

## TREE PROTECTION ORDINANCE ATTACHMENT 2 EXHIBIT A

### SECTION 26-04-020 (P) DEFINITIONS

**Protected Perimeter.** A protected area surrounding a protected tree, the radius of which is at least 1.5 times the distance from trunk to outermost extent of canopy.

**Protected Tree.** A protected tree includes 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 ~~the~~ any natural hybrids of these tree species.

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### SECTION 26-88-080(M) TREE PROTECTION ORDINANCE

#### A. General Provisions.

1. Except as otherwise provided in this section 26-88-080(M), land uses shall be designed to avoid the destruction of protected trees.
2. Permit requirement. Unless otherwise provided by subsection B of section 26-88-080(M), a permit is required for protected tree removal, as follows:
  - a. Except as provided by subdivision 2.b, below, a ministerial zoning permit is required for removal of protected trees.
  - b. A use permit is required for the removal of redwoods with single stem d.b.h. exceeding 48" or oaks and other hardwoods with single stem d.b.h. exceeding 36".
3. A permit application for removal of protected trees shall:
  - a. Include a site plan that depicts the location of all protected trees greater than six inches (6") diameter at breast height (dbh) and their protected perimeter in areas that will be impacted by the proposed land use, such as the building envelopes, access roads, leach fields, etc.;
  - b. Specify the proposed plan for complying with subsection E of this section for mitigation, including a description of and all locations of proposed plantings; and
  - c. Include all other information that may be required on the application form or by the Director.
4. If protected tree greater than 6" diameter at breast height (dbh) are proposed for removal, the removal shall comply with subsection E of this section.
5. This section 26-88-080(M) shall not be applied in a manner that would reduce allowable density lower than that permitted by applicable state laws or regulations or by other county ordinances, or that would render a property undevelopable or uninhabitable. The Director may waive standards that are otherwise applicable to an application under this section upon findings that such waiver is necessary to comply with this subsection A.5.
6. Preemption. This section shall apply except to the extent preempted by state or federal law.
7. If this section 26-88-080(M) conflicts with another section of the County Code, then the section providing greater protection to protected trees shall apply.
8. Compliance with this section 26-88-080(M) does not alleviate the need to comply with all other local, state, or federal requirements that may be applicable to tree removal, including any prohibitions, permits, approvals, or authorizations required by local, state, or federal resource agencies.
9. The Permit and Resource Management Department and the Department of Agriculture are authorized to enforce this section 26-88-080(M).

#### B. Exemptions.

The following activities are exempt from section 26-88-080(M), including permit requirements and mitigations, unless otherwise stated in this subsection B, subdivisions 1 through 6.

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### 1. Health and Safety Exemptions.

- i. Fire Risk Reduction.
  1. Protected tree removal that is no more than necessary to comply with fire safety laws and regulations, including tree removal required to comply with state or local defensible space requirements, including Sonoma County Code Chapter 13A. and California Public Resources Code Section 4291.
  2. Protected tree removal that is no more than necessary to obtain or maintain property insurance coverage, when required by an insurance company that insures an occupied dwelling or occupied structure, and when in accordance with the requirements and restrictions of state law, including Public Resources Code section 4291.
  3. Fire risk reduction activities that may result in protected tree removal when the activity or tree removal is documented to be directed, ordered, overseen, recommended, or approved by the County, CAL FIRE, or other public agency. This includes prescribed or cultural burning projects. Nothing in this section is intended to modify the applicability of Section 26-02-070 of Chapter 26, related to applicability of Chapter 26 to governmental units.
  4. Fire risk reduction activities that may result in protected tree removal when the activity or tree removal is undertaken by the County, CAL FIRE, or other public agencies. This includes prescribed or cultural burning projects. Nothing in this section is intended to modify the applicability of Section 26-02-070 of Chapter 26, related to applicability of Chapter 26 to governmental units.
- ii. Emergency Operations. Protected tree removal or activities that may result in protected tree removal undertaken by public agencies during emergency operations or in post-disaster remediation. Nothing in this section is intended to modify the applicability of Section 26-02-070 of Chapter 26, related to applicability of Chapter 26 to governmental units.
- iii. Hazardous, Dead, Dying, or Diseased Trees.
  1. Removal of a hazardous, dead, dying, or diseased protected tree is exempt from section 26-8-080(M) if either of the following criteria are met:
    - a. The removal of the hazardous, dead, dying, or diseased protected tree occurs inside the defensible space zone of a structure, as defined by County

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Code Chapter 13A and state law applicable to defensible space; or

- b. The removal of the hazardous, dead, dying, or diseased protected tree occurs outside of the defensible space zone of a structure, and (1) the tree is within striking distance of a structure, (2) the tree creates a potential health and safety hazard due to the risk of the tree falling, and (3) the tree is structurally unstable, and the structural instability cannot be remedied.
2. Notwithstanding section 26-88-080(M) subsection A, subdivision 2(b), removal of a hazardous, dead, dying, or diseased protected tree that would otherwise require a use permit for tree removal, requires a ministerial zoning permit, and is otherwise exempt from subsection E, "Required mitigations for removal of protected trees," of section 26-88-080(M), if the following criteria are met:
  - a. The hazardous, dead, dying, or diseased tree is over 36" dbh;
  - b. Tree removal will occur outside of the defensible space zone of a structure as defined by County Code Chapter 13A and state law applicable to defensible space;
  - c. The permit application demonstrates that a certified arborist or Registered Professional Forester has determined that the tree removal is necessary to protect life or property from the threat of harm caused by the tree.
3. The removal of a hazardous, dead, dying, or diseased protected tree subject to a ministerial zoning permit is exempt from subsection E, "Required mitigations for removal of protected trees," of section 26-88-080(M), if the following criteria are met:
  - a. The permit application demonstrates that a certified arborist or Registered Professional Forester has determined that the tree removal is necessary to protect life or property from the threat of harm caused by the tree.
4. An application for a permit for removal of the hazardous, dead, dying or diseased trees required by Section 26-88-080(M) may be submitted within a reasonable time after

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hazardous tree removal, where immediate removal was necessary for public health or safety reasons.

5. The Director may waive standards that are otherwise applicable to a permit application for removal of a hazardous, dead, dying, or diseased protected tree, upon findings that such waiver is necessary to comply with subsection A. subdivision 5 of Section 26-88-080(M).
2. **Stewardship and Resource Management Exemption.** Removal of protected trees that are consistent with a County approved Oak Woodland Management Plan, or Forest Management Plan, Natural Communities Conservation Plan, Habitat Conservation Plan, Streamside Conservation Plan or similar conservation management plan as determined by the Director.
  3. **Forest Management Activities Exemption.** Removal of protected trees is exempt from the provisions of section 26-88-080(M) if it meets any of the following criteria:
    - i. Timber Harvest. The tree removal occurs as part of activities that are the subject of a valid timber harvesting permit approved by the state of California;
    - ii. Timber Management. The tree removal occurs as part of activities that meet the definition of Timber Management on RRD or TP zoned parcels; or
    - iii. Forestry Activities. The tree removal occurs as part of activities defined in California Public Resources Code Sections 750 through 781 as forestry conducted on forested landscapes overseen by a Registered Professional Forester.
  4. **Pest Control Exemption.** The protected tree removal occurs as part of selective vegetation removal that is part of an integrated pest management program administered by a state licensed Pest Control Advisor.
  5. **Maintenance of Existing Agricultural Crop Cultivation Areas Exemption.** Unless otherwise specified, the following are exempt from Chapter 26-88-080(M):
    - i. Removal of protected trees no more than necessary to maintain an existing cultivated agricultural crop area, as follows: (1) maintenance of existing access roads; (2) maintenance of drainage or drainage infrastructure; (3) maintenance of irrigation or irrigation infrastructure; (4) activities necessary to maintain commercial agricultural use of the existing agricultural crop cultivation area, including planting, seeding, fertilizing, weeding, tree trimming, and harvesting.
    - ii. Protected tree removal is not exempt from section 26-88-080(M) if it is for the expansion of existing cultivation areas or the establishment of new cultivation areas into land not used for commercial agricultural crop cultivation at the time this provision became effective, and no other exemption applies. .

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6. **Property Maintenance Exemption.** Unless otherwise specified, the following are exempt from Chapter 26-88-080(M):
- i. Residential maintenance activities. Protected tree removal no more than necessary for residential maintenance activities associated with a legally established residential structure or residential use, including maintenance of residential structures, fences, residential well and septic systems, and outdoor spaces used in conjunction with a residence, such as yards, gardens, and landscaping.
  - ii. Nuisance trees. Removal of a protected tree if it is or creates a nuisance. For the purpose of this exemption, nuisance means causing damage to improvements, such as but not limited to building foundations, retaining walls, roadways/driveways, patios, sidewalks and decks, pipes, utility conduits, or otherwise interfering with the operation, repair, replacement or maintenance of public or private utilities.
  - iii. Septic. Protected tree removal to allow an existing on-site sewage disposal system that poses a threat to human health or safety to be repaired or replaced, so long as no alternative option exists that would both cure the threat to human health and safety and avoid the protected tree removal.

- C. **Construction Standards.** Development permit applications proposing a project or activity involving disturbance on or within the protected perimeter of retained protected trees shall be subject to the following construction standards, unless the Director waives one or more standards and makes findings consistent with section 26-88-080(M), subsection A, subdivision 5:

1. Protected trees, their protected perimeter and whether they are to be retained or removed are to be clearly shown on all improvement plans. A note shall be placed on the improvement plans that "Construction is subject to requirements established by Sonoma County to protect certain trees."
2. Before the start of any clearing, excavation, construction or other work on the site, every tree designated for protection on the approved site plan shall be clearly delineated with a substantial barrier (steel posts and barbed wire, chain link fencing, orange construction fencing, or other exclusionary barrier) at the protected perimeter or limits established during the permit process. The delineation markers shall remain in place for the duration of all work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of brush, earth and other debris as to avoid injury to any protected tree.
3. Where proposed development or other site work must encroach upon the protected perimeter of a protected tree, special measures shall be incorporated to allow the roots to obtain oxygen, water and nutrients. Tree wells or other techniques may be used where advisable. No changes in existing ground level shall occur within the protected perimeter unless a drainage and aeration scheme

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approved by a certified arborist is utilized. No burning or use of equipment with an open flame shall occur near or within the protected perimeter (except for authorized controlled burns).

4. No storage or dumping of oil, gasoline, chemicals or other substances that may be harmful to trees shall occur within the protected perimeter of any tree, or any other location on the site from which such substances might enter the protected perimeter.
5. If any damage to a protected tree should occur during or as a result of work on the site, the county shall be promptly notified of such damage. If a protected tree is damaged so that it cannot be preserved in a healthy state, the planning director shall require replacement in accordance with the arboreal value chart. If on-site replacement is not feasible, the applicant shall pay the in-lieu fee to the tree replacement fund.

### **D. General Development Provisions.** Development permits shall adhere to the following.

1. Underground trenching for utilities shall avoid tree roots within the protected perimeter. If avoidance is impractical, tunnels should be made below major roots. If tunnels are impractical and cutting roots is required, it shall be done by hand-sawn cuts after hand digging trenches. Trenches shall be consolidated to serve as many units as possible.
2. Compaction within the protected perimeter shall be avoided.
3. Paving with either concrete or asphalt over the protected perimeter should be avoided. If paving over the protected perimeter cannot be avoided, affected trees shall be treated as removed for purposes of calculating arboreal values.
4. Wherever possible, septic systems and/or leachlines shall not be located on the uphill side of a protected tree.
5. An application for a development permit that proposes removal of one or more protected trees, or that would impact a protected tree, shall demonstrate that no feasible options are available to avoid removal or impacts to protected trees.
6. Security posted for the purpose of insuring the proper construction of public or private improvements shall also include an amount sufficient to secure any requirements imposed pursuant to this section. In addition, security for potential tree damage shall be twenty-five percent (25%) of the amount posted for planned tree replacement. In lieu fees shall be paid prior to recording any maps. Such security shall not be released until protection requirements, including planting replacement trees, and any long term maintenance requirements have been satisfactorily discharged. The initial bond amount may be reduced to cover only the maintenance and replacement of trees after construction is completed.
7. The Valley Oak-*Quercus lobata* shall receive special consideration in the design review and other discretionary permit processes to the extent that mature specimens shall be retained to the fullest extent feasible. Valley Oaks contribute greatly to Sonoma County's visual character, landscape, habitat, carbon sequestration and they provide important visual relief in urban settings. On existing parcels created without the benefit of an accompanying EIR,-review shall focus on

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the preservation of Valley Oaks to the fullest extent feasible. Where such preservation would render a lot unbuildable, partial protection with accompanying appropriate mitigations developed by a certified arborist shall be incorporated into the project design. In such cases where only partial protection can be achieved, full replacement in accordance with the arboreal value chart shall be required.

**E. Required mitigations for removal of protected trees.**

Unless otherwise exempt, the removal of protected trees is subject to required mitigation, which shall be provided through tree replacements or in-lieu payment, consistent with the options provided in this subsection E.

1. Option 1. Tree Replacement Using Arboreal Value Chart No. 1
2. Option 2. In-lieu Payment. Payment amount shall be determined using a methodology for tree replacement cost contained in the most recent version of “Guide for Plant Appraisal” published by the Council of Tree and Landscape Appraisers or an alternative methodology of common practice acceptable to the applicable decision maker issuing the permit. Appraisal of cost shall be conducted by a qualified professional certified or licensed to make such determinations.

**Arboreal Value Chart No. 1: To Be Used for Measuring Protected Trees Proposed for Removal**

EXPAND

d.b.h. <sup>[34]</sup> (inches)	Removed Trees	Weighted Value	Arboreal Value
6-12		1	
over 12-18		2	
over 18-24		3	
over 24-30		4	
Over 30-36		5	
over 36-42		6	
Weighted values for trees that exceed the preceding size classes shall be based on the same increment established in this table (i.e. one additional weighted value point			



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d.b.h. <sup>[34]</sup> (inches)	Removed Trees	Weighted Value	Arboreal Value
per 6" step in dbh.) For example, a tree with d.b.h. of over 48" to 54" shall have a weighted value of 8			

Total Arboreal Value \_\_\_\_

The arboreal value (the A.V.) is used to calculate the replacement number.

An applicant utilizing mitigation plantings shall (1) submit a plan that identifies the location of mitigation plantings on-site, off-site, or on a combination of on- and off-site locations; (2) submit a plan for any required monitoring of replacement plantings; and (3) where off-site mitigation plantings are planned, in whole or part, submit evidence acceptable to the Director that suitable on-site locations are not available. Where mitigation plantings are utilized, and off-site planting is permitted, off-site locations that are geographically close to the on-site location of tree removal are encouraged.

Arboreal Valuations. All trees to be replaced shall be the same native species as that removed unless specific approval has been granted by the planning director.

- 1 point A.V. = six 5-gallon trees (can be existing trees on site that are below 6" d.b.h. if preservation methods are part of a development permit)
- = two 15-gallon trees\*\*

\*\* The large trees must come from nurseries where they have been irrigated.

All mitigation plantings must have on-site irrigation to ensure their survival. Monitoring shall be required for a period of seven years to ensure that trees have survived. An annual report shall be prepared and submitted by the applicant to the Department identifying the status of mitigation plantings' survival. Any mortality that occurs during the reporting period shall be replaced.

In-lieu fees may be used to acquire and protect stands of native trees in preserves or place trees on public lands.

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### SECTION 26-65 RC RIPARIAN CORRIDOR COMBINING ZONE

#### Sec. 26-65-040. - Allowed land uses, activities and permit requirements.

The following activities and uses may be allowed within a streamside conservation area, if allowed by the base zone and any combining zones, subject to any required permits and the standards specified in this section. These activities and uses shall also be conducted and maintained in compliance with any prohibitions, permits, approvals, or authorizations required by applicable resource agencies.

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C. Invasive plant removal, such as, but not limited to, Himalayan blackberry (*Rubus armeniacus*), giant reed (*Arundo donax*), salt cedar (*Tamrix sp.*), and star thistle (*Centaurea solstitialis*), not exceeding five (5) acres in disturbed area, principally involving hand labor and not using mechanized equipment.

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O. Tree removal, subject to a zoning permit, to protect life or property from the threat of harm posed by a dead, dying, diseased, or damaged tree likely to die within one (1) year of the date proposed for removal, or a tree at risk of falling when the structural instability cannot be remedied. A report by a certified arborist or registered professional forester documenting the hazardous condition and a tree replacement plan is required. Tree removal shall be conducted in such a manner as to protect the functions and values of the riparian corridor. No stumps shall be removed, unless it can be demonstrated that stump removal would not result in erosion or sedimentation in the riparian corridor.

### SECTION 26-88-140 MINOR TIMBERLAND CONVERSIONS

- a. All minor timberland conversions shall require a use permit. Notice of the permit shall be mailed to all owners of real property as shown on the latest equalized assessment roll within three hundred feet (300') of the subject property and posted in at least three (3) public places on or near the subject property at least ten (10) days prior to issuance of the permit. The notice shall include an explanation of the procedure to appeal issuance of the permit. In addition to such other plans and data as are necessary to determine compliance with this chapter, the application for the permit shall be accompanied by all of the following...

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- e. All minor timberland conversions shall avoid damage to soils, residual trees, young growth, and other vegetation, and prevent erosion and damage to neighboring properties

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### SECTION 26-88-160 MAJOR TIMBERLAND CONVERSIONS

- b. Permitted Use, Zoning Districts. Except as otherwise provided in subsection (b) of this section, major timberland conversions shall be a use permitted with a use permit in the RRD and TP zoning districts, and a permitted use in all other zoning districts. Major timberland conversions may convert timberland to any permitted use or use permitted with a use permit in all zoning districts, except for the TP zoning district. In the TP zoning district, major timberland conversions may be undertaken only to convert timberland to a permitted use or use permitted with a use permit that does not significantly detract from the use of the property for, or inhibit, timber production.

...

- c. Application Requirements. The use permit application for a major timberland conversion shall include all of the information and materials required by Section 26-92-170, and the timberland conversion permit and timber harvesting plan approved by the California Department of Forestry and Fire Protection for the proposed major timberland conversion...