place and any lot used for off-site replacement shall be required. The Management Plan shall be prepared or endorsed by the Oak Tree Specialist. The plan shall:
  - a. Demonstrate how the mix of deciduous oak tree savannas, woodlands, and forests on the lot will be preserved, created, enhanced, restored, and maintained, so that:
    - (1) The removal of protected oak trees does not divide the remaining savanna, woodland, and forest habitats into small, isolated fragments.
    - (2) Protection, maintenance, restoration, and enhancement of large blocks of savanna, woodland, and forests are given priority over maintenance, restoration, and enhancement of smaller, more isolated habitat patches.
    - (3) Valley and blue oak trees that link on- or off-site oak tree savannas, woodlands, forests, or other existing, proximate habitats are retained to the maximum extent feasible.

- (4) On-site replacement is given priority over off-site replacement except where no suitable on-site locations exist, or reasonable use of the lot would be precluded as determined by Planning and Development along with the Oak Tree Specialist. In such cases the replacement oak trees may be planted in an off-site location acceptable to the applicant, the landowner and the Oak Tree Specialist. For off-site replacement planting locations priority shall be given to nearby sites and to sites adjoining existing deciduous oak woodlands or providing links between deciduous oak woodlands.
    - (5) There is avoidance of removal of actively used granary trees, raptor roosting or nesting trees, and trees in riparian and other wildlife corridors.
  - b. Comply with the following requirement, when applicable.
    - (1) When required by the Oak Tree Specialist on a case-by-case basis, a buffer area protecting the critical root zone shall be maintained around identified valley and blue oak trees retained on the lot.
  - c. Identify valley and blue oak tree replanting, restoration, conservation and enhancement sites on a plan or aerial photograph to facilitate mitigation monitoring and tracking; and identify the species, location, and size of all oak trees that are planted or protected as mitigation or to fulfill a condition on the permit.
  - d. Provide the deciduous oak tree replanting schedule and nurturing regime.
2. Protected oak trees that are removed shall be compensated at a 15:1 ratio by replacement planting, or protection of naturally occurring oak trees between six (6) inches and six (6) feet tall on the lot.
  3. Naturally occurring valley and blue oak seedlings/saplings, growing on the lot and between six (6) inches and six (6) feet in height that are protected and nurtured for five (5) years, may be counted as replacement (mitigation) trees under the Program.
  4. Any combination of acorns, planted seedlings/saplings, or naturally occurring valley and blue oaks between six (6) inches and six (6) feet tall, if established according to the requirements herein, may be used to achieve the required number of replacement trees.

## Regulations

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5. Replacement deciduous oak trees that are planted must come from nursery stock grown from locally-sourced acorns, or use acorns gathered locally, preferably from the same watershed in which they are planted. If planting is done using acorns, the ratio of acorns to protected oak trees removed shall be a minimum of forty-five (45) acorns for every protected valley oak tree removed. Up to three (3) acorns may be planted in the same hole.
6. Replacement deciduous oak trees shall be established in a location suitable for their growth and survival as determined by the Oak Tree Specialist, no closer than twenty (20) feet from each other or from existing oak trees and no farther than 165-180 feet from each other or existing oak trees unless otherwise approved by the Oak Tree Specialist.
7. Valley oaks shall replace valley oaks removed and blue oaks shall replace blue oaks removed.
8. The replacement deciduous oak trees shall be nurtured for five (5) years, the last two without supplemental watering, using techniques consistent with the most current version of the University of California publication "How to Grow California Oaks." At the end of the five years, ten trees for every protected tree removed must be alive, in good health as determined by the Oak Tree Specialist, and capable of surviving without nurturing and protection.
9. Each replacement deciduous oak tree must be protected against damaging ground disturbance, soil compaction, or over-irrigation within the [critical root zone](#). It must be fenced to protect it from grazing or browsing by animals both below and above ground until it has reached a minimum of eight (8) feet in height.
10. Where conditions warrant and where agreed to by the landowner and Oak Tree Specialist, tree planting designs and nurturing practices (e.g. protective structures, watering schedules) may be adjusted to improve the probability that replacement trees will be established successfully.
11. Valley oak tree removal encompassing an area of five (5) acres or greater shall require valley oak replanting of an area of comparable size in accordance with the requirements of this section, in an area of existing or historic valley oak habitat. This area shall be protected in the long-term where feasible.

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## **Regulations**

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12. For the purposes of this ordinance, all replacement trees are considered protected oak trees regardless of size [or when they began growing](#).
13. Standards for Coast Live Oak Replacement are found in Section III Attachment 3 of Appendix A.

**DIVISION 3.**  
**PERMIT PROCEDURES.**

**Sec. 35-912. Jurisdiction.**

1. The Planning Commission shall have jurisdiction over Oak Tree Removal Permits.

**Sec. 35-913. Contents for Oak Tree Removal Permit Applications.**

1. As many copies of an Oak Tree Removal Permit application as may be required shall be submitted to Planning and Development. Said application shall include the following:
  - a. A plan which shall indicate clearly and with full dimensions the following information, if applicable:
    - 1) North arrow and scale of drawing.
    - 2) Lot address.
    - 3) Lot dimensions and boundaries.
    - 4) Names of streets (rights-of-way) abutting the lot.
    - 5) The location, species, and trunk diameter at breast height of those protected oak trees to be removed from the lot.
    - 6) The location, species and size or age of naturally occurring oak trees to be used as replacement deciduous oak trees.
    - 7) If replacement trees are to be planted on a lot other than that where the protected oak trees are to be removed, a separate plan is required, containing items 1 through 6 above, as applicable.
  - b. Documentation of credit deciduous oak tree plantings, and evidence of survivorship, if applicable.
  - c. Source of water supply and the means for irrigating replacement oak trees and the methods to be used for planting and maintaining the replacement oak trees.
  - d. A brief statement of the reasons for the removal of the deciduous oak tree(s).
  - e. A statement of the method(s) to be used for removing the protected oak trees.
  - f. Any other information that Planning and Development may require.



2. For the purpose of a site inspection for an Oak Tree Removal Permit, the applicant shall mark in the field all protected oak trees to be removed, using a method acceptable to Planning and Development.

### **Sec. 35-914. Processing for Oak Tree Removal Permits.**

1. Upon receipt of the required copies of the Oak Tree Removal Permit application, Planning & Development shall process the application through environmental review.
2. The Planning Commission shall then consider the requested Oak Tree Removal Permit at a noticed public hearing and either approve, conditionally approve, or deny the request subject to the findings in Sec. 35-915 Findings Required for Approval of Oak Tree Removal Permits. Notice of the time and place of said hearing shall be given in accordance with Sec. 35-918 Noticing.
3. The decision of the Planning Commission shall be final subject to appeal to the Board of Supervisors as provided under Sec. 35-919 Appeals.
4. An Oak Tree Removal Permit may be granted for such period of time and upon such conditions and limitations as may be required to protect the health, safety, and general welfare of the community.
5. After all applicable appeal periods have expired, an Oak Tree Removal Permit approved pursuant to this Section shall not be considered in effect and shall not be issued by Planning and Development until all conditions and provisions of the permit and this Article, which are required to be complied with prior to issuance, are complied with.
6. A Notice to Property Owner document referencing the Oak Tree Removal Permit and replanting program or management plan shall be recorded by the property owner on the title for the parcel from which the protected oak trees will be removed and for any parcel used for off-site replacement planting, prior to issuance of the Oak Tree Removal Permit. 'Notice to Property Owner' documents shall expire at the end of the applicable 30-year tracking period. The recorded 'Notice to Property Owner' shall include this expiration date.

## **Permit Procedures**

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### **Sec. 35-915. Findings Required for Approval of Oak Tree Removal Permits.**

An Oak Tree Removal Permit shall be approved or conditionally approved only if all of the following findings are made:

1. That the proposed deciduous oak tree removal project conforms to the applicable provisions of this Article.
2. That for the subject parcel(s) there are no known outstanding zoning violations and any applicable zoning violation processing fees have been paid.
3. That significant environmental impacts are mitigated to the maximum extent feasible.
4. That the project will not be detrimental to the health, safety, convenience, and general welfare of the surrounding area.
5. That the proposed deciduous oak tree removal project conforms to the applicable policies of the Comprehensive Plan.

### **Sec. 35-916. Expiration.**

1. An Oak Tree Removal Permit shall remain valid only as long as all provisions of this Article and the Permit are met.
2. An Oak Tree Removal Permit shall expire five (5) years from the date of final approval, if the purposes for which the permit was approved have not been commenced in conformance with the permit.
3. Prior to the expiration of the term of an Oak Tree Removal Permit, Planning and Development may grant a single extension of one (1) year, for good cause shown, provided that the findings for approval required pursuant to Sec. 35-915 as appropriate to the permit can still be made.

### **Sec. 35-917. Revocation.**

Approval and issuance of an Oak Tree Removal Permit is contingent upon compliance with all conditions imposed as part of the approval. If the Planning Commission determines at a noticed public hearing as provided for Sec. 35-914 Processing for Oak Tree Removal Permits, that the permit holder is not in compliance with one or more of the conditions of the Oak Tree Removal Permit, the Planning Commission may revoke the Oak Tree Removal Permit. Written

## **Permit Procedures**

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notice of the hearing on such revocation shall be provided to the permit holder in accordance with Sec. 35-918 Noticing.

The decision of the Planning Commission to revoke the Oak Tree Removal Permit may be appealed to the Board of Supervisors, as provided in Sec. 35-919 Appeals.

Revocation may be pursued in addition to any other remedies for a violation of an Oak Tree Removal Permit provided for in Sec. 35-920.

## **DIVISION 4.**

### **ADMINISTRATION.**

#### **Sec. 35-918. Noticing.**

1. Requirements for noticing public hearings or decision for an Oak Tree Removal Permit. Notice of hearing or decision on an Oak Tree Removal Permit shall be given pursuant to Sections 65090 - 65096 of the California Government Code. The minimum requirements for such notice shall be as follows:
  - a. Notice shall be published in at least one newspaper of general circulation within the County, and circulated in the area affected by the project, at least ten (10) calendar days prior to the hearing.
  - b. Notice shall be mailed to any person who has filed a written request therefore and has supplied the Planning and Development with self-addressed stamped envelopes.
  - c. Notice shall be mailed to the applicant(s).
  - d. Notice shall be mailed to the owners of the affected property and the owners of property within 1,000 feet of the exterior boundaries of the affected property, at least ten (10) calendar days prior to the hearing or action. The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
  - e. If the number of owners to whom notice would be mailed or delivered pursuant to this Section is greater than 1,000, the County may instead provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least ten (10) calendar days prior to the hearing.
2. Contents of Notice.

The notice shall contain the following information:

  - a. The name of the applicant.
  - b. A description of the deciduous oak tree removal project and its location.

- c. The place, date, and general time of the hearing or of the action taken, and in the case of a notice of decision, the decision made by the Planning Commission.
  - d. The procedures for the submission of public comments in writing before the hearing and for public comments at the hearing; or
  - e. The procedures for filing an appeal as appropriate to the decision.
3. Failure to Receive Notice.
- The failure of any person or entity to receive notice given pursuant to this Section or pursuant to Sections 65090-65096 of the California Government Code shall not invalidate the actions of the Planning and Development or the decision-maker.

**Sec. 35-919. Appeals.**

1. The final decisions of the Planning Commission on the approval, denial, or revocation of an Oak Tree Removal Permit may be appealed to the Board of Supervisors by the applicant or any interested person adversely affected by such a decision. The appeal, which shall be in writing, and accompanying fee must be filed with the Clerk of the Board of Supervisors within the ten (10) calendar days following the date of the Planning Commission's final decision. If the tenth day falls on a day that the County offices are closed, the appeal period shall extend to the next County business day.
2. The appellant shall state specifically in the appeal how the decision of the Planning Commission is inconsistent with the purposes of this Article or the error or abuse of discretion committed by the Planning Commission. The Clerk of the Board of Supervisors shall reject the appeal if the grounds for appeal are not specified.
3. Prior to the hearing on the appeal, the Clerk of the Board of Supervisors shall notify the Secretary of the Planning Commission that an appeal has been filed. The Planning Commission shall then transmit to the Board of Supervisors copies of the application including all maps and data and a statement of findings setting forth the reasons for the decision by the Planning Commission.
4. The Board of Supervisors hearing shall be de novo and the Board shall affirm, reverse, or modify the decision of the Planning Commission at a public hearing. Notice of the time and place of said hearing shall be given in accordance with Sec. 35-918 Noticing, and notice shall also be mailed to the appellant.

### **Sec.35-920. Enforcement, Legal Proceedings, and Penalties.**

#### ***Sec. 35-920.1. Investigation.***

The Director of Planning and Development or designees are hereby authorized to investigate all reported or apparent violations of any of the provisions of this Article. If a violation is determined to exist, the Director of Planning and Development or designee is hereby authorized to take such measures as he/she deems necessary or expedient to enforce and secure compliance with the provisions of this Article.

1. Planning and Development defined

As used in this section, the term "Planning and Development" refers to the Planning and Development Department and also to any person within Planning and Development who is designated by the Director of Planning and Development to act on his or her behalf.

2. Cooperation of other officials

The Director of Planning and Development or his or her designees may request, and shall receive, the assistance and cooperation of other officials of the County to assist in the discharge of their duties.

3. Appointing Authority

The Director of Planning and Development may appoint such number of his/her staffs to act for Planning and Development as shall be authorized by the Board of Supervisors from time to time. The Director of Planning and Development may deputize such employees as may be necessary to carry out the functions of Planning and Development.

4. Right of entry and inspection

The Director of Planning and Development or designee may enter any property in the County of Santa Barbara for the purpose of carrying out any act necessary to perform any duty imposed by this Article. Upon request the Director of Planning and Development or designee shall provide adequate identification. Except under exigent circumstances, an inspection warrant shall be obtained if entry is refused.

#### ***Sec. 35-920.2. Work Stoppage.***

Whenever, in the judgment of Planning and Development, any person, firm, or corporation is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Article, the Director of Planning and Development

or designee may order the work stopped by posting notice in writing at the site and serving such notice and order on any persons engaged in doing or causing such work to be done. Any such persons, their corporation, employees, or servants, shall forthwith stop such work until such time as re-commencement is authorized by Planning and Development.

***Sec. 35-920.3. Referral for Legal Action.***

If unable to otherwise enforce the terms of this Article, Planning and Development shall refer the matter to the District Attorney and/or County Counsel of the County of Santa Barbara for appropriate legal action.

***Sec. 35-920.4. Legal Actions.***

1. Civil Actions

a. Public Nuisance

Any removal of protected deciduous oak trees contrary to the provisions of this Article shall be and the same is hereby declared to be unlawful and a public nuisance.

b. Injunctive Relief

Whenever, in the judgment of Planning and Development, any person, firm, or corporation is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Article or any rule, regulation, order, or permit issued thereunder, and at the request of Planning and Development, the District Attorney or County Counsel of the County may make application to the Superior Court for an order enjoining such act or practice, or for an order directing compliance, and upon a showing by Planning and Development that such person, firm, or corporation has engaged in or is about to engage in any such act or practice, a temporary, preliminary, or permanent injunction, restraining order, or other order may be granted.

c. Abatement

In the event that any person, firm, or corporation shall fail to abate a violation hereunder after notice of same and opportunity to correct or end the violation consistent with Section 35-911, Planning and Development may request the County Counsel or District Attorney to apply to the Superior Court of this County for an

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order authorizing Planning and Development to undertake those actions necessary to abate the violation and requiring the violator to pay for the costs of such undertaking.

### 2. Civil Remedies and Penalties

#### a. Civil Penalties

Any person, whether acting as principal, agent, employee, or otherwise, violating the provisions of this Article or any rule, regulation, order, or permit issued thereunder, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000.00) for each violation of any provision of this Article or any rule, regulation, order, or permit issued hereunder.

#### b. Costs and Damages

Any person, whether as principal, agent, employee, or otherwise, violating any provisions of this Article or the rules, regulations, orders, or permits issued thereunder, shall be liable to the County of Santa Barbara for the costs incurred, including litigation support, and the damages suffered by the County, its agents, and agencies as a direct and proximate result of such violations.

#### c. Procedure

In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by defendant.

### 3. Criminal Actions and Penalties

#### a. Infractions.

Any person, firm, or corporation, whether as a principal, agent, employee, or otherwise, who shall remove protected deciduous oak trees contrary to the provisions of this Article, or the rules, regulations, orders, or permits issued thereunder, is guilty of an infraction and upon conviction thereof, the crime shall be punishable by (1) a fine not exceeding one hundred dollars (\$100.00) per protected deciduous oak tree for a first violation; (2) a fine not exceeding two



hundred dollars (\$200.00) per protected deciduous oak tree for a second violation of this Article within one year; and (3) a fine not exceeding five hundred dollars (\$500.00) per protected deciduous oak tree for each additional violation of this Article within one year.

b. Misdemeanors.

Any infraction which would otherwise be an infraction may, at the discretion of the District Attorney, be filed as a misdemeanor, and upon conviction thereof, the punishment shall be a fine of not less than five hundred dollars (\$500.00) nor more than twenty-five thousand dollars (\$25,000.00) per violation of any of the provisions of this Article, or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

c. Violations.

Each and every day during any portion of which any violation of this Article or the rules, regulations, orders, or permits issued hereunder, is committed or permitted, or permitted to exist without remedy, by such person, firm, or corporation shall be deemed a separate and distinct offense.

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**Sec. 35-920.5. Cumulative Remedies and Penalties.**

The remedies or penalties provided by this Article are cumulative to each other and to the remedies or penalties available under all other laws of this State.

**Sec. 35-920.6. Recovery of Costs.**

1. Purpose and Intent.

This section establishes procedures for the recovery of administrative costs, including staff time expended on the enforcement of the provisions of this Article. The intent of this section is to recoup administrative costs reasonably related to enforcement.

2. Definitions.

For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them herein.

Owner: The owner of record or any person having possession and control of the subject property.

Costs: Administrative costs, including staff time expended and reasonably related to enforcement for items including litigation support, site inspections, summaries, reports,

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telephone contacts, correspondence with the owner and any concerned citizens or officials, and related travel time.

3. Records.

Planning and Development shall maintain records of all administrative costs, incurred by responsible County Departments, associated with the processing of violations and enforcement of this Article and shall recover such costs from the property owner as provided herein. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Board of Supervisors.

4. Notice of Violation.

Upon investigation and a determination that a violation of any of the provisions of this Article is found to exist, Planning and Development, or any person authorized by Planning and Development, shall notify the record owner or any person having possession or control of the subject property by mail of the existence of the violation, Planning and Development's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on objections thereto. The notice shall be in substantially the following form:

NOTICE

Planning and Development has determined that conditions exist at the property at \_\_\_\_\_ which violate Section \_\_\_\_\_ of the County Code, to wit:

(description of violation)

Notice is hereby given that at the conclusion of this case you will receive a summary of administrative costs associated with the processing of this violation, at the hourly rate(s) as established and adjusted from time to time by the Board of Supervisors. The hourly rate(s) presently in effect per hour of staff time are attached.

You will have the right to object to these charges by filing a Request for Hearing with Planning and Development within ten (10) days of service of the summary of charges.

5. Summary of Costs.

At the conclusion of the case, Planning and Development shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the subject property by certified mail. Said summary shall include a notice in substantially the following form:

<p><b>NOTICE</b></p> <p>If you object to these charges you must file a Request for Hearing on the enclosed form within ten (10) days of the date of this notice.</p> <p><b>IF YOU FAIL TO TIMELY REQUEST A HEARING, YOUR RIGHT TO OBJECT WILL BE WAIVED AND YOU WILL BE LIABLE TO THE COUNTY FOR THESE CHARGES, TO BE RECOVERED IN A CIVIL ACTION IN THE NAME OF THE COUNTY, IN ANY COURT OF COMPETENT JURISDICTION WITHIN THE COUNTY.</b></p> <p>Dated: .</p> <p style="text-align: center;">Planning and Development</p>
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In the event that (a) no Request for Hearing is filed in time or, (b) after a hearing Planning and Development affirms the validity of the costs, the property owner or person in control and possession shall be liable to the County in the amount stated in the summary or any lesser amount as determined by Planning and Development. These costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction within the County.

6. Right to Hearing.

Any property owner, or other person having possession and control thereof, who receives a summary of costs under this section shall have the right to a hearing before the Director of Planning and Development on his/her objections to the proposed costs in accordance with the procedures set forth herein.

- a. A request for hearing shall be filed with the Director of Planning and Development's office within ten (10) days of the service by mail of the office's summary of costs, on a form provided by Planning and Development.

## **Administration**

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- b. Within thirty (30) days of the filing of the request, and on ten (10) days written notice to the owner, the Director of Planning and Development shall hold a hearing on the owner's objections, and determine the validity thereof.
- c. In determining the validity of the costs, the Director of Planning and Development shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to, the following: Whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation provided by the owner.
- d. The Director of Planning and Development's decision shall be appealable to the Board of Supervisors pursuant to Section 35-919 of this Article.

### ***Sec. 35-920.7. Processing Fee Assessment.***

Any person who removes any protected deciduous oak tree for which a permit is required by this Article without first having obtained a permit, shall, if subsequently granted a permit for that action or activity on the property, also pay such additional permit processing fees as established from time to time by the Board of Supervisors.

### ***Sec. 35-920.8. Violations of Conditions – Penalty.***

If any portion of a privilege authorized by an Oak Tree Removal Permit approved under this Article is utilized, the conditions of the Oak Tree Removal Permit approved under this Article immediately become effective and must be strictly complied with. The failure to comply with any valid condition imposed by the Planning Commission or Board of Supervisors, in connection with the granting of any Oak Tree Removal Permit or other permit taken pursuant to the authority of this Article, shall constitute a violation and shall be subject to the same penalties as defined in Section 35-920.4.

### **Sec. 35-921. Re-Application.**

No application shall be accepted nor acted upon if within the past one (1) year, substantially the same application has been made and denied by the Planning Commission, or the Board of Supervisors, which covers substantially the same real property, unless either the

Planning Commission or the Board of Supervisors permits such re-application because of an express finding that one or more of the following applies:

1. That new evidence material to a revised decision will be presented which was unavailable or unknown to the applicant at the previous hearings and which could not have been discovered in the exercise of reasonable diligence by the applicant.
2. That there has been a substantial and permanent change of circumstances since the previous hearings, which materially affects the applicant's real property.
3. That a mistake was made in the consideration of the previous application, which was a material factor in the denial or denials of the previous application.

### **Sec. 35-922. Validity.**

If any division, section, sentence, clause or phrase of this Article is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this Article. The Board of Supervisors hereby declares that it would have passed this Article and each section, sub-section, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional or invalid.

## APPENDIX A

### GUIDELINES FOR NATIVE OAK TREE REMOVAL

These guidelines constitute the rules for agricultural and non-agricultural deciduous oak (valley and blue oaks) removals as well as for agricultural and non-agricultural live oak removals.

These guidelines govern deciduous and live oak removals, replacing the County of Santa Barbara Environmental Thresholds and Guidelines Manual as a standard in Chapter 14 Grading Ordinance for addressing significant environmental damage and significant environmental impact associated with native oak tree removal of protected and unprotected size, for agricultural and non-agricultural practices not requiring a discretionary permit.

#### I. DECIDUOUS OAK PROGRAM

##### A. OAK REMOVAL FOR AGRICULTURAL PRACTICES (AS DEFINED IN THE GRADING ORDINANCE SEC. 14-8)

The rules in this section are less restrictive than those discussed under sections B and C below for non-agricultural removals, and include voluntary and self-regulating components under tiers 1 and 2 of the four-tiered structure.

##### **Deciduous Oak Removal Thresholds for Agricultural Operations 4-Tiered Program:**

The program is based on the following 4-tiered system (see Table 1, below). Requirements that are triggered by agricultural deciduous oak removal within Tiers 1 through 3 are hereby set forth within these guidelines; those for Tier 4 are set forth in [Section 35-908 of this Article](#).

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**Table 1. Tiers for Agricultural Deciduous Oak Removal**

## Appendix A: Guidelines for Native Oak Tree Removal

Lot Size (acres)	Tier 1 Exempt From Regeneration Requirement; Count Toward Cumulative # Removed	Tier 2 Landowner Regeneration Required; Self- Certification of Compliance	Tier 3 Management Plan Required	Tier 4 P&D Discretionary Permit Required
Less than 50	1	2 – 3	4 – 8	> 8
50 – < 100	2	3 – 6	7 – 17	> 17
100 – < 150	3	4 – 10	11 – 26	> 26
150 – < 200	4	5 – 13	14 – 34	> 34
200 – < 250	5	6 – 16	17 – 42	> 42
250 – < 300	6	7 – 19	20 – 50	> 50
300 – < 350	7	8 – 22	23 – 58	> 58
350 – < 400	8	9 – 25	26 – 66	> 66
400 – < 450	9	10 – 28	29 – 74	> 74
450 – < 500	10	11 – 31	32 – 82	> 82
500 – < 550	11	12 – 34	35 – 90	> 90
550 – < 600	12	13 – 37	38 – 98	> 98
600 – < 650	13	14 – 40	41 – 106	> 106
650 – < 700	14	15 – 43	44 – 114	> 114
700 – < 750	15	16 – 46	47 – 122	> 122
750 – < 800	16	17 – 49	50 – 131	> 131
800 – < 850	17	18 – 52	53 – 138	> 138
850 – 899	18	19 – 55	56 – 146	> 146
Greater than 899	19	20 – 58	59 – 154	> 154
Removals of deciduous oaks that equal or exceed 30% of all deciduous oaks on legal lots 100 acres or greater, or which equal or exceed 50% of deciduous oaks on lots less than 100 acres shall be deemed significant and trigger Tier 4 review.				

### Requirements under each Tier:

1. Tier 1: Exempt
  - a. No regeneration or reporting required. (The Oak Tree Specialist and Agricultural Commissioner should outreach to landowners to request that they voluntarily report Deciduous Oak removals as part of efforts to work with the community to encourage replanting and regeneration of valley and blue oaks.) Consistent with the Program Basics below, removals exempt under Tier 1 shall count as part of the total number of trees removed during the removal period for purposes of determining when/if tiers 2, 3 and 4 apply.

## Appendix A: Guidelines for Native Oak Tree Removal

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### 2. Tier 2: Landowner Regeneration Required; Self-Certification

In balancing voluntary and regulatory components of the Guidelines, this tier is designed as the predominantly voluntary, self-regulating element.

- a. Cumulative removals within the removal period exceeding Tier 1 allowances are subject to the requirements of Tier 2.
- b. 15:1 replanting ratio is required. Replacement trees shall be planted no closer than 20 feet from each other or from existing deciduous oak trees, and no farther than 165-180 feet from each other or from existing deciduous oak trees, unless recommended otherwise by the Oak Tree Specialist. Landowners shall be encouraged to consult with the Oak Tree Specialist and replant consistent with other recommended Tier 2 replanting standards (see Attachment 1). Although consultation with the Oak Tree Specialist is encouraged, the landowner self-evaluates and determines success or failure. The recommended survival target for replacement trees should be a 2/3 survival rate at five years or 1/3 surviving and attaining a height above the browse line (8 feet).
- c. On-site Monitoring by the Agricultural Commissioner's Office requires landowner's voluntary cooperation.
- d. Documentation of oak tree removals at Tier 2 is required through self-certification and notification to the Agricultural Commissioner's Office.
- e. Willful failure to notify the Agricultural Commissioner's Office of tree removals, carry out required replanting, or pursue regeneration are violations of this [Article](#).
- f. Violations trigger Tier 3 management plan or Tier 4 permit, and/or fines, at the discretion of the Agricultural Commissioner in consultation with the Oak Tree Specialist. Violations which are determined to trigger Tier 3 or Tier 4 shall be considered to be a violation of [this Article](#).

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### 3. Tier 3: Management Plan Required

In balancing voluntary and regulatory components of the Guidelines, this tier is designed to have more regulatory elements. The Oak Tree Specialist shall provide or arrange for assistance with drafting management plans if requested by the landowner. Management plans must meet the minimum standards contained in Attachment 2 as well as all of the other appropriate requirements set forth in the Program Basics below.

- a. Management plan approval by the Agricultural Commissioner is required before cumulative removals within the removal period exceed allowances under Tier 2.



## Appendix A: Guidelines for Native Oak Tree Removal

- b. Agricultural Commissioner’s Office shall approve management plans on a case-by-case basis without additional CEQA review or hearings where the plan for a particular property is consistent with Tier 3 management plan standards (e.g. avoidance of removal of actively used granary trees, raptor roosting or nesting trees, trees in riparian corridors, fragmentation of habitats, corridors or links to other habitat – see Attachment 2).
  - c. Management plan standards must be met in order for project to be approved (see Attachment 2).
  - d. Monitoring by Oak Tree Specialist is required as a condition of the Management Plan.
  - e. Willful failure to adhere to management plan standards is a violation of [this Article](#).
  - f. Violations trigger Tier 4 permit requirement. Violations which are determined to trigger Tier 4 shall be considered to be a violation of [this Article](#).
4. Tier 4: Planning and Development Discretionary Permit Required
- a. Cumulative removals exceeding Tier 3 allowances require separate discretionary review and permit approval from P&D, including CEQA review and Planning Commission hearing.
  - b. Tier 4 standards and procedures are set forth in [Divisions 2 through 4 of this Article](#).
  - c. Consistency with the Comprehensive Plan is required as part of the discretionary review.

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### B. DECIDUOUS OAK REMOVAL FOR NON-AGRICULTURAL PURPOSES, WHERE A DEVELOPMENT PERMIT IS NOT REQUIRED

The requirements for deciduous oak removals for non-agricultural purposes shall apply to all removals on private land outside of the coastal zone and urban boundaries, including all zone districts listed under Section [35-902 \(Applicability\)](#), not done as agriculturally associated earthwork as defined in Section 14-8 of the Grading Ordinance. The following thresholds shall apply (see Table 2 below).

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#### Requirements under each Tier

- 1. Tier 1: Exempt
  - a. Removal of one protected deciduous oak on legal lots of any size shall be exempt. No regeneration or reporting required. (The Oak Tree Specialist and Agricultural

## Appendix A: Guidelines for Native Oak Tree Removal

Commissioner should outreach to landowners to request that they voluntarily report Deciduous Oak removals as part of efforts to work with the community to encourage replanting and regeneration of valley and blue oaks.) Consistent with the Program Basics below, removals exempt under Tier 1 shall count as part of the total number of trees removed during the removal period for purposes of determining when/if tiers 2 or 3 apply.

### 2. Tier 2: Landowner Regeneration Required; Self-Certification

- a. Landowner must adhere to the requirements of Section I.A.2 above (Tier 2 for agricultural deciduous oak removal). Regeneration must be consistent with the standards in Attachment 1.

**Table 2. Tiers for Non-agricultural Deciduous Oak Removals.**

Lot Size (acres)	Tier 1 Exempt Removals	Tier 2 Removals (Replanting Required)	Tier 3 Removals (P&D Discretionary Permit Required)
< 50	1	2	> 2
50 – <100	1	2 – 3	> 3
100 – < 200	1	2 – 4	> 4
200 – < 300	1	2 – 5	> 5
300 – < 400	1	2 – 6	> 6
400 – < 500	1	2 – 7	> 7
500 – < 600	1	2 – 8	> 8
600 – < 700	1	2 – 9	> 9
700 – < 800	1	2 – 10	> 10
800 – 899	1	2 – 11	> 11
> 899	1	2 – 12	> 12

### 3. Tier 3: Planning and Development Discretionary Permit Required

- a. Cumulative removals exceeding Tier 2 allowances require separate discretionary review and permit approval from P&D, including CEQA review and Planning Commission hearing.
- b. Tier 3 standards and procedures are set forth in [Divisions 2 through 4 of this Article](#).
- c. Consistency with the Comprehensive Plan is required as part of the discretionary review.

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### C. DECIDUOUS OAK REMOVAL ASSOCIATED WITH ACTIVITIES REQUIRING A DEVELOPMENT PERMIT (e.g. LUP, CUP, DP)

## Appendix A: Guidelines for Native Oak Tree Removal

Deciduous oak removals associated with activities requiring a development permit shall be considered during the development permit process pursuant to the requirements of [the inland zoning ordinances \(Articles III and IV of Chapter 35 and Ordinance 661\)](#).

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### II. LIVE OAK PROGRAM

#### A. LIVE OAK REMOVAL FOR AGRICULTURAL PRACTICES

The following standards and requirements shall apply to all live oak removals associated with agricultural practices (as defined in Section 14-8 of the Grading Ordinance) on private lands outside of the coastal zone and urban boundaries subject to Santa Barbara County's Zoning Ordinance, including all of those zone districts listed under Section [35-902 \(Applicability\)](#). These provisions replace the County of Santa Barbara Environmental Thresholds and Guidelines Manual as a standard for addressing significant environmental damage associated with agricultural grading on the issue of live oak removal for agricultural practices.

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1. Management plan approval by the Agricultural Commissioner's Office is required before cumulative live oak removals within the 30-year removal period exceed 15 percent of live oak canopy cover on a given lot.
2. The Agricultural Commissioner's Office shall approve management plans on a project-specific, case-by-case basis without additional CEQA review or hearings where the plan for particular property is consistent with the Live Oak Management Plan Standards (see Attachment 3).
3. Management plan standards must be met for the removal project to be approved (see Attachment 3).
4. Monitoring by the Oak Tree Specialist is required as a condition of the Management Plan.
5. Failure to adhere to management plan standards is a violation.
6. Violations of a management plan trigger intervention by the Oak Tree Specialist, administrative fines pursuant to the Administrative Fine Ordinance, and/or mandatory assistance by the Oak Tree Specialist to ensure compliance, at the discretion of the Oak Tree Specialist.
7. Landowners are encouraged to voluntarily develop their own management plan or follow the general principles of the management plan standards (e.g. avoidance of granary trees and trees within riparian and wildlife corridors, minimization of habitat fragmentation, etc. - see Attachment 3) when designing agricultural projects not expected to trigger the 15 percent canopy removal threshold. Landowners should, where appropriate, consider leaving habitat elements such as dead trees, snags, and downed wood in place and look into financial incentive programs from county, state, and federal programs to help them in developing strategies for protecting the resources without impinging on their proposed agricultural

## Appendix A: Guidelines for Native Oak Tree Removal

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projects. Where live oak tree removal is necessary, landowners are encouraged to engage in voluntary regeneration programs prior to reaching the 15 percent canopy removal threshold and consult with the Oak Tree Specialist on successful replanting strategies, as well as general oak management, project design, and incentives.

### B. LIVE OAK REMOVAL FOR NON-AGRICULTURAL PURPOSES, WHERE A DEVELOPMENT PERMIT IS NOT REQUIRED

The guidelines for live oak removals not associated with an agricultural activity (as defined by Section 14-8 of the Grading Ordinance), but for which no development permit is required, are the same as for agricultural removals except that 5 percent canopy removal triggers a management plan requirement, rather than 15 percent. All other aspects of the program are the same as those for agricultural removals, pursuant to Section II.A above.

### C. LIVE OAK REMOVAL ASSOCIATED WITH ACTIVITIES REQUIRING A DEVELOPMENT PERMIT

Consistency with the Comprehensive Plan shall apply only to live oak removal associated with activities requiring a development permit, pursuant to [the requirements of the inland zoning ordinances \(Articles III and IV of Chapter 35 and Ordinance 661\)](#).

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## III. PROGRAM BASICS

### A. GENERAL (Apply to Agricultural and Non-Agricultural removals in both Deciduous and Live Oak Programs)

1. Removal Period: The Oak Tree Protection and Regeneration Program shall be implemented during a recurring 30-year “removal period” beginning on the date of program adoption. Removals would be calculated cumulatively during the removal period.
2. Unit of land that the removal thresholds are based on: Legal lots or, where applicable, contiguous legal lots under single ownership, as determined by the Agricultural Commissioner.
3. Definition of Removal: “Causing an oak tree to die, be uprooted and/or removed from the ground by any means, including, but not limited to, cutting, uprooting, poisoning, or burning (unrelated to controlled burns)<sup>3</sup>. Excessive pruning or topping, or severing an oak tree’s roots enough to lead to the death of the tree, would also be considered oak tree removal.” Death by natural causes (e.g. sudden oak death syndrome) or removals required due to disease, regulatory requirements or trees removed that pose an immediate threat to safety<sup>4</sup> shall not be considered a removal.

<sup>3</sup> The Oaks Tree Specialist shall work with landowners, APCD, the Range Improvement Association and the Fire Districts to coordinate protocols for controlled burns that protect native oaks where feasible.

<sup>4</sup> An example of “an immediate threat to safety” would be an oak that, through natural causes, is imminently and highly likely to fall directly onto a structure, such as a residence, barn, or shed.

## **Appendix A: Guidelines for Native Oak Tree Removal**

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4. Where a public utility or other public entity has an easement over a portion of a lot, and if a public utility or other public entity removes protected oak trees within a utility or other public easement located over a portion of a lot, those protected oak tree removals shall not be counted toward the cumulative thresholds set out in these guidelines for the remainder of the lot.
5. Administering Agency: Agricultural Commissioner's Office, with technical assistance from the CRCDC and an Oak Tree Advisory Committee.
6. Naturally occurring valley, blue, and live oak seedlings/saplings, growing on the lot and between six (6) inches and six (6) feet in height that are protected and nurtured for five (5) years, may be counted as replacement (mitigation) trees under the Program.
7. Any combination of acorns, planted seedlings/saplings, or naturally occurring valley, blue, and live oaks between six (6) inches and six (6) feet tall, if established according to the program guidelines, may be used to achieve the required number of replacement trees. Valley oaks shall replace valley oaks removed, blue oaks shall replace blue oaks removed, and live oaks shall replace live oaks removed.
8. Replanting shall occur on the lot from which the protected oak trees are to be removed, unless the Oak Tree Specialist determines it precludes reasonable use of the lot, or no suitable area exists on the lot for replanting oak trees. In such cases the replacement oak trees may be planted in an off-site location acceptable to the applicant/landowner and the Oak Tree Specialist.
9. Program Review: Both the Deciduous Oak Program and the Live Oak Program will be the subject of an effectiveness review by the Board of Supervisors to determine, among other things, if regeneration is working. In addition, the amount of oak acreage removed versus the amount of oak acreage created and/or replaced will be analyzed at the time of these reviews to determine the effect of the program on the amount of oak habitat. There will be an initial review after two years from the date of adoption, then a second review after five years and periodic reviews every five years thereafter. The Board could initiate program changes depending on the results of the reviews, after meeting noticing and other legal requirements.

### **B. DECIDUOUS OAK PROGRAM**

1. The removals authorized under tiers 1-4 of Section IA and tiers 1-3 of Section IB above shall each be calculated cumulatively during the 30-year removal period. As removal numbers cumulatively move from one tier to the next, the process for removal shall similarly change and be governed by the next tier.
2. Protected Trees: Valley and blue oak trees of 4" DBH or greater count towards the basic numerical removal thresholds in Table 1 and Table 2 and when measuring the 30 and 50

## Appendix A: Guidelines for Native Oak Tree Removal

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percent triggers. Replacement trees required as mitigation under the Deciduous Oak Program are protected trees regardless of size or when they began growing how they are nurtured. Trees voluntarily planted are not protected unless credited as pre-mitigation.

3. Pre-Mitigation: For every ten deciduous oak trees voluntarily planted and nurtured for a minimum of five years, or existing oak tree seedlings or saplings six inches to six feet in height and less than two inches DBH that have been nurtured for a minimum of five years, one additional deciduous oak tree of the same species can be removed under the thresholds in Table 1 and Table 2. Documentation of planting pre-mitigation trees or commencing nurturing of naturally-occurring pre-mitigation trees must be submitted to the Agricultural Commissioner's office prior to claiming such trees for pre-mitigation credit. Planting of pre-mitigation trees should adhere to the replacement standards listed in Attachment 1 and coordination with the Oak Tree Specialist should be pursued by landowners when designing their credit tree projects.

### C. LIVE OAK PROGRAM

1. Thinning of live oak woodlands and forests for rangeland management/improvement purposes is exempt from this program. However, if rangeland is converted to cultivated agriculture, resulting in the removal of live oak tree canopy, any thinning of live oak tree canopy prior to the conversion within the 30-year removal period will be added to the landowner's cumulative live oak removal in determining whether a management plan is required. For the purposes of this program, thinning for rangeland management/improvement is defined as "the removal of understory vegetation and/or evenly reducing the canopy cover of a live oak woodland or forest by means of cutting or pruning (where the root system remains in place) without removing contiguous areas of canopy (i.e. removal is scattered across the canopy and no two adjacent protected trees are removed together)."
2. Protected Trees: Live oak trees of 8" DBH or greater are protected trees and count towards calculating the number of required live oaks to be replaced. Replacement trees required as mitigation under the Live Oak Program are protected trees regardless of size or when they began growing how they are nurtured. Trees voluntarily planted are not protected.

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### Attachment 1

#### Replanting Standards for Tier 2 of Deciduous Oak Program

1. Replacement deciduous oak trees that are planted should come from nursery stock grown from locally-sourced acorns, or use acorns gathered locally, preferably from the same watershed in which they are planted. If planting is done using acorns, the ratio of acorns to protected oak trees removed should be a minimum of forty-five (45) acorns for every protected deciduous oak tree removed. Up to three (3) acorns should be planted in the same hole.
2. Replacement deciduous oak trees should be established in a location suitable for their growth and survival as determined by the landowner and Oak Tree Specialist.
3. The replacement deciduous oak trees should be nurtured for five (5) years, the last two without supplemental watering, using techniques consistent with the most current version of the University of California publication "How to Grow California Oaks." At the end of the five years, ten trees for every protected tree removed should be alive and in good health. Alternatively, five trees for every protected tree removed should attain a height above the browse line. (See Tier 2 description.)
4. Each replacement deciduous oak tree should be protected against damaging ground disturbance, soil compaction, or over-irrigation within the [critical root zone](#). It should be ~~fenced to protected~~ <sup>Deleted: dripline</sup> from grazing or browsing by animals both below and above ground, until the tree has reached a minimum of eight (8) feet in height.
5. Valley oaks shall replace valley oaks removed and blue oaks shall replace blue oaks removed.

## Appendix A: Guidelines for Native Oak Tree Removal

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### Attachment 2

#### Management Plan Standards for Tier 3 of Deciduous Oak Program for Agricultural Removals

1. The plan shall:
  - a. Provide a means to accomplish the long-term goal of the program which is to promote the conservation and regeneration of areas where oaks occur and work to increase the native oak population and extent. It is recognized that the replacement ratios, planting distances, and fencing and watering requirements represent averages and norms. They may be adjusted by the Oak Tree Specialist on a case-by-case basis reflecting the proven record of a participant so as to establish a practical and working relationship while meeting the goal of the program.
  - b. Demonstrate how the mix of deciduous oak tree savannas, woodlands, and forests on the lot will be preserved, created, enhanced, restored, and maintained, so that:
    - (1) The removal of protected oak trees does not divide the remaining savanna, woodland, and forest ~~habitats~~ into small, isolated fragments.
    - (2) Protection, maintenance, restoration, and enhancement of large blocks of savanna, woodland, and forests are given priority over maintenance, restoration, and enhancement of smaller, more isolated ~~habitat~~ patches.
    - (3) Valley and blue oak trees that link on- or off-site oak tree savannas, woodlands, or forests, ~~or other existing, proximate habitats~~ are retained to the maximum extent feasible.
    - (4) On-site replacement is given priority over off-site replacement except where no suitable on-site locations exist, or reasonable use of the lot would be precluded.
    - (5) There is avoidance of removal of actively used granary trees, raptor roosting or nesting trees, and trees in riparian and other wildlife corridors.
  - c. Comply with the following requirements, when applicable.
    - (1) When required by the Oak Tree Specialist on a case-by-case basis, a buffer area protecting the critical root zone shall be maintained around identified valley and blue oak trees retained on the lot.
    - (2) Protected oak trees that are removed shall be compensated at a 15:1 ratio by replacement planting, or protection of naturally occurring oak trees between six (6) inches and six (6) feet tall on the lot.



## Appendix A: Guidelines for Native Oak Tree Removal

- d. Identify valley and blue oak tree replanting, restoration, conservation and enhancement sites on a plan or aerial photograph to facilitate mitigation monitoring and tracking; and identify the species, location, and size of all oak trees that are planted or protected as mitigation or to fulfill a condition on the permit.
  - e. Provide the deciduous oak tree replanting schedule and nurturing regime.
2. Replacement deciduous oak trees that are planted must come from nursery stock grown from locally-sourced acorns, or use acorns gathered locally, preferably from the same watershed in which they are planted. If planting is done using acorns, the ratio of acorns to protected oak trees removed shall be a minimum of forty-five (45) acorns for every protected deciduous oak tree removed. Up to three (3) acorns may be planted in the same hole.
  3. Replacement deciduous oak trees shall be established in a location suitable for their growth and survival as determined by the Oak Tree Specialist, no closer than twenty (20) feet from each other or from existing oak trees and no farther than 165-180 feet from each other or existing oak trees unless otherwise approved by the Oak Tree Specialist.
  4. Valley oaks shall replace valley oaks removed and blue oaks shall replace blue oaks removed.
  5. The replacement deciduous oak trees shall be nurtured for a minimum of five (5) years, the last two without supplemental watering, using techniques consistent with the most current version of the University of California publication "How to Grow California Oaks." At the end of the five years, ten trees for every protected tree removed must be alive, in good health as determined by the Oak Tree Specialist, and capable of surviving without nurturing and protection.
  6. Each replacement deciduous oak tree must be protected against damaging ground disturbance, soil compaction, or over-irrigation within the [critical root zone](#). It must be ~~fenced to protect it~~ from grazing or browsing by animals both below and above ground until it has reached a minimum of eight (8) feet in height.
  7. Where conditions warrant and where agreed to by the landowner and Oak Tree Specialist, tree planting designs and nurturing practices (i.e. protective structures, watering schedules) may be adjusted to improve the probability that replacement trees will be established successfully.

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## **Appendix A: Guidelines for Native Oak Tree Removal**

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### **Attachment 3**

#### Management Plan Standards for the Live Oak Program

1. The plan shall:
  - a. Provide a means to accomplish the long-term goal of the program which is to promote the conservation and regeneration of areas where oaks occur and work to increase the native oak population and extent. It is recognized that the replacement ratios, planting distances, and fencing and watering requirements represent averages and norms. They may be adjusted by the Oak Tree Specialist on a case-by-case basis reflecting the proven record of a participant so as to establish a practical and working relationship while meeting the goal of the program.
  - b. Demonstrate how the mix of live oak savannas, woodlands and forests on the lot will be preserved, created, enhanced, restored, and maintained, so that:
    - (1) The removal of live oak trees does not divide the remaining savannas, woodlands and forests into small, isolated fragments.
    - (2) Protection, maintenance, restoration, and enhancement of large blocks of savannas, woodlands and forests are given priority over maintenance, restoration, and enhancement of smaller, more isolated habitat patches.
    - (3) Live oak trees that link on- or off-site oak tree savannas, woodlands, forests, or other existing, proximate habitats are retained to the maximum extent feasible.
    - (4) On-site replacement is given priority over off-site replacement except where no suitable on-site locations exist, or reasonable use of the lot would be precluded.
    - (5) There is avoidance of removal of actively used granary trees, raptor roosting or nesting trees, and trees in riparian and other wildlife corridors.
  - c. Comply with the following requirements, when applicable:
    - (1) When required by the Oak Tree Specialist on a case-by-case basis, a buffer area protecting the critical root zone shall be maintained around identified native oak trees retained on the lot.
    - (2) Protected oak trees (greater than 8 inches dbh) that are removed shall be compensated at a 10:1 ratio by replacement planting, or protection of naturally occurring oak trees between six (6) inches and six (6) feet tall on the lot. In situations where counting individual trees is infeasible or impractical given the density of the canopy, the canopy removed shall be compensated at a ratio of 360 trees for every 1 acre of canopy removed (or fraction thereof). However, the Oak Tree Specialist shall have the discretion to reduce the replacement ratio if the goal of “no net loss” could be

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better achieved through creative use of conservation easements and other preservation/restoration options.

- d. Identify live oak tree replanting, restoration, conservation and enhancement sites on a plan or aerial photograph to facilitate mitigation monitoring and tracking; and identify the species, location, and size of all oak trees that are planted or protected as mitigation or to fulfill a condition on the permit.
  - e. Provide the live oak tree replanting schedule and nurturing regime.
2. Replacement live oak trees that are planted must come from nursery stock grown from locally-sourced acorns, or use acorns gathered locally, preferably from the same watershed in which they are planted. If planting is done using acorns, the ratio of acorns to protected oak trees removed shall be a minimum of thirty (30) acorns for every protected live oak tree removed. Up to three (3) acorns may be planted in the same hole. Live oaks of the same species as those removed shall be replanted as replacement live oaks.
  3. Replacement live oak trees shall be established in a location suitable for their growth and survival as determined by the Oak Tree Specialist. Twenty-foot spacing from each other or from existing oak trees is the general standard, but the Oak Tree Specialist can adjust this spacing requirement up or down based on site conditions in an effort to best meet the overall goals of this program.
  4. The replacement live oak trees shall be nurtured for five (5) years, the last two without supplemental watering, using techniques consistent with the most current version of the University of California publication "How to Grow California Oaks." At the end of the five years, six trees for every protected tree removed must be alive, in good health as determined by the Oak Tree Specialist, and capable of surviving without nurturing and protection.
  5. Each replacement live oak tree (including natural sprouts and seedlings that are protected) must be protected against damaging ground disturbance, soil compaction, or over-irrigation within the critical root zone. It must be ~~fenced to protect it~~ from grazing or browsing by animals both below and above ground, until it has reached a minimum of eight (8) feet in height.
  6. Where conditions warrant and where agreed to by the landowner and Oak Tree Specialist, tree planting designs and nurturing practices (i.e. protective structures, watering schedules) may be adjusted to improve the probability that replacement trees will be established successfully.

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