

ARTICLE III
Preservation of Oak Trees, Oak Tree Removal

Section 1. Oak Tree Removal Generally. The oak trees on our properties are the primary factors contributing to the beauty of El Dorado Hills.

An owner requesting to remove a standing oak tree (dead or alive) from his lot must submit an application to the **DRC** stating the reason for the removal. All trees (6" and over) to be removed must be identified on a diagram relative to other trees and all improvements thereon. A permit is required to remove all tree(s) over 6" in diameter, measured at a point 4 2' above the ground. A permit is also necessary for the limbing of live branches over 4" in diameter at the junction to the main trunk.

Once the owner has marked the property boundaries and has flagged the trees to be removed as per the requirements stated on the application, an applicant must contact the **DRC** for an inspection. After inspection, the **DRC** may issue a tree removal permit specifically identifying those trees to be removed. A tree removal permit is valid for 180 days and is not transferable. Any tree removal, trimming or topping commenced prior to the issuance of the permit is subject to mitigation.

Section 2. Tree Removal Policy and Guidelines; Applicability. This Policy applies to single family residential lots, multi-family, commercial, development property, etc.

Section 3. Purpose and Intent. For at least several centuries prior to the arrival of the first Spanish explorers in California, native oak trees existed as dominant and magnificent features in the landscape of the foothills of California. These trees provided a predominant food staple for original Indian inhabitants, and a major source of firewood and building material for early explorers and settlers. Over the years, many of these trees have been cleared to accommodate agriculture, burned as firewood and removed to facilitate urban development. Only a small vestige of the original oak woodland forests remains today.

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 beauty, improves air quality, water quality, reduces solid 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.

The removal of oak trees continues to the present time, and occurs at a much faster pace

than natural regeneration. Thus, it has become imperative that the **El Dorado Hills Design Review Committee** attempt to preserve and protect remaining native oak trees as significant, integral, and outstanding examples of the historical heritage of El Dorado Hills and El Dorado County. Furthermore, it is recognized that the preservation of trees enhances the natural scenic beauty, sustains the long term potential increase in property values which encourages quality development, maintains the original ecology, retains the original tempering effect of extreme temperatures, increases the attractiveness of El Dorado Hills and El Dorado County to residents and visitors alike, helps to reduce soil erosion, and increases the oxygen output of the area which is needed to combat air pollution.

For these reasons, in order to promote the health, safety, and general welfare, to preserve and protect significant historical heritage values, to enhance the beauty of El Dorado Hills and El Dorado County, and to compliment and strengthen zoning subdivision and land use standards and regulations, while at the same time recognizing individual rights to develop private property, the **Design Review Committee** has adopted this **Oak Tree Policy**, establishing basic standards and measures for the preservation, protection and replanting of oak trees, or other specified trees, within El Dorado Hills and El Dorado County. The **DRC** also recognizes, and hopes in the future, that due to the extremely diverse terrain and vegetation within the County, the County needs to adopt different policies to specific areas of the County for Oak Tree Preservation. It is the hope and desire of the **DRC** that the spirit of this Tree Preservation Policy by the **EDHDRC** will encourage an atmosphere of mutual cooperation between members of the development community, private citizens and County officials in attempting to retain tree cover in El Dorado Hills and within the County.

It shall be the **policy** of this **Committee** to preserve all oak trees through its **CC&R Review and Approval process**, for both individual lots and lands that are subdivided. Thus, it shall be the policy of the **DRC** to preserve trees wherever feasible, through the review of all proposed development activities under our jurisdiction, where trees are present, while at the same time recognizing individual rights to develop private property in a reasonable manner.

The provisions of this **policy** shall be liberally construed to effectuate their purposes. If any section, clause, provision or other portion of the **policy** is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this **policy** shall not be affected thereby. Interpretation of the **policy** is at the sole discretion of the **DRC**.

Section 4. Definitions. For the purposes of this policy, certain words or terms used herein shall be interpreted as follows: words in the present tense include the future; words in the singular include the plural number.

- (a) **Arborist:** An individual certified as an arborist by the International Society of

Arboriculture (ISA).

(b) **Arborist Report:** 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.

(c) **Canopy Trees:** A group of trees which form a canopy. By adoption of this **DRC** Policy, the **DRC** shall have the authority to protect specific canopy tree areas as Landmark Trees.

(d) **Certification Letter:** 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 Policy.

(e) **Commercial Wood Cutting:** Cutting trees for sale or profit.

(f) **Committee:** This refers to the El Dorado Hills Design Review Committee (DRC).

(g) **Cutting:** The detaching or separating of any limb, branch or root from a tree.

(h) **Dead Tree:** A tree that does not contain any live tissue, i.e., green leaves or live limbs.

(i) **Deadwood:** Limbs or branches that contain no green leaves or live limbs.

(j) **Deadwooding:** The act of removing Deadwood.

(k) **Developer:** Any individual conducting any Development Activity within the jurisdiction of the **DRC**.

(l) **Development Activity:** 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.

(m) **Diameter at breast height:** The diameter of a tree measured at four and one-half (4 2') feet above ground level on the high side of the tree. The diameter may be calculated by use of the following formula: $DBH = \text{circumference at breast height} \div 3.142$.

(n) **Dripline:** 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.

(o) **Dying/Unhealthy Tree:** Any tree certified by an Arborist or Registered Professional Forester as being unhealthy or dying.

(p) **Encroachment:** Any Development Activity conducted within the Protected Zone of a Protected or Preserved Tree.

(q) **Grading:** The movement of any soil or earth material within the Protected Zone of Protected or Preserved Trees.

(r) **Irrigation:** Transfer of water to a site by artificial means.

(s) **Landmark Tree:** A tree or grove of trees designated by the **DRC** to be of historical or cultural value, an outstanding specimen, an unusual species and/or of significant community benefit.

(t) **Minor Tree Permit:** An authorization by the **DRC** 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 **DRC**. For discretionary projects, approval or denial of tree removal is part of that discretionary action by the **DRC**).

(u) **Native Ground Surface Fabric:** The layer of topsoil, humus, and vegetation that comprises the native ground surface.

(v) **Oak Tree Preservation Policy:** The **DRC** Policy on Oak Tree Removal.

(w) **Policy:** This refers to the **Oak Tree Policy** as adopted by the **El Dorado Hills Design Review Committee**.

(x) **Preserved Tree:** A tree that has been established as one to be saved through Tree Permit or project approval process.

(y) **Protected Tree:** Any tree for which a Tree Permit is required prior to any removal or Development Activity being conducted within the Protected Zone.

(z) **Protected Zone:** A circle, the radius of which is equal to the largest radius of a Protected Tree's Dripline plus one foot (1').

(aa) **Registered Professional Forester:** A person who holds a valid license as a Professional

Forester pursuant to Article III, Chapter 2, Division I, of the Public Resources Code.

(bb) **Removal:** The physical removal of a tree.

(cc) **Riparian Zone:** Any area within 50 feet from the centerline of a seasonal creek or stream, any area within 100 feet from the shoreline of a pond, lake or reservoir. At a minimum all streams and creeks shown on USGS maps are included in this definition. (A Riparian Zone established in specific community or general plan may supersede this definition.) Note: All trees within riparian areas are subject to a Tree Permit.

(dd) **Routine Maintenance:** 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.

(ee) **Single-family Dwelling:** A building designed for and/or occupied as a residence by one family.

(ff) **Site Planning Meeting:** An on-site meeting with the owners, Developer and his contractors, and/or engineers; the Arborist; and any other DRC designated representative to delineate special procedures, limits of work, lines of authority and special conditions or procedures not specifically covered by this Policy.

(gg) **Tree:** Any living Oak Tree having at least one trunk of six (6) inches or more in diameter (or diameter as designated by individual **CC&Rs**) measured four and one-half feet above the ground, or a multi-trunk oak tree having an aggregate diameter of ten (10") inches or more, measured four and one-half feet above the ground, or as specified in applicable **CC&Rs**, whichever is more strict.

(hh) **Heritage Tree:** A tree, as defined above, twenty (20) inches or more in diameter measured four and one half feet above the ground, or a multi-trunk tree having an aggregate diameter of thirty (30) inches or more measured four and one-half feet above the ground.

Section 5. General Requirements.

(a) This Policy is applicable to all native, landmark trees, riparian zone trees.

(b) Riparian Zone requirements.

(i) Within any riparian zone, in all areas under the jurisdiction of the EDHDRC, a Tree Permit is required to conduct any development activity in the Protected Zone of a Protected Tree.

- (ii) No Tree Permit 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. Additionally, no development activity shall be permitted until any Stream Alteration Agreement or mitigation agreement required by the California Department of Fish and Game have been completed.

(b) **Commercial Firewood Cutting.** Under no circumstances shall any oak tree be cut for firewood as a commercial enterprise of any kind.

Section 6. Tree Permit Required -Application Procedure and Fees. No person, firm, corporation or County agency shall conduct any Development Activities within the Protected Zone of any Protected Tree on land under the jurisdiction of the **DRC**, or harm or destroy, kill or remove any Protected Tree unless authorized by a Tree Permit. Tree removal shall also be reviewed as a part of discretionary project review by the **DRC**. 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 and requires more detailed information than a Minor Tree Permit (see Article III, Section 6(a) 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 **DRC**.

- (i) Any person/property owner desiring to cut down, limb, destroy or remove one or more trees, shall make application to the **DRC** prior to the physical removal as spelled out by **CC&Rs**, this policy, and/or any governmental agencies requirements, whichever is the more strict. Said application shall contain:
- (ii) Any applicable fees per fee schedule on **DRC** application.
- (iii) A brief statement of the reasons for removal.
- (iv) Consent of the owner of record of the land on which the proposed activity is to occur.
- (v) A tree survey by property owner/builder, with plot map with the accurate location, number, species, size, diameter at breast height (**DBH**) approximately four-and-one-half feet above the ground, approximate heights, approximate canopy diameter and approximate age (if known) of the tree or trees to be removed.

- (vi) If it is found that property owner has removed trees prior to **DRC** approval and if applicable, any other governmental regulations, whichever is the more strict, then the property owner shall be required to hire an arborist, at property owner expense, to submit a written report which is to include a tree survey of existing and removed trees to **DRC** with the application, before the **DRC** will review said application. This report shall include a tree replacement plan or other mitigation measures as spelled out in this **policy**.

(b) **Home or other improvement construction:**

- (i) Plot all trees on the lot, including within the planned structure. Include diameter of each tree by using the **DBH**. Include diameter (DBH) and Dripline for each tree.
- (ii) An arborist's report may be required by **DRC**, for trees slated for removal that do not fall within the structure, or an **DRC** site visit.
- (iii) The **DRC** may require the replacement of a specified number of oak trees to be replaced on an individual lot. The **DRC** may require exact size replacement, or a greater number of smaller oaks to be planted. The replacement trees should be a minimum of 15-gallon in size.
- (iv) All trees not approved for removal must be fenced at the Dripline during construction.
- (v) If required, an approved retaining wall structure shall be installed prior to any grading around an existing tree to remain in order to protect said tree from excess cut or fill.

(c) **Subdivision Development; Commercial; Multifamily Construction.** Any person desiring to conduct a Development Activity within the Protected Zone of a Protected Tree shall submit the following information as a part of the application, and shall be at **developer and/or property owner expense**:

- (i) **Justification Statement** -A written statement by the applicant or an Arborist stating the justification for the requested Development activity. Statement 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.
- (ii) **Tree Locations** -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 and Dripline of each Protected tree shall be shown on the grading plan.**

The exact location of the Protected Zone of a Protected Tree is crucial in order to evaluate any impacts resulting from construction. Consequently, rough approximation shall not be acceptable.

- (iii) **Tree Survey**. A tree survey must be done as a part of the total development plan and must also describe any tree or trees which could be affected by the proposed development;
- (iv) **Arborists Report**. A certified arborist shall be hired to accomplish the following, not excluding but could include the hiring of a Landscape Architect:

Note: Information to be included in Arborist Report

- (A) Botanical Name of Tree(s) by Tree Number.
- (B) Common Name of Tree(s) by Tree Number.
- (C) Location of Tree(s) by Tree Number.
- (D) Diameter at Breast Height (DBH) by Tree Number.
- (E) Height by Tree Number.
- (F) Dripline radius by Tree Number (measure longest radius).
- (G) Condition by Tree Number - The condition of each tree is to be considered when determining a tree's rating system:
 - (1) Excellent (It is rare that a tree qualifies in this category).
 - (2) Good
 - (3) Fair to good
 - (4) Fair
 - (5) Fair to poor
 - (6) Poor
- (H) 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 mitigative measures should be spelled out and in some cases may even improve the tree's condition ratings.
- (I) Specific and general information about preservation measures to be taken for each tree not being removed.

- (J) An oak tree survey covering the entire development.
 - (K) An oak tree density survey.
 - (L) Anything else necessary to determine how many oaks have been removed, damaged, and those yet to be removed; map should also show property lines, streets, access easement and/or public or private driveways and other paved areas.
 - (M) Trees to be removed for street construction; improvements, within all clearance limits, shall be flagged with ribbon.
 - (N) An oak tree reforestation plan, including time limits.
 - (O) All other pertinent information, not excluding incorporating Department of Transportation Grading and Erosion Control requirements, and/or county or government regulations.
- (v) All trees within 50 feet of the clearance limits shall be fenced individually or in groups, at the Dripline with "ski fencing, 4' in height, bright orange in color, or other material approved by **DRC** and/or governmental regulations, whichever is the more strict.
- This "fencing" shall remain in place during all phases of infrastructure plans, until the project is complete.
- (vi) **Aerial Photo Showing Cuts, Fills and Tree Cover**. Provide **DRC** with two copies each of a color aerial with mylar overlay of cuts and fills and tree cover (this can be furnished by the developer's engineer or other designee.)
 - (vii) Within the reforestation plan, developer may be required to replace a certain number of removed oak trees, either within the overall project, and/or specified lots, as reviewed and approved by **DRC**.
 - (viii) The County Conditions of Approval for a tentative subdivision map, commercial, or multifamily shall be submitted, reviewed and incorporated within the **DRC** approval.
 - (ix) The County Department of Transportation Grading and Erosion control plan for development plans, commercial projects, or multifamily projects shall be submitted,

reviewed and incorporated with the **DRC** approval.

- (x) Any governmental agency requirements shall become a part of **DRC** review and approval. The applicant shall submit all pertinent data from other private or public agencies with their application for review, inclusion, and approval by **DRC** and shall become a part of the **DRC** approval process.
- (xi) In all cases, the more restrictive language of this policy, CC&Rs or other applicable government agencies will be what the applicant is required to do.

Section 7. Tree Removal Prohibition and Mitigation Measures. No person, company, corporation or entity shall trench, grade or fill within the Dripline of any tree or destroy, kill or remove any tree as pursuant to the **policy**, on any property, without prior written approval by this **DRC**.

(a) 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) As part of the **DRC** review and approval process, as covered in individual **CC&Rs**, no oak tree over six (6) inches in diameter shall be removed for any reason without prior approval of the **DRC**. If any oak tree is removed without prior **DRC** approval, the **DRC** may require the property owner to mitigate any and/or all oak trees removed using the following guidelines:

- (i) Establish a tree value by using \$200.00 per inch of the DBH for each tree removed without prior approval by **DRC**.
- (ii) Or the **DRC** may require a combination of replanting oak trees as replacement of removed oak trees.

Section 8. Consideration of Approval. It shall be the responsibility of the applicant to demonstrate the need for oak tree removal.

(a) Upon receipt of an application for a Tree Permit, the **DRC** shall review the application for accuracy and completeness and may 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 **DRC**.

- (i) In passing judgment upon permits or applications required pursuant to this Policy, the **DRC** may impose such conditions of approval as are necessary to protect the health of the Protected Tree, the public and the surrounding property or environmental features.

- (ii) An approved Minor Tree Permit shall be valid for a period of six (6) months from the date of issuance. An extension of time may be granted by the **DRC** for a period of up to an additional six (6) months. Review of tree removal associated with Discretionary Projects shall be valid only as long as the approval for the Discretionary Project is valid.
- (iii) The applicant shall have the Minor Tree Permit and a copy of the conditions of approval imposed by the **DRC** 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 project.
- (iv) For trees designated to be saved within fifty feet (50') of any Development Activity, or as recommended by the Arborist, or as required by the **DRC**, a minimum four-foot tall (4') brightly colored synthetic fence (ski fencing) 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 project completion. The fences shall 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 **DRC**. The Developer shall call the **DRC** for an inspection of the fencing prior to grading operations.
- (v) For Discretionary Projects, (single family residences exempt) a \$25,000 - \$50,000 deposit (or an amount deemed necessary by the **DRC**) may be posted and maintained to insure the preservation of the 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 **DRC** in addition to other applicable mitigations. Appeals may be made pursuant to the procedure outline in this Policy.
- (vi) If approved, preservation devices such as aeration systems, retaining walls, drains, special paving and cabling systems shall be installed per approved plans and/or certified by the Arborist.
- (vii) For Discretionary Projects, Certification Letters are required for all Development Activity conducted within the Protected Zone of the Protected Trees. The Developer's Arborist shall be required to submit a Certification Letter to the **DRC** within five (5) 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 Policy.

(viii) The following information, if applicable, shall 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.

The **DRC** shall establish application standards and requirements of this **policy** regulating environmental control or development, whichever is more strict.

The approving bodies, including the **DRC**, shall ascertain whether or not the tree(s) cannot or should not be retained prior to the issuance of approving the removal, or as specified in governmental regulations, whichever is the more strict. The determination of the approval by **DRC**, in granting or denying removal shall be based upon, but not limited to, the following criteria. There may be circumstances where the **DRC** shall require additional information and mitigation:

(b) The condition of the tree with respect to disease, general health, damage, danger of falling, and whether or not the tree acts as a host for an organism which is parasitic to another species of tree which is in danger of being exterminated by the parasite;

(c) The number of existing trees in the area or lot, and the effect of the tree removal upon public health, safety, prosperity, beauty and general welfare of the area;

(d) The number of healthy trees that give a parcel of land will support, with and without the proposed development or structures;

(e) The effect the tree removal on soil stability/erosion, particularly near water courses or on steep slopes;

(f) The potential for the tree to be a public nuisance, or interfere with utility service, as well as its proximity to existing structures;

(g) Present and future shade potential with regard to solar heating and cooling;

(h) Whether or not there are any alternatives that would allow for the preservation of the tree;
and

(i) All trees along any lot lines with regards to lot/property fencing, shall have any or all fencing go around any oak tree(s), so as not to interfere with its (their) growth. No fencing/structures are allowed to be attached in any way to the oak trees (i.e.: nailed, for example). Oak trees may be decked around with enough room so as not to impede its growth. All adjacent neighbors must be contacted and give input and approval on fencing location with regards to saving oak trees along all property lines.

Any footings dug for structures, retaining walls, and/or fencing, or other structures, shall be dug by hand in the presence of a certified arborist if the structure, etc., is being placed anywhere under the drip line of the applicable tree(s).

(j) All other information the **DRC** finds pertinent to the decision, including if necessary, information obtained by a certified arborist, shall become a part of the review and approval process. The **DRC** has the right to approve the arborist hired by the applicant, at the applicant's expense.

Section 9. Tree Removal Provisions. If the application for tree removal is denied, the **DRC**, shall provide written notification within the allowed time limits set in the **CC&Rs**, which is usually, but not necessarily, 30 days from receipt of a completed application, including all pertinent information and reports.

(a) All work conducted within the protected zone of any protected tree shall be performed as required by the **DRC** approval.

(b) For Discretionary Projects, as a requirement of the Tree Permit Application, the Developer shall 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 shall show all lateral lines serving buildings. To be completely effective, the Trenching-Pathway Plan shall 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.

(c) The Trenching-Pathway Plan shall be developed considering the following general guidelines:

(i) The Trenching-Pathway Plan shall be developed to avoid going into the Protected Zone of any Protected Tree on its path from the street to building.

(ii) Where it is impossible to avoid encroachment, the design shall minimize the extent of such encroachment. Encroachments and mitigation measures shall be addressed in a supplemental Arborist's Report.

(d) 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.

(e) The Tree Removal Approval Notice, and/or the conditions of approval granted by the **DRC**, or other agency, whichever is more strict, shall entitle the applicant/property owner to remove only the tree or trees approved for removal.

Section 10. Denial And Appeal. If an application for a Tree Permit is denied, the **DRC** shall provide written notification, including the reasons for denial, to the applicant.

(a) Appeal of a decision made by the **DRC** shall be made as per the CSD Policy on Appeals of any **DRC** action.

(b) All appeals shall be made in writing within ten (10) days of the denial stating the facts and grounds of appeal and accompanied by the appropriate appeal fee.

(c) Any decision made by the **DRC** may be appealed first to the **DRC** by the applicant/property owner one time only. Upon receipt of said appeal, the **DRC** shall set the item on the **DRC** Agenda no later than 30 days from the date of filing said appeal. If the application is again denied by the **DRC**, then the applicant may appeal to the EDHCSD Board of Directors as per their policy.

Section 11. Development Control Measures. The **DRC** may mandate any or all of the following control measures to mitigate damage to oak trees caused by land, or lot, development, or as mandated by the **CC&Rs** and/or governmental regulations or agencies, whichever is more restrictive.

(a) No grade cuts greater than one (1) foot shall occur within the Protected Zone of the of oak trees, and no grade cuts whatsoever shall occur within five feet (5) of their trunks;

(b) Grading/trenching beneath trees to be saved shall be given special attention. Every reasonable effort shall be made to avoid creating conditions adverse to the tree's health. The natural ground within the Protected Zone of protected trees shall remain as undisturbed as possible. Grading within the Protected Zone of oak trees shall not be permitted unless specifically authorized by **DRC**, and/or governmental agencies, whichever is the more strict.

(c) No fill greater than one (1) foot shall be placed within the Protected Zone of oak trees and no fill whatsoever shall be placed within five (5) feet of their trunks;

(d) No trenching whatsoever shall be allowed within the Protected Zone of oak trees. If it is absolutely necessary to install underground utilities within the Protected Zone of an oak tree, the trench shall be either bored or drilled, or dug by hand in the presence of a certified arborist.

(e) Major roots two (2) inches or greater in diameter encountered within the tree's Protected

Zone in the course of excavation from beneath trees which are not to be removed shall not be cut and shall be kept moist and covered with earth as soon as possible. Roots one (1) inch to two (2) inches in diameter which are severed shall be trimmed and covered with earth as soon as possible. Trenching is best done during dormant season, during winter months.

(f) Support roots that are inside the Protected Zone of the tree shall be protected. The applicant and/or his designee is required to hand dig in the vicinity of Protected Trees to prevent root cutting and mangling which may be caused by heavy equipment;

(g) No irrigation system shall be installed within or in close proximity to an oak tree which would permit flow of water into the Protected Zone of the tree which may be detrimental to the tree or which may cause rot or crown rot to develop.

(h) Landscaping beneath oak trees may include non-plant materials such as gravel, wood chips, decking, etc. The only plant species which shall be planted within the Protected Zone of oak trees are those which are tolerant of the natural semi-arid environs of the trees. (Limited drip irrigation approximately twice per summer is recommended).

(i) No paving within the Protected Zone of oak trees shall be allowed. When it is absolutely necessary, porous material, bricks set in sand or lawn stones, shall be used.

(j) A minimum of a four (4) foot high protective fencing, "ski fencing, bright orange in color", or other material approved by the **DRC** and/or governmental regulations, whichever is more restrictive, approved material barrier, shall be required to be placed along the Protected Zone of the tree or trees to be saved to ensure protection during project development or construction of any structures, roads, driveways, including pools, patios, etc., upon an individual lot.

(k) No person shall attach signs, ropes, cables, or any other items on Protected Trees.

(l) No person shall place or allow to flow into or over the Protected Zone area of any Protected Tree to be saved any oil, fuel, concrete mix or other deleterious substance.

(m) Any condition imposed by **DRC**, relating to part of the improvement standards of the **DRC**, and/or governmental agencies, shall be applied, whichever is the more strict. The consulting engineer for the project or property owner/builder shall verify, in writing, on a form to be provided or approved by the **DRC**, and/or necessary governmental agencies that the grading has been completed as required by this section and any other conditions imposed by **DRC** and/or by the Department of Transportation, the Planning Commission or the Board of Supervisors.

(n) If required, an approved retaining wall structure shall be installed prior to any grading around an existing tree to remain in order to protect said tree from excess cut or fill.

(m) Refer to University of Davis "Guidelines for Oak Tree Preservation" for additional information and requirements.

Section 12. Replanting Security/requirements.

(a) Adequate security may be required for any project for which approval is required pursuant to the provisions of the **policy** and/or any governmental Tree Ordinance, whichever is more strict. The purpose of such security shall be to guarantee the applicant's compliance with the conditions of approval and county ordinance provisions regarding tree protection and preservation. Security may also be required, at the discretion of the **DRC**, and/or the County or other governmental agencies, to insure completion of any additional work specified as a condition of **DRC** approval and/or other approvals.

(b) The security shall be in the amount of 100% of the estimated cost of the required work.

(c) The security may be in the form of a letter of credit, cash deposit, bond, or a combination thereof and shall be approved by the **DRC** and/or other pertinent agency.

(d) The security may be required by the **DRC** and/or other approving body whenever it appears substantial work is required by the **DRC** and/or other approving body on the following:

(i) Land containing trees;

(ii) Substantial grading is required;

(iii) When action may be required by the **DRC** and/or other approving body to correct a violation of the Zoning Code, Department of Transportation, Planning Department, or any other agencies' ordinances or regulations or policies, public or private, including the **DRC**, as they may apply.

(e) The terms and conditions of the security shall be determined by the **DRC** and/or other approving body and shall be stated in the conditions of approval.

(f) Security posted on actual work required shall be maintained for a period of time not to exceed ten (10) years.

(g) Any interest gained on cash security posted by requirement of the **DRC** and/or other approving body or agency, shall accrue to the EDHCSO.

Section 13. Stop Work Order. Whenever the **DRC** and/or the County, or other governmental agencies, determines that any permit, or variance or any action being taken thereunder, or any action under

it without **DRC** approval and/or any required, government permit (s), is in conflict with this **DRC Policy** and/or County, or other governmental regulations, ordinances, or policies or the standards established by the **EDHDRC** and/or any governmental agencies, policies, or regulations, the **DRC** will direct the **EDHCSD** to pursue a stop work order, which shall prohibit any action thereunder. Such Stop Work Order shall set forth the alleged violations and may list remedies to be taken to correct the violations. The person/property owner receiving such a Stop Work Order shall immediately cease all work and shall report in writing to the **DRC**, the **EDHCSD**, County, or body issuing the order within forty-eight hours regarding the next steps to be taken to correct the violations. Such Stop Work Order may be extended to provide an extension in order to provide an opportunity for the property owner to meet with the **DRC**, the **CSD** and/or other involved agencies or bodies. A Stop Work Order issued by the **EDHCSD**, may be withdrawn only by a recommendation of the **DRC**.

Section 14. Suspension. In addition to or instead of the measures set forth in this Section, the **DRC** in conjunction with the **EDHCSD**, may recommend to any and all pertinent County Agencies/Departments and pertinent private agencies, to suspend any permits granted by the County, subject to finding that a violation of conditions of approval has occurred.

Section 15. Mitigation. Any person, firm, or corporation that is in violation of the provisions of this **policy** shall be subject to conditions of restoration of the site and/or monetary penalties, or both, as follows:

(a) For each tree removed without authorization, the replacement of the tree shall be based on the following replacement value: \$200.00/inch DBH for each illegally removed tree.

In addition, any tree that is designated, by a certified arborist hired at property owner expense and approved by the **DRC**, to be saved, shall not be damaged during construction. The amount of \$100.00 per scar will be required.

(b) Removal of Heritage trees without prior **DRC** approval shall result in a fee of three times the specified amount.

Section 16. Administrative Remedies.

(a) **Suspension, Revocation and Restoration** -In addition to any other penalties by this Policy, the **DRC** may suspend any Tree Permit for a Discretionary project upon a finding at a **DRC** public hearing that a violation of conditions of approval has occurred.

(b) **Appeal** -Appeal may be made directly to the **DRC**, or as **EDHCSD** Policy applies, within ten (10) days of imposition of restitution. 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 provision of the **DRC** and/or **EDHCSD**.

(c) **Stop Work Orders** -Whenever any construction or work is being performed contrary to the provisions of this Policy or conditions of this appropriate Discretionary Project, the DRC or the EDHCSD 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 **DRC**.

(d) **Public Education** -It is recognized that the loss of oak trees 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 shall be established as a part of this Policy.

- (i) A portion of the funds collected in the Tree Preservation Fund may be used to promote and establish educational programs and develop educational materials. Examples:
 - (A) Educational materials to be handed out with all **DRC** Permits and to be made available to the general public (i.e., brochures on development near Oak Trees).
 - (B) Promoting elementary and secondary school programs on Oak Trees (i.e., acorn or Tree Planting Programs).
 - (C) Funding to pay for brochure inserts into local newspapers and the CSD's monthly newsletter (Voice of the Villages) for general public distribution.
- (ii) Developers or sellers of lots within major subdivisions may be required to distribute educational material to buyers at the closing of escrow.

Section 17. Tree Preservation Fund. A Tree Preservation Fund is established for El Dorado Hills. The monies received for illegally removed or damaged trees shall be paid to the EDHCSD for deposit in the Tree Preservation Fund. The **DRC** shall designate to the property owner in violation, the amounts to be paid as specified in this Policy.

Section 18. Survivability.

(a) Any person, firm or corporation that is required to replant, relocate or revegetate as a condition of their Tree Permit or Discretionary Project Approval shall be required to provide appropriate irrigation and maintenance for the trees. To assure survivability, a maintenance agreement may be entered into and a deposit may be established by the **DRC**, and posted with the EDHCSD. The deposit may be retained until the a Certified Arborist certifies the conditions of the Tree Permit are satisfied. After three

years, an Arborist or Forester employed by the developer will certify to the EDHCSD the condition of the replanted trees or revegetated area.

(b) Any 5-gallon size tree or greater that was replanted or relocated that is dead after three years, shall be replaced in kind with equal sized healthy replacements. Revegetated areas or areas where trees smaller than 5 gallon size were replanted shall have at least 75% of the trees still alive after three years.

(c) 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, may result in forfeiture of all or part of the survivability deposit.

Section 19. Further Requirements.

- (a) No person engaging in construction activity shall:
 - (i) Change the amount of irrigation to any oak tree from that which was provided prior to the commencement of construction activity.
 - (ii) Trench, grade, or pave into the Protected Zone area of an oak tree.
 - (iii) Park or operate any motor vehicle within the Protected Zone area of any oak tree.
 - (iv) Place or store any equipment or construction materials within the Protected Zone of any oak tree.
 - (v) Attach any signs, ropes, cables, or any other items to any oak trees, at any time.
 - (vi) Place or allow to flow into or over the Protected Zone of any oak tree any oil, fuel, concrete mix, or other deleterious substance.
- (b) Where construction activity is proposed within 50 feet of an oak tree:
 - (i) A 4' tall temporary fence (ski fencing) shall be placed around the protected tree(s) area prior to work beginning.
 - (ii) No grade changes shall occur within the protected area unless specifically indicated in the plans.
 - (iii) No trenching shall be allowed within the protected area. If it is necessary to install underground utilities within the temporary fence, the utility trench shall be hand dug so as not to cut any roots over 2" in diameter, or a line may be bored or drilled.

- (14) (iv) Only dead, weakened, diseased, or dangerous branches shall be removed, and only by a licensed Arborist. Any roots 2" in diameter or larger that must be cut shall be cleanly cut with pruning (not excavation) equipment.

Approved: February 8, 2001

H:\gm\dist committees\cc&r drc\policy\drc policy\drcppg.treeguide