
Attachment 2. Exhibit A.

Section 26-04-020. Definitions.

Native Oak Tree. A native oak tree to Sonoma County of the genus *Quercus*, that is classified as any one of the following: blue oak (*Q. douglasii*), interior live oak (*Q. wislizenii*), coast live oak (*Q. agrifolia*), canyon live oak (*Q. chrysolepis*), Oregon oak (*Q. garryana*), California black oak (*Q. kelloggii*), valley oak (*Q. lobata*), Shreve oak (*Q. parvula* var. *shrevei*), or naturally occurring hybrids of two or more of the preceding listed trees.

Natural Community Conservation Plan. A plan that meets the definition of “Natural community conservation plan,” codified at California Fish and Game Code Section 2805(h).

Oak Woodland. A contiguous stand of trees dominated by Native Oak Trees with at least one-half (0.5) acre of cover. For purposes of this definition, “contiguous stand” means a stand where all individual oak trees with diameter at breast height (dbh) equal to or greater than 6 inches have canopies located within 200 feet of one another on a parcel. Oak Woodland includes lands that supported native oak trees as indicated in the 2013 Sonoma VegMap. Oak woodland is inclusive of associated vegetative strata including canopy, subcanopy, shrub, herb and bryophyte.

Oak Woodland Conservation Plan. A site-specific plan developed by a qualified professional knowledgeable in Oak Woodland conservation, which describes the conditions, qualities, and capabilities of a property’s Oak Woodland resources, describes conservation objectives, identifies existing and intended use of the property, and identifies recommended or potential resource improvement projects.

Type Conversion. The removal of the capacity of the land to grow oak trees or Oak Woodlands by a person. Tree, shrub, and land clearing associated with land development, including, but not limited to, grading, clearing, or otherwise modifying land for roads, driveways, buildings or building pads, utility easements, and other development activities. Maintenance such as pruning and removing dead branches from living oak resources is not included, provided that the maintenance does not include crown reduction resulting in death or conversion of the oak resource.

Article 67. OAK Oak Woodland Combining District and VOH Valley Oak Habitat Combining District.

Sec. 26-67-010. Purpose.

~~Purpose: to protect and enhance valley oaks and valley oak woodlands and to implement the provisions of Section 5.1 of the general plan resource conservation element.~~

The purpose of this article is to advance the protection, preservation, and enhancement of oak trees and Oak Woodlands in Sonoma County for the benefit of present and future generations and to implement Sonoma County General Plan Policies OSRC-7I, related to Oak Woodlands, and 7m, related to valley oak habitat. This article achieves these purposes by prohibiting the removal of oaks within Oak Woodlands, with limited exceptions for certain listed land uses that the County has determined promote public, health, safety, and welfare, including uses related to hazard reduction or removal, conservation, agriculture, pest control, and residential maintenance. Where proposed valley oak or Oak Woodland removal is subject to a discretionary permit process, mitigation measures to address loss of trees would apply, such as measures to ensure no net loss of Oak Woodlands or, for

the highest quality woodlands, would provide a unique public benefit equal to or greater than the value associated with removed oaks.

Sec. 26-67-020. Interpretation Applicability.

- 1) The provisions of this article shall be liberally construed to effectuate the purpose of this article. Where a provision of this article conflicts with another provision of this chapter or this code, the more restrictive provision shall prevail.
- 2) Location. This article applies to the entirety of each parcel that intersects the Valley Oak Habitat Combining Zone and the entirety of each parcel containing at least .5 acre of the Oak Woodland Combining District.
- 3) Prohibition. No person shall cause a type conversion of Oak Woodlands to non-Oak Woodlands, as defined herein, located wholly or partially within the unincorporated County unless expressly permitted by this chapter and where any applicable permit(s) are first secured, and requirements of this chapter are met. Compliance with this article does not alleviate the need to comply with other local, state, or federal rules or regulations which may also be applicable to tree removal.
- 4) VOH Combining District. Valley Oak tree removal in the VOH combining district that does not meet the definition of woodland type conversion remains subject to the provisions of this chapter that apply to the VOH combining district.
- 5) Code Conflict. The provisions of this article shall be liberally construed to effectuate the purpose of this article. Where a provision of this article conflicts with another provision of this chapter or this code, or with state or federal law, then the more restrictive provision shall prevail.
- 6) Other laws. Compliance with this chapter does not alleviate the need to comply with other local, state, or federal rules, or regulations which may also be applicable to tree removal, including but not limited to the California Professional Forester's Law (commencing at California Public Resources Code section 750). Oak tree removal that does not impact oak woodlands, or that is not otherwise subject to this chapter, may still be subject to other provisions of this code, or state or federal law.
- 7) Preemption. This article shall apply except to the extent preempted by state or federal law.
- 8) Utility Line Maintenance. Oak tree removal associated with maintenance, by a public utility company regulated by the California Public Utilities Commission, of existing public utility lines and related infrastructure that causes type conversion of Oak Woodland within the boundaries of an applicable utility easement, right of way, or other property interest held by the utility, is exempt from this article.
- 9) Timber Harvest. Tree removal authorized under a Timber Harvest Plan or other harvesting permit issued by the California Department of Forestry and Fire Protection.
- 10) By-right housing. By-right housing is exempt from this article.
- 11) Forestry. Certain uses and activities regulated by this article may constitute "forestry" as defined in the Professional Forester's Law (California Public Resources Code Sections 750-783). Where actions or requirements of this ordinance meet this definition, the applicable requirements in the Professional Forester's Law shall apply in addition to this code. See subsection 5) of this Section.
- 12) Determination of Woodland Boundaries. The designated Oak Woodland Combining Zone represents the approximate location of Oak Woodlands. Actual Oak Woodland boundaries shall be determined by a qualified professional using on the ground observations and based on the dripline of existing native oak trees.

Where Oak Woodland was present as of the 2013 VegMap data but native oak trees are no longer present due to factors such as wildfire, satellite imagery or other remote sensing data shall be used to approximate the historical dripline of trees to determine the area of historically occurring woodlands.

13) Determination of Oak Ecological Categories. Unless exempted by this article, all discretionary applications for conversion of Oak Woodland must identify and classify Oak Woodland habitat present on the parcel(s), including Oak Woodlands or portions thereof where removal is not proposed. To satisfy this requirement, an application must include a written report identifying Oak Woodland ecological categories as determined by a qualified professional, whose determination shall be based on the quality of the Oak Woodland and its ecological services, sensitivity to disturbance, rarity, and potential to be adequately compensated for by mitigation and consistent with the categories described below in subsection a – c, and County guidelines maintained by the Permit and Resource Management Department. As an alternative and in lieu of submitting an Oak Woodland ecological categories report and determination by a qualified professional, an applicant may elect to have all Oak Woodland present on the parcel(s) treated as Superior Oak Habitat, as described in subsection c. below. Notwithstanding this paragraph, where an Oak Woodland has been degraded or destroyed without prior authorization, the Oak Woodland shall be considered Superior Oak Habitat, unless the applicant demonstrates by a preponderance of the evidence to the satisfaction of the Department that it is more likely than not that a different category applies based on information including, but not limited to, adjacent vegetation, aerial photographs, vegetation maps, on-site inspections prior to disturbance, previous stand or plant community characterization, or other evidence.

Oak Woodland ecological categories are described for purposes of this Article as follows:

- a. Class III or Limited Quality Oak Habitat Category is an Oak Woodland type that is seriously degraded, marginally capable of supporting Oak Woodlands, or has a reasonable potential for regaining the capability of supporting and maintaining a balanced, integrated, adaptive community having a species composition, diversity, and organization characteristic of that type of Oak Woodland. Limited Quality Oak Habitat Category has one or more of the following characteristics:
 - i. Minimal to fair wildlife functions, values, or ecological services;
 - ii. Does not provide or may provide minimal habitat or critical habitat for threatened or endangered species or contain rare, threatened, or endangered species; or
 - iii. May be typified by some, or all, of the following qualities: isolation, low species diversity, herbaceous cover without any native California grass or forb species; no significant habitat or wildlife use; or limited potential to achieve beneficial ecological services, e.g., water storage, carbon sequestration, or similar benefits.
- b. Class II or Oak Habitat Category is an Oak Woodland type that is capable of supporting and maintaining a balanced, integrated, adaptive community having a species composition, diversity, and functional organization characteristic of that type of Oak Woodland. Oak Habitat Category has one or more of the following characteristics:
 - i. Moderate to good functions, values, or ecological services;
 - ii. Stand(s) that include valley oak (quercus lobata), blue oak (quercus douglasii), Oregon oak (quercus garryana), or black oak (quercus kelloggii). Stands without these species may still qualify as Class II if other qualifying characteristics are present.
 - iii. Oak habitat that typically provides habitat for native plant or animal species but general without the presence of habitat or critical habitat for threatened or endangered species or contain rare, threatened, or endangered species; or
 - iv. May be typified by some or all of the following: good connectivity, good species diversity, herbaceous cover usually with native California grass or forb species; moderate to significant habitat or wildlife use; or full potential to achieve beneficial ecological services.
- c. Class I or Superior Oak Habitat Category is an Oak Woodland type that is capable of supporting and maintaining a high quality balanced, integrated, and adaptive community having a species

composition, diversity, and functional organization characteristic of the best examples of that type of Oak Woodland. Superior Oak Habitat have one or more of the following characteristics:

- i. high to very high functions, values, or ecological services;
- ii. Species composition of includes more than 50% valley oak (quercus lobata), blue oak (quercus douglasii), Oregon oak (quercus garryana), or black oak (quercus kelloggii). Stands without these species may still qualify as Class 1 if other qualifying characteristics are present.
- iii. Provide high quality habitat for native plant or animal species and often with the presence of habitat or critical habitat for threatened or endangered species, or contain rare, threatened or endangered species; or
- iv. Typified by some, or all, of the following: high connectivity, high species diversity, herbaceous cover usually with 30% or more cover of native California grass or forb species; significant habitat or wildlife use; or high potential to achieve beneficial ecological services.

Sec. 26-67-030. OAK Allowed uses.

~~All uses permitted within the respective district with which the VOH district is combined shall be permitted in the VOH district, subject to the provisions of this article.~~

Table 1 identifies the allowed uses and permit requirements for the OAK Combining District. Note that all uses may be subject to additional standards as described in this section.

Key of symbols for Table 1:

E = Exempt Use

ZP = Permitted Use, subject to Zoning Permit

CUP = Conditional Use, subject to Conditional Use Permit

Table 1:

Allowed Uses in the OAK Combining District

<u>Use Category</u>	<u>Permit Level</u>
<u>Hazard Reduction</u>	<u>E</u>
<u>Emergency Operations</u>	<u>E</u>
<u>Hazardous, Dead, Dying, or Diseased Tree Removal</u>	<u>ZP</u>
<u>Stewardship Activities</u>	<u>E</u>
<u>Stream Maintenance and Restoration</u>	<u>E</u>
<u>Forestry Activities</u>	<u>E</u>
<u>Residential Maintenance</u>	<u>E</u>
<u>Pest Control</u>	<u>E</u>
<u>Agricultural Maintenance</u>	<u>E</u>
<u>Individual Tree Removal</u>	<u>E</u>
<u>One Time Limited Conversion</u>	<u>ZP</u>
<u>Other Uses not listed above that result in type conversion</u>	<u>CUP</u>

26-67-040. OAK Uses exempt from oak woodland permit requirements.

The following uses are exempt from oak woodland permit requirements under this chapter unless otherwise specified, provided they do not result in type conversion of an Oak Woodland, and meet the following standards for one or more of the following listed uses:

1) **Health and Safety**

- a) Hazard Reduction.
 - i) Activities necessary to comply with local or state defensible space requirements, as defined in chapter 13A of County Code or PRC 4291.
 - ii) Fire risk reduction activities overseen, approved, or undertaken by CAL FIRE or a local fire jurisdiction.
- b) Emergency Operations. Actions taken by public agencies during emergency operations or in post-disaster remediation.
- c) Hazardous, Dead, Dying, or Diseased Trees. The removal of dead, dying, or diseased trees except when all of the following criteria is met, in which case a zoning permit is required;
 - i) The tree is dead, dying, or diseased, as determined by a certified arborist or Registered Professional Forester; and
 - ii) If located outside any required defensible space zone; either abundant natural recruitment has been established or stumps are retained for basal sprouting species; and
 - iii) The removal does not result in type conversion of the existing Oak Woodland.

A required application for zoning permit for removal of hazardous, dead, dying or diseased trees may be submitted within a reasonable period of time after hazardous tree removal, where immediate removal was necessary for public health or safety reasons.

2) **Conservation**

- a) Stewardship activities. Stewardship activities consistent with an adopted:
 - i) Forest management plan (e.g. California cooperative forest management plan);
 - ii) Rangeland (as defined in California Code of Regulations, title 14, section 1561.1) management activities overseen by a Certified Rangeland Manager (as defined in California Public Resources Code 750), provided activities do not result in type conversion
 - iii) Burn plan (e.g. California certified burn plan, National Wildfire Coordinating Group certified burn plan);
 - iv) Oak Woodland Conservation Plan approved by the County of Sonoma;
 - v) Conservation easement administered by the Agriculture and Open Space District or other entity;
 - vi) Habitat Conservation Plan or Natural Community Conservation Plan (as defined in California Code, Public Resources Code Section 8560);
 - vii) State approved project: CALFIRE forest health grant, forest improvement grant wildfire prevention grant, provided Oak Woodland type conversion does not occur; or
 - viii) Another equivalent document or plan approved by the Planning Director or their designee.
 - b) Stream maintenance and restoration. Activities authorized under the Riparian Corridor Combining Zone.
 - c) Forestry activities (as defined in California Public Resources Code Section 753) where a prescription is prepared by a Registered Professional Forester, provided the activity does not result in type conversion.
- 3) **Residential Maintenance.** Fencing and maintenance of existing outdoor activity areas, such as yards, gardens, and landscaped or natural vegetation, associated with a legally established structure or use and not involving encroachment into existing Oak Woodland.
- 4) **Pest Control.** Selective vegetation removal as part of an integrated pest management program administered by a Pest Control Advisor.

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- 5) **Agriculture.** Agricultural uses allowed without an oak woodland permit include existing Agricultural Crop cultivation and maintenance of existing access roads, drainage, planting, seeding, fertilizing, weeding, tree trimming, irrigation, and harvesting. Expansions of cultivation areas into land not currently used for crop production and cultivation and which involve type conversion of Oak Woodland, would be subject to the provisions of this section. Agriculture grading permits removing Oak Woodland for new agricultural developments are not exempt.
 - 6) **Individual Tree Removal.** Oak tree removal that is not located within an Oak Woodland is exempt from the Oak Woodland Combining District but may be subject to other local ordinance, including but not limited to the Tree Protection Ordinance or Valley Oak Habitat Combining District.

Sec. 26-67-0050. OAK Combining District Allowed Uses with a Zoning Permit ~~Mitigation required~~ Exceptions

1. The one-time type conversion of up to 1.0 acres of Oak Woodland to accommodate a use permitted by the underlying zoning district shall be permitted with a zoning permit, once per parcel, subject to the below conditions. Subsequent type conversion of Oak Woodlands beyond the one-time Type Conversion shall be subject to discretionary review.
2. A ministerial type conversion shall be subject to the following standards and requirements:
 - a) All conversion activities shall be completed within two years of approval of the zoning permit.
 - b) No sites of rare, threatened or endangered plants or animals shall be disturbed, threatened or damaged, as determined by a biologist.
 - c) The project shall not impact significant historical or archeological sites, as determined by a cultural resources study. If project has potential to impact historical or archaeological sites, as determined by a cultural resources study, avoidance measures shall be recommended and incorporated into project design or project shall be redesigned to avoid impacts.
 - d) No ministerial Oak Woodland conversion shall include the cutting or removal of any native oaks greater than 36" DBH unless a registered professional forester or arborist certifies in writing that the tree poses a serious danger to persons or property.
 - e) No conversion activities shall be conducted during the wet weather period or during wet conditions.
 - f) No ministerial Oak Woodland conversion shall be conducted without a valid on-site copy of the zoning permit issued for the conversion.
 - g) The Department may develop policies and procedures related to this section including requirements to provide notice to subsequent purchasers which may include recordation of notice.
3. The applicant shall submit any other information that the Director deems necessary to make a decision on the application. Such information may include grading permits, building permits, design drawings, forest inventories, and other material.

~~Except as provided in subsection (b), when any person cuts down or removes any large valley oak, or any small valley oaks having a cumulative diameter at breast height greater than sixty inches (60"), on any property within the VOH district, such person shall mitigate the resulting valley oak loss by one of the following measures: (1) retaining other valley oaks on the subject property, (2) planting replacement valley oaks on the subject property or on another site in the county having the geographic, soil, and other conditions necessary to sustain a viable population of valley oaks, (3) a combination of measures (1) and (2), or (4) paying an in-lieu~~

~~fee, which shall be used exclusively for valley oak planting programs in the county. Such person shall have the sole discretion to determine which mitigation measure to use to mitigate the valley oak loss. The requirements for each mitigation measure are specified in Table 26-67-030. The selected mitigation measure shall be undertaken and completed within one (1) year after the valley oak or valley oaks are cut down or removed in accordance with guidelines established by resolution or ordinance of the board of supervisors.~~

~~1) (b) This section shall not apply to the cutting down or removal of any valley oak within the VOH district that is (1) determined necessary by emergency personnel engaged in emergency procedures, (2) dead or irretrievably damaged or destroyed by causes beyond the property owner's control, including, without limitation, fire, flood, wind, lightning, or earth movement, or (3) part of a development project subject to the provisions of Section 26-67-040.~~

~~2) TABLE 26-67-030~~

~~3) MITIGATION REQUIREMENTS FOR CUTTING DOWN OR REMOVING VALLEY OAKS WITHIN THE VOH DISTRICT~~

LARGE VALLEY OAKS				
Diameter at Breast Valley Oak	Valley Oak	Valley Oak	In Lieu Fee	Requirement
Height of Large Valley Oak Being Cut Down or Removed	Retention Requirement²	Replacement Requirement²	Retention and Replacement Requirement²	Requirement
Greater than 20 inches	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the diameter at breast height being cut down or removed	Plant 16 trees	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than one-half the diameter at breast height being cut down or removed and plant 8 trees	\$ 50.00

~~4) —~~

~~5) ²— All retained trees shall be valley oaks.~~

~~6) ²— All replacement trees shall be valley oak acorns, seedlings, saplings, or container grown stock.~~

SMALL VALLEY OAKS

Cumulative Diameter at Breast Height of Small Valley Oaks Being Cut Down or Removed	Valley Oak Retention Requirement⁴	Valley Oak Replacement Requirement²	Valley Oak Retention and Replacement Requirement²	In-Lieu Fee Requirement
60 inches of less	None	None	None	None
Greater than 60 inches up to and including 80 inches	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed	Plant 16 trees	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 8 trees	\$ 50.00
Greater than 80 inches up to and including 100 inches	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed	Plant 20 trees	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 10 trees	\$ 75.00
Greater than 100 inches up to and including 120 inches	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed	Plant 24 trees	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 12 trees	\$ 100.00

Greater than 120 inches up to and including 140 inches	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed	Plant 28 trees	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 14 trees	\$125.00
Greater than 140 inches	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed	Plant 32 trees plus additional 4 trees for each 20 inches of cumulative diameter at breast height being cut down or removed over 140 inches	Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 16 trees, plus additional 2 trees for each 20 inches of cumulative diameter at breast height being cut down or removed over 140 inches	\$150.00, plus additional \$25.00 for each 20 inches of cumulative diameter at breast height being cut down or removed over 140 inches

~~8) —~~

~~9) —^{*}All retained trees shall be valley oaks.~~

~~10) —^{*}All replacement trees shall be valley oak acorns, seedlings, saplings, or container grown stock.~~

Sec. 26-67-060. OAK Combining District Use Permit Requirements ~~Design review approval~~

~~Where any development project within the VOH district is subject to design review pursuant to another provision of this chapter, the design review approval shall include measures to protect and enhance valley oaks on the project site in accordance with guidelines adopted by resolution or ordinance of the board of supervisors. Such measures shall include, but not be limited to, a requirement that valley oaks shall comprise a minimum of fifty percent (50%) of the required landscape trees for the development project.~~

Any Oak Woodland type conversion that is not exempt from the requirement to obtain an Oak Woodland permit for an allowed use specified in this ordinance, or that would not qualify for a ministerial permit under Section 26-67-050, requires a discretionary permit under this section, subject to the following requirements:

- 1) A Use Permit and associated permit fee shall be required.
- 2) Application Materials. The application shall include the items specified in the application and application checklist on file with the Permit and Resource Management Department.
- 3) Notice. Notice shall be provided to all properties within 300 feet of the subject property, including those parties which have requested notification of all Oak Woodland permits.
- 4) Oak Ecological Categories. The application shall include a determination of the ecological category of the Oak Woodland, as defined in this ordinance.
- 5) Alternatives Analysis. A sequenced alternatives analysis review shall be provided by the applicant. The review shall consist of an examination, in the following order, of avoidance, minimization, and mitigation.
- 6) Mitigation: The application shall include an Oak Woodland Conservation Plan, including mitigations at ratios consistent with the determined Oak Woodland Ecological Category and as necessary to offset the impacts identified through review of the application. The following conditions or mitigation measures may be considered through the discretionary permit process:
 - a) Conservation Easement: An executed and recorded conservation easement for double the mitigation rations specified for replanting. Areas under easement must be located in Sonoma County, must contain woodland of equal or greater Oak Woodland Ecological Category, and must contain similar species composition.
 - b) Replanting: Replanting on-site or within Sonoma County consistent with replacement ratios specified below. An annual report shall be prepared and submitted by the applicant to the Department. Any mortality that occurs during the reporting period shall be replaced.

<u>Oak Woodland Ecological Category</u>	<u>Mitigation Ratio (in acres)</u>
<u>Class I (Superior Oak Habitat)</u>	<u>3:1</u>
<u>Class II (Oak Habitat)</u>	<u>2:1</u>
<u>Class III (Limited Quality Oak Habitat)</u>	<u>1:1</u>

- c) Alternative equivalent mitigation may be considered if it will achieve equal or greater benefit than other mitigation measures.
 - d) Payment of replacement in-lieu fees may be permitted by the County if replacement or mitigation is infeasible as determined by the County for physical, ecological, legal, or economic reasons. Replacement fees, if applicable, shall be valued using the most recent version of Council of Tree and Landscape Appraisers' Guide for Plant Appraisal.
 - e) Any other condition or measure that the Director deems necessary to meet the objectives of this chapter.
- 7) An Applicant shall submit all information the Director deems necessary to make a decision on the application or any required associated environmental review. Such information may include biological studies, cultural resource studies, forest inventories, and other material.

Sec. 26-67-070. OAK Combining District Findings for Approval~~Penalty for violation of article.~~

~~Any person who knowingly fails to comply with the mitigation or design review requirements of this article shall be required to mitigate any valley oak loss at five (5) times the rate otherwise required by this article.~~

Findings for Approval. Discretionary permits for Oak Woodland conversion shall not be approved unless the following findings are made:

- i) There is no feasible less environmentally damaging alternative;
- ii) Any proposed Oak Woodland to be removed will not result in the creation of two (2) or more separate Oak Woodlands as defined by this chapter; and
- iii) If Class I Oak Woodlands are proposed for conversion, the conversion provides a clear public need that outweighs the loss of the Oak Woodland.

Sec. 26-67-080. VOH Combing District Permitted Uses.

All uses permitted within the respective district with which the VOH district is combined shall be permitted in the VOH district, subject to the provisions of this article.

Sec. 26-67-090. VOH Combining District Mitigation required—Exceptions.

- (a) Except as provided in subsection (b), when any person cuts down or removes any large valley oak, or any small valley oaks having a cumulative diameter at breast height greater than sixty inches (60”), on any property within the VOH district, such person shall mitigate the resulting valley oak loss by one of the following measures: (1) retaining other valley oaks on the subject property, (2) planting replacement valley oaks on the subject property or on another site in the county having the geographic, soil, and other conditions necessary to sustain a viable population of valley oaks, (3) a combination of measures (1) and (2), or (4) paying an in-lieu fee, which shall be used exclusively for valley oak planting programs in the county. Such person shall have the sole discretion to determine which mitigation measure to use to mitigate the valley oak loss. The requirements for each mitigation measure are specified in Table 26-67-090. The selected mitigation measure shall be undertaken and completed within one (1) year after the valley oak or valley oaks are cut down or removed in accordance with guidelines established by resolution or ordinance of the board of supervisors.
- (b) This section shall not apply to the cutting down or removal of any valley oak within the VOH district that is (1) determined necessary by emergency personnel engaged in emergency procedures, (2) dead or irretrievably damaged or destroyed by causes beyond the property owner's control, including, without limitation, fire, flood, wind, lightning, or earth movement, or (3) part of a development project subject to the provisions of Section 26-67-080.

TABLE 26-67-090

MITIGATION REQUIREMENTS FOR CUTTING DOWN OR REMOVING VALLEY OAKS WITHIN THE VOH DISTRICT

		<u>LARGE VALLEY OAKS</u>		
<u>Diameter at Breast</u>	<u>Valley Oak</u>	<u>Valley Oak</u>	<u>Valley Oak</u>	<u>In-Lieu Fee</u>
<u>Height of Large</u>	<u>Retention</u>	<u>Replacement</u>	<u>Retention and</u>	<u>Requirement</u>
<u>Valley Oak Being</u>	<u>Requirement¹</u>	<u>Requirement²</u>	<u>Replacement</u>	
<u>Cut Down or</u>			<u>Requirement²</u>	
<u>Removed</u>				
<u>Greater than 20</u>	<u>Retain 1 or more</u>	<u>Plant 16 trees</u>	<u>Retain 1 or more</u>	<u>\$ 50.00</u>
<u>inches</u>	<u>trees having a</u>		<u>trees having a</u>	
	<u>cumulative</u>		<u>cumulative</u>	
	<u>diameter at breast</u>		<u>diameter at breast</u>	
	<u>height equal to or</u>		<u>height equal to or</u>	
	<u>greater than the</u>		<u>greater than one-</u>	

diameter at breast
height being cut
down or removed

half the diameter
at breast height
being cut down or
removed and plant
8 trees

¹ All retained trees shall be valley oaks.

² All replacement trees shall be valley oak acorns, seedlings, saplings, or container grown stock.

SMALL VALLEY OAKS

<u>Cumulative Diameter at Breast Height of Small Valley Oaks Being Cut Down or Removed</u>	<u>Valley Oak Retention Requirement¹</u>	<u>Valley Oak Replacement Requirement²</u>	<u>Valley Oak Retention and Replacement Requirement²</u>	<u>In-Lieu Fee Requirement</u>
<u>60 inches of less</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>
<u>Greater than 60 inches up to and including 80 inches</u>	<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed</u>	<u>Plant 16 trees</u>	<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 8 trees</u>	<u>\$ 50.00</u>
<u>Greater than 80 inches up to and including 100 inches</u>	<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed</u>	<u>Plant 20 trees</u>	<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 10 trees</u>	<u>\$ 75.00</u>
<u>Greater than 100 inches up to and including 120 inches</u>	<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed</u>	<u>Plant 24 trees</u>	<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 12 trees</u>	<u>\$100.00</u>
<u>Greater than 120 inches up to and</u>	<u>Retain 1 or more trees having a</u>	<u>Plant 28 trees</u>	<u>Retain 1 or more trees having a</u>	<u>\$125.00</u>

<u>including 140 inches</u>	<u>cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed</u>	<u>cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 14 trees</u>
<u>Greater than 140 inches</u>	<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed</u>	<u>Plant 32 trees plus additional 4 trees for each 20 inches of cumulative diameter at breast height being cut down or removed over 140 inches</u>
		<u>Retain 1 or more trees having a cumulative diameter at breast height equal to or greater than the cumulative diameter at breast height being cut down or removed and plant 16 trees, plus additional 2 trees for each 20 inches of cumulative diameter at breast height being cut down or removed over 140 inches</u>
		<u>\$150.00, plus additional \$25.00 for each 20 inches of cumulative diameter at breast height being cut down or removed over 140 inches</u>

¹ All retained trees shall be valley oaks.

² All replacement trees shall be valley oak acorns, seedlings, saplings, or container grown stock.

Sec. 26-67-080. VOH Combining District Design review approval.

Where any development project within the VOH district is subject to design review pursuant to another provision of this chapter, the design review approval shall include measures to protect and enhance valley oaks on the project site in accordance with guidelines adopted by resolution or ordinance of the board of supervisors. Such measures shall include, but not be limited to, a requirement that valley oaks shall comprise a minimum of fifty percent (50%) of the required landscape trees for the development project.

Sec. 26-67-090. VOH Combining District Penalty for violation of article.

Any person who knowingly fails to comply with the mitigation or design review requirements of this article shall be required to mitigate any valley oak loss at five (5) times the rate otherwise required by this article.