

# City of Visalia

## Oak Tree Mitigation Policy

February 1, 2007

### I. Authority and Adoption

This Oak Tree Mitigation Policy has been developed pursuant to Visalia Municipal Code sections 12.24.037 and 12.24.110. This Policy shall be approved by resolution of the City Council and shall become effective immediately upon such approval. A copy of the resolution approving this policy shall be attached hereto.

### II. Mitigation

It is the policy of the City of Visalia that property owners who are granted a permit to remove an oak tree be required to mitigate for the loss of the oak tree by paying a mitigation fee, or by performing in-kind mitigation, or by a combination of payment of mitigation fee and in-kind mitigation, according to the following formulas:

- A. Mitigation Fee: The mitigation fee to be paid shall be determined by the following formula
- \$120 multiplied times DBH
- DBH = diameter, in inches, at breast height of the tree to be removed.
- B. In Kind Mitigation: The property owner may elect to satisfy some or all of the mitigation requirement by planting new oak trees on his or her property or on public property with the approval of the urban forestry division of the City. If in-kind mitigation is elected, the property owner must plant one new oak tree for every inch of DBH of the existing tree. It is anticipated that for larger trees it will not be feasible to satisfy all of the mitigation requirement through in-kind mitigation on the subject property because the property will not reasonably sustain the number of oak trees required. The City Manager, or designee, shall determine the amount of in-kind mitigation that is appropriate in any particular case. Each tree allowed to be planted as in-kind mitigation will reduce the mitigation fee that is payable by \$120 per tree. Where a property owner elects to satisfy some or all of the mitigation requirement through in-kind mitigation, the property owner shall do so with the understanding that the property owner will be responsible for protecting the health of the replacement trees (including the obligation to provide irrigation), that purposeful damaging or neglect of the replacement trees will be subject to prosecution pursuant to the Visalia Municipal Code, and that any pruning or removal of the trees must be accomplished in compliance with the Visalia Municipal Code.

Note: The mitigation fee formula provided above is intended to represent the reasonable estimate of the cost to replace the tree with new trees on the basis of one new tree per inch of the existing tree's diameter.

Example: Property Owner A proposes to remove an oak tree with a DBH of 20 inches in order to accommodate a garage reconstruction. Citing the particular location of the tree, and the lack of any reasonable alternative to removal, the City Manager has determined that the tree may be removed. The owner proposes to mitigate by planting three replacement trees on the property and paying \$2,040 in mitigation fees ( $\$120 \times 20 = \$2,400$ , less \$360 (or  $\$120 \times 3$ ) to recognize the in-kind mitigation). The mitigation proposal is acceptable because the property can reasonably accommodate three replacement oak trees. The fee is appropriate because the three replacement trees have the result of reducing the mitigation fee by the equivalent of \$120 per in-kind tree.

Mitigation is shall not be required for trees that are approved for removal pursuant to section Subsections (A) or (C) of Visalia Municipal Code section 12.24.035 (removal warranted because of the health of the tree or because removal furthers urban forestry or land management practices).

## **II. Oak Tree Maintenance Fund**

- A. This policy shall apply to the Oak Tree Maintenance Fund created by operation of ordinance, Visalia Municipal Code section 12.24.110.
- B. Funds from the Oak Tree Maintenance Fund shall be expended only for the purposes enumerated below:
  1. In support of planting oak trees on public and private property within the City of Visalia. Such expenditures may include the cost of purchasing and planting trees, and preparing the land for planting, including the cost of installing irrigation improvements. Any private property owner may apply to have an oak tree planted on his or her property at public expense, provided such expense does not exceed \$120.
  2. In support of the care and preservation of existing oak trees on public property, and on private property but only where the private property owner has demonstrated an inability to pay for such care and preservation.
  3. To offset the expense to a private property owner in making improvements on private property that are necessary to create a reasonable alternative to removing an existing oak tree. It is intended that expenditures under this category only be made where, if not for the use of funds from the Oak Tree Mitigation Fund, there would be no reasonable alternative to removing the tree. It is not intended to be used where normal repairs to improvements to private property, though necessitated by the existence of an oak tree, constitute an ordinary and reasonable burden on the property owner.

Example 1: Property Owner A has an oak tree that is lifting the garage at foundation of a garage. Requiring the property owner to reconstruct the garage at

his cost is not reasonable, and therefore a removal permit may be granted; however, with the contribution of \$500 from the Oak Tree Maintenance Fund, the property owner agrees to reconstruct a portion of the garage and thereby save the tree. Because it would create a reasonable alternative to removing the tree, an expenditure from the Oak Tree Maintenance Fund is appropriate.

- C. The Parks and Recreation Director shall prepare an annual report accounting for the balance in the Oak Tree Mitigation Fund and summarizing the use to which such fund was put during the preceding year.