

2023

# OAK WOODLANDS ORDINANCE



*Photo: Gordon Long*

COUNTY OF  
CALAVERAS

**DRAFT**

# WOODLAND MITIGATION ORDINANCE

## Section I: Purpose and Introduction

### Purpose

The purposes of the Oak Woodlands Mitigation Ordinance are as follows:

- (1) Mitigate any significant direct and cumulative impacts to oak woodlands in conjunction with discretionary project development.
- (2) Address pre-development removal of oaks in conjunction with discretionary projects.
- (3) Retain Heritage Trees to the greatest extent feasible because of their scenic, historic, cultural, ecological, and habitat values.
- (4) Leave oak woodlands connected, when possible, to retain wildlife corridors and avoid habitat fragmentation.
- (5) Protect oak woodland working landscapes that provide a variety of ecosystem goods and services.

### Introduction

Calaveras County contains four of the state's five identified hardwood rangeland habitat types including: (a) Valley Oak Woodlands, (b) Blue Oak/Foothill Pine Woodlands, (c) Blue Oak Woodlands, and (d) Montane Hardwood Forests. California's oak woodlands perform numerous important ecosystem services including scenic beauty, erosion prevention, improving water quality and infiltration, regulating water flow in watersheds, providing habitat for bird and animal species, increasing biodiversity, carbon sequestration, as well as improving soil health. Oaks are healthy for rangelands for many of these same reasons, plus they provide shade for grazing animals and increase soil water storage for a longer "green" period. The decrease in oaks has been attributed to many factors including overgrazing, fire suppression, excessive ground squirrel and gopher activity, invasive species, poor management practices and human development. The California Oak Foundation projects that over 1 million acres of woodland will be lost to development in the upcoming 30 years.

For these reasons, the County of Calaveras must do its part to protect the species by passing an Oak Woodlands Mitigation Ordinance.

In 1996 Calaveras County adopted a resolution (96-284) for the creation of an Oak Woodland Voluntary Management Guidelines. This document remains relevant, and its use is still encouraged.

Section 2      The following chapter is added to the Calaveras County Code to read:

Chapter 17.101      OAK WOODLANDS ORDINANCE

**17.101.010      General Plan Policies Regarding Oak Woodlands Mitigation**

- A. Calaveras County General Plan Policy COS 3.5 encourages “preservation of oak woodlands in accordance with state law.”
- B. Calaveras County General Plan Policy COS 3.6 provides that conservation easements may be an acceptable means to protect oak woodlands from new development.
- C. Calaveras County General Plan Policy COS 3.9 seeks to preserve and enhance healthy woodlands consistent with state law, reasonable development, and fire safety considerations.
- D. Calaveras County General Plan Implementation Measure COS-4D directs the Planning Department to implement Policies COS 3.5, 3.6, and 3.9 by adopting the statutory oak woodland mitigation measures described in Public Resources Code §21083.4(b)(1)-(3) as well as local mitigation measures pursuant to Public Resources Code §21083.4(b)(4).
- E. The purpose of Implementation measure COS-4D is to facilitate the environmental review process relative to mitigating significant direct and cumulative impacts to oak woodlands in conjunction with discretionary project approval and to address pre-development removal of oaks.
- F. The purpose of this Chapter is to implement General Plan Implementation Measure COS-4D by adopting herein the statutory and local oak mitigation measures that comply with Public Resources Code §21083.4(b)(1)-(4).

**17.101.020 Applicability**

The provisions of this ordinance shall apply to discretionary projects that result in the removal of oak trees or oak woodlands including disturbance to the Tree Protection Zone (TPZ). The provisions of this ordinance shall not apply to ministerial actions, including but not limited to ministerial actions that involve the following:

- A. Hazardous Tree Removal – The removal of trees with structural defects that indicate pending failure as determined by a qualified professional.
- B. Operations subject to the State Forest Practice Act or State Forest Practice Rules including tree removal resulting from a Timber Harvest Plan or Timber Harvest Plan Exemption approved by CAL FIRE.
- C. Vegetation removal required to comply with defensible space requirements set forth in Public Resources Code Section 4290 (Fire Safety Regulations).
- D. Removal of oak canopy through the utilization of State and local fuel reduction programs such as those managed by local Fire Safe Councils and similar organizations.
- E. Requirements under Calaveras County Code Chapter 15.10 (Defensible Space Requirements)

**17.101.030 Exemptions**

The following are exempt from the requirements of this Chapter:

- A. Projects undertaken pursuant to an approved Natural Community Conservation Plan or approved subarea plan within an approved Natural Community Conservation Plan that

includes oaks as a covered species or that conserves oak habitat through natural community conservation preserve designation and implementation and mitigation measures that are consistent with Public Resources Code §21083.4..

- B. Affordable housing projects for lower income households, as defined pursuant to California Health and Safety Code §50079.5, that are located within an urbanized area, or within a sphere of influence as defined pursuant to Government Code § 56076.
- C. Conversion of oak woodlands on agricultural land that includes land that is used to produce or process plant or animal products for commercial purposes (excluding commercial firewood operations).
- D. Projects or actions taken pursuant to a certified regulatory program within the meaning of Public Resources Code § 21080.5.

#### **17.101.040 Approval Required Prior to Removal**

On applicable discretionary projects, unless exempted or not applicable under this ordinance, no oak tree, oak woodland, or portion thereof shall be removed until all of the following has occurred:

- A. The project is approved by the decision-making authority.
- B. Compliance with the applicable requirements of this chapter is established and as otherwise required in the conditions of approval.
- C. The Planning Department has issued a letter to proceed.

#### **17.101.050 Nuisance declared; revocation; enforcement; abatement costs; fines.**

A. Removal of oak woodlands in violation of this Chapter is unlawful in all zones and constitutes a public nuisance that may be enforced and abated as described in Chapter 8.06 of the County Code.

B. The Planning Director may revoke a discretionary permit issued under this Chapter at any time that there has been noncompliance with one or more of the provisions of this Chapter and/or any conditions of permit approval or mitigation measures imposed on the permittee related to oaks or oak woodlands. The County's written determinations concerning noncompliance with this Chapter shall be served by mail to the last permittee address provided by the permittee, with a statement of factual and/or legal reasons for the determination. If the owner of the property on which the building or structure at issue exists is not the applicant, a copy of the determinations shall also be sent to the owner of the property. Permit revocation under this subsection and enforcement of violations as a nuisance are not mutually exclusive remedies, and either or both may be initiated in response to a violation.

C. Inspections of the site for which a discretionary permit subject to this Chapter was approved and the surrounding premises and grounds may be conducted by the Planning Director, the Chief Building Official, or their designees during business hours to ensure ongoing compliance with this Chapter and permit conditions. Such inspections may be conducted without prior notice and may be conducted prior to any permit being granted.

prior to the permit being granted.

D. Whenever any County enforcement official determines that a public nuisance as described in this chapter exists within the unincorporated county, he or she is authorized to utilize the enforcement, abatement, cost recovery, and administrative hearing provisions described in Chapter 8.06 of the county code, including, as necessary, the summary abatement provisions of that chapter. The county shall also have the right to utilize any injunction, enforcement, cost recovery, abatement or other administrative, criminal or civil remedy available to the county under applicable laws, including but not limited to all available civil, criminal and administrative remedies.

E. In any enforcement action brought to enforce the provisions of this chapter, each parcel owner, permittee, and/or occupant who causes, permits, authorizes, or maintains activities in violation of this Chapter shall be jointly and severally liable for all resulting administrative fines and for any and all actual costs of enforcement incurred by the county, including all allowable attorneys' fees, in the event the county brings and prevails in any administrative proceeding, civil suit, or any other action to enforce the provisions of this chapter.

F. Each activity that violates this Chapter shall be an infraction. Each day that a violation of this Chapter continues unabated shall constitute an independent violation. Every violation shall be punishable as a violation described in Government Code Section 25132(b).

#### 17.101.050 Pre-Development Removal of Oaks

As part of reviewing applications for discretionary approvals subject to this Chapter, the Planning Director shall investigate whether or not oak trees within the proposed development footprint have been removed within the last three years prior to submission of the application. Such investigation may include a mandatory site inspection. If the Director finds that oak trees within the development footprint appear to have been removed within a three-year period prior to the application, the application shall be denied unless the applicant provides sufficient documentary evidence that the removal of the oak trees was necessary due to blight, disease, or to comply with defensible space requirements for purposes of fire safety.

#### **17.101.050 Oak Woodland Evaluation Plan**

- A. An Oak Woodlands Evaluation Plan shall be required in conjunction with an application for a discretionary action subject to this Chapter to document the potential extent of impact. The Oak Woodlands Evaluation Plan shall include but not be limited to the following:
1. Site location and site plan.
  2. Description of oak woodland within the cumulative development footprint, including an evaluation of the oak woodland condition as defined in 17.101.090(K) (whether it is intact, moderately degraded, and severely degraded), as well as identification of any areas of unique environmental or ecological features.

3. Inventory of heritage trees within project area.
  4. Map of oak woodland within the cumulative development footprint, including oaks proposed for removal and retention. Measurement of total oak woodland area; location and area of proposed oak woodland conversion.
  5. The project shall be designed to avoid heritage trees and oak woodlands that:
    - a. Occur along waterways and/or wildlife corridors including deer migration corridors;
    - b. Are connected with oak woodlands on adjacent lands including public lands;
    - c. Or require avoidance based on other factors as determined by the Planning Department.
  6. The location of required tree protection fencing and signage.
  7. Proposed mitigation consistent with the requirements of this ordinance and any state or federal environmental laws.
- B. The Oak Woodlands Evaluation Plan shall be prepared by a qualified professional. Exceptions to the requirement of a qualified professional may be considered by the Planning Director based on the limited scale of the project or other relevant factors.
- C. The Planning Department shall review the Oak Woodland Evaluation Plan to determine its completeness and, to the extent an environmental document is required to be prepared for the project to comply with environmental laws, distribute it for comment together with the environmental document.
- D. The decision-making authority shall consider and approve the Oak Woodland Evaluation Plan prior to taking action on the project.

#### **17.101.060 Oak Woodland Mitigation**

- A. Based on the Oak Woodland Evaluation Plan, if oak woodlands will be impacted as part of the permit, the applicant shall mitigate for loss of oak woodlands as follows:
1. The land area requiring mitigation shall be the cumulative land area within the development footprint.
  2. The mitigation of oak woodlands shall, to the extent possible, take place within Calaveras County.
  3. Mitigation shall be of a similar species mix, density, and viability as would be found in a naturally occurring and healthy oak woodland.
- B. The project shall include one or a combination of the following measures for the equivalent area converted at the replacement ratio specified in **17.101.070** to the satisfaction of the Planning Director:
1. Proof of executing a conservation easement **that protects oak woodland** on-site or off-site as defined in §1361(b) of the Oak Woodlands Conservation Act.

2. Plant and maintain trees on an appropriate location elsewhere on the parcel or at an alternative location within the County, as approved by the Planning Director.
  - a. This option may not be used to fulfill more than one-half of the mitigation requirement under this Chapter.
  - b. Maintenance of trees planted pursuant to this option shall continue for at least seven years after the trees are planted.
  - c. This option may also be used to restore former oak woodlands.
3. In-lieu fee payment to the Oak Woodlands Conservation Fund, as established under Fish and Game Code §1363 et. seq. for the purpose of purchasing oak woodlands conservation easements as described by Public Resources Code §21083.4. (An applicant that chooses this option may not receive a grant from the Oak Woodlands Conservation Fund as part of project mitigation.)
  2. In-lieu fee payment made to another accredited land trust or qualified land conservation organization.
  3. An approved combination of options 1 through 4 above.

**17.101.070 Mitigation Ratio**

The amount of oak mitigation required for any of the measures described in 17.101.060 will be determined based on the size of the total development footprint and the overall health of the impacted oak woodland. Heritage oaks are assessed separately.

- A. Intact oak woodlands will be mitigated at a 2:1 ratio.
- B. Moderate oak woodlands will be mitigated at a 1.5:1 ratio.
- C. Degraded oak woodlands will be mitigated at a 1:1 ratio.

D. Heritage oaks will be assessed individually. For every inch of diameter at breast height (DBH), an Area (in acres) shall be calculated. This area shall be mitigated at a 3:1 ratio.

$$\text{Area} = \pi(\text{DBH})^2 \times \text{HTC} \quad \text{HTC (Heritage Tree Constant)} = 0.0000575$$

*Example: A 36-inch DBH heritage tree would result in an area of 0.234 acres*

$$\text{Area} = 3.14(36)^2 \times 0.0000575$$

$$\text{Area} = 3.14(1296) \times 0.0000575$$

$$\text{Area} = 0.234 \text{ acre}$$

$$\text{Total Mitigation requirement} = 0.234 \text{ acre} \times 3 = 0.702 \text{ acre}$$

**17.101.080 Protection of Oak Trees Before and During Construction Activity**

For all oak trees that will be retained within the cumulative development footprint, the following protective measures shall be implemented prior to and during construction activities:

1. Establish a Tree Protection Zone (TPZ). The Tree Protection Zone is defined as the surface area surrounding a tree, extending outward from the trunk 12 inches in radius per inch of DBH (trunk diameter at breast height). This can be applied to individual trees or connected oak woodlands. Heritage trees and blue oaks of any size shall be protected at 1.5 feet in radius per inch of DBH.



2. Fence off the Tree Protection Zone. A 42-inch (or taller) fence, anchored securely to the ground, shall be placed around the outermost edge of the TPZ on all sides that may be subject to construction activity. Fencing construction that will allow for wildlife movement shall be installed prior to start of any construction activity and remain in place until all construction activities are completed. Each TPZ shall have a sign that reads, "Do Not Enter – Tree Protection Zone".
3. No construction activities shall be conducted in the TPZ, including but not limited to trenching, paving, driving, storage or parking of any equipment or vehicles, storage of construction materials, or dumping of any trash, soils, fuels, or liquids. The TPZ may be encroached into up to 20% of the total TPZ area, if an additional equal percentage (%) of un-disturbed contiguous space can be added to the TPZ, and it is approved by the Qualified Professional. All construction activity within the TPZ shall be supervised by the Qualified Professional, and all directions provided by the Qualified Professional shall be implemented.
4. The existing grade shall be maintained around protected trees to the maximum extent possible. Retaining walls shall be utilized when necessary and no fill shall be allowed within the TPZ.
5. No lawns or frequent irrigation shall occur within the drip line of any retained oak tree. Infrequent, deep watering is permissible beyond ten feet (10') from the trunk when needed to alleviate drought stress. If plantings are to be incorporated within the drip line of retained oak trees, drought tolerant plants that are compatible with native oaks and do not require summer irrigation may be used.
6. Pruning work within the TPZ, if required, shall be done in accordance with current ISA (International Society of Arboriculture) Best Management Practices by a professional with expertise in oak trees and be supervised by the Qualified Professional.
7. Monitoring. The qualified professional shall perform periodic assessments of the retained trees throughout the construction process. The frequency and duration of the monitoring shall be left to the discretion of the qualified professional, with a minimum interval of once a week. The developer is responsible for associated monitoring expenses.
8. A copy of "Living Among the Oaks: A Management Guide For Woodland Owners and Managers", UCANR Publication #21538, or comparable educational brochure, shall be disbursed by the County Planning Department with all appropriate project permits. <https://anrcatalog.ucanr.edu/pdf/21538.pdf>.
9. As an incentive, oaks and/or oak woodlands that are retained in a project and are adequately protected according to the above TPZ guidelines shall not require mitigation.

#### **17.101.090 Definitions**

For the purposes of this Chapter, the following terms are defined as follows:



- A. **Applicant/Developer:** A person or group of persons, including a Limited Liability Company (LLC), a corporation, or other similar entities, seeking land use approval through a discretionary process from the county.
- B. **Conservation Easement:** An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing land uses. For Conservation Easement dedication (on-site) or acquisition (off-site) as mitigation for Oak Woodlands impacts, a Conservation Easement to the satisfaction of the County Planning Commission shall be required to ensure the long-term maintenance and preservation of Oak Woodlands. The Conservation Easement shall provide for the preservation of the designated area in perpetuity and shall include such terms, conditions, and financial endowments for monitoring and management deemed necessary by the County to ensure the long-term preservation of the Oak Woodlands within the easement area.
- C. **Development Footprint:** The area proposed for development which consists of roadways, grading, disturbed soil, utilities, building pads, etc.
- D. **Diameter at Breast Height (dbh):** The measurement of the diameter of a tree in inches, specifically four (4) feet six (6) inches above natural grade on the uphill side of the tree.
- E. **Discretionary Project:** Projects subject to conditions of approval by the County Planning Director, County, Planning Commission, or the County Board of Supervisors that are subject to the California Environmental Quality Act (CEQA).
- F. **Drip Line:** Imaginary line defined by the branch spread of a single tree or group of trees, projected vertically onto the ground.
- G. **Heritage Oak Tree:** Any live native oak tree of the genus *Quercus* [including blue oak (*Quercus douglasii*), valley oak (*Quercus lobata*), California black oak (*Quercus kelloggii*), interior live oak (*Quercus wislizeni*), canyon live oak (*Quercus chrysolepis*), Oregon oak (*Quercus garryana*), [or hybrids thereof] with a single main trunk measuring 24 inches dbh or greater, or with a multiple trunk with an aggregate trunk diameter measuring 36 inches or greater. Blue oak is an exception at 18" dbh single with aggregate of 24".
- H. **In-lieu Fee:** Cash payments made as a result of a land appraisal to an accredited land trust or other qualified land conservation organization for mitigation for oak woodland loss.
- I. **Oak:** Shall have the same meaning as it does in Public Resource Code §21083.4(a), which, as this statute is currently drafted, means "a native tree species in the genus *Quercus*, not designated as Group A or Group B commercial species pursuant to regulations adopted by the State Board of Forestry and Fire Protection pursuant to Public Resource Code § 4526, and that is five (5) inches or more in diameter at breast height."
- J. **Oak woodlands:** Shall have the same meaning as it does in California Fish and Wildlife Code §1361(h), which, as this statute is currently drafted, means "an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover."

- K. **Oak Woodland Condition.** A description of the condition of oak woodland prepared by a qualified professional based on a variety of factors. Methodology to determine this includes but is not limited to the University of California Oak Woodland Impact Decision Matrix. <https://ucanr.edu/sites/csnce/files/389023.pdf>
- **Oak Woodland Condition, Intact:** In this condition roads and buildings are rare across the site. Trees, both dead and alive, dominate the landscape and the site is capable of natural regeneration of oaks and other plant species. The site allows for movement of wildlife and the existing development is localized and limited to a small number of residences with service buildings or barns. The site is relatively undisturbed and is recognized as Intact. Examples of an Intact woodland may include large to moderately (even relatively small parcels may qualify) sized private ranches; expansive oak woodlands zoned for agriculture, open space, scenic corridors, etc.
  - **Oak Woodland Condition, Moderately Degraded:** The site has been changed in one or more ways that has reduced its potential for providing ecological and socially important services. For example, it may have been partially developed resulting in the net loss of trees; the canopy or understory may have been reduced or eliminated over all or part of the site; past grazing or soil disturbance may have impaired regeneration in some areas.
  - **Oak Woodland Condition, Severely Degraded:** Site has been dramatically altered and is currently in a condition that has no trees or very few remain; it is being managed in such a way that natural regeneration is not possible or practical; the soil is compacted or contaminated; and/or has been used for residential, commercial, or industrial purposes. Roads and stream crossings are commonplace and fencing and other obstructions limit wildlife access and movement.
- L. **Qualified Arborist:** An arborist certified by the International Society of Arboriculture (ISA) or registered with the American Society of Consulting Arborists (ASCA).
- M. **Qualified Professional:** A qualified arborist, a qualified wildlife biologist, a Registered Professional Forester (RPF), certified rangeland manager (CRM) or other qualified professionals in the subject matter, as determined by the Director of Planning.
- N. **Qualified Wildlife Biologist:** A professional with a BA or BS or advanced degree in biological sciences or other degree specializing in the natural sciences; professional or academic experience as a biological field investigator, with a background in field sampling design and field methods; taxonomic experience and knowledge of plant and animal ecology; familiarity with plants and animals of the area, including the species of concern; and familiarity with the appropriate county, state, and federal policies and protocols related to special status species and biological surveys.
- O. **Registered Professional Forester (RPF):** A Registered Professional Forester (RPF) is a person licensed by the State of California to perform professional services that require the application of forestry principles and techniques to the management of forested landscapes.

- P. **Tree Protection Zone (TPZ):** The Tree Protection Zone is defined as the surface area surrounding a tree, extending outward from the trunk 12 inches in radius per inch of DBH (trunk diameter at breast height). This can be applied to individual trees or connected oak woodlands. Heritage trees and blue oaks of any size shall be protected at 1.5 feet in radius per inch of DBH.

### SECTION 3. FINDINGS IN SUPPORT OF ORDINANCE

1. Government Code §65850(a) authorizes counties to adopt zoning ordinances that “regulate the use of buildings, structures, and land as between industry, business, residences, open space, including agriculture, recreation, enjoyment of scenic beauty, use of natural resources, and other purposes.”
2. The Board of Supervisors finds that mitigating negative impacts to oak woodlands and heritage oaks resulting from new or intensified development is necessary to for the health, safety, and welfare of its citizens for the following reasons:
  - a. Oak woodlands operate as a carbon sink, and their preservation and growth in the County helps reduce the County’s greenhouse gas emissions.
  - b. Oak woodlands are a unique ecosystem that is necessary to the survival of a wide range of native animal and plant species.
  - c. Oak woodlands exist in many of the areas of the County that are most likely to experience population growth and commercial development.
  - d. Oak woodlands are symbolic of the western Sierra foothills and its history and are aesthetically prized by both County residents and visitors, and they are identified as a scenic resource in the Conservation and Open Space element of the County’s General Plan.
  - e. The destruction and loss of oak woodlands makes it easier for invasive animal and plant species to thrive.
  - f. Existing oak woodlands are increasingly stressed by periods of drought, disease, and flooding.
3. The State of California requires in Public Resources Code §21083.4 that discretionary projects subject to the California Environmental Quality Act (CEQA) be analyzed to determine whether they might result in a conversion of oak woodlands that will have a significant impact on the environment.
4. Public Resources Code §21083.4 also prescribes mitigation various options in the event a discretionary project subject to CEQA may have a significant effect on the environment.
5. The Calaveras County General Plan encourages the preservation of oak woodlands as follows:
  - a. Calaveras County General Plan Policy COS 3.5 encourages "preservation of oak woodlands in accordance with state law."

- b. Calaveras County General Plan Policy COS 3.9 seeks to preserve and enhance healthy woodlands consistent with state law, reasonable development, and fire safety considerations.
  - c. Calaveras County General Plan Implementation Measure COS-4D directs the Planning Department to implement Policies COS 3.5, 3.6, and 3.9 by adopting the statutory oak woodland mitigation measures described in Public Resources Code §21083.4(b)(1)-(3) as well as additional local mitigation measures pursuant to Public Resources Code §21083.4(b)(4).
6. The Environmental Impact Report prepared for the 2019 General Plan identifies impacts to oak woodlands as a result of buildout to be significant and unavoidable but requires Implementation Measure COS-4D as an CEQA mitigation measure, including but not limited to the option of mitigating impacts through conservation easements, as a means of helping to mitigate these impacts.
7. Implementation Measure COS-4D exceeds the requirements of Public Resources Code §21083.4, requiring the County's oak woodland mitigation measures to not only allow for all three of the oak woodlands' mitigation options presented in that statute but also to develop additional local mitigation options.

#### Section 4. CEQA

On November 12, 2019, the Board of Supervisors adopted the General Plan after certifying an Environmental Impact Report (EIR) in compliance with the Calaveras Environmental Quality Act (CEQA). Mitigation Measure 4.4-3(b), as amended in the Final EIR pursuant to pp.20-21 of the July 2019 Errata Sheet, requires the County to develop a mitigation program as drafted in General Plan Implementation Measure COS-4D. COS-4D requires the county to:

*Develop local mitigation measures pursuant to PRC §21083.4(b)(4) in addition to the mitigation measures provided in Public Resources Code Section 21083.4(b)(1)-(3) to facilitate the environmental review process relative to mitigating significant direct and cumulative impacts to oak woodlands in conjunction with discretionary project approval and address pre-development removal of oaks.*

(COS-4D also sets forth an interim oak woodlands mitigation program pending development of the permanent program.) While the EIR found that adoption of the General Plan will result in significant but unavoidable impacts, COS-4D was adopted as a mitigation measure that could help reduce the extent of these unavoidable impacts. The County has chosen to implement COS-4D's permanent program through the adoption of this ordinance. The ordinance applies to all discretionary development projects subject to CEQA and expressly includes the mitigation options provided in Public Resources Code §§ 21083.4(b)(1)-(3). This ordinance also authorizes a fourth mitigation option in the form of in-lieu fee payments to another accredited land trust or qualified land conservation organization, thereby allowing for the development of a local in-lieu fee program that can provide local mitigation options that can serve as an alternative to the Oak Woodlands Conservation Fund described in 21083.4(b)(3). Finally, the ordinance provides for

permit denial in the event that oaks were removed unnecessarily from the proposed development footprint within three years prior to the application for the subject discretionary approval and allows for permit revocation and/or civil or criminal nuisance abatement and fines in the event that oaks are illegally removed after the development permit is issued.

The ordinance also exceeds the requirements of state law, the General Plan, and General Plan EIR mitigation by recognizing and requiring the preservation of large-diameter “heritage oaks”, imposing mandatory mitigation ratios, requiring the evaluation of baseline oak woodlands in the development footprint by a qualified professional, and requiring a tree protection zone to protect oak woodlands from construction impacts. The tree protection zone requirements include a requirement to ensure that any temporary fencing erected during construction to protect oak trees not encumber wildlife migration.

Therefore, based on the substantial evidence in light of the whole record, the adoption of this ordinance is within the scope of the Environmental Impact Report prepared for the 2019 General Plan within the meaning of 14 C.C.R. § 15168 and §15162 and no further environmental analysis is required. The EIR remains relevant for the purposes of analyzing the impacts of this ordinance. No substantial changes are proposed to the General Plan which will require major revisions of the prior EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No substantial changes will occur or have occurred with respect to the circumstances under which the General Plan or its EIR were adopted which would require major revisions of the General Plan EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the General Plan EIR was certified, has been identified suggesting that adoption of this ordinance or implementation of the General Plan 1) will have significant effects that were not discussed in the General Plan EIR; or 2) will substantially increase the severity of significant effects identified in the General Plan EIR. There is no new information suggesting that mitigation measures or alternatives previously identified as infeasible are now feasible, or that there are new mitigation measures or alternatives not considered in the General Plan EIR, or that adopting such a measure(s) would substantially reduce one or more significant effects of General Plan implementation.

#### Section 5. SEVERABILITY

If any clause, provision, sentence or paragraph of this chapter or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not affect the other provisions of this chapter which shall remain in effect, and to this end, it is hereby declared that the provisions of this chapter are severable.