

SECTION 1. Placer County Code Chapter 19, article 19.10 is hereby created as follows:

Chapter 19 CONSERVATION, OPEN SPACE, AND WOODLAND CONSERVATION

Article 19.10 PLACER COUNTY CONSERVATION PROGRAM

19.10.010 Purpose

The purpose of this article is to implement the Placer County Conservation Program in order to provide a regulatory framework for promoting the protection and recovery of natural resources, including covered species and aquatic resources of Placer County, while streamlining the permitting process for both publicly funded and privately funded planned development within the county of Placer. The Placer County Conservation Program includes the Western Placer County Habitat Conservation Plan and Natural Community Conservation Plan (“HCP/NCCP”), the Western Placer County Aquatic Resource Program (“CARP”), and the Western Placer County In-Lieu Fee Program. The HCP/NCCP was developed by the county of Placer, the city of Lincoln, the Placer County Water Agency (PCWA), and the South Placer Regional Transportation Authority (SPRTA), in cooperation with the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and the California Department of Fish and Wildlife (CDFW), and in consultation with stakeholder groups and the general public. The CARP was developed by the county, the city, PCWA, and SPRTA in cooperation with the United States Army Corps of Engineers (USACE), the United States Environmental Protection Agency (USEPA), and the Central Valley Regional Water Quality Control Board (CVRWQCB), and in consultation with stakeholder groups and the general public. The In-Lieu Fee Program was developed by the county in association with the USACE, the USEPA, and the CVRWQCB, and in consultation with stakeholder groups and the general public.

The following regulations only apply to covered activities on public and private property within the area described in Section 19.10.050.

19.10.020 Incorporation of the HCP/NCCP and CARP by reference

The HCP/NCCP and CARP are incorporated by reference as though fully set forth herein. Complete copies of the HCP/NCCP and CARP are available for inspection at the office of the county clerk, the community development resource agency, the county’s website and the Placer Conservation Authority’s website.

19.10.030 Title

This chapter shall be known as and may be cited and referred to as the “Placer County Conservation Program (PCCP) ordinance.”

19.10.040 Definitions

The definitions set forth in this section shall govern the application and interpretation of Article 19.10. Words and phrases not defined in this section shall be interpreted to give this ordinance its most reasonable application.

“Aquatic resources” or “aquatic resources of Placer County” include waters of the United States, waters of the state, stream systems, and constituent habitats for aquatic/wetland complex(es), vernal pool complex(es) and riverine/riparian complex(es) within the stream system, and includes all definitions described in Chapter 3 of the HCP/NCCP (Physical and Biological Resources) and Chapter 3 of the CARP (Placer County Aquatic Resources Protected by the CARP).

“Building permit” means a permit for the construction, assembly, or installation of a structure that requires attachment to the ground and as further described in Chapter 15, Article 15.04 (Building and Construction Code).

“County aquatic resource program” or “CARP” means the western Placer County aquatic resource program that will protect streams, wetlands, and other aquatic resources and fulfills some or all of the requirements of the federal Clean Water Act (CWA) and analogous state laws and regulations as adopted by the board of supervisors on _____, 2020, and any amendments thereto.

“Covered activity” means a covered activity as described in Chapter 2 of the HCP/NCCP. Covered activities may be development projects, county programs or operations and maintenance activities. To be covered under state and federal permits issued for the PCCP, covered activities must meet avoidance, minimization, and compensatory mitigation requirements as set forth in the HCP/NCCP for certain species of fish and wildlife and their habitat and as set forth in the CARP to protect aquatic resources.

“Covered species” means a species, listed or non-listed, whose conservation and management is provided for in the HCP/NCCP and for which incidental take is authorized by a wildlife agency pursuant to a take permit.

“Development project” means any project or activity within the PCCP plan area that requires a land conversion authorization.

“Habitat conservation plan and natural community conservation plan” or “HCP/NCCP” mean the joint western Placer County habitat conservation plan and natural community conservation plan that will protect fish and wildlife and their habitats and fulfill the requirements of the Federal Endangered Species Act (“ESA”) (16 U.S.C. §§ 1531-1544), and the California Natural Community Conservation Planning Act (“NCCPA”) (Fish & Game Code §§ 2800-2835), as adopted by the County on _____, 2020, and any amendments thereto.

“Implementing agreement” means the agreement made and entered into by and among the county of Placer, the city of Lincoln, PCWA, SPRTA, USFWS, NMFS, and CDFW that defines the parties’ respective roles and responsibilities and provides a common understanding of actions that will be undertaken to implement the HCP/NCCP.

“In-lieu fee program” or “ILF” means the western Placer County in-lieu fee program approved by the Placer County board of supervisors on December 4, 2020, and interagency review team dated March 14, 2019 and any amendments thereto. The ILF provides an option for compensatory mitigation for impacts to aquatic resources authorized under individual, nationwide, and programmatic permits, certifications, and other approvals or authorizations under the Federal Clean Water Act.

“Land conversion authorization” means any permit or approval that authorizes a ground disturbing activity, including, but not limited to, specific plan, tentative map, parcel map, conditional use permit, minor use permit, administrative review permit, design/site agreement, variance, grading permit, grading plan, improvement plan, and building permit. Approvals for county-sponsored capital improvement projects and operations and maintenance activities are also land conversion authorizations.

“Open space and fire hazard management fee” means the open space and fire hazard management fee adopted by the county (Chapter 19, Article 19.30) and based on the most recent applicable open space and fire hazard management fee nexus study.

“Open space and fire hazard management fee area” means the geographic area within which the open space and fire hazard management fee will be assessed, as set forth in Section 19.30.030.

“Placer Conservation Authority” or “PCA” means the joint exercise of powers agency formed on March 25, 2020, by and among the county of Placer and the city of Lincoln pursuant to the Joint Powers Act, Gov. Code § 6500 et seq.

“Placer County Conservation Program” or “PCCP” means the program described and implemented pursuant to Chapter 19, Article 19.10 (Placer County Conservation Program).

“Placer County Conservation Program development fees” means the fees adopted by the county in accordance with Chapter 9, Section 9.4 of the HCP/NCCP, and the PCCP development fee nexus study in support thereof, and any amendments and adjustments to those fees. PCCP development fees consist of the following types of fees:

- 1. Land conversion fee(s);**
- 2. Special habitat fee(s); and**
- 3. Temporary effect fee(s).**

“Project applicant” means any person or entity applying for a land conversion authorization for a covered activity.

“Reserve system” means the reserve system that will be assembled through the HCP/NCCP and the CARP to provide for the conservation of covered species and aquatic resources. The reserve system will be a large system of interconnected land blocks located in the western and northern valley and northern foothills of Placer County, estimated to be between around 47,300 acres and will include existing and newly acquired lands that are part of the PCCP reserves, and that are adaptively managed consistent with the PCCP. The reserve system will be capable of protecting, managing,

restoring, and creating the natural and semi-natural communities and habitats that support the covered species.

“Stream system” The stream system is the stream channel itself (wet or dry) and the surrounding areas as follows:

1. Any area subject to flooding in a 100-year event as defined by the Federal Emergency Management Agency (FEMA) or as determined by a hydrologic analysis prepared by a licensed engineer (whichever is more accurate), or the area in #2 below, whichever is greater.
2. The outermost limit of a variable-width boundary measured outward from the edge of the ordinary high-water mark (OHWM) on streams mapped in the National Hydrography Dataset (NHD) (so-called blueline streams) as listed in Table 1. The OHWM corresponds to the waterline of the full channel and is defined in 33 Code of Federal Regulations (CFR) § 328.3(e). When the criteria specified by 33 CFR § 328.3 is not present in the field or does not provide a clear demarcation of the OHWM based upon determination by the community development resource agency director, the location of the OHWM will be based upon the two-year event.
3. The area within fifty (50) feet of a stream, as measured from the OHWM as described above, not named on Table 1, but which is shown as a “blueline” stream on United States Geological Survey (USGS) Quad maps as specified in California Public Resources Code Section 4528 and as located on the NHD.
4. When a stream is not shown on the NHD but is present on a project site, the stream and stream system will be mapped based upon the following criteria:
 - a. To provide hydraulic continuity between mapped streams in the upper watershed and mapped streams in the lower watershed. This is necessary because land alteration may have erased original stream traces;
 - b. If the watercourse is artificial (such as canals, channels, and flood water conveyances) and the watercourse serves in lieu of a natural stream to maintain hydraulic continuity with the watershed above, and where the channel is in an unlined, earthen condition;
 - c. If the stream is determined to be perennial; or
 - d. If the stream is determined to provide habitat for salmonids.
5. Streams will be truncated at the point where the watershed falls below forty (40) acres in extent in order to avoid defining the stream system around minor drainages.
6. The fifty (50) foot boundary may be adjusted based on site survey.

Table 1
Basic Boundary Widths for Specified Stream Reaches

<u>Key</u>	<u>Stream Name</u> <u>Listed from North to South and</u> <u>from West to East</u>	<u>Basic Boundary in feet</u> <u>Measured from OHWM*</u>
<u>1</u>	<u>Bear River downstream of Camp Far West Dam</u>	<u>600</u>
<u>2</u>	<u>Bear River upstream of Camp Far West Reservoir</u>	<u>400</u>
<u>3</u>	<u>Yankee Slough downstream of Sheridan Lincoln Blvd. crossing</u>	<u>200</u>
<u>4</u>	<u>Yankee Slough upstream of Sheridan Lincoln Blvd. crossing</u>	<u>100</u>
<u>5</u>	<u>Yankee Slough North Fork to Riosa Road</u>	<u>100</u>
<u>6</u>	<u>Raccoon Creek downstream of the Doty Ravine Confluence</u>	<u>600</u>
<u>7</u>	<u>Raccoon Creek between the Doty Ravine Confluence and McCourtney Road</u>	<u>300</u>
<u>8</u>	<u>Raccoon Creek between McCourtney Road and Garden Bar Road</u>	<u>200</u>
<u>9</u>	<u>Raccoon Creek upstream of Garden Bar Road</u>	<u>100</u>
<u>10</u>	<u>Orr Creek</u>	<u>100</u>
<u>11</u>	<u>Dry Creek tributary to Raccoon Creek</u>	<u>100</u>
<u>12</u>	<u>Rock Creek</u>	<u>100</u>
<u>13</u>	<u>Deadman Canyon</u>	<u>100</u>
<u>14</u>	<u>Doty Ravine downstream of Caps Ravine</u>	<u>300</u>
<u>15</u>	<u>Doty Ravine upstream of Caps Ravine</u>	<u>100</u>
<u>16</u>	<u>Caps Ravine</u>	<u>100</u>
<u>17</u>	<u>Sailors Ravine</u>	<u>100</u>
<u>18</u>	<u>Markham Ravine downstream of Dowd Road</u>	<u>200</u>
<u>19</u>	<u>Markham Ravine between Dowd Road and Sheridan-Lincoln Blvd</u>	<u>100</u>
<u>20</u>	<u>Markham Ravine North Fork</u>	<u>100</u>
<u>21</u>	<u>Auburn Ravine downstream of Moore Road crossing</u>	<u>600</u>

<u>Key</u>	<u>Stream Name</u> <u>Listed from North to South and</u> <u>from West to East</u>	<u>Basic Boundary in feet</u> <u>Measured from OHWM*</u>
<u>22</u>	<u>Auburn Ravine between Moore Road and Lincoln Blvd</u>	<u>400</u>
<u>23</u>	<u>Auburn Ravine between Lincoln Blvd and Fowler Road</u>	<u>300</u>
<u>24</u>	<u>Auburn Ravine between Fowler Road and Auburn WWTP</u>	<u>200</u>
<u>25</u>	<u>Auburn Ravine upstream of Auburn WWTP</u>	<u>100</u>
<u>26</u>	<u>North Ravine</u>	<u>100</u>
<u>27</u>	<u>Dutch Ravine</u>	<u>100</u>
<u>28</u>	<u>Orchard Creek downstream of State Route 65</u>	<u>200</u>
<u>29</u>	<u>Orchard Creek upstream of State Route 65</u>	<u>100</u>
<u>30</u>	<u>Ingram Slough</u>	<u>100</u>
<u>31</u>	<u>King Slough</u>	<u>100</u>
<u>32</u>	<u>Pleasant Grove Creek – West of Reason Farms</u>	<u>400</u>
<u>33</u>	<u>Curry Creek downstream of Baseline Road</u>	<u>200</u>
<u>34</u>	<u>Curry Creek upstream of Baseline Road</u>	<u>100</u>
<u>35</u>	<u>Dry Creek downstream of Cook-Riolo Road</u>	<u>400</u>
<u>36</u>	<u>Dry Creek from Cook-Riolo to Roseville City Limits</u>	<u>300</u>
<u>37</u>	<u>Secret Ravine</u>	<u>200</u>
<u>38</u>	<u>Secret Ravine North Tributary</u>	<u>100</u>
<u>39</u>	<u>Secret Ravine South Tributary</u>	<u>100</u>
<u>40</u>	<u>Secret Ravine along Boardman Canal</u>	<u>100</u>
<u>41</u>	<u>Miners Ravine downstream of King Road</u>	<u>200</u>
<u>42</u>	<u>Miners Ravine upstream of King Road</u>	<u>100</u>
<u>43</u>	<u>Linda Creek downstream of Barton Road</u>	<u>200</u>
<u>44</u>	<u>Linda Creek upstream of Barton Road</u>	<u>100</u>

<u>Key</u>	<u>Stream Name</u> <u>Listed from North to South and</u> <u>from West to East</u>	<u>Basic Boundary in feet</u> <u>Measured from OHWM*</u>
<u>45</u>	<u>Strap Ravine</u>	<u>100</u>
<u>46</u>	<u>Antelope Creek upstream of Loomis Town</u> <u>Limits</u>	<u>100</u>
<u>47</u>	<u>Mormon Ravine</u>	<u>100</u>
	<u>Stream Reaches not Specified Above</u>	<u>50</u>

“Take” and “taking” have the same meaning provided by the ESA and its implementing regulations with regard to activities subject to the ESA, and also have the same meaning provided in section 86 of the California Fish and Game Code with regard to activities subject to the California Endangered Species Act (“CESA”) (Fish & Game Code § 2050 et seq.), and the NCCPA.

“Take permit” means a federal incidental take permit issued by the USFWS or the NMFS pursuant to Section 10(a)(1)(B) of the ESA, and the state take authorization issued by CDFW pursuant to Section 2835 of the California Fish and Game Code, to the county of Placer.

“Wetland” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Most wetlands are considered waters of the United States, but isolated wetlands are not regulated by the U.S. Army Corps of Engineers (USACE). The county of Placer regulates wetlands and isolated waters when a development project is a covered activity. In Placer County, wetlands are palustrine systems and generally include swamps, marshes, bogs, and similar areas.

“Wildlife agencies” means those agencies that are charged with the regulation of wildlife within the county of Placer, and include but are not limited to the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and the California Department of Fish and Wildlife (CDFW).

19.10.050 Applicability

A. This article shall apply to all development projects that are covered activities within the HCP/NCCP plan area, consisting of plan area A and plan area B, as further defined and described in Chapter 1, section 1.2.1 (Plan Area) of the HCP/NCCP. A comprehensive list of covered activities is provided in Chapter 2 of the HCP/NCCP. This article does not apply to the following:

1. Any development project that is not a covered activity under the HCP/NCCP as set forth in Chapter 2, Section 2.7 (Activities not Covered by this Plan).

2. Any development project which the CDFW, USFWS and NMFS have determined is not subject to the CESA and the ESA, has already received the necessary take authorizations under the CESA and the ESA, or has otherwise complied with the CESA and the ESA. Under these circumstances, a development project will not require coverage under the PCCP if the proponent provides the following:

- a. A letter(s) from USFWS, NMFS, and/or CDFW that specifically refers to the development project and states that it is not likely to result in take of any federal or state-listed species individually or cumulatively and the results for full protocol surveys, approved by CDFW, for state-listed species with the potential to occur on the site show that no such species or species habitat occurs on the site; or
- b. A copy of an incidental take permit issued by CDFW for the activity and copies of incidental take statements or incidental take permits issued by USFWS and/or the NMFS that authorize the proposed covered activity; or
- c. A combination of the letters as described in (a) above and/or incidental take authorizations described in (b) from USFWS, NMFS and/or CDFW with jurisdiction.

3. Certain minor development projects that are not expected to have adverse effects on covered species as described in section 2.7 of the HCP/NCCP (Activities not Covered by this Plan) at category 11 (minor activities). Such minor development projects must generally obtain any necessary authorizations or permits directly from the wildlife agencies under CESA, ESA, or CEQA. However, with approval of the PCA, proponents of such minor development projects may opt in for coverage under the HCP/NCCP pursuant to section 8.9.6 of the HCP/NCCP (Coverage Option for Certain Minor Activities).

4. Development projects that have vested county entitlements prior to the adoption of this article, unless one or more of the following occurs after adoption of this article: (a) the entitlement is subsequently amended through a discretionary review process, or (b) the entitlement's term expires, or (c) a project applicant with such vested entitlements elects to participate in the program set forth in this article.

B. This article establishes requirements and application procedures whereby project applicants may receive authorization for the incidental take of covered species under state and federal law and authorization for impacts to aquatic resources of Placer County, subject to the applicant's compliance with all of the terms and conditions required by this Chapter, including compliance with applicable terms and conditions of the HCP/NCCP, the implementing agreement, and the CARP.

19.10.060 Responsibility for administration

The planning director shall administer and apply the provisions of this article for the county.

19.10.070 Land conversion authorization requirements

All project applicants for development projects that are subject to this article shall comply with the conditions on covered activities in Chapter 6 of the HCP/NCCP and, if applicable, Chapter 6 of the CARP. Applicable conditions on covered activities from Chapter 6 of the HCP/NCCP and Chapter 6 of the CARP, if applicable, shall be included as conditions of approval in each land conversion authorization approval for such development projects.

19.10.080 Data to accompany applications subject to the PCCP

Applications for land conversion authorizations required by this article shall be filed with all development projects. Every such application shall be accompanied by a completed HCP/NCCP authorization application, as set forth by this Section (derived from HCP/NCCP Chapter 6, Section 6.2) and shall include any additional contents and requirements set forth by the community development resource agency director.

A. HCP/NCCP Application Requirements. All covered activities that require a land conversion authorization application shall submit the necessary forms and background data, including but not limited to the following:

1. Universal Project Application Form. This form provides basic contact information for owner and applicant. For applications requiring a review for covered activities or aquatic resources of Placer County, the project description shall include pertinent information for coverage under the HCP/NCCP.

2. Project Description and Site Plan/Map. Comprehensive project description and site plan/map with a north arrow drawn at an appropriate scale. The site plan/map must also comply with requirements in Chapters 15 (Building and Development), 16 (Subdivisions), 17 (Zoning) and 18 (Environmental Review). The site plan/map must also include the location of permanent, direct, indirect, and temporary effects shown on the plan/map. Cross-section view drawing may be required as well. A vicinity map shall also be provided.

3. Natural Community Types On-Site and Baseline Consistency. Provide documentation of natural community types on-site or affected by the project based on

the most recent natural community information provided by Placer County, the Placer Conservation Authority, and other applicable biological surveys.

4. HCP/NCCP Aquatic Features. Identify HCP/NCCP aquatic features present on the project site, including any areas within a vernal pool constituent habitat immediate watershed. This should include an aquatic resources of Placer County delineation and stream system boundary identification on a topographic map.

5. Mapping the Stream System and Salmonid Streams. Evaluate the project site for the presence of a 100-year floodplain, U.S. Geological Survey blue-line streams, or salmonid habitat streams and map them if present.

6. Biological Resources Effects Assessment. Determination of project effects on biological resources addressed by the HCP/NCCP (covered species and natural communities), as determined by a qualified biologist. Biological resources that will be evaluated include the natural community type, stream system, and covered species habitat. If more than 0.01 acres of aquatic resources of Placer County are present on-site, a delineation of aquatic resources shall be provided consistent with CARP Section 5.2.3.2.

7. Results of Applicable Species Surveys. Documentation describing the planning surveys conducted during the planning phase and survey results. Survey requirements are defined in the species conditions found in Chapter 6, Section 6.3.5 of the HCP/NCCP.

8. Proposed Assessment of Land In Lieu of Fees. Required if the project includes land that will be offered for dedication in lieu of development fees, or as a contribution to the reserve system.

9. Avoidance and Minimization Requirements. Documentation of any applicable avoidance and minimization requirements that will be implemented, including pre-construction surveys and construction monitoring requirements.

10. Cultural Resource Information. This information must include technical documents or reports prepared for the development project consistent with Section 8.1 of the cultural resources management plan, Chapter 18, Article 18.37 (Cultural and Tribal Resources) and Placer County Code, Chapter 15, Article 15.60 (Cultural and Historic Resources Preservation). If the development project includes aquatic resources of Placer County and a cultural resource report has been prepared that meets current USACE standards that report should be submitted with the HCP/NCCP application materials.

11. California Environmental Quality Act compliance documents if complete.

B. CARP Application Requirements. If the project has the potential to result in direct and indirect impacts to aquatic resources of Placer County, an applicant shall provide the following information in addition to the requirements in section 19.10.080(A).

1. Topographic Map(s) and Recent Aerial photography that depict the project footprint overlaid on the habitat types including, but not limited to those within the stream system and aquatic features, the connectivity of aquatic features on the landscape and anticipated temporary and permanent impacts. The map should include

all components for each project, for example: access roads, staging areas, stockpile locations, temporary disturbance areas, and permanent footprints.

2. A description of the methods used to avoid and minimize impacts to protected resources to the extent practicable (project design, stream structural setbacks, etc...).

3. A delineation of aquatic resources of Placer County, including the stream system boundary, consistent with the USACE guidelines for delineations of waters of the United States, overlaid on a topographic map.

3. Assessment of impacts to aquatic resources including amount of fill in cubic yards to waters of the United States.

4. The results of any cultural resource assessment conducted by the Placer Conservation Authority or county staff of any materials provided to comply with section 19.10.080(A)(10) (Cultural Resource Information).

5. Avoidance and minimization measures.

6. Description on how the project proposes to fulfill compensatory mitigation requirements through any one, or a combination, of the following:

a. Payment of in-lieu fees to the In-lieu fee program (ILF).

b. Contribution of land in lieu of paying ILF fees, in accordance with the HCP/NCCP.

c. Purchase of mitigation bank credits, in accordance with the HCP/NCCP.

C. Determination of Completeness. The community development resource agency director shall review application packages for completeness before the land conversion authorization application for the development project can be deemed complete. The determination of completeness shall include a baseline consistency determination as required by the HCP/NCCP (See Chapter 6, section 6.2.4.3.2 *Baseline Land-cover Map Consistency Finding*).

19.10.090 PCCP Development Fees

A. The PCCP development fees are hereby adopted in accordance with Chapter 9 of the HCP/NCCP for the purpose of mitigating impacts to open space, to habitat and species covered by the HCP/NCCP, and to aquatic resources of Placer County covered by the CARP. Development fee revenues will be used to fund the program costs described in Chapter 9, section 9.3 of the HCP/NCCP (Cost Estimate Methodology and Assumptions) through revenues described in Section 9.4 of the HCP/NCCP (Funding Sources and Assurances). Because the tasks and actions set forth in the HCP/NCCP encompass the tasks and actions set forth in the CARP, the development fees set forth in the HCP/NCCP will fund both HCP/NCCP and CARP tasks and actions.

- B. The community development resource agency shall collect PCCP development fees for the purpose of implementing the PCCP. The PCCP development fees shall be adopted and may be increased, decreased, or changed in scope at a public hearing based on data indicating the cost or estimated cost required to provide the service for which the fee or services charges are to be levied.**
- C. The amounts and method of calculating the PCCP development fees, including the land conversion fee, the special habitat fees, and the temporary effect fee, shall be adopted by board of supervisors fee resolution. The amount of the PCCP development fees shall be adjusted periodically based on determinations and assessments by the PCA in accordance with Chapter 9, section 9.4.1.7 (Adjustment of Development Fees), of the HCP/NCCP. The adjusted PCCP development fee amounts shall be adopted by board of supervisors fee resolution.**
- D. Payment of applicable PCCP development fees shall be required for all development projects subject to this article. Each land conversion authorization for such development projects shall require the project applicant to pay such fees in full to the county according to the payment schedule determined by the County. The county shall determine the PCCP development fee payment schedule for each such development project as follows:**
- 1. For development projects that are approved as a single-phased project, PCCP development fees shall be paid in full prior to the issuance of the first land conversion authorization or building permit;**
 - 2. For development projects that are approved as multi-phased projects, the PCCP development fees shall be paid prior to the issuance of the first land conversion authorization for each phase, in proportion to the extent of land conversion associated with each phase, and prior to any ground-disturbing activities in each phase; and**
 - 3. For development projects that require both land conversion authorizations and building permits, the county may allow for the splitting of land conversion fee payments, in which an initial payment is made prior to the issuance of the first land conversion authorization, in proportion to the extent of land conversion associated with such land conversion authorization, and subsequent payment(s) are made prior to the issuance of building permits, in accordance with Chapter 9, Section 9.4.1.8.1 of the HCP/NCCP (*Timing of Development Fee Payment*). Any such splitting of fee payments would require the following:**
 - a. The initial payment equals no less than fifty percent (50%) of the total fee obligation and thereby sufficient to fund one-time costs associated with reserve acquisition, post-permit endowment, and plan preparation costs as determined by the PCA (securing this share of the total fee obligation concurrent with initial effects).**
 - b. Subsequent payment(s) equal no more than fifty percent (50%) of the total fee obligation and thereby limited to funding ongoing operating costs during the term of the take permits.**

- c. Each subsequent payment is based on the PCCP development fee amounts in effect at time of the subsequent payment (not the amounts in effect at time of the initial payment).
 - d. The project applicant must provide a performance bond or other security guaranteeing the entire fee obligation will be paid within 3 years from the date of the initial fee payment.
- E. If the PCA authorizes another manner of compensatory mitigation in lieu of some or all of the PCCP development fees pursuant to Chapter 9, section 9.4.1 (e.g., a land donation, or establishing a special tax or assessment, in lieu of payment of a portion of the PCCP development fees), the project applicant shall provide the county with written documentation from the PCA of compliance with such alternative manner of payment and the dollar equivalent amount of such alternative manner of compensatory mitigation, and the amount of the PCCP development fees owed for the development project shall be reduced accordingly.
- F. Any fee amounts paid for a development project pursuant to Placer County Code Chapter 19, Article 19.30 (Open Space and Fire Hazard Management Fee and Article 19.50 (Woodland Conservation) shall be credited against the land conversion fee and special habitats Fee(s) amounts owed for the project.
- G. All PCCP development fees collected shall be transmitted to the PCA quarterly, within thirty (30) days of the end of the quarter within which the fee was collected, for deposit into a separate account or fund, and for the investment, accounting and expenditure in accordance with the provisions of this article and the Mitigation Fee Act.
- H. Implementation of conservation actions described in Chapter 5 of the HCP/NCCP (Conservation Strategy) are exempt from all PCCP Development Fees.

19.10.100 Land Dedication in Lieu of Land Conversion Fee

Any public or private project proponent subject to the PCCP land conversion fee may propose dedication of land to the reserve system in lieu of payment of a portion of the land conversion fee. The option to dedicate land in lieu of payment only applies to the land conversion fee and not any special habitat fee or temporary effect fee.

A. Land Dedication Agreement. Any land dedication in lieu of a fee obligation shall require a land dedication agreement with the PCA. The PCA and the project proponent must execute the agreement before commencement of covered activities to which the credit will be applied. The land dedication agreement shall specify the terms contained in this section and conform to the requirements in section 9.4.1.10 of the HCP/NCCP (*Land Provided in Lieu of Development Fees*).

19.10.110 Wetland Restoration or In-stream Enhancement Provided in Lieu of Fee

A. Any public or private project proponent subject to special habitat fees may propose to restore, manage, and monitor their own aquatic resource, stream, or riparian mitigation site (on or off-site) in lieu of paying all or part of the applicable special habitat fee. For project proponent-initiated aquatic resource, stream, or riparian mitigation, restoration construction must be initiated prior to construction of the covered activity; the mitigation must be consistent with the requirements of HCP/NCCP Chapter 6 (*Program Participation and Conditions on Covered Activities*); the site must be protected by a conservation easement; and management and monitoring must be funded in perpetuity. Any proposal to initiate restoration in lieu of special habitat fees must comply with section 9.4.1.4.2 of the HCP/NCCP.

B. Applicants for development projects may purchase appropriate special habitat restoration credits in a mitigation bank in the HCP/NCCP that has been approved separately by USFWS and CDFW to service the HCP/NCCP (see section 8.4.7 of the HCP/NCCP, Private Mitigation and Conservation Banks, for more details).

19.10.120 Authorization of Take and Impacts to Aquatic Resources of Placer County

Upon approval of a land conversion authorization incorporating all applicable HCP/NCCP and CARP conditions of approval, and payment of PCCP development fees in accordance with Section 19.10.090, the planning director shall extend the following to the project applicant:

A. Authorized take coverage for the development project in accordance with the terms of the HCP/NCCP and the implementing agreement; and

B. Authorization to impact aquatic resources of Placer County in accordance with the terms of the CARP.

19.10.130 Appeals

Decisions of the planning director, community development resource agency director, public works director, facilities management director, the zoning administrator, the environmental review committee, the parcel review committee, the design/site review committee, the development review committee and the planning commission made pursuant to this article may be appealed by an applicant or by any aggrieved person as provided by this section.

A. Filing of Appeals

1. Appeals on decisions made pursuant to this article shall be made to the planning commission. Rulings of the planning commission may be appealed to the board of supervisors.

2. Appeals must be made in writing, shall specify the decision or portion of the decision being appealed, shall include a detailed state of the factual and/or legal grounds upon which the appeal is being taken and shall include other information required by the appeal body, and may include any explanatory materials the appellant may wish to furnish.

3. Filing of Appeals. An appeal must be filed within ten (10) calendar days from the date of the decision that is the subject of the appeal. Appeals filed more than ten (10) days after the decision shall not be accepted by the clerk of the appeal body. The written appeal shall be accompanied by an appeal fee as set from time to time by the board of supervisors.

A. Effect of Filing. In the event of an appeal, the decision being appealed shall be set aside and of no effect until final action by the appeal body pursuant to this section.

B. Who May Appeal. An appeal may be filed by any person affected by an action or interpretation of this article. If an action is the result of a public hearing, a hearing decision may be appealed by anyone who, in person or through a representative explicitly identified as such, appeared at a public hearing in connection with the decision being appealed, or who otherwise informed the county in writing of the nature of his/her concerns before the hearing.

C. Time Limits on Appeals. Upon receipt of an appeal in proper form, the clerk of the planning commission or clerk of the board of supervisors, as applicable, shall schedule the matter for consideration by the appropriate appeal body. The appeal body shall commence a public hearing on the appeal within ninety days of its proper filing, or within such other time period as may be mutually agreed upon by the appellant, in writing, and the appeal body, in writing. If the public hearing is not commenced within ninety days, or an alternative time period is not agreed upon by the appellant and the appeal body, the decision rendered by the last hearing body shall be deemed affirmed.

19.10.140 Enforcement

The community development resource agency director shall be authorized to enforce the provisions of this Chapter by civil or administrative action as permitted by law and the Placer County Code.

19.10.150 Severability

If any part of this article is for any reason held to be invalid by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining portion of this article, and the board hereby declares that it would have adopted each provision of this article irrespective of the validity of any other provision.

SECTION 2. Placer County Code Chapter 19, article 19.30 is hereby created as follows:

Article 19.30 OPEN SPACE AND FIRE HAZARD MANAGEMENT FEE

19.30.010 Purpose

The purpose of this article is to adopt and implement the open space and fire hazard management fee to complement funding provided by Placer County Conservation Program (PCCP) development fees by ensuring that development projects that are exempt from payment of the PCCP development fees, but which nonetheless benefit from the protection of open space and management of fire hazards under the PCCP, contribute a fair share of funding for such open space protection and fire hazard management.

19.30.020 Definitions

The definitions set forth in Section 19.10.040 shall govern the application and interpretation of this article. Words and phrases not defined in the section shall be interpreted so as to give this article its most reasonable application.

19.30.030 Applicability

A. This article shall apply to all development projects located within the open space and fire hazard management fee area that are not required to pay a PCCP development fee.

B. The geographic area within which the open space and fire hazard management fee will be assessed (the “open space and fire hazard management fee area”) is the area described as “foothills” as set forth in the resolution of adoption. The open space and fire hazard management fee area generally comprises the foothills of western Placer County.

19.30.040 Responsibility for Administration

The community development resource agency director shall administer and apply the provisions of this article for the county.

19.30.050 Open Space and Fire Hazard Management Fee

A. The community development resource agency shall collect open space and fire hazard management fees for the purpose of financing tasks and actions to protect open space and manage fire hazards in the open space and fire hazard management fee area. The open space and fire hazard management fees shall be adopted and may be increased, decreased, or changed in scope at a public hearing based on data indicating

the cost or estimated cost required to provide the service for which the fee or services charges are to be levied.

B. The amounts and method of calculating the open space and fire hazard management fee shall be adopted by fee resolution. The amount of the open space and fire hazard management fee shall be adjusted periodically using the calculations and assessments performed by the Placer Conservation Authority (PCA) for the adjustment of PCCP development fees pursuant to the Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP). The adjusted open space and fire hazard management fee amounts shall be adopted by fee resolution.

C. The community development resource agency director shall assess the open space and fire hazard management fee on development projects located in the open space and fire hazard management fee area (See section 19.30.030). Payment of the open space and fire hazard management fee shall be required for all development projects subject to this chapter. For residential development projects, the open space and fire hazard management fee shall be assessed on all net new residential dwelling units. For development projects located on non-residential land use districts (general plan and/or zoning), the open space and fire hazard management fee shall only be assessed on vacant parcels based upon the total acreage of the parcel(s) on which the development projects are sited. For mixed-use projects that include residential and non-residential land uses, the greater of the above two fees shall apply. Each land conversion authorization for such development projects shall require the project applicant to pay such fees in full to the county prior to the issuance of the first land conversion authorization or the issuance of a building permit, as determined by the community development resource agency director.

D. All open space and fire hazard management fees collected shall be transmitted to the PCA quarterly, within thirty (30) days of the end of the quarter within which the fee was collected, for deposit into a separate account or fund, and for the investment, accounting and expenditure in accordance with the provisions of this article and the Mitigation Fee Act.

19.30.060 Exemptions to Open Space and Fire Hazard Management Fees

A. Project Exemptions. The open space and fire hazard management fees do not apply to following development projects.

1. Residential accessory structures.
2. Additions or modifications to existing single family and multi-family residential dwellings, unless additional dwelling units are added (e.g., construction of an attached secondary dwelling or construction of additional multi-family units) so long as the fee is permissible in accordance with state law.
3. Implementation of conservation actions that are described in Chapter 5 of the HCP/NCCP are exempt from all open space and fire hazard management fees.
4. All temporary dwellings described in Placer County Code Chapter 17, section 17.56.280 (Temporary dwellings).

19.30.070 Enforcement

The community development resource agency director shall be authorized to enforce the provisions of this Chapter by civil or administrative action as permitted by law and the Placer County Code.

19.30.080 Severability

If any part of this article is for any reason held to be invalid by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining portion of this article, and the board hereby declares that it would have adopted each provision of this article irrespective of the validity of any other provision.

SECTION 3. Placer County Code Chapter 19, Article 19.50 is hereby created as follows:

Article 19.50 WOODLAND CONSERVATION

19.50.010 Purpose

For centuries native oak trees have existed as dominant and magnificent features of the landscape of the Sierra Foothill region. Over the years trees have been cleared to accommodate agriculture, burned as firewood and removed to facilitate development. Only a portion of the original oak woodland forest remains today. The removal of oak and other native trees continues to the present time and occurs at a much faster pace than natural revegetation in areas of development.

Trees are key elements in our living system, the boundaries of which do not conform to the arbitrary property lines of individual lots and parcels, and upon which the continued health and welfare of this community depends. It is acknowledged that the preservation of trees enhances the natural scenic beauty, improves air quality, water quality, reduces soil erosion, preserves significant natural heritage values, preserves wildlife habitat, and helps to reduce energy consumption for air cooling by providing shade. Trees in a community or neighborhood also provide a sense of identity and tradition, and they enhance property values which encourages higher quality development.

As development of vacant land occurs, loss of some tree cover may be unavoidable. However, it is the county's intent to reduce the loss of trees to reasonably acceptable levels while at the same time providing for fuel reduction and fire prevention activities to protect the residents of the county from such catastrophic losses than can occur. Therefore, it has become necessary for an ordinance to be established to preserve and protect the remaining native oak and other species of trees within Placer County. The spirit of this article is to encourage an atmosphere of mutual cooperation between members of the development community, private citizens, and county officials in attempting to retain tree cover within the county. Furthermore, the article is to provide for educational programs and materials to promote an awareness of the value of trees and provide information to the public relating to the care, maintenance, and planting of trees.

Thus, it shall be the policy of this county to preserve trees wherever feasible, through the review of all proposed development activities where trees are present on either public or private property, while at the same time recognizing individual rights to develop private property in a reasonable manner. This article does not categorically prohibit tree removal and contains numerous exemptions for specific types of activities that result in impacts and losses to trees. It is also recognized, that due to the extremely diverse terrain and vegetation within the county, different policies may be applicable to specific areas of the county.

19.50.020 Definitions

The following words are defined for purposes of this article as follows:

“Approving body” means one of the following depending on the nature of the application: board of supervisors, planning commission, zoning administrator, design/site review committee, planning director, or county arborist (under the authority of the planning director).

“Arborist” means an individual certified as an arborist by the International Society of Arboriculture (ISA).

“Arborist report” means a report prepared by an arborist or registered professional forester containing specific information on the location, condition, potential impacts of development, recommended actions and mitigation measures regarding one or more trees on an individual lot or project site.

“Canopy trees” means a group of trees typically found along roadways which form a canopy over the roadway. By adoption of a resolution, the board of supervisors shall have the authority to protect specific canopy tree areas as landmark trees.

“Certification letter” means a concluding statement by an arborist stating that work that was performed was observed by an arborist and complies with the conditions of the discretionary project, the arborist report, the tree permit and this article.

“Commercial wood cutting” means cutting trees for fuelwood purposes producing in excess of two cords (two hundred fifty-six (256) ft.) of wood for sale or profit in any one-year period.

“County aquatic resources program” or “CARP” is a program that protects, streams, wetlands and other aquatic resources as defined in section 19.10.040.

“County arborist” means a person employed by or chosen and retained by the county to review, evaluate and prepare reports and requests to remove and/or relocate protected trees. In performing his or her duties and responsibilities, the county arborist may conduct field inspections independently or in the company of county employees and/or other arborists.

“Cutting” means the detaching or separating of any limb, branch or root from a tree.

“Dead tree” means a tree that does not contain any live tissue, i.e., green leaves or live limbs.

“Deadwood” means limbs or branches that contain no green leaves or live limbs.

“Deadwooding” means the act of removing deadwood.

“Development activity” means any activity within the protected zone of a tree, which could impact the health of a tree or landmark tree, including but not limited to cutting, grading, irrigating and trenching.

“Diameter at breast height” means the diameter of a tree measured at four and one-half feet above ground level on the high side of the tree. The diameter may be calculated by use of the following formula: $DBH = \text{circumference at breast height} \div 3.142$.

“Discretionary project” means any nonministerial development project that must be approved by either the: board of supervisors, planning commission, parcel review committee, design/site review committee or zoning administrator. Discretionary projects include, but are not limited to: conditional use permits, parcel maps, rezoning, design

reviews, subdivision maps, or variances. (Discretionary projects do not include issuance of building permits, business licenses, or similar ministerial actions.)

“Drip line” means the outermost edge of a tree’s canopy as measured at the time of application for a tree permit. When depicted on a map, the dripline will appear as an irregular-shaped circle that follows the contour of the tree’s branches as seen from overhead.

“Dying/unhealthy tree” means any tree certified by an arborist or registered professional forester as being unhealthy or dying.

“Encroachment” means any development activity conducted within the protected zone of a protected or preserved tree.

“Grading” means the movement of any soil or earth material within the protected zone or protected or preserved trees.

“Habitat conservation plan and natural community conservation plan” or “HCP/NCCP” mean the joint habitat conservation plan and natural community conservation plan as defined in section 19.10.040

“Irrigation” means transfer of water to a site by artificial means.

“Land conversion authorization” means any permit or approval that authorizes a ground disturbing activity as defined in section 19.10.040.

“Landmark tree” means a tree or grove of trees designated by resolution of the board of supervisors to be of historical or cultural value, an outstanding specimen, an unusual species and/or of significant community benefit. Notwithstanding any other provision of this section, a tree that is not native to California may be designated as a landmark tree. (Note: A list of culturally significant or landmark trees [i.e., palms, along English Colony Road, oak canopy tree areas, Deodar cedars on Highway 49, major heritage oak trees, etc.] shall be prepared by the county parks division as a beginning list of “Landmark Trees.”)

“Minor tree permit” means an authorization by the planning services division authorizing specifically identified work or development activities to be performed within the protected zone of a protected tree. (Note: Minor tree permits are only issued for single family residential lots and other specific projects as determined by the planning director. For discretionary projects, approval or denial of tree removal is part of that discretionary action.)

“Native ground surface fabric” means the layer of topsoil, humus, and vegetation that comprises the native ground surface.

“Oak tree information packet” means a package containing certain documents which must be distributed to property owners whose lots contain native oak trees.

“Placer County Conservation Program” or “PCCP” means the program described and implemented pursuant to Chapter 19, article 19.10 (Placer County Conservation Program).

“Preserved tree” means a tree that has been established as one to be saved through the tree permit or discretionary project approval process.

“Protected tree” means any tree, including a landmark tree, for which a tree permit is required prior to any removal or development activity being conducted within the protected zone.

“Protected zone” means a circle, the radius of which is equal to the largest radius of a protected tree’s dripline plus one foot.

“Public land” means all land owned or controlled by public entity.

“Registered professional forester” means a person who holds a valid license as a professional forester pursuant to Article III, Chapter 2, Division I, of the Public Resources Code.

“Removal” means the physical removal of a tree.

“Riparian zone” means any area within fifty (50) feet from the centerline of a seasonal creek or stream, any area one hundred (100) feet from the centerline of a year round creek, stream, or river, and any area within one hundred (100) feet from the shoreline of a pond, lake or reservoir. At a minimum all streams, creeks, ponds, lakes, and reservoirs as shown on 7.5-minute USGS maps are included in this definition. (A riparian zone established in a specific community or the general plan may supersede this definition.) (Note: All trees regardless of size within riparian areas within the tree preservation zones and as a part of any discretionary project county-wide are subject to this article.) For any project included within the PCCP boundary (see section 19.10.050 of this article) the term “riparian zone” is to be replaced by the definitions for “stream system” and “aquatic resources of Placer County” found in section 19.10.040. The application of the riparian zone standards found in this article will not apply to projects within the PCCP boundary, and instead the conditions and mitigation requirements found in Chapter 6 of the HCP/NCCP (*Conditions on Covered Activities*) and Chapter 6 of the CARP shall apply (*Avoidance, Minimization and Mitigation Requirements*).

“Routine maintenance” means actions taken for the continued health of a protected tree including but not limited to: deadwooding, mowing grass close to a tree, and application of insecticides and pesticides.

“Single-family dwelling” means a building designed for and/or occupied as a residence by one family.

“Site planning meeting” means an on-site meeting with the owners, developer and his or her contractors, and/or engineers; the arborist; and county representatives to delineate special procedures, limits of work, lines of authority and special conditions or procedures not specifically covered by the Placer County Code.

“Tree” means a tall woody plant native to California, with a single main stem or trunk at least six inches dbh, or a multiple trunk with an aggregate of at least ten (10) inches dbh. For all oak species (*Quercus sp.*) the woody plant will be considered a tree when the single main stem is five inches dbh or larger. (Note: Foothill pines are exempt from this article. Also, see “riparian zone” definition.) Certain plants which are more commonly found as “brush”, such as manzanita, are not considered to be a tree in this article regardless of size.

19.50.030 General county-wide requirements

A. This article is applicable to all native, landmark trees, riparian zone trees, and certain commercial firewood operations, except as exempted.

B. Riparian Zone Requirements.

1. Within any riparian zone, in all applicable areas of the county in conjunction with any discretionary project, and in any tree preservation zone for all development activity, compliance with this article for any development activity in the protected zone of a protected tree shall be required.

2. No tree permit or discretionary approval for any development activity within a riparian zone shall be approved until environmental impacts within the riparian zone are identified, an environmental determination is made and the mitigation measures identified (Chapter 18, Placer County Code). Additionally, no development activity shall be permitted until any Lake and Streambed Alteration Agreement or other mitigation required by the California Department of Fish and Wildlife have been completed.

3. Advisory Comment. This is not a categorical prohibition on any tree removal within a riparian zone but rather a requirement for review of proposed development activity and approval of a tree permit or discretionary project prior to such disturbance occurring.

C. Commercial Firewood Cutting.

1. Licensing Required. Fuel wood production is considered commercial when a party cuts firewood for sale or profit. A commercial operator shall be required to hold a Class A or B timber operator's license pursuant to the laws of the state of California and have attended the training seminar offered by the California Division of Forestry pertaining to proper forest management techniques.

2. Permit Required. A tree permit shall be required for commercial firewood cutting of any size or type of tree in all areas of the county west of the Foresthill Divide community plan area (see map available in the planning services division office) when the amount of wood taken from any given site exceeds two cords or two hundred fifty-six (256) cubic feet of wood within a one year period. In reviewing a permit application, the planning services division will consider the following:

a. Whether the trees to be removed would have a significant negative environmental impact.

b. That the proposed removal will not result in clear-cutting, but will result in thinning or stand improvement.

c. Whether replanting is necessary to insure adequate regeneration.

d. Whether the removal would create the potential for soil erosion.

e. Whether any other limitations or conditions should be imposed in accordance with sound tree management practices.

f. Evaluate the resulting canopy cover.

D. Removal of More Than Fifty Percent of Trees. Except for developed, single-family residential lots that cannot be subdivided, the removal of more than fifty (50) percent of existing native trees, six inches dbh or greater, shall be subject to the

issuance of a tree permit. Failure to obtain a permit prior to the removal of more than fifty (50) percent of the existing native trees in these areas may result in the denial or deferral of any application for development of that property for a period of up to ten (10) years. When the tree is an oak species (*Quercus sp.*), this standard shall apply to all trees measured at five inches dbh or greater.

E. The provisions of this article apply to all projects where discretionary permit approvals are required by the county provided, however, no landmark tree may be removed without obtaining a tree permit pursuant to section 12.16.060. Except for subsection C, a landmark tree is not subject to the exemptions set forth in section 12.16.050.

19.50.040 Woodland Conservation Zones

Except as exempt, and as noted in sections 19.50.060 and 19.50.030, the provisions of this article are applicable to discretionary projects and to the following areas of the county: Portion of the Horseshoe Bar/Penryn community plan, Dry Creek West Placer community plan, Granite Bay community plan, and the Auburn/Bowman community plan (see tree preservation area map, available in the planning services division office). Also, see county-wide restrictions for riparian zones, commercial firewood cutting, restrictions for removal of more than fifty (50) percent of trees, and where discretionary permits are required.

19.50.050 Placer County Conservation Program Applicability

If a development activity, development project or land conversion authorization occurs within the area described in Article 19.10, section 19.10.050 (Applicability) and the requirements of Article 19.10, section 19.10.070 (Land conversion authorization requirements) exceed the standards of this article, the requirements of section 19.10.070 shall prevail.

19.50.060 Exemptions

A tree permit is not required for the removal of a protected tree under the following circumstances (except for subsection C, a landmark tree is not subject to the exemptions set forth below):

A. Trees damaged and determined to be of immediate danger to either people or site improvements by thunderstorms, windstorms, floods, earthquakes, fires or other natural disasters. Upon discovery of a condition justifying removal, the Planning Services Division should be notified as soon as possible of the condition and action taken.

B. Tree removal necessary to comply with the California Department of Forestry and Fire Protection (CAL FIRE) fire safety regulations (i.e., clearing around homes) or tree removal undertaken as a part of a fuel reduction/fire safety/fire protection program in conformance with commonly accepted CAL FIRE policies.

C. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.

D. When compliance would interfere with activities of a public utility necessary to comply with applicable safety regulations and/or necessary to repair or avoid the interruption of services provided by such a utility. Routine repair and maintenance of utilities would be exempt; new construction projects (i.e., the installation of high power, transmission line corridor) are subject to review.

E. Trees (1) that have been identified by an arborist, forester, or county arborist/licensed landscape architect as “dying” or “unhealthy,” (2) dead trees or (3) trees that are in a hazardous condition presenting an immediate danger to health and property.

F. Lots designated for commercial tree removal (i.e., Christmas tree farms, approved timber harvest plans, timber preserve zoned lands, approved logging operations, etc. (Note: Does not include commercial firewood cutting unless specifically exempt by state or federal permits and eucalyptus or poplar firewood plantations.)

G. Bona fide active agricultural uses as defined by the county agricultural commissioner are exempt, except commercial cutting of firewood, and development activity within a riparian zone are not exempt. (Also, see county-wide requirements, Section 19.50.030.)

19.50.070 Tree permit required

Except as provided under “exemptions,” no person, firm, corporation or county agency shall conduct any development activities within the protected zone of any protected tree on public or private land, or harm, destroy, kill or remove any protected tree unless authorized by a tree permit or as permitted pursuant to approval of a discretionary project. A minor tree permit may also be issued “in the field” by the county arborist, thus eliminating the need for an individual to apply in person at the planning services division. Tree removal shall also be reviewed as a part of discretionary project review. This type of review is primarily for commercial projects, industrial projects, major subdivisions, public projects, or other projects that are also associated with a discretionary permit. This type of review is completed concurrently with the discretionary permit and requires more detailed information than a minor tree permit (see below).

A. Minor Tree Permit. (i.e., issued for single-family residential lots and projects where no other discretionary permits are required, etc.) Any person desiring to conduct any development activity or remove one or more protected trees, where such development activity or removal is not associated with a discretionary project, shall make application to the planning services division for a minor tree permit not less than ten (10) days prior to the date the applicant wishes to conduct the development activity. Said application shall contain:

1. A brief statement of the reasons for the development activity;
2. Written consent of the owner of record of the land on which the proposed development activity is to occur;
3. If necessary, an arborist’s report relating to the tree(s) in question; and

4. Other pertinent information as deemed necessary by the planning services division or county arborist;

5. Violations that occur with minor tree permits may be required to submit information equal to that normally required for discretionary projects (as listed in subsection B of this section);

6. The required filing fee.

Note: A minor tree permit may be issued for the purpose of maintaining existing trees in a healthy condition on land that may be developed in conjunction with a discretionary project.

B. Tree removal associated with a discretionary project (i.e., permits issued for subdivisions, commercial, and industrial projects, etc.). Any person desiring to conduct a development activity within the protected zone of a protected tree pursuant to a discretionary project shall submit the following information as a part of the application for the discretionary project:

1. Justification Statement. A written statement by the applicant or an arborist stating the justification for the requested development activity. Statements should establish how any remaining protected trees in the vicinity of the project or construction site will be protected and that any construction or use will be done with approved preservation methods.

2. Site Plan Map. A site plan map shall include the following information:

a. Physical Characteristics. The body of the map should accurately portray the following existing and proposed features:

i. Property lines;

ii. Streets, access easements and/or public or private driveways and other paved areas;

iii. Buildings or structures;

iv. Setbacks of all buildings and structures from property lines;

v. Parking and other paved areas;

vi. Land uses on parcel (existing and proposed as applicable);

vii. Proposed grading and construction - including utilities, if available;

viii. Proposed building envelopes.

b. Tree Locations. All protected trees within fifty (50) feet of any development activity, including future homesites in subdivisions located on the property, must be depicted on the site plan map. Additionally, the site plan map shall indicate the exact location of the base and dripline for all protected trees within the project areas. A survey of the exact location(s) of the protected tree(s) shall be conducted by a California professional engineer or California professional land surveyor. The tree number(s) shall be shown on both the site plan and grading plan. The base elevation of each protected tree shall be shown on the grading plan. Certain projects, as required by the approving body, may be required to submit a current aerial photograph of the site (i.e., parcels with

high density trees). (Note: Applications with high density of trees or other special circumstance may request a waiver or modification to tree location requirements.)

c. Protected Zone of Protected Tree(s). The exact location of the protected zone of a protected tree is crucial in order to evaluate any impacts resulting from construction. Consequently, rough approximations will not be acceptable. In certain cases, it may be required to physically stake the surveyed corners of building(s) or related improvements in the field in order to assess the potential impacts upon the trees.

3. Arborist Report. See definition in Section 19.50.020.

4. Filing Fee. A surcharge, based upon the planning services division's most recent adopted fee schedule, shall be added to all discretionary permits subject to the requirements of this article.

19.50.080 Tree permit applications – review methodology

A. General.

1. Evaluation of development activity associated with a discretionary project shall be the sole responsibility of the approving body approving the project. After occupancy has been granted or a notice of completion filed, the planning director shall assume responsibility for ensuring continuing compliance.

2. Exception. Requests for encroachments of up to twenty (20) percent of the protected zone of a protected tree may be processed by the planning director. In cases where requests for encroachments are denied by the planning director, the applicant shall have the right to appeal to the planning commission. Appeal must be made in writing within ten (10) days and accompanied by the appropriate appeal fee.

3. Tree permits shall not be issued for parking or storing of vehicles, trailers, equipment, construction materials or temporary structures within the protected zone of a protected tree.

B. Application Review. Upon receipt of an application for a tree permit, the planning services division shall review the application for accuracy and completeness and make an inspection of the project site. If the application is incomplete, it will be returned to the applicant and no action will be taken until all of the required information has been received by the county.

C. Environmental Determination. An environmental determination may be required pursuant to the California Environmental Quality Act. The issuance of a minor tree permit shall be exempt from environmental review when it is related to an activity listed in article 18.36 of this code.

D. Approval.

1. In passing judgment upon permits or applications required pursuant to the provisions of this chapter, the approving body may impose such reasonable conditions of approval as are necessary to protect the health of the protected tree, the public and the surrounding property or environmental features.

2. An approved minor tree permit shall be valid for a period of six months from the date of issuance. An extension of time may be granted by the planning director for a

period of up to an additional six months. Approval of tree removal associated with discretionary projects shall be valid only as long as the approval for the discretionary project is valid.

3. The applicant shall have the minor tree permit and a copy of the conditions of approval imposed by the approving body at the construction site. For discretionary projects, a copy of the conditions of approval shall be kept on-site during the construction phase of the subject.

4. For trees designated to be saved within fifty (50) feet of any development activity, or as recommended by the arborist, or as required by the approving body, a minimum four-foot tall brightly colored synthetic fence shall be installed at the outermost edge of the protected zone of each protected tree or groups of protected trees. The fence shall not be removed until written authorization is received from the planning director. Exceptions to this policy may occur in cases where protected trees are located on slopes that will not be graded. However, approval must be obtained from the planning services division to omit fences in any area of the project. The fences must be installed in accordance with the approved fencing plan prior to the commencement of any grading operations or such other time as described by the approving body. The developer shall call the planning services division for an inspection of the fencing prior to initiation of grading operations.

For discretionary projects, signs must be installed on the fence in four locations (equidistant) around each individual protected tree. The size of each sign must be a minimum of two feet by two feet and must contain the following language:

“WARNING THIS FENCE SHALL NOT BE REMOVED OR RELOCATED WITHOUT WRITTEN AUTHORIZATION FROM PLACER COUNTY”

On fencing around a grove of protected trees, the signs shall be placed at approximately fifty (50) foot intervals.

5. For discretionary projects, once approval has been obtained, the fences must remain in place throughout the entire construction period and may not be removed without obtaining written authorization from the planning services division.

6. For discretionary projects, (single-family residences exempt) a ten thousand dollar (\$10,000.00) deposit (or an amount deemed necessary by the approving body based upon the size and scale of the project in relation to the tree removal/tree protection to be required) may be required to be posted and maintained to insure the preservation of protected trees during construction. The deposit shall be in the form of a certificate of deposit, cash deposit, or letter of credit from a bank, and shall be posted prior to any grading or movement of heavy equipment onto the site or issuance of any permits. Each violation of any tree permit condition regarding tree preservation shall result in forfeiture of a portion or the entirety of the deposit, at the discretion of the approving body in addition to other applicable penalties. Appeals may be made pursuant to the procedure outlined in this article.

7. In cases where a tree permit has been approved for construction of a retaining wall(s) within the protected zone of a protected tree, the applicant will be required to provide for immediate protection of exposed roots from moisture loss during the time

prior to completion of the wall. The retaining wall should be constructed within seventy-two (72) hours after completion of grading.

8. If approved, preservation devices such as aeration systems, oak tree walls, drains, special paving and cabling systems must be installed per approved plans and certified by the developer's arborist.

9. For discretionary projects, certification letters are required for all development activity conducted within the protected zone of protected trees. The developer's arborist will be required to submit a certification letter to the planning services division within five working days of completion of such development activity attesting that all of the work was conducted in accordance with the appropriate permits and the requirements of this article.

10. The following information, if applicable, must be located on-site:

a. Arborist's report and all future modifications.

b. Tree location map with a copy of the tree fencing plan.

c. Tree permit and inspection card.

d. Approved construction plans.

e. Tree preservation guidelines.

f. Approved planting and irrigation drawings.

E. Denial and Appeal.

1. If an application for a tree permit is denied, the approving body shall provide written notification, including the reasons for denial, to the applicant.

2. Appeal of a decision made by an approving body shall be made as provided in section 17.60.110 of the Placer County Code.

3. All appeals must be made in writing within ten (10) calendar days of the denial stating the facts and grounds of appeal and accompanied by the appropriate appeal fee. Denials issued by the arborist may be appealed to the planning services division within ten (10) days without paying an appeal fee.

F. Tree Permit Construction Phase.

1. All work conducted within the protected zone of any protected tree shall be performed as required by this article and as required in project approval.

2. For discretionary projects, as a part of the application, the developer will be required to submit a utility trenching-pathway plan for approval following approval of the project improvement plans. The trenching-pathway plan shall depict all of the following systems: storm drains, sewers, easements, water mains, area drains, and underground utilities. Except in lot sale subdivisions, the trenching-pathway plan must show all lateral lines serving buildings. To be completely effective, the trenching-pathway plan must include the surveyed locations of all protected trees on the project as well as an accurate plotting of the protected zone of each protected tree.

The trenching-pathway plan shall be developed considering the following general guidelines:

a. The trenching-pathway plan must be developed to avoid going into the protected zone of any protected tree on its path from the street to building.

b. Where it is impossible to avoid encroachment, the design must minimize the extent of such encroachment. Encroachments and mitigation measures must be addressed in a supplemental arborist's report.

3. Certification of Tree Work. All of the tree preservation measures required by the conditions of the discretionary project approval, the arborist's report and the tree permit, as applicable, shall be completed and certified by the developer's arborist prior to issuing an occupancy permit.

G. Information to be Included in Arborist Report.

1. Botanical name of tree(s) by tree number.

2. Common name of tree(s) by tree number.

3. Location of tree(s) by tree number.

4. Diameter at breast height (DBH) by tree number.

5. Height by tree number (optional).

6. Dripline radius by tree number (measure longest radius).

7. Condition by Tree Number. The condition of each tree is to be considered when determining a tree's rating system:

a. Excellent (It is rare that a tree qualifies in this category.)

b. Good.

c. Fair to good.

d. Fair.

e. Fair to poor.

f. Poor.

8. Recommendations by Tree Number. Based upon the conditions and findings, recommendations should be made that logically follow the report conditions. For instance, if weak crotches are reported, cabling would be a logical recommendation to include in the report. These recommended mitigation measures should be spelled out and in some cases may even improve the tree's condition ratings.

9. Specific and general information about preservation measures to be taken for each tree not being removed.

19.50.090 Replacement program and penalties

A. The approving body may condition any tree permit or discretionary approval involving removal of a protected tree upon the replacement of trees in kind. The replacement requirement may be calculated based upon an inch for an inch replacement of the removed tree(s) and may require minimum fifteen (15) gallon size trees. The total of replacement trees may be required to have a combined diameter of the tree(s) removed. A minimum of fifty (50) percent of replacement trees shall be of a similar native tree. Replacement trees may be planted on-site or in other areas to the satisfaction of the

planning services division. Such replanting must not result in the over-planting of a site such that an unsafe fire condition is created.

B. The approving body may, instead of requiring replacement trees, require implementation of a revegetation plan. The county will require the developer to enter into a written agreement with the county obligating the developer to comply with the requirements of the revegetation program. A security deposit shall be required to ensure that the agreement is fulfilled. The revegetation program may include the propagation of native oak trees from seed or saplings using currently accepted methods.

C. The approving body may decide that if the project site is not capable of supporting all of the replacement trees, the applicant shall pay to Placer County the current market value, as established by an arborist, forester, or registered landscape architect, of the replacement trees, including cost of installation, to go into a tree preservation fund (see subsection I of this section).

D. In addition, any protected or preserved tree shall not be damaged during construction. A penalty, payable to the county, in the amount of fifty dollars (\$50.00) per scar will be required. If necessary, an arborist report may be required to be filed by the applicant to determine the extent of damage.

E. Any person, firm, or corporation that does not apply for a tree permit prior to removal of protected trees, and where no security deposit has been posted, shall replace trees as noted in subsection A, B, or C of this section, in addition to paying a fine of the current market value of the replacement trees.

F. Any person, firm, or corporation that removes or destroys any tree or trees that have been designated to be saved by an approving body shall be fined up to three times the current market value of the replacement trees and the cost of replacement, and/or replace up to three times the number of trees required by this article.

G. Except as provided in this article, if trees are removed without prior approval of an approving body, the approving body may choose to deny or defer approval of any application for development of that property for a period of up to five years.

H. The board of supervisors may consider the rezoning of a parcel or parcels of land on which a violation of this article has occurred.

I. Tree Preservation Fund. A tree preservation fund is established for Placer County. The moneys received in lieu of replacement of illegally removed or damaged trees shall be forwarded to the county treasurer for deposit in the tree preservation fund. Under no circumstances shall the funds collected by the county treasurer for deposit into the tree preservation fund be directed to any other fund to be used for any other purposes other than the planting of or maintenance of trees on publicly owned property, easements of rights-of-way, or used for educational programs or materials. A certain percentage of the fund (as determined by the board of supervisors) may be used for enforcement of the article and/or land acquisition.

J. A violation of this article shall be punishable as a misdemeanor or an infraction at the discretion of the county counsel and/or the district attorney.

K. Survivability.

1. Any person, firm or corporation that is required to replant, relocate or revegetate as a condition of his or her tree permit or discretionary project approval will be required to provide appropriate irrigation and maintenance for the trees. To assure survivability, a maintenance agreement shall be entered into and a deposit established by the approving body, not greater than the replacement costs, shall be posted with the county. The deposit shall be retained until the county arborist certifies the conditions of the tree permit are satisfied. After three years, an arborist or forester employed by the developer will identify to the county the condition of the replanted trees or revegetated area.

2. Any five gallon size tree or greater that was replanted or relocated that is dead after three years, must be replaced in kind with equal sized healthy replacements. Revegetated areas or areas where trees smaller than five-gallon size were replanted must have at least seventy-five (75) percent of the trees still alive after three years.

3. Failure to provide adequate irrigation and maintenance for the replanted or relocated trees, or the revegetated areas, or the failure to replace trees which have not survived, will result in forfeiture of all or part of the survivability deposit.

19.50.100 Administrative remedies

A. Suspension, Revocation and Restoration. In addition to any other penalties allowed by this code, the approving body may suspend any tree permit for a discretionary project upon a finding at a public hearing that a violation of conditions of approval has occurred.

B. Appeal. Appeal may be made directly to the planning services division, within ten (10) days of imposition of conditions. An appeal shall state the facts and grounds of appeal and shall be accompanied by the appropriate appeal fee. Appeals shall be subject to the provisions set forth in section 17.60.110 of the Placer County Code.

C. Stop Work Orders. Whenever any construction or work is being performed contrary to the provisions of this article or conditions of the appropriate discretionary project, the planning services division may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No work shall be allowed until the violation has been rectified and approved by the planning services division or the county's arborist.

D. Public Education. It is recognized that the loss of native oaks is, in part, a result of the lack of public awareness on oak tree preservation. In order to heighten public awareness on this subject, the following programs shall be established as a part of this article.

1. A minimum of ten (10) percent of the funds collected in the tree preservation fund shall be used to promote and establish educational programs and develop educational materials. Examples would be:

a. Educational materials to be handed out with building permits and to be made available to the general public (i.e., brochures on development near native oak trees).

b. Promoting elementary and secondary school programs on native oak trees (i.e., acorn or tree planting programs).

c. Funding to pay for brochure inserts into local newspapers for general public distribution.

2. Developers or sellers of lots within major subdivisions shall be required to distribute educational material to buyers at the closing of escrow.

3. The county shall, as a condition of all major subdivisions, require that conditions, covenants & restrictions have requirements which protect native trees that are designated to be saved (i.e., limited watering around oaks, etc.).