

## Chapter 17.77 - OAK TREE PRESERVATION

### Sections:

#### 17.77.010 - Intent and purpose.

By enacting this chapter of the Rocklin Municipal Code, to be known as the Rocklin Oak Tree Preservation Ordinance the city council finds that oak woodlands constitute a valuable natural resource within the city. They provide habitat for wildlife; they contribute to the city's beauty and varied scenery; they provide shade in parks as well as in developed areas; and they enrich soils and protect watersheds and streams from erosion. Oak woodlands have declined substantially in extent and quality, both locally and regionally. They are continuing to decline under pressures of range forage improvement, flood control, fire suppression and urbanization. The goal of this chapter is to address the decline of oak woodlands due to urbanization through a considered attempt to balance against the social benefits of private property ownership and development. To reach this goal, this chapter implements a comprehensive design review process for new development, offers incentives for oak tree preservation, and provides feasible alternatives and options to removal where practicable. This chapter is enacted in furtherance of Rocklin General Plan/Open Space Conservation and Recreation Element Policies 1 and 4.

(Ord. 676 § 8 (part), 1993).

#### 17.77.020 - Definitions.

Within the context of this chapter, the following words and phrases shall have the meaning given below, unless otherwise specifically provided:

- A. "Developed lot" means the following:
  - 1. A lot zoned for single-family, duplex or triplex development, and subdivided down to its ultimate size consistent with the zone, with or without on-site improvements, but with completed subdivision improvements;
  - 2. A lot zoned for multifamily, commercial or industrial use for which all discretionary entitlements, as well as design review approval under Chapter 17.72, have been approved and are effective. "Developed lot" shall not mean any lot which otherwise meets the requirements of this paragraph, but for which another discretionary entitlement, or a modification to an existing entitlement is being requested. Such lots shall be treated as undeveloped lots under this chapter.
- B. "Guidelines" means the oak tree preservation guidelines adopted pursuant to Section 17.77.100 of this chapter.
- C. "Heritage tree" means any oak tree with TDBH of twenty-four inches or more and which is of good or fair quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape for its species.
- D. "Oak tree" or "tree" means an oak tree with a TDBH of six inches or more and of a species identified in the oak tree preservation guidelines by resolution of the city council as native to the Rocklin area.
- E. "Property" means a lot or contiguous or noncontiguous lots, which, taken together, are proposed for development of a single project, whether or not phased.
- F. "Removed," with reference to an oak tree, means the physical removal of the tree from the ground or the wilful injury, trimming, disfiguring or other harmful action which leads directly to

physical removal or creates such a condition that makes disease likely or results in a significant risk of injury to persons or property.

- G. "Surveyed trees" means all trees which are included in the arborist's tree survey required for a proposed project and are not located within an existing or proposed open space and conservation easement.
- H. "TDBH" means trunk diameter of an oak tree at breast height, which is a point located four and one-half feet above the root crown. TDBH of multi-trunk trees shall be the TDBH of the largest trunk only.
- I. "Transplanted trees" means a tree which is moved from a field grown location and replanted in a new location. Transplanted trees are not nursery grown container plants.
- J. "Undeveloped property" means any property or lot which is not a developed lot.

(Ord. 746 § 1, 1996; Ord. 676 § 8 (part), 1993).

#### 17.77.030 - Prohibition.

No person shall remove an oak tree located wholly or partially within the city unless the requirements of this chapter are fully met and a permit has been obtained from the director.

(Ord. 676 § 8 (part), 1993).

#### 17.77.040 - Developed lot—Removal of oak tree—Permit.

- A. No oak tree shall be removed from a developed lot without first obtaining from the director an oak tree removal permit.
- B. The director shall prepare and issue a form for making application for an oak tree permit. The form shall require the following information:
  - 1. Condition of the tree;
  - 2. Plot plan of the lot;
  - 3. Reason and objective for removal;
  - 4. Signature of the owner of the property on which the tree is located requesting or consenting to the removal;
  - 5. Any other information as determined by the director to be necessary or convenient to evaluate the request.
- C. Application for an oak tree removal permit shall be made by filing a completed application form with the director.
- D. Within ten days of receipt of the application, the director or his authorized representative shall meet with the applicant to discuss the proposed tree removal and investigate alternative means to obtain the objective while minimizing the impact on the tree. One meeting shall be mandatory; additional meetings may be held if mutually agreed.

(Ord. 676 § 8 (part), 1993).

#### 17.77.045 - Developed lot—Removal of oak tree—Single-family, duplex and triplex.

- A. With respect to tree removal applications for single-family residential, duplex or triplex developed lots, the director shall issue the permit after conclusion of the meetings described in Section 17.77.040(D), unless the applicant voluntarily withdraws the application.
- B. If the applicant does not withdraw the application and the permit is to be issued, the applicant shall be required to mitigate the impact of the tree removal as described below:
  - 1. If the director determines that the tree is dead or diseased to such an extent, or is in such a manner that the tree poses a risk of injury to person or property, no mitigation shall be required.
  - 2. If the director determines that the tree is healthy, the applicant shall mitigate removal of the tree in one or a combination of the following ways, at the applicant's option:
    - a. Replacing each heritage oak tree removed with five trees on site, and each nonheritage tree removed with two trees on site; provided, that the maximum number of replacement trees required to be planted on any one lot shall not exceed five. The species, size and planting location of the replacement trees shall be in accordance with the guidelines;
    - b. Payment of a fee for each tree removed in an amount set by resolution of the city council into the Rocklin oak tree preservation fund.

(Ord. 676 § 8 (part), 1993).

17.77.047 - Developed lot—Removal of oak tree—Multifamily, commercial and industrial.

With respect to applications for a tree removal permit for multifamily, commercial or industrial developed lots, the director shall take action on the application at the conclusion of the meeting described in Section 17.77.040(D) in one of the following ways:

- A. If the director determines that the tree proposed for removal is healthy, the permit shall be denied.
- B. If the director determines that the tree is dead or diseased to such an extent or in such a manner that the tree poses a risk of injury to persons or property, the permit shall be issued, and the applicant shall be required to mitigate the impact of the tree removal in one or a combination of the following ways, at the option of the director:
  - 1. Replacing each tree removed with one tree on site, the species, size and planting location of the replacement tree to be in accordance with the guidelines;
  - 2. Payment of the fee for each tree removed in an amount set by resolution of the city council into the Rocklin oak tree preservation fund.

(Ord. 676 § 8 (part), 1993).

17.77.050 - Undeveloped property—Tree preservation plan permit.

- A. Preservation and removal of healthy oak trees from undeveloped property shall be addressed in the development application review process, and shall be governed by the guidelines adopted under Section 17.77.100. Removal of oak trees from undeveloped property shall require mitigation.
- B. No healthy oak tree shall be removed from such property until the review process is completed and a tree preservation plan permit has been issued.
- C. Application for a tree preservation plan permit shall be made on forms issued by the director. Completed applications shall be filed, processed and acted upon as part of the project development application.

- D. The body issuing a tree preservation plan permit shall require mitigation for the removal as a condition of the permit and approval of the project. Required mitigation shall be governed by Sections 17.77.070 and 17.77.080 and the guidelines.
- E. A bond or other security instrument in an amount not less than ten thousand dollars shall be required as a condition of issuance of the permit to protect those trees identified for preservation during the construction period. The form and amount of the security instrument shall be specified by the permit issuing body and approved by the city attorney. No grading or other on-site work shall be permitted until the security is posted.
- F. Notwithstanding any other provision of this section, a property owner may apply for an oak tree removal permit to remove a dead, dying or diseased oak tree from an undeveloped property where no tree preservation plan permit is pending.
  - 1. With respect to applications for a tree removal permit for dead, dying or diseased trees on undeveloped lots, the director shall take action on the application at the conclusion of the meeting described in Section 17.77.040(D) in one of the following ways.
    - a. If the director determines the oak tree is dead, dying or diseased to such an extent or in such a manner that the tree poses a risk of injury to persons or property, the oak tree removal permit shall be issued. No mitigation shall be required for removing a dead, dying or diseased tree from an undeveloped property.
    - b. If the director determines that the oak tree is not dead, dying or diseased the application shall be denied.

(Ord. 676 § 8 (part), 1993).

#### 17.77.065 - Emergency removal of dangerous trees.

Notwithstanding any other provisions of this chapter to the contrary, the director may authorize the immediate removal of any oak tree upon the written request of the owner or other person in legal possession of the property and upon making a determination that the tree, because it is dead or diseased, poses an immediate risk of injury to persons or property which risks cannot feasibly be removed in any other manner. The owner thereafter shall be required to mitigate the tree removal in accordance with the provisions of this chapter.

(Ord. 676 § 8 (part), 1993).

#### 17.77.070 - Mitigation—General.

All required tree mitigation shall conform to the guidelines and the following policies:

- A. On-site mitigation through native oak tree replacement is the preferred mitigation method.
- B. The location and condition under which replacement trees are planted must be carefully selected to allow for practicable and feasible future development to minimize the likelihood that future tree removal is not required, and to maximize the likelihood that the replacement trees will survive and thrive.
- C. The ideal age and size of a replacement tree shall be as specified in the guidelines.
- D. Transplanted trees, whether from on-site or off-site, may be accepted as replacement trees, but shall be given a discounted value, as specified in the guidelines, based on anticipated survival rates, as compared with nursery stock. The discounted value specified in the guidelines shall be reviewed from time to time.
- E. Any replacement tree, including a transplanted tree, which dies within five years of being planted must be replaced on a one to one basis.

- F. Where mitigation formulas use percentages, results will always be rounded up to the next whole number percentage.

(Ord. 676 § 8 (part), 1993).

17.77.080 - Mitigation—Undeveloped property.

Tree mitigation for undeveloped property shall conform to the following policies:

- A. On property zoned B-P; C-1, 2, 3, 4; C-H; M-1, 2 or an equivalent PD zone, no fee payment, tree replacement, or land dedication will be required as mitigation for oak tree removal. In these zones, the following incentives shall be applied, upon request:
  - 1. Projects which save twenty-five percent or more of the surveyed oak trees shall receive expedited processing by the community development department.
  - 2. Defer city traffic mitigation and capital facilities fees as follows:
    - a. Saving twenty-five percent to forty-nine percent of the surveyed oak trees defers fee payment for three months.
    - b. Saving fifty percent to seventy-four percent of the surveyed oak trees defers fee payment for six months.
    - c. Saving seventy-five percent to ninety-nine percent of the surveyed oak trees defers fee payment for nine months.
    - d. Saving one hundred percent of the surveyed oak trees defers fee payment for twelve months.
- B. For all zones other than those identified in subsection A, above, the following mitigation requirements shall apply:
  - 1. Where not more than twenty percent of the TDBH of all the surveyed oak trees, and not more than twenty percent of the total number of surveyed oak trees on the property are to be removed, each tree shall be replaced on a two-to-one tree replacement ratio (two trees planted on-site for each tree removed).
  - 2. Where more than twenty percent of the TDBH of all the surveyed oak trees or more than twenty percent of the total number of surveyed oak trees on the property are to be removed, each inch of TDBH removed in excess of twenty percent of the TDBH of all the surveyed oak trees shall be replaced with an equal number of inches of TDBH of replacement trees, but in no event shall the number of replacement trees be less than twice the number of trees removed (two to one).
  - 3. The species, size and planting location of the replacement trees shall be in accordance with the guidelines.
  - 4. Where on-site replacement is not feasible, mitigation shall be by off-site replacement, land dedication or payment of a fee in an amount set by resolution of the city council into the Rocklin oak tree preservation fund. Where partial mitigation is by on-site or off-site replacement, or land dedication, the fee shall be appropriately prorated.

(Ord. 763 § 1, 1997; Ord. 746 § 3, 1996; Ord. 676 § 8 (part), 1993).

17.77.090 - Rocklin oak tree preservation fund.

- A. There is within the city treasury a separate fund to be known as the Rocklin oak tree preservation fund.

- B. There shall be deposited in the fund all fees paid in connection with the mitigation of trees removed under this chapter or otherwise, plus any moneys received from bond forfeitures and enforcement actions to the extent allowed by law.
- C. The council shall transfer from the general fund to the oak tree preservation fund a total amount of thirty thousand dollars. The transfer shall be in three ten thousand dollar increments and shall be made with the adoption of the city budget in each of the three succeeding fiscal years following the effective date of the ordinance codified in this chapter, enacting this chapter; provided, that if the council, in its sole discretion, finds that the transfer should not be made in any one or more of those fiscal years due to budgetary constraints, the transfer for that year shall be postponed as directed by the council.
- D. Expenditures from the fund shall be limited to the following: (1) acquisition of land deemed appropriate for oak tree reforestation; (2) acquisition, planting and maintenance of oak trees; (3) compensation of arborists retained by the city in connection with the administration of this chapter and any related program; (4) oak tree preservation educational programs; (5) administration and enforcement of this chapter.

(Ord. 676 § 8 (part), 1993).

#### 17.77.100 - Oak tree preservation guidelines.

- A. The council shall adopt, by resolution, guidelines to aid in the administration and implementation of this chapter, to be known as the Rocklin oak tree preservation guidelines.
- B. The guidelines shall address each of the following issues:
  - 1. A tree removal permit application process for the review of tree removal proposals on developed lots;
  - 2. A tree preservation plan permit application process for the review of development proposals of undeveloped property;
  - 3. A method of determining the amount of a bond or other security instrument required by Section 17.77.050(C) to guarantee protection of all oak trees designated for preservation during the project construction period;
  - 4. Required mitigation for tree removal on undeveloped property consistent with and as more fully described in Sections 17.77.070 and 17.77.080;
  - 5. Requirement that special attention be given to the preserving of heritage oak trees;
  - 6. A list of native and hybrid oaks recommended as replacement trees;
  - 7. Any other issues the council deems appropriate relating to oak tree preservation.

(Ord. 676 § 8 (part), 1993).

#### 17.77.110 - Violations and penalties.

- A. Violation of this chapter shall be punishable as a misdemeanor or an infraction at the discretion of the city attorney.
- B. In addition to the provisions of subsection A of this section, violation of this chapter for failure to obtain a tree removal or tree preservation plan permit prior to removing a tree shall be punishable by an order for restitution and/or the payment of triple mitigation fees.
- C. In addition to the provisions of subsection A of this section, violation of the terms or conditions of a tree removal or tree preservation plan permit shall be punishable by forfeiture of the security provided under Section 17.77.050(D), and order for restitution.

(Ord. 676 § 8 (part), 1993).