

17.32.010 - Oak trees, oak tree permit

A.

Purpose.

1.

The city of Calabasas lies within a unique area of Los Angeles County, the beauty and welfare of which is greatly enhanced by the presence of large numbers of oak trees and scrub oak habitat areas. Past development of the area resulted in removal of a great number of these trees and diminished resource habitat areas. Further destruction of these finite resources would detrimentally affect the ecosystem and aesthetics of the city.

2.

It is the policy of the city to preserve and enhance its ecosystem, one element being its inventory of oak trees and scrub oak habitat, due in part to their contribution to the hardwood canopy and wildlife habitat. Other identified benefits of oak trees and scrub oak habitat to the health, safety and welfare of the citizens of Calabasas include, but are not limited to, erosion control, solar benefits, dust control, visual enjoyment, energy reduction, property values and the sense of community and place created by the surrounding vistas.

3.

The preservation program outlined in this section contributes to the historical and environmental value of these trees to the community. Accordingly, the spirit and intent of this section are meant to have an equal parity to its articulated contents.

B.

Oak Tree and Scrub Oak Habitat Preservation.

1.

Any person or entity that owns, controls or has custody or possession of any real property within the city shall maintain all oak trees and scrub oak habitat located thereon in a state of good health pursuant to the most current "Oak Tree Preservation and Protection Guidelines" (Guidelines) adopted by council Resolution 91-36, which can be found on file in the office of the city clerk.

2.

In an effort to further the goals and intent of this section, the city shall establish an oak tree preservation program. The objectives of this program shall include, but not be limited to, the following:

a.

Reforestation of sites inside or outside of a project area that will not be subject to future development;

b.

Replacement of existing oak woodlands and scrub oak habitat previously removed for development;

c.

Public acquisition of or establishment of permanent conservation easements on otherwise developable lands;

d.

Public environmental education regarding reforestation and habitat preservation;

e.

Support for nonprofit organizations and other governmental agencies for the acquisition, preservation and reforestation of oak woodlands and other suitable wildlife habitat areas.

3.

All cash fees, fines, forfeitures and mitigations, apart from permit processing fees, shall be placed within a fund for the oak tree and scrub oak habitat preservation program.

C.

Oak Tree Permit Requirements and Exemptions.

1.

Requirements.

a.

No person shall alter any oak tree or scrub oak habitat on any real property within the city, unless a valid oak tree permit is issued pursuant to the provisions of this section and the guidelines.

b.

Any other permit issued for the purpose of development of any public or private property shall also comply with this section.

2.

Exemptions. A permit is not required to cut or remove an oak tree or alter scrub oak habitat under the following circumstances:

a.

If the oak tree is less than two inches in diameter, unless the tree is within a scrub oak habitat or was planted as mitigation for a prior removal;

b.

If an oak tree or scrub oak habitat is damaged by thunderstorms, windstorms, floods, earthquakes, fires, or other natural disaster or incident and verified by city staff;

c.

Replacement or repair of existing utility lines or structures, while performing emergency or routine maintenance activities that may impact oak trees or scrub oak habitat, and which are necessary to maintain the facilities or other property of a public utility. The utility shall notify the city of any action taken that impacts oak trees or scrub oak habitat as soon as reasonably possible.

3.

Minor Oak Tree Permit. A minor oak tree permit shall be required to remove or alter oak trees, under the following circumstances:

a.

When an oak tree is less than six inches in diameter, as confirmed by city staff, and has any portion of its trunk located within forty (40) feet of an existing primary structure, unless the tree was planted as mitigation for a prior removal. Oak trees located within a public right-of-way, however, are not exempted by this subsection;

b.

Pruning of oak trees or vegetation on scrub oak habitat for fuel modification to meet city requirements. Official agency documentation must be provided to the city and verified by city staff prior to commencing work;

c.

Routine maintenance action needed to maintain the continued good health of an oak tree, limited to removal of deadwood, insect control spraying, fertilization, cabling, mulching and watering;

d.

Routine maintenance actions needed to assure safe clearance for pedestrians, vehicles or structures;

e.

Replacement, modification or repair of existing improvements within the protected zone of an oak tree, as long as the tree is not impacted by the action.

4.

Utility Projects. New construction, modification or replacement of existing facilities, excluding the replacement or repair of utility lines and structures as discussed in subsection (C)(2)(c) of this section, shall be governed by the provisions of this section. Utilities shall be responsible for damage to oak trees. Utilities shall be required to notify the city five working days prior to any maintenance activity that might affect an oak tree or scrub oak habitat. As an alternative to individual prior notifications for each maintenance activity, the utility may submit an annual notification of maintenance activities to the city. This notification shall include, but is not limited to, the following:

- a. List of facilities;
- b. Schedule of work;
- c. Extent of maintenance activities;
- d. List of oak trees and/or scrub oak habitat that might be affected.
Utilities may take emergency action with respect to oak trees without giving advance notice when immediate action is required in order to protect the public or the utility's employees, prevent damage or destruction of facilities and property, or to effect expeditious reinstatement of service following an interruption. The utility shall notify the city of such action taken as soon as reasonably possible.

D.

Permit Processing. The applicant shall furnish all necessary information required by the guidelines and pay the appropriate filing fee to the city.

1.

An application shall be completed and submitted to city staff for review and approval.

- a. Removal of up to three living oak trees, less than six inches in diameter each, and not greater than twelve (12) inches in diameter aggregate. This limit shall be on a cumulative basis for the parcel. Following such removals, a notice shall be recorded regarding the subject property, requiring that any subsequent removal of oak trees from the subject site be approved by the planning commission, as appropriate;
- b. Removal of any number of dead and/or hazardous oak trees or portions of oak trees or scrub oak habitat of any size, which is required due to health and safety concerns, or a public emergency, as determined by the director and the city arborist;
- c. Pruning for clearance from existing structures or above roadways, sidewalks, trails or other transportation corridors, comprising not more than twenty-five (25) percent of the live foliage for each oak tree;
- d. Minor encroachments into a protected zone of an oak tree including, but not limited to, fence installations or minor improvements that may impact up to ten (10) percent of the total area included within the protected zone;
- e. Replacement or repair of existing improvements located within the protected zone of an oak tree, as long as the impacts to the tree do not increase.

3.

The recommendation of the director shall be forwarded to the planning commission for consideration and disposition for the following types of activity:

- a. Removal of any number of oak trees (beyond that allowed by subsection (D)(2)(a) or (D)(2)(b) of this section) or any amount of scrub oak habitat, excluding any living heritage oak;
- b. Pruning comprising more than twenty-five (25) percent of the live foliage for an individual oak tree;
- c. Encroachments impacting more than ten (10) percent of the total area included within the protected zone of an oak tree;

d. Impacts to any oak tree of special or significant community interest or exceptional, aesthetic, environmental or historical value. Such tree shall have been previously designated as having special or significant value by a specific action of the planning commission or council.

4. The recommendation of the planning commission shall be forwarded to the council for consideration and disposition for the following levels of activity:

a. Any oak tree permit for a project that involves the removal of any living heritage oak;

b. Any oak tree permit for a project that requires a separate development project approval from the council.

E.

Permit Findings. An oak tree permit may be approved by the city based upon at least one of the following findings:

1. The request to remove an oak tree or scrub oak habitat is warranted to enable reasonable and conforming use of the subject property, which would otherwise be prevented by the presence of the oak tree or scrub oak habitat. Reasonable use of the property shall be determined in accordance with the guidelines.

2. The request to alter or encroach within the protected zone of an oak tree or scrub oak habitat is warranted to enable reasonable and conforming use of the property, which would otherwise be prevented by the presence of the oak tree or scrub oak habitat. In addition, such alterations and encroachments can be performed without significant long-term adverse impacts to the oak tree or scrub oak habitat. Reasonable use of the property shall be determined in accordance with the guidelines.

3. The condition or location of the oak tree or scrub oak habitat requires altering to maintain or aid its health, balance or structure.

4. The condition of the oak tree or scrub oak habitat warrants its removal due to disease, dangerous condition, proximity to existing structures, high pedestrian traffic areas, such as parking lots and pedestrian walkways when such conditions may be unsafe or cannot be controlled or remedied through reasonable preservation and/or prevention procedures and practices.

5. Removal or altering of the oak tree(s) will have minimal impact on the total hardwood canopy with special emphasis on associated tree growth and their natural regeneration, wildlife habitat and heritage oak trees.

F.

Required Oak Tree Report. The applicant shall submit an oak tree report, prepared by a city-qualified arborist. The exact information and format of the information required is described in the guidelines.

1. An inventory of the individual oak trees and scrub oak habitat areas associated with the project;

2. An oak tree location map indicating the current topography and proposed grading plan, the tag number, exact trunk location, dripline, and protected zone of each oak tree within the project area, as well as the outline of proximate scrub oak habitat areas;

3. All proposed site development activities including, but not limited to, excavation for foundations, utility corridors and construction access routes;

4. Analysis of the potential impacts of the proposed development activities upon the oak trees and scrub oak habitat;

5. A mitigation program for the proposed impacts.

G.

Permit Conditions. A gain or loss in oak tree inventory on the site shall be described in terms of species, total inches of diameter aggregate gain or loss, and the magnitude of the impacts. A gain or loss of scrub oak habitat shall be described in terms of acres of habitat coverage and the magnitude of the impacts. Conditions may be imposed on an oak tree permit by the city, including but not limited to any combination of the following:

1. A cash fee paid to the oak tree mitigation fund, which shall include maintenance and monitoring costs. The determination of the dollar value, cost or loss shall be calculated in accordance with the most current mitigation schedule established by the council. The council shall review and approve such fees at least once every three years. The city may accept appropriate dedication of land in lieu of cash;

2. One inch of oak tree diameter shall be planted for each inch of tree removed. Scrub oak habitat shall be replaced on a land area basis. Locations appropriate for new replacement plantings may be proposed by the applicant and approved by the city arborist prior to the granting of a permit based upon the potential for long-term viability;

3. Replacement or placement of additional oak trees, scrub oak habitat, associated hardwood canopy, land or wildlife habitat to proportionally offset the impacts associated with the loss of oak trees, scrub oak habitat, limbs, roots or potential long-term adverse impacts due to alterations or encroachment within the protected zone. Locations appropriate to such new plantings may be proposed by the applicant and must be approved by city staff prior to the granting of a permit based upon the potential for long-term viability;

4. Relocation of oak trees over ten (10) inches in diameter shall not be considered as mitigation.

5. Restrictions on construction activities within the protected zone of oak trees or within scrub oak habitat areas;

6. Remedial maintenance programs to improve the health of existing oak trees and scrub oak habitat areas;

7. Monitoring. Monitoring shall be conducted during all grading and construction activities at intervals warranted by the site conditions and level of activity. The monitoring program shall consist of quantitative and qualitative observations useful in identifying stress-related responses of oak trees and scrub oak habitat. Monitoring activities shall be performed in accordance with the procedures adopted in the guidelines.

a. Duration of and Responsibility for Monitoring. As noted above, monitoring shall be maintained during grading and construction activities; furthermore, following construction, annual monitoring shall be performed for a minimum of five years as warranted by site conditions, to ensure continued health of the trees and habitat areas. A city-qualified arborist shall conduct all monitoring. Costs shall be borne by the applicant. Restitution or remediation shall be required, should a project fail to comply with the desired establishment goals.

b. Use of Monitoring Information. Information provided by monitoring shall be used in establishing realistic mitigation measures and to ensure the future of oak resources throughout the city.

c.

Establishment Goals. Criteria for evaluating the success of oak tree and scrub oak habitat preservation and establishing associated vegetation shall be specified in the permit conditions. Remediation shall be required as necessary to enable a site to meet the establishment criteria;

8.

Registration. All replacement oak trees and scrub oak habitat areas shall be registered with the city in accordance with the guidelines;

9.

Maintenance. All oak trees and scrub oak habitat areas shall be maintained in accordance with the guidelines;

10.

Bond. The city may require adequate security to ensure performance, correct construction procedures, reforestation, monitoring and maintenance, in an amount to be determined by the city;

11.

Recordation. As deemed necessary by the city or as set forth in this section, conditions of approval for an oak tree permit shall be recorded. The specific wording of the recorded permit shall be subject to the approval of the director.

H.

Non-liability of City. Nothing in this section or within the guidelines shall be deemed to impose any liability for damages or a duty of care and maintenance upon the city or upon any of its officers or employees.

I.

Other Laws and Authorities. The granting of an oak tree permit by the city shall not be construed as a permit to ignore any other law or authority. Among the laws that should be considered are the following at the California state level:

1.

California Department of Fish and Game Code laws prohibit the destruction of a tree that contains a nest of certain birds.

2.

State law includes the California Environmental Quality Act, which addresses tree removals.

3.

The California Department of Forestry published the Integrated Hardwood Range Management Program, which has specific guidelines for oak rangeland.

J.

Violation—Penalty.

1.

Any person or entity that violates this section is guilty of a misdemeanor and upon conviction, may be punished as set forth in this code.

2.

Any person or entity that violates this section shall be required to obtain a retroactive oak tree permit and to comply with any mitigation measures specified therein.

3.

Violation of this section and the guidelines during any construction shall result in an immediate stop-work order issued by the city, and work may not continue until permits are obtained and proper mitigation is completed.

4.

Removal of an oak tree or scrub oak habitat may also result in a building or improvement moratorium being placed on the property for a period not to exceed ten (10) years and will apply to any subsequent owner of the property until the term is completed. A notice of noncompliance may also be recorded on the property.

(Ord. No. 2010-265, § 3, 1-27-2010)
