

FREQUENTLY ASKED QUESTIONS



El Dorado County *Planning and Building Department*

EL DORADO COUNTY OAK RESOURCES CONSERVATION ORDINANCE Adopted October 24, 2017

Q1: What is the Oak Resources Conservation Ordinance?

A: The [Oak Conservation Ordinance](#) encourages on-site retention and discourages any unnecessary removal of oak trees by charging an in-lieu mitigation fee for the removal of oak trees and oak woodlands. The in-lieu mitigation fee was adopted by resolution ([Resolution 130-2017](#)).

Q2: What are Oak Resources?

A: Oak Resources are Oak Woodlands, Individual Native Oak Trees, and Heritage Trees as defined in Section 130.39.030 – Definitions of the [Oak Conservation Ordinance](#).

An *Oak Woodland* is an oak stand with a greater than 10 percent canopy cover. (Note: A stand of trees is a contiguous community of trees sufficiently uniform in composition, structure, age, size, and spatial arrangement.)

Individual Native Oak Trees are any live native oak tree of the genus *Quercus* (including blue, California black, canyon live, interior live, Oregon white, valley, oracle or other hybrid oaks), with a single main trunk measuring greater than 6 inches but less than 36 inches in diameter at breast height (dbh) which is measured at 4-1/2 feet from ground level, or with a multiple trunk with an aggregate trunk diameter measuring greater than 10 inches (dbh) and is not a Heritage Tree.

A *Heritage Tree* is any live native oak tree (of the same genus/species as Individual Native Oak Trees) with a single main trunk measuring 36 inches (dbh) or greater, or with a multiple trunk with an aggregate trunk measuring 36 inches (dbh) or greater.

Q3: How can I tell if a tree has a diameter of 36 inches or greater?

A: Diameter equals the circumference divided by 3.14. For example, a 36 inch diameter tree has a circumference of 113.04 ($113.04 / 3.14 = 36$). The diameter of a tree is measured at 4-1/2 feet above natural grade on the uphill side of the tree.

Q4: How can I tell if my project is subject to the new Ordinance?

A: The [Oak Conservation Ordinance](#) applies to all development activities that remove oak trees below 4,000 foot elevation. (Refer to Section 130.39.020 – Applicability). The Ordinance includes some exemptions that could apply to your activity. (Refer to Section 130.39.050 – Exemptions and Mitigation Reductions).

Q5: What if my project was already in progress before the effective date of the new Oak Ordinance?

A: Existing applications for discretionary development projects may not be required to comply with the new [Oak Conservation Ordinance](#) pursuant to Section [130.10.040.C](#) (Effect of Zoning Ordinance Changes on Projects in Progress) of the County's Zoning Ordinance (Title 130 on Municode). (Discretionary projects require the County to exercise judgment or deliberation when deciding to approve the project; for example, Subdivision Maps and Special Use Permits.)

Ministerial development projects are required to comply with the Oak Conservation Ordinance at the time the permit is issued. (Ministerial projects receive automatic approval if certain requirements are met; for example, building permits and business licenses.)

Development within adopted Specific Plans is not required to comply with the [Oak Conservation Ordinance](#) pursuant to Section [130.10.040.D](#) (Exception for Area Covered by Specific Plan).

Note that the County does not enforce private agreements (e.g., Covenants, Conditions, and Restrictions (CC&Rs)) which commonly have requirements regarding oak trees. Reference your CC&Rs or other private agreements.

Q6: What are the exemptions from the Oak Conservation Ordinance?

Note: Impacts to Heritage Trees, individual valley oak trees, and valley oak woodlands are not exempt and must be mitigated, regardless of whether a County permit is required or not.

A: The [Oak Conservation Ordinance](#) provides some exemptions (refer to Section 130.39.050 – Exemptions and Mitigation Reductions) from mitigation for the removal of oaks including but not limited to:

- Existing single-family parcels of one acre or less that cannot be further subdivided without a General Plan Amendment or Zone change;
- Fire safe activities under an approved Fire Safe Plan for existing structures;
- Utility line maintenance;
- County road projects;
- Some agricultural uses/activities;
- Emergency operations;
- Tree removal permitted under a Timber Harvest Plan;
- Removal of dead, dying, or diseased trees (including valley oak trees and valley oak woodlands);
- Limited personal use (such as no more than 8 trees per parcel per year);
- Some affordable housing projects.

Non-exempt affordable housing projects may qualify for partial oak woodland mitigation credit.

Q7: What agricultural uses/activities are exempt from oak mitigation requirements and in what zone districts?

A: Agricultural uses/activities allowed by right in any zone district that allows production of plant or animal products or preparation/cultivation of land for this purpose are exempt from oak tree mitigation. This includes accessory structures that support those uses. (Note: Planning staff will confirm with the applicants that the accessory structure is supporting an agricultural use/activity).

Note: Agricultural uses/activities that impact Valley Oak Trees, Valley Oak Woodlands, or Heritage Trees are NOT exempt and must obtain a permit from the County’s Planning and Building Department prior to removal of these protected Oak Resources.

For a summary of agricultural uses allowed by right, refer to the County Zoning Ordinance ([Title 130](#)), [Table 130.21.020](#) (Agricultural, Rural Lands and Resource Zone Districts Use Matrix) and [Table 130.24.020](#) (Residential Zone Use Matrix), under the heading for the "Agricultural" and "Agricultural Support Services" Use Type. On these tables, agricultural uses/activities allowed by right are those uses shown under each zone district as "P" (Allowed Use) or "A" (Administrative permit required).

As the new Oak Resources Conservation Ordinance has provisions for the County to issue fines for unpermitted removal of Oak Resources (Section 130.39.090.A), County planning staff strongly recommend property owners with residential zones (e.g. R1A or larger) or other rural lands or resource zones (e.g. RL)

obtain documentation supporting their agricultural activities (e.g. agricultural grading permits for cultivation, photos, etc.).

Q8: Is cutting of commercial firewood subject to the new Oak Conservation Ordinance?

A: Yes. Commercial Firewood Cutting operations shall be considered a discretionary project and require a Minor Use Permit. (Refer to Section 130.39.070 – Oak Tree and Oak Woodland Removal Permits – Discretionary Development Projects, subsection B – Commercial Firewood of the [Oak Conservation Ordinance](#)).

Q9: Do I need a permit to trim oaks trees on my property?

A: Trimming of Individual Native Oaks Trees is allowed by right (without a permit) as long as such trimming does not result in physical destruction of the trimmed oak trees. (See definition of “Impact” in Section 130.39.030 – Definitions of the [Oak Conservation Ordinance](#)). *Note that CC&Rs or private agreements sometimes require permission to trim oaks. Please check your CC&Rs or private agreements.*

Q10: Do I need a permit to clear brush on my undeveloped land (e.g. to reduce fire hazards) when oak resources are present?

A: An oak tree/oak woodland removal permit is not required for brush clearing as long as such activities do not result in impacts to Oak Resources. (See definition of "Impact" in Section 130.30.030 - Definitions of the Oak Conservation Ordinance). Planning staff recommends you consult with a Qualified Professional (see definition of "Qualified Professional" in Section 130.39.030 – Definitions) to determine if any Oak Resources will be impacted by your project, and if a permit is required, the mitigation method(s) that work best for your site (e.g., on-site retention; replacement planting (on-site or off-site); in-lieu fee payment, or combination of these methods).

Q11: I have an undeveloped parcel that has individual oak trees and oak woodlands that will need to be removed to build a single-family home. Do I need a permit to remove the oak trees?

A: Yes, unless one of the exemptions (refer to Section 130.39.050 – Exemptions and Mitigation Reductions of the [Oak Conservation Ordinance](#)) applies to your project. Planning staff recommends you consult with a Qualified Professional (see definition in Section 130.39.030 – Definitions) to determine what Oak Resources will be impacted by your project and the mitigation method(s) that work best for your site (e.g., on-site retention; replacement planting (on-site or off-site); in-lieu fee payment, or combination of these methods). The [Oak Conservation Ordinance](#) requires a Qualified Professional to prepare an Oak Resources Technical Report, as specified in Section 2.5 (Oak Resources Technical Reports) of the [Oak Resources Management Plan](#), including mitigation method(s) selected for your project. For projects mitigating by in-lieu fee payment only, an Administrative Permit will be required. For projects mitigating by any combination of in-lieu fees, on-site retention and/or on-site or off-site replacement planting, a Minor Use Permit will be required.

Q12: What is a Qualified Professional and how can I find one?

A: An arborist certified by the International Society of Arboriculture (ISA), a qualified wildlife biologist or a Registered Professional Forester. (Refer to Section 130.39.030 – Definitions of the [Oak Conservation Ordinance](#)). The County does not have a recommended list of Qualified Professionals (i.e., ISA-certified arborist, Registered Professional Forester, or qualified wildlife biologist). However, here are a few websites of professional organizations:

International Society of Arboriculture: www.isa-arbor.com
American Society of Consulting Arborists: www.asca-consultants.org
California Licensed Foresters Association: www.clfa.org
California Board of Forestry and Fire Protection:
bofdata.fire.ca.gov/professional_foresters_registration/locate_a_rpf_or_crm/

Q13: I am an ISA Certified Arborist and frequently encounter oak trees heavily parasitized by oak mistletoe that they pose a threat of infestation to nearby healthy trees. Would these mistletoe-infested oak trees be considered “diseased” and exempt from oak mitigation permits and fees by the County?

A: El Dorado County's new Oak Resources Conservation Ordinance does allow some exemptions from mitigation, including an exemption for "Dead, Dying, or Diseased Trees" (Section 130.39.050 - Exemptions and Mitigation Reductions). However, documentation in writing would need to be provided to the County by a Certified Arborist or Registered Professional Forester prior to removal (this could be done in lieu of a tree removal permit application). The documentation would need to include a strong justification/reason why other corrective actions are infeasible (e.g., pruning out the mistletoe), not simply a statement that it is infected.

Q14: Where can I find the In-Lieu Fee Rates?

A: The In-Lieu Fees Rates that will take effect on December 23, 2017 are Exhibits of [Resolution 130-2017](#) adopted by the Board of Supervisors on October 24, 2017. (See Exhibit A – Oak Woodland Area In-Lieu Fee Rates and Exhibit B – Individual Oak Tree In-Lieu Fee Rates).

Q15: I already submitted my permit application and plans, will the in-lieu fees apply to me?

A: Unless a project is exempt from oak mitigation (refer to Section 130.39.050 – Exemptions and Mitigation Reductions of the [Oak Conservation Ordinance](#)), in-lieu mitigation fees will apply to all permits impacting Oak Woodlands, Individual Native Oak Trees, or Heritage Trees issued after November 22, 2017 (the effective date of the Oak Conservation Ordinance).

Q16: My permit is approved and ready to issue, can I avoid paying the fees if it is issued before December 23, 2017?

A: No. Unless a project is exempt from oak mitigation (refer to Section 130.39.050 – Exemptions and Mitigation Reductions, of the [Oak Conservation Ordinance](#)), in-lieu mitigation fees will apply to all permits impacting Oak Woodlands, Individual Native Oak Trees, or Heritage Trees **issued after November 22, 2017** (the effective date of the Oak Conservation Ordinance). For permits issued between November 23, 2017 and December 22, 2017, the in-lieu fees will be collected after December 22, 2017.

Q17: Can I appeal the fees?

A: The Oak Conservation Ordinance allows for limited appeals of the in-lieu fees for specific circumstances including, but not limited to, incorrect calculation of the required mitigation fee. (Refer to Section 130.39.080 – In-Lieu Fee Appeals, of the [Oak Conservation Ordinance](#)).

Q18: Can I get an estimate of my mitigation fees?

A: The in-lieu mitigation fee payment amount shall be included in the Oak Resources Technical Report prepared by a Qualified Professional (ISA-certified Arborist, Qualified Biologist, or Registered Professional Forester), as specified in Section 2.5, Oak Resources Technical Reports, of the [Oak Resources Management Plan](#). (Refer to Section 130.39.060 – Oak Tree and Oak Woodland Removal Permits – Ministerial Development Projects, subsection B.2, and Section 130.39.070 – Oak Tree and Oak Woodland Removal Permits – Discretionary Development Projects, subsection D of the [Oak Conservation Ordinance](#)). For questions about estimating mitigation fees that may apply to your project, please contact a Qualified Professional.

Q19: Where can I get the permit forms for oak tree/oak woodland removal?

A: The forms are available on the County website, on the [Planning Services](#) webpage menu under [Applications and Forms](#).

Q20: Are there any consequences for removal of oaks without a proper permit from the County?

A: Yes. Fines shall be issued for unpermitted removal of: oak woodlands up to three (3) times the current oak woodland in-lieu fee amount; individual native oak trees up to three (3) times the current market value of replacement trees; and heritage trees up to nine (9) times the current market value of replacement trees. (Refer to Section 130.39.090 – Enforcement, of the [Oak Conservation Ordinance](#)).

Q21: Are there any mitigation maintenance and monitoring requirements?

A: Yes. Permittees are required to care for, inspect and document replacement oak trees, including acorns, when planted as mitigation for loss of oak woodlands, individual native oak trees or Heritage Trees, including annual monitoring and replacement of any dead trees for a period of seven (7) years from the date of planting. (Refer to Section 130.39.100 – Mitigation Maintenance, Monitoring and Reporting, of the [Oak Conservation Ordinance](#)).

Q22: Where can I find the new Oak Resources Management Plan (ORMP) and Oak Resources Conservation Ordinance?

A: The adopted [ORMP](#) and Oak Resources Conservation Ordinance ([Ordinance No. 5061](#)) are posted on the County website on the General Plan Biological Resources Policy Update webpage: <https://www.edcgov.us/Government/longrangeplanning/environmental/Pages/biopolicyupdate.aspx>

In the near future, the adopted Oak Resources Conservation Ordinance will also be codified (incorporated into Title 130 of the El Dorado County Code of Ordinances) on Municode: https://library.municode.com/ca/el_dorado_county/codes/code_of_ordinances?nodeId=TIT130ZO

If you have a question that you think would be helpful to add to this FAQ, please email it to anne.novotny@edcgov.us. For other specific questions about how the new Oak Conservation Ordinance applies to your specific project, please call Planning Services at: (530) 621-5355.

For more information about the ORMP/Oak Conservation Ordinance, visit the webpage at: <https://www.edcgov.us/Government/longrangeplanning/environmental/Pages/biopolicyupdate.aspx>