

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, EXTENDING A TEMPORARY MORATORIUM PROHIBITING, WITH LIMITED EXCEPTIONS: (1) THE REMOVAL OF PROTECTED TREES; AND (2) TYPE CONVERSION OF OAK WOODLAND, IN THE UNINCORPORATED AREA OF SONOMA COUNTY (EXCLUDING THE COASTAL ZONE), UNTIL MAY 31, 2024.

(URGENCY ORDINANCE - 4/5 VOTE REQUIRED)

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Authority and Purpose.

This Urgency Ordinance (“Urgency Ordinance”) is enacted pursuant to California Constitution, article XI, section 7. The purpose of this ordinance is to extend a temporary moratorium, with limited exceptions specified below, that prohibits: (1) the Removal of Protected Trees greater than six inches (6”) diameter at breast height (dbh); or (2) any Type Conversion of Oak Woodland, as herein defined, throughout the unincorporated area of the County excluding the Coastal Zone, until May 31, 2024.

Section II. Findings.

The Board of Supervisors finds that the adoption of this ordinance on an urgency basis is necessary to immediately preserve the public peace, health, and safety of the county and protect against the current and immediate threat to the public health, safety or welfare posed by the approval of projects that involve the Removal of Protected Trees and Type Conversion of Oak Woodland. The Board of Supervisors further finds that the facts constituting the basis for the urgency and the need for the temporary moratorium are as follows:

- A. The Tree Protection Ordinance (County Code Section 26-88-010(m)) was adopted in 1989 by Ordinance 4014. Since its adoption in 1989, the effectiveness of the ordinance has been limited by its narrow applicability. With current declines in forest health resulting from drought, pests, disease, wildfire and human disturbance, the Planning Commission discussed the increasing importance of tree protection and the need for tree removal impacts to be appropriately mitigated.
- B. The County of Sonoma General Plan 2020 (adopted in 2008) includes an Open Space and Resource Conservation Element which sets forth goals, objectives and policies to increase protections of native trees, woodlands and forests, and the wide range of ecosystem services they provide, including but not limited to facilitation

of groundwater recharge and water quality, stream bank stability, air quality, carbon sequestration, localized climate moderation, wildlife habitat, cultural, spiritual and aesthetic value; and

- C. In the years since the adoption of the Tree Protection Ordinance and later the General Plan 2020, forest and woodland resources and the benefits they provide to the community have been diminished by a variety of factors including: urban and rural development, agricultural conversion, forestry practices, historical fire suppression, and climate related phenomena including drought, fire, pests and pathogens; and
- D. Forests and woodlands absorb carbon dioxide from the atmosphere and store it in different repositories which include trees (both living and dead), root systems, undergrowth, the forest floor and soils and live trees have the highest carbon density, followed by soils and the forest floor, and existing mature trees help sequester carbon at greater volumes than young trees or sapling planted as mitigation for large tree removal; and
- E. Approximately 23% of Sonoma County's land area has been affected by wildfire since 2017, and though the ecosystems are home to many fire adapted species, the intensity of recent fires has, in some cases decimated local forests and woodlands, and climate change, in addition to post-fire salvage logging and development both challenge the ability of trees, woodlands and related ecosystems to recover; and
- F. The Removal of Protected Trees and Type Conversion of Oak Woodland are in conflict with proposed Zoning Ordinance amendments that Permit Sonoma is currently reviewing, pose a current and immediate threat to the public health, safety, and welfare, and the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with the currently enacted Zoning Ordinance would result in that threat to public health, safety, or welfare.
- G. Previously, Sonoma County has experienced a rush of permit applications and development activity when it has announced with specificity upcoming regulatory changes to ordinances that impact residential and agricultural development, from and by those persons seeking to avoid compliance with the pending proposed specific regulations, to the detriment of the public health, safety, or welfare; and
- H. The Planning Commission held public workshops and meetings on tree protection regulations between November 2021 and August 2023, ultimately making its recommendation on the draft Tree Ordinance and draft Oak Woodland Combining Zone in August 2023; and
- I. The Board of Supervisors held a combined hearing on the proposed Tree Protection Ordinance and Oak Woodland Combining Zone changes on November 28, 2023, heard public testimony, and provided feedback and direction to staff to revise the draft ordinances and return for further Board consideration of the revised code amendments; and

- J. The Board of Supervisors held a continued combined hearing on the proposed Tree Protection Ordinance, Oak Woodland Combining Zone changes and proposed urgency ordinance on December 12, 2023, heard public testimony, and provided feedback and direction to staff to continue outreach and adopted the urgency ordinance; and
- K. For the reasons stated herein, the Board of Supervisors finds that it is necessary to adopt, on a temporary basis, a moratorium on the Removal of Protected Trees greater than six inches (6”) diameter at breast height (dbh) or any Type Conversion of Oak Woodland, as provided below.

Section III. Definitions.

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

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

Protected Tree. Any tree species considered native to Sonoma County and includes the following: Big Leaf Maple (*Acer macrophyllum*), Black Oak (*Quercus kelloggii*), Blue Oak (*Quercus douglasii*), Boxelder (*Acer negundo*), California Bay (*Umbellularia californica*), California Black Walnut (*Juglans californica*), California Buckeye (*Aesculus californica*), Canyon Live Oak (*Quercus chrysolepis*), Coast Live Oak (*Quercus agrifolia*), Cottonwood species (*Populus fremontii*, *P. trichocarpa*), Cypress species (*Hesperocyparis macrocarpa*, *H. macnabiana*), Grand Fir (*Abies grandis*), Interior Live Oak (*Quercus wislizenii*), Madrone (*Arbutus menziesii*), Oregon Ash (*Fraxinus latifolia*), Oregon Oak (*Quercus garryana*), Pine species (*Pinus attenuata*, *P. contorta*, *P. lambertiana*, *P. muricata*, *P. ponderosa*, *P. sabiniana*), Red or White Alder (*Alnus rubra*, *A. rhombifolia*), Redwood (*Sequoia sempervirens*), Valley Oak (*Quercus lobata*), Western Hemlock (*Tsuga heterophylla*), Willow species (*Salix laevigata*, *S. lucida*), and any natural hybrids of these tree species.

Removal. To sever or displace the above-ground portion of a Tree using manual, mechanical, or chemical means, which results in the death or stumping of the Tree. This does not include the use of fire as part of a permitted prescribed burn.

Type Conversion. The removal of the capacity of the land to grow oak trees or Oak Woodlands by a person. This includes but is not limited to, clearing, grading, or otherwise modifying land for roads, driveways, buildings or building pads, utility easements, and Agricultural Crop Cultivation within an Oak Woodland. Maintenance such as pruning and removing dead branches from living oak resources is not included, provided that the maintenance does not include crown reduction resulting in death or conversion of the oak resource.

Section IV. Temporary Moratorium on Removal of Protected Trees and Type Conversion of Oak Woodland.

This Urgency Ordinance establishes a temporary moratorium prohibiting the following:

- A. Any Removal of a Protected Tree greater than or equal to six inches (6”) in diameter at breast height (dbh).
- B. Any Type Conversion of Oak Woodland.

Section V. Applicability

This Ordinance applies to any and all properties within the unincorporated areas of Sonoma County, except for the Coastal Zone.

Section VI. Exceptions.

Notwithstanding anything contained in Chapters 25 and 26 of the Sonoma County Code to the contrary, the following activities are exempt from the requirements of this Urgency Ordinance:

- A. Evacuation Routes and Emergency Activities. A tree removed to maintain existing evacuation routes, or for emergency response purposes during a natural disaster.
- B. Immediate Danger. A tree in a hazardous condition which presents an immediate danger to health or property where trimming alone cannot reduce the hazard.
- C. Diseased. A tree or trees in a diseased or infected state as verified at a reasonable time either before or after the removal by the Director of the Permit and Resource Management Department, where removal of the tree will be beneficial to the plant community or will avoid developing a hazardous condition. If recommended by a County-approved tree consultant, adjacent healthy trees may also be removed in order to prevent or curtail the spread of pathogens and infectious diseases, such as sudden oak death.
- D. Utilities and Rights-of-Way. Trees which require maintenance or removal for the safe operation and maintenance of public rights-of-way, existing electrical power lines, communication lines, gas pipelines, or other property of a public agency or

utility, as determined by the public agency or utility, its employees, or designee(s).

- E. Trimming and Pruning. Trimming and pruning of no more than 30 percent of an individual tree's canopy, provided the trimming or pruning does not result in the death of a tree.
- F. Fire Safety.
 - i. Trees removed for compliance with fire safety laws and regulations, in connection with activities necessary to comply with local defensible space requirements, or if removal is required by an insurance company that insures an occupied dwelling or occupied structure in accordance with the California Public Resources Code and applicable state law.
 - ii. Trees removed for fuel management purposes.
- G. Existing or Previously Approved Development Permits or Land Use Entitlements. Any permit or entitlement that has been approved or determined to have a complete application by Sonoma County prior to the effective date of this Urgency Ordinance, regardless of whether it involves the Removal of Protected Trees or Type Conversion of Oak Woodland.
- H. Housing. Removal of Protected Trees as a result of the development of a by-right housing project located within an urban service area, or as a result of the development of projects with a significant component of multifamily housing.
- I. Timber Harvest: A tree removed in connection with a CalFire approved Timber Harvesting Plan or timber harvesting permit.
- J. Residential Maintenance: A tree removed in connection with activities necessary to maintain or protect an existing residential structure, provide for its heating, maintain or protect a septic system, or utilities connected to a residential structure.

Section VII. Department of Agriculture/Weights & Measures

For the duration of the moratorium, the Sonoma County Department of Agriculture/Weights & Measures shall not issue any permits under Chapter 36 of the Sonoma County Code that involve the Removal of a Protected Tree or Type Conversion of Oak Woodland.

Any permits issued pursuant to Chapter 36 prior to the effective date of this Urgency Ordinance shall not be subject to the prohibition of Removal of Protected Trees or Type Conversion of Oak Woodland, regardless of whether the permit authorizes the Removal of Protected Trees or Type Conversion of Oak Woodland.

Section VIII. Enforcement

A violation of this Urgency Ordinance is deemed to be a violation of Chapter 26 of the Sonoma County Code. In the event of a violation of this Urgency Ordinance or any requirement imposed pursuant to this Urgency Ordinance, the County may, in its discretion and in addition to all other remedies, take such enforcement action as is authorized under Chapter 26 of the Sonoma County Code and/or any other action authorized by law.

Section IX. Environmental Determination.

The Board of Supervisors finds and determines that this ordinance is exempt from the California Environmental Quality Act pursuant to Sections 15307 and 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment. The basis for this determination is that this ordinance establishes a temporary moratorium prohibiting actions that would remove Protected Trees or Oak Woodland and have an impact on the County's natural carbon sinks, associated habitat, and related natural resources. Protected Trees and Oak Woodland are an important part of the environment and would be further protected and preserved by this ordinance. This moratorium will not result in any significant adverse direct or indirect physical changes to the environment. This ordinance is further exempt from CEQA pursuant to State CEQA Guideline § 15061(b)(3) because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. The Director of the Permit and Resource Management Department is directed to file a notice of determination that this ordinance is exempt from CEQA and the State CEQA Guidelines.

Section X. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

Section XI. Effective Date.

This ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage and shall continue in effect until January 26, 2024, unless extended or terminated by subsequent action of the Board of Supervisors. This ordinance shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, passed this 23rd day of January, 2024, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Rabbitt: Coursey: Hopkins: Gore:

Ayes: Absent:

Noes: Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Christina Rivera,
Clerk of the Board of Supervisors