



COUNTY OF SANTA BARBARA
DECIDUOUS OAK TREE PROTECTION
AND REGENERATION

ARTICLE IX OF CHAPTER 35
SANTA BARBARA COUNTY CODE

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DIVISION 1.

IN GENERAL.

Sec. 35-901. Title and Purpose.

1. The regulations contained in this Article shall be known as and referred to as “The County Deciduous Oak Tree Protection and Regeneration Ordinance” adopted by the Santa Barbara County Board of Supervisors as Ordinance No.4490 on April 15, 2003.
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 deciduous 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 deciduous 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.

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) 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).

In General

3. The regulations contained in this Article apply to protected deciduous 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 deciduous oak tree removal operation, other permits, such as a grading permit, may also be required.
5. Deciduous oak tree protection is governed by this article and by the Grading Ordinance (Chapter 14) in Appendix A, Guidelines for Native Oak Tree Removal. The Agricultural Commissioner is the administering authority for Chapter 14 Appendix A, and Planning and Development administers this article. The Agricultural Commissioner is also responsible for making certain determinations under this article.

Sec. 35-903. Exemptions.

The provisions of this article do not apply to removal of deciduous 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.

Sec. 35-904. Fees.

The County Board of Supervisors shall establish by resolution a schedule of fees for processing the 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.

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.

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.

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.

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

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

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.

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 STOCK: Plants grown in a nursery.

NURTURE: To promote the growth of a tree through means such as watering, weeding, protecting and fertilizing.

OAK TREE REMOVAL: Causing a deciduous 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)¹. 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.

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 deciduous oak tree removal that requires a permit.

PROTECTED OAK TREE: A deciduous oak tree four inches or greater in diameter at breast height.

REMOVAL TRACKING PERIOD: A period of time in which removal, both exempt and non-exempt, of protected deciduous oak trees is tracked cumulatively. The first removal tracking

¹ 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.

period begins on the effective date of this article. For the purposes of this article, the removal tracking period is thirty (30) years.

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 deciduous 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 safety², shall be exempt from permit requirements of this article, and will not be counted towards removal thresholds.

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, Appendix A to Chapter 14 (the County Grading Ordinance) prior to the oak tree removal.

² 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.

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 the Grading Ordinance) 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 the County Grading Ordinance, as determined by the Agricultural Commissioner, may subject the landowner to the requirements of this article. A violation which is determined by the Agricultural Commissioner to require a permit pursuant to Article IX of Chapter 35 of the Santa

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Barbara County Code shall be considered to have arisen under this article and be a violation of this article.

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 the County Grading Ordinance prior to the oak tree removal.

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 the Grading Ordinance) 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 the County Grading Ordinance, as determined by the Agricultural Commissioner, may subject the landowner to the requirements of this article. A violation which is determined by the Agricultural

Commissioner to require a permit pursuant to Article IX of Chapter 35 of the Santa Barbara County Code shall be considered to have arisen under this article and be a violation of this article.

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 or in Sec. 35-909 for the remainder of the lot.

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

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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.
 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 dripline. 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.
 12. For the purposes of this ordinance, all replacement trees are considered protected oak trees regardless of size.

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

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

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.

Administration

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.

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>NOTICE</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>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.</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.

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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.