

**ORDINANCE NO. 4895**  
**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,**  
**STATE OF CALIFORNIA**

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**AN ORDINANCE AMENDING THE COUNTY ORDINANCE CODE, ARTICLE 7 –  
TREE & NATURAL RESOURCES PROTECTION OF THE SAN MATEO COUNTY  
ORDINANCE CODE, BY ADOPTING CHAPTER 8.400: PROTECTED TREE  
ORDINANCE AND RESCINDING IN THEIR ENTIRETY CHAPTER 8.400:  
SIGNIFICANT TREE REGULATIONS AND CHAPTER 8.404: HERITAGE TREE  
REGULATIONS.**

The Board of Supervisors of the County of San Mateo, State of California,  
**ORDAINS** as follows:

**SECTION 1**

**WHEREAS**, the Heritage Tree Ordinance and the Significant Tree Regulations were amended by the Board of Supervisors (Board) in October 2016 to address concerns raised regarding tree protection during construction, and to address public concern that penalties for unauthorized removal were too lenient and did not sufficiently deter the practice; and

**WHEREAS**, following the 2016 adoption of these amendments, the Board directed staff to continue its efforts to update County tree removal ordinances to address a broader range of concerns about tree protection and removal raised by members of the public, the Planning Commission, and the Board of Supervisors; and

**WHEREAS**, in September 2016, staff convened a steering committee (Committee) made up of a broad range of interests, experts, state and local agencies and County departments to prepare comprehensive amendments to the County's tree removal ordinances; and

**WHEREAS**, the Committee met eight (8) times to review different issue

areas and policy options, informing staff's efforts to draft a new combined tree protection ordinance, and the Committee garnered consensus that developing one tree protection ordinance was preferred over amending the two existing ordinances; and

**WHEREAS**, County staff, with the help of consultants, began to prepare the amendments in 2022, and during the process had further engagement with different stakeholders that included several community councils, local arborists, developers, and other County departments; and

**WHEREAS**, a draft of the ordinance was released for public review on June 23, 2024; and

**WHEREAS**, County staff and the consultants made three public presentations on the draft ordinance, one each at the Planning Commission (July 10th), one at the MidCoast Community Council (July 24th), and one at the North Fair Oaks Community Council (July 25th) in July of 2024; and

**WHEREAS**, staff has received numerous comments from the public and has revised the ordinance in response to some comments; and

**WHEREAS**, on September 11, 2024, the Planning Commission conducted a hearing on the proposed amendments and recommended that the Board of Supervisors adopt the ordinance, with an addition to expand the notification requirement to adjacent property owners from the proposed distance of 100 feet of the permit parcel up to within 300 feet under Section 8.400.140; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA), the County has determined that the Protected Tree Ordinance of San Mateo County Project (project) complies with the requirements for Categorical Exemptions covered under Article 19, sections 15307 (Class 7) and 15308 (Class

8) of the State CEQA Guidelines and released a Notice of Exemption (NOE) for the amendments to the County Ordinance Code, Article 7 – Tree & Natural Resources Protection, on August 27, 2024 ; and

## **SECTION 2**

**NOW THEREFORE**, the Board of Supervisors of the County of San Mateo, State of California, ordains as follows:

## **SECTION 3**

### **ARTICLE 7 - TREES & NATURAL RESOURCES PROTECTION**

#### **CHAPTER 8.400 - PROTECTED TREE ORDINANCE**

(Title 8, Article 7, Chapter 8.400 of the San Mateo County Ordinance Code)  
(Replaces entirely Chapter 8.400 Significant Tree Regulations & Chapter 8.404 Heritage Tree Regulations first adopted 4/5/77)

#### **8.400.010 - Findings, Purpose and Intent.**

The Board of Supervisors finds and declares that the existing and future trees and tree communities located within the County of San Mateo are a valuable and distinctive natural resource. The urbanized areas of the County are forested by many native and non-native trees and contain individual trees and communities of trees of great beauty. To foster the health and welfare of the residents of the County, these trees must be conserved in order to preserve the scenic beauty and habitat of the County, reduce erosion, flood hazards and risk of landslides, maintain plant, animal and human habitats, intercept pollutants in the air, preserve property values, reduce or treat stormwater pollutants and mitigate impacts of climate change. The Board of Supervisors finds that establishing regulations controlling the removal, replacement, and preservation of trees within the County will further the maintenance and advancement of these public benefits.

The Board of Supervisors finds and declares that the tree canopy in the County is considerably altered from natural conditions. This alteration resulted from historic extensive logging, land clearing, stream channelization, over grazing, grassland conversion, suburban and urban development, and other land management practices that contributed to considerable loss of indigenous trees and introduction of non-indigenous trees throughout the urbanized areas of the County. Preserving and planting indigenous trees in proper locations enhances wildlife habitat, mitigates climate change, increases biodiversity, conserves water, and improves watershed function.

It is the intent of the Board of Supervisors to regulate the removal of trees within the urbanized areas and certain developed rural areas of the County, preserve indigenous trees, maintain a healthy urban forest, and increase tree canopy as ecologically appropriate in certain urban areas of the County. The Board of Supervisors will

accomplish this intent through staff review of tree removal permit applications and the development review process. Consistent with these goals, it is the County's intent that removed trees shall be replaced, and over time, urban areas deficient in trees will have greater tree canopy, and that replacement trees are drought tolerant, fire resistant, and advance County goals.

**8.400.020 - Title.**

This ordinance shall be known as the "Protected Tree Ordinance."

**8.400.030 - Definitions.**

For the purposes of this ordinance, the following words shall have the meaning ascribed to them in this chapter.

1. ARBORIST REPORT means a professional report prepared by a certified arborist that meets the requirements outlined in the companion website to this ordinance.
2. BUILDING ENVELOPE means:
  - a. The areas of a lot remaining after the minimum yard and open space requirements of the zoning ordinance have been met.
  - b. The area within the exterior walls of a structure.
  - c. The area that is necessary for the construction of primary access to structures located on the parcel.
  - d. the vertical projection of a proposed building (walls, porches, roof, etc.)
3. BUILDING FOOTPRINT means the two-dimensional configuration of an existing or proposed building's perimeter boundaries as measured on a horizontal plane at ground level.
4. CANOPY means the total area of the tree or trees where the leaves and outermost branches extend, also known as the "dripline."
5. CERTIFIED OR CONSULTING ARBORIST means an individual in the profession of arboriculture who, through experience, education, and related training, possesses the competence to provide a tree report, risk assessment, tree survey or supervise the care and maintenance of trees; and who is certified by the International Society of Arboriculture, a member of the American Society of Consulting Arborists or an arboricultural professional approved by the Director of Planning and Building.
6. COMMUNITY OF TREES means a group of five or more indigenous trees on one parcel, each of the same species and greater than 6 inches DSH, or a group of trees which are ecologically or aesthetically related to each other such that loss of several of them would cause a significant ecological, aesthetic, or environmental impact in the immediate area, including any sensitive habitat or buffer zone as defined in the County General Plan.

7. COUNTY means the County of San Mateo acting by and through its authorized representatives.
8. DEAD TREE means a tree that is no longer alive or is in an advanced state of decline exhibiting an insufficient amount of seasonally appropriate live tissue (leaves, buds, twigs, bark) to sustain life (less than 10% natural vigor) as determined by a Certified or Consulting Arborist; or can otherwise be shown to be dead as determined by the Director of Planning and Building.
9. DEVELOPMENT means any work upon any property in the County requiring a discretionary or ministerial permit approval or issuance. Examples include (but are not limited to) subdivision, rezoning, variance, grading, landscaping subject to the California Water Efficient Landscape Ordinance, building permit, or other County approval. Specifically, to this Protected Tree Ordinance, Development refers to such work performed within a protected tree's Tree Protection Zone or any area that would affect a protected tree. In the Coastal Zone, development is further defined in Policy 1.2 of the County's Local Coastal Program.
10. DEFENSIBLE SPACE means the area around a legally permitted structure where dead, dry, or overgrown vegetation is removed to mitigate fire risk in State Responsible Areas (SRA) and Local Responsible Areas (LRA) of the County.
11. DEPARTMENT means the County of San Mateo Planning and Building Department.
12. DIAMETER means measurement of the trunk diameter. For the purpose of applying this definition, diameter shall be measured 4.5 feet (54 inches) above natural grade, also called diameter at standard height (DSH). Measurement of multi-trunk trees is determined by adding the largest stem diameter to one-half of the next two largest stem diameters, measured at 4.5 feet (54 inches) above natural grade.
13. DIRECTOR OF PLANNING AND BUILDING means the Director of Planning and Building of the County of San Mateo Planning and Building Department, including their authorized or designated representatives.
14. DRIPLINE area means the outermost circumference of the tree or trees' canopy, from which water drips onto the ground. The 'dripline area' is taken to include the soil and roots that lie within that circumference.
15. EFFECTIVELY REMOVE means actions that foreseeably lead to the death of a tree or permanent damage to its health. Effective removal actions include, but are not limited to:
  - a. Any extreme root or branch pruning that is not consistent with standard arboriculture practices for a healthy tree;
  - b. Removal of the bark around the circumference of the tree (girdling);
  - c. Compaction of soil within the dripline;

- d. Introduction of harmful chemicals;
  - e. Introduction of pests or disease;
  - f. Unauthorized relocation or transportation of a tree; and
  - g. Trenching, excavating, altering the grade, or paving within the tree protection zone
16. EMERGENCY means a sudden, serious, unexpected, and often dangerous situation requiring immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services. An emergency tree situation typically means a tree failure that is active and in progress, such as a broken but still attached branch; a partially uprooted tree; or a split fork or bifurcated main stem, that meets the “extreme” or “high” risk characteristics as defined by the International Society of Arboriculture.
17. HERITAGE TREE means a tree (or grouping of trees) specifically designated by action of the Board of Supervisors that possesses exceptional and unique size, age, horticultural significance, aesthetic, biological, cultural, or historic value, and is irreplaceable and expected to have a continuing contribution to the community.
18. HAZARD TREE means a tree that shows explicit and immediate danger to public safety and property, or is determined to be in the High or Extreme risk category by a Tree Risk Assessment Qualified (TRAQ) Certified Arborist. Hazard Trees may include dead or dying trees, dead parts of live trees, or unstable live trees (due to structural defects or other factors) that are within striking distance of a target (people, property, or infrastructure) and have the potential to cause death, injury, or substantial property damage if they fail.
19. INDIGENOUS TREE means any tree originating or occurring naturally in San Mateo County as enumerated in Table 3.1 in this ordinance.
20. MULTI-TRUNK TREE means a tree having more than one major supporting stem or trunk growing from a single root mass located at ground level or just above the trunk flare, capable of naturally exceeding ten feet in height at maturity. Multi-trunk tree does not include suckering growth or subordinate root sprouts.
21. PERSON means any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, or any other group or combination acting as a unit, or public agency, including the County and its departments.
22. PRIVATE PROPERTY means all property in unincorporated San Mateo County that is not owned by the County of San Mateo or any other public agency.
23. PROTECTED TREE means a tree regulated by the County of San Mateo as set forth in Section 8.400.060: Protected Trees, Section 8.400.060: Tree Removal and Tree Pruning in Specified Bayside Design Review Districts, and Section 8.400.240: Application and Designation of Heritage Trees.

24. PRUNING means the selective removal of plant parts to meet specific goals and objectives, including but not limited to: safety and risk reduction; clearance; growth control; and to enhance performance or function by developing and preserving tree structure and health or preserving or improving wildlife habitat.
25. PUBLIC PROPERTY means all property owned by the County of San Mateo, any other city, county, special district, or other public agency in the unincorporated area of San Mateo County.
26. PUBLIC NUISANCE means any tree or part thereof, growing in or overhanging a public street or right-of-way that interferes with the use of any public street or public place in the County. Or, any tree which, because of its location, diseased condition, or condition of its limbs, roots or trunk, endangers the life, health, safety, comfort or property of any persons using such public street or such public place, in the opinion of the Director of Planning and Building.
27. REMOVE means complete removal, such as cutting to the ground or extraction of a tree.
28. RURAL, or RURAL AREA means lands that are located outside the urban/rural boundary as identified by the San Mateo County General Plan or Local Coastal Program.
29. SCENIC CORRIDOR means any scenic road corridor identified in the County General Plan or Local Coastal Program.
30. SENSITIVE HABITAT means any area where the vegetative, water, fish and wildlife resources provide especially valuable and rare plant and animal habitats that can be easily disturbed or degraded. These areas include but are not limited to: (1) habitats containing or supporting rare or unique species; (2) riparian corridors; (3) marine and estuarine habitats; (4) wetlands; (5) sand dunes; (6) wildlife refuges, reserves, and scientific study areas; and (7) important nesting, feeding, breeding or spawning areas.
31. SEVERE PRUNING means topping or any other non-permitted extreme canopy or root pruning which does not meet the specific pruning goals and objectives as set forth in the current version of the American National Standards Institute (ANSI) A300-Part 1 Tree, Shrub and Other Woody Plant Management— Standard Practices, (Pruning).
32. SOLAR COLLECTOR means a fixed device, structure, or part of a device or structure, on the roof of a building, that is used primarily to transform solar energy into thermal, chemical, or electrical energy.
33. STREET means all or any portion of territory within the County set apart and designated for the use of the public as a thoroughfare for travel, including the sidewalks, curb, and gutter, and which is maintained by the County or State.
34. STREET TREE means a tree in a public right-of-way.

35. TARGET means any person, structure, or object capable of being damaged, injured, or killed by a failed tree or portion of a tree.
36. TOPPING means the practice of cutting back large diameter branches of a tree, including but not limited to cutting of a central leader, to some predetermined lower height to reduce the overall height of the tree, where the remaining buds, stubs or lateral branches are not large enough to assume a terminal role.
37. TREE means a woody perennial plant characterized by having a main stem or trunk, or a multi-stemmed trunk system, with a defined canopy, extensive subterranean roots, and generally reaches over ten feet in height at maturity.
38. TREE PROTECTION ZONE is an area where construction activities are prohibited or restricted to prevent injury to protected trees during pre-construction and construction and may include barriers such as fencing. The tree protection zone is the greater of the following:
- a. The area measured radially from the trunk that is 10 times the trunk diameter, or,
  - b. The tree's dripline.
39. TREE RISK RATING means the rating of tree risk as defined by the International Society of Arboriculture (ISA) Tree Risk Assessment Qualification (TRAQ) Tree Risk Rating Matrix, which categorizes risk as extreme, high, moderate or low, based on an assessment of the likelihood of failure and impact, and the consequences such failure and impact would have on life, property, utilities, or essential transportation systems.
40. TRUNK means the primary structural woody part of the tree beginning at and including the trunk flare and extending up into the crown from which scaffold branches grow.
41. TRUNK FLARE means the area at the base of the plant's trunk where it broadens to form roots and is the transition area between the root system and the trunk. The rapid increase in diameter that occurs at the confluence of trunk and root crown, associated with both stem and root tissue.
42. URBAN, or URBAN AREA means lands that are located within the urban/rural boundary as identified in the San Mateo County General Plan or Local Coastal Program.

**8.400.040 - Applicability.**

This ordinance shall apply to every property owner and to every Person responsible for removing, pruning, maintaining, or protecting a Protected Tree.

**8.400.050 - Limitations of Ordinance.**

None of the provisions in this ordinance may be construed to permit development otherwise disallowed by other County policies.



### 8.400.060 - Protected Trees.

The trees protected by this ordinance are:

1. Any tree 12.1 inches in diameter (38 inches circumference) or larger when measured 4.5 feet (54 inches) above natural grade. See Section 8.400.070 for Protected Trees in Specified Bayside Design Review Districts.
2. The following indigenous species shall be considered protected when they meet or exceed the minimum size as specified in Table 1:

<b>Table 1 Protected Indigenous Trees</b>		
<b>Botanical name</b>	<b>Common Name</b>	<b>Minimum Trunk Diameter (measured at 4.5 feet above natural ground height)</b>
<i>Acer macrophyllum</i>	Bigleaf Maple	10 inches
<i>Acer negundo</i>	California Box Elder	10 inches
<i>Alnus rhombifolia</i>	White Alder	Six inches or larger within riparian corridors
<i>Alnus rubra</i>	Red Alder	Six inches or larger within riparian corridors
<i>Arbutus menziesii</i>	Pacific madrone	10 inches
<i>Aesculus californica</i>	California Buckeye	10 inches
<i>Chrysolepis chrysophylla</i>	Golden Chinquapin	10 inches
<i>Fraxinus latifolia</i>	Oregon Ash	10 inches
<i>Hesperocyparis abramsiana</i>	Santa Cruz Cypress	10 inches
<i>Platanus racemosa</i>	California Sycamore	10 inches
<i>Populus fremontii</i>	Fremont Cottonwood	Six inches or larger within riparian corridors
<i>Pseudotsuga menziesii</i>	Douglas fir	18 inches
<i>Quercus agrifolia</i>	Coast live oak	10 inches
<i>Quercus chrysolepis</i>	Canyon live oak	10 inches
<i>Quercus douglasii</i>	Blue oak	10 inches
<i>Quercus parvula var. shrevei</i>	Shreve Oak	10 inches
<i>Quercus garryana</i>	Oregon white oak	Any Size
<i>Quercus kelloggii</i>	Black oak	10 inches
<i>Quercus lobata</i>	Valley oak	10 inches
<i>Quercus wislizenii</i>	Interior live oak	10 inches
<i>Salix lasiolepis, Salix laevigata, Salix lasiandra, Salix sitchensis</i>	Willow	Any size in riparian corridors; six inch or larger "trunks" outside riparian corridors
<i>Sequoia sempervirens</i>	Redwood	18 inches
<i>Torreya californica</i>	California nutmeg	10 inches

3. Heritage Trees designated by the Board of Supervisors.
4. Any tree that was required by the County to be planted as a replacement tree, or protected trees retained by the terms and conditions of a development application, building permit, subdivision approval, tree removal, or code enforcement action.
5. A community of trees.
6. Any tree designated for carbon sequestration and storage and/or environmental mitigation purposes as identified in a permit or agreement between the property owner and a responsible government agency, where the County is a party or a third party beneficiary, or recorded as a deed restriction.

#### **8.400.070 - Tree Removal and Tree Pruning in Specified Bayside Design Review Districts.**

In the following Bayside Design Review Districts, a Protected Tree is any tree that is 6 inches in diameter (19 inches circumference) or larger when measured 4.5 feet (54 inches) above the natural grade:

Emerald Lake Hills and Oak Knoll Manor (RH/DR Zoning Districts)

Palomar Park (R-1/S-91/DR and R-1/S-101/DR Zoning Districts)

Devonshire (R-1/S-71/DR and R-E/S-102/DR Zoning Districts)

In the Districts listed above, a Protected Tree Removal Permit or an Expedited Tree Removal permit shall be required for the removal of one or more Protected Trees in accordance with this ordinance, unless one of the Exemptions in Section 8.400.100: Permit Exemptions applies.

In the Districts listed above, a Protected Tree Pruning Permit shall be required for the pruning of Protected Indigenous Trees only, where the cut would result in the removal of a branch or cutting of the trunk which is 6 inches in diameter (19 inches in circumference) or greater at the point of the cut.

#### **8.400.080 - Tree Removal in The Resource Management (RM) and Timberland Preserve Zone (TPZ) Districts.**

In the RM and TPZ Districts, within any County or State Scenic Corridor as identified in the San Mateo County General Plan or Local Coastal Program, a Protected Tree Removal permit or an Expedited Tree Removal permit shall be required for the removal of one or more Protected Trees in accordance with this ordinance, unless one of the Exemptions in Section 8.400.100: Permit Exemptions applies.

In the RM and TPZ Districts outside of any County or State Scenic Corridor, no permit is required in accordance with this ordinance for the removal of one or more Protected Trees. An RM or TPZ Permit may be required when tree removal is proposed as part of a development project, when any tree 55 inches in circumference or larger is proposed for removal, or when tree removal constitutes major removal of vegetation pursuant to the RM and TPZ District Regulations.

**8.400.090 - Tree Removal in the Resource Management/Coastal Zone (RM/CZ), Planned Agricultural (PAD) and Timberland Preserve/Coastal Zone (TPZ/CZ) Districts.**

In the RM/CZ and PAD Districts located within the urban area of the Midcoast, or in the RM/CZ, PAD and TPZ/CZ Districts within any County or State Scenic Corridor as identified in the San Mateo County General Plan or Local Coastal Program, a Protected Tree Removal permit or an Expedited Tree Removal permit shall be required for the removal of one or more Protected Trees in accordance with this ordinance, unless one of the Exemptions in Section 8.400.100: Permit Exemptions applies.

In the RM/CZ and PAD Districts located outside the urban area of the Midcoast, or in the RM/CZ, PAD, or TPZ/CZ Districts outside any County or State Scenic Corridor, no permit is required in accordance with this ordinance for the removal of one or more Protected Trees. An RM/CZ, TPZ/CZ, PAD and/or a Coastal Development Permit may be required when tree removal is proposed as part of a development project, when any tree 55 inches in circumference or larger is proposed for removal, or when tree removal constitutes major removal or harvesting of vegetation other than for agricultural purposes, pursuant to the RM/CZ, PAD and TPZ/CZ and Coastal Development (CD) District Regulations.

**8.400.100 - Permit Exemptions.**

No permits shall be required under this ordinance in the following circumstances:

1. Tree removal carried out under the provisions of Parts One (Timber Harvesting Regulations of Division VIII of the San Mateo County Ordinance Code) or consistent with a permit issued by the California Department of Forestry and Fire Protection.
2. Emergency tree removal or pruning to remove a hazard to public safety and/or personal property as determined by the Director of Planning and Building, consistent with the requirements under Section 8.400.230: Emergencies.
3. Tree removal or pruning for forest health and fire prevention projects as part of a Public Works Program, as approved by the Coastal Commission.
4. Tree removal or pruning of tree species that present a significant fire risk to include only the following taxa: eucalyptus (*Eucalyptus* spp.), pines (*Pinus* spp.), acacia (*Acacia* spp.) tanoak (*Notholithocarpus densiflorus*) and bay laurel trees (*Umbellularia californica*). Tree trunk must be located within 100feet of any habitable structure, including structures on adjacent properties; or within 30 feet of a private or public road necessary for emergency evacuations. This exemption will not apply to these species if they are 38" DSH or larger.
5. Tree removal or pruning within the State Responsibility Area (SRA) or Local Responsibility Area (LRA) in a designated High or Very High Fire Hazard zone and identified by an Officer of the California Department of Forestry and Fire Protection, County Fire Marshal, or Local Fire Authority to provide defensible space for a legally permitted structure.

6. Tree removal or pruning carried out under the purview of the San Mateo County Parks Department within County Parks; the San Mateo County Department of Public Works in County rights-of-way or on other County property, or San Mateo County Project Development Unit on County property.
7. Tree removal or pruning by a California Public Utilities Commission licensed utility in order to maintain required clearance around power lines or pipelines.
8. Tree removal of a dead tree as defined in this ordinance.

#### **8.400.110 - Permits Required.**

Except as provided in Section 8.400.100: Permit Exemptions, a permit from the San Mateo County Planning and Building Department shall be required under this ordinance as follows:

1. A Protected Tree Removal permit shall be required to remove or effectively remove, one or more protected trees on public or private property or within a public or private right-of-way.<sup>1</sup> An Expedited Tree Removal permit- may instead be granted if the tree meets the conditions described in Section 8.400.130: Expedited Tree Removal Permits Requirements.
2. A Protected Tree Pruning Permit shall be required for
  - a. Tree pruning where the cut would result in the removal of a live branch (or trunk of a multi-trunk tree) that is 6 inches in diameter (19 inches circumference) or greater at the point of the cut for all Protected Indigenous Trees
  - b. Tree pruning of any oak tree (*Quercus* spp.) that is 30 inches in diameter (94 inches circumference) or greater in urban areas outside the Coastal Zone
  - c. Tree pruning of any Heritage Tree.
3. For requirements specific to Specified Bayside Design Review Districts, RM, RM/CZ, PAD, TPZ and TPZ/CZ Districts, refer to Sections 8.400.080 and 8.400.090.

#### **8.400.120 - Protected Tree Permit Application Requirement.**

Applications for Protected Tree Removal or Protected Tree Pruning permits shall include the following:

1. A completed tree removal or tree pruning application form provided by the Planning Department, signed by the property owner.
2. An arborist report, consistent with this ordinance and its companion document.

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<sup>1</sup> Tree removal within public or private rights-of-way may be subject to additional permitting or approvals including but not limited to an encroachment permit from the Department of Public Works.

3. Photographs of the tree(s) from multiple aspects and distances, annotated as necessary to indicate areas of disease, decay, or other characteristics that are the basis of the removal or pruning application.
4. For pruning permits, a written description of the proposed pruning, including objectives, pruning system, type of cuts, size of cuts, and location and amount of foliage to be removed should be specified to conform with the most recent ANSI A300 Part 1 and performed according to the most recent edition of the ISA Best Management Practice: Pruning publication. If required by the Director of Planning and Building, the written report shall be prepared by a certified or consulting arborist.
5. For subdivisions, grading, or development projects involving tree removal or pruning, on sites with existing trees to be preserved, an Existing Tree Plan and Tree Protection Plan, consistent with the requirements of Section 8.400.170: Tree Plan Requirements with Development Application and the companion document to this ordinance.
6. If structural damage to a building, major landscape feature, or appurtenance, including utilities is the basis for the request, a report from a licensed architect or engineer may also be required in addition to an arborist report. This additional report shall describe what modifications to buildings, structures, improvements, or utilities would be required to mitigate the damage(s) directly caused by the tree.
7. A Replacement Tree Replanting Plan pursuant to Section 8.400.160: Required Replacement Planting.
8. Any other pertinent information the Director of Planning and Building may require.
9. A fee as adopted by the Board of Supervisors.

#### **8.400.130 - Expedited Tree Removal Permit Requirements.**

An Expedited Tree Removal permit may be obtained instead of a Protected Tree Removal Permit pursuant to this section.

1. An Expedited Tree Removal Permit may be granted to remove the following trees:
  - a. *Acacia* spp.
  - b. Agricultural fruit or nut trees.
  - c. *Ailanthus altissima* (tree of heaven)
  - d. *Cupressus sempervirens* (Italian cypress)
  - e. *Eucalyptus* spp.
  - f. *Hesperocyparis macrocarpa* (Monterey cypress) outside of the Coastal Zone
  - g. *Ligustrum lucidum* (privet)

- h. *Liquidambar styraciflua* (sweetgum)
- i. *Northolithocarpus densiflorus* (tanoak)
- j. *Magnolia* spp.
- k. *Myoporum laetum* (Ngaio tree)
- l. *Olea* spp. (olive)
- m. *Pinus* spp. (pine)
- n. *Pyrus calleryana* (ornamental flowering pear)
- o. *Schinus* spp. (pepper tree)
- p. *Umbellularia californica* (bay laurel)
- q. All palms excluding *Phoenix canariensis* (Canary Island date palm)

A maximum of three trees within a one-year period may be authorized for expedited removal on a parcel. Removal of more than three trees in a one-year period requires a Protected Tree Removal permit.

2. Application for Expedited Tree Removal Permit. Applications for expedited tree removal permits shall include the following:
  - a. A completed tree removal application form provided by the Department, signed by the property owner.
  - b. Photographs of the tree(s) from multiple aspects and distances adequate to determine species and size.
  - c. Supplemental documentation as determined by the Director of Planning and Building.
  - d. A fee as adopted by the Board of Supervisors.
3. Action on Permit. Upon receipt of an Expedited Tree Removal Permit application, staff will review it to determine if the information required to take action is included and inform the applicant if additional information is required. The Director of Planning and Building will consider and take action on the complete application; no public notice or public hearing is required.
4. Replacement Replanting. Unless inappropriate due to existing tree canopy or site restrictions, permit approval shall be conditioned to require the planting of one or more replacement trees of a species selected from the County's Protected Tree Replacement Species List.

#### **8.400.140 - Processing of Protected Tree Permits.**

Applications for Protected Tree Removal or Protected Tree Pruning Permits shall be processed in the manner set forth below:

1. Notice of Application.
  - a. Upon receipt of a complete Protected Tree Removal or Pruning application and prior to decision, the Director of Planning and Building shall notice surrounding property owners within 300 feet of the parcel containing the tree that is subject of the application, and all other interested parties.
  - b. Upon receipt of a complete Protected Tree Removal or Pruning application and prior to decision, the applicant shall post a notice of application on a form provided by the Department in two conspicuous locations clearly visible to the public, preferably on the roadside or public street at eye level, on or close to the subject property indicating the date, a brief description of the application, the identification of the subject property, the address to which comments may be directed and from which further information may be obtained, and the final date for receipt of comments. The applicant shall indicate on the application his or her affidavit that this notice will be posted for at least ten (10) calendar days after the submission of the completed application. Trees proposed for removal shall be wrapped with yellow caution tape during the posting period to clarify which tree(s) is proposed for removal.
2. Application Review. Upon receipt of a complete Protected Tree Removal or Protected Tree Pruning application, the Director of Planning and Building shall review the application and, if necessary, inspect the site. The Director of Planning and Building may consult with other County departments or outside agencies at the Director's discretion. The Director of Planning and Building shall consider the information provided in the application, the site inspection and public comments, if any, and the criteria contained herein in deciding whether to approve, conditionally approve, or deny a permit.
3. Application Review Concurrent with Another Planning Permit. When a development application for any other planning permit or zoning approval, subdivision of land including a lot line adjustment, or grading approval is under consideration by the Director of Planning and Building, the determination on the Protected Tree Removal or Protected Tree Pruning Permit shall be made concurrently with the related development application by considering and applying the provisions of this ordinance, including any posting and noticing requirements and review criteria, and by making the required findings for permit approval in compliance with this ordinance.
4. Review Criteria. Upon receipt of a completed Protected Tree Removal or Protected Tree Pruning application, the Director of Planning and Building shall review each application using the following criteria to determine whether the findings listed in Section 8.400.150: Required Findings can be made.
  - a. **Tree Removal Without Development.** Protected trees shall not be

removed unless they are exempt from permitting as provided in Section 8.400.100: Permit Exemptions, or meet the findings found in Section 8.400.150: Required Findings.

- b. **Tree Removal With Development.** Protected trees shall not be removed unless they are exempt from permitting as provided in Section 8.400.100: Permit Exemptions, or meet the findings found in Section 8.400.150: Required Findings. Protected trees shall not be removed unless all applicable review criteria have been met, and the trunk flare of the protected tree is touching or within the proposed building footprint and cannot be preserved.
  - c. **Tree Removal and Subdivisions.** In connection with a proposed subdivision of land into two or more parcels, no protected tree shall be removed unless removal is unavoidable due to restricted emergency access to the property or deemed necessary to repair a geologic hazard (landslide, repairs, etc.). Tree preservation and protection measures for any lot that is created by a proposed subdivision of land shall comply with the regulations of this chapter and be included in the subdivision map conditions.
  - d. **Scenic Corridors.** Tree removal in County or State Scenic Corridors, shall be avoided. Any authorized tree removal within a scenic corridor must be consistent with the applicable General Plan, Local Coastal Program, Zoning, and Design Review policies, this Chapter, and other applicable policies addressing scenic corridors. Tree removals in Scenic Corridors shall not substantially detract from the scenic and visual quality of the County; or will not substantially detract from the natural characteristics of existing major water courses, established and mature trees and other woody vegetation, dominant vegetative communities or primary wildlife habitats. Selective clearing of vegetation which allows the display of important public views, or vegetation removal to facilitate fuel reduction efforts for defensible space or line of sight improvements may be permitted. Clear cutting or removal of existing vegetation from rights-of-way is prohibited, except in those areas required for road and shoulder alignment, or as required for reasons of safety.
  - e. **Sensitive Habitats.** The removal of Protected Trees and Protected Indigenous Trees within sensitive habitats, shall not be permitted. All tree work conducted in sensitive habitats must be consistent with the County of San Mateo's Habitat Conservation Plans, Local Coastal Program Policies, as well as all local, state, and federal policies.
  - f. **Solar Shade Control.** Tree pruning and removals associated with access to sunlight for solar energy collectors must comply with California Public Resources Code §25980, the California Solar Shade Control Act.
5. Notice of Decision. The Director of Planning and Building shall determine based on the information provided in the application, the site inspection and public comments, if any, and the criteria contained herein in deciding whether to approve, conditionally approve, or deny a permit. Whenever any action is taken



on a Protected Tree Removal or Pruning permit, the Director of Planning and Building shall provide the applicant with a written statement indicating said action, conditions imposed, and the findings made in taking such action.

#### **8.400.150 - Required Findings for Permit Approval.**

The Director of Planning and Building shall approve a Protected Tree Removal Permit Or Pruning Permit only after determining that the relevant findings based on the applicable Review Criteria can be made.

#### **1. Tree Pruning**

- a. The proposed pruning complies with the Migratory Bird Treaty Act (16 U.S.C. § 703 et seq.) and the California Fish and Game Code (§ 3513). Specifically, the project will avoid any actions that could result in the 'take' of migratory birds, their nests, or eggs.
- b. The proposed pruning adheres to established arboricultural standards and best practices, ensuring that the health and structural integrity of the trees will be maintained.
- c. The objective of the proposed pruning is to manage meets a defined objective, as outlined in ANSI A300:
  - i. Manage risk
  - ii. Manage health
  - iii. Develop Structure
  - iv. Provide Clearance
  - v. Manage size or Shape
  - vi. Improve aesthetics
- d. Pruning to remove a limb hazard which does not require full tree removal:
  - i. Pruning does not remove more than 1/3 of tree canopy.

#### **2. Tree Removal Without Development or in Scenic Corridors.** Two or more of the following findings must be made.

- a. The proposed removal complies with the Migratory Bird Treaty Act (16 U.S.C. § 703 et seq.) and the California Fish and Game Code (§ 3513). Specifically, the project will avoid any actions that could result in the 'take' of migratory birds, their nests, or eggs.
- b. The tree is in severe decline and diseased, or remedial treatments or corrective practices that would facilitate saving the tree are not feasible, as determined by the arborist report.
- c. The tree is a Hazard Tree or otherwise a public nuisance which cannot be corrected through remedial measures.

- d. The tree is suppressing or is suppressed by the growth and development of an adjacent protected tree of higher value, and removal of the tree will create improved growing conditions for the suppressed tree(s) to thrive.
  - e. The tree is causing damage to existing infrastructure (including foundation, driveway or eaves) of a residence, commercial, or accessory structure and there are no reasonable solutions adapt or relocate the infrastructure to accommodate for the tree.
  - f. The tree has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation or repair of the utility service or the pruning of the root or branch structure of the tree; or where removal or pruning is required by a public utility to comply with California Public Utility Commission (CPUC) or Federal Energy Regulatory Commission (FERC) rules or regulations.
  - g. The removal of the tree is necessary to repair a geologic hazard.
3. **Tree Removal with Development or Subdivisions.** Findings a-e must be made, and at least two of findings f-k must be made.
- a. The proposed removal complies with the Migratory Bird Treaty Act (16 U.S.C. § 703 et seq.) and the California Fish and Game Code (§ 3513). Specifically, the project will avoid any actions that could result in the 'take' of migratory birds, their nests, or eggs.
  - b. The removal proposal includes a tree replacement planting proposal that conforms to the replanting requirements of this ordinance.
  - c. There is no feasible alternative building site on the parcel for or configuration of a house, commercial structure, parking lot, driveway, or accessory dwelling unit that enables preservation of the tree. The applicant has maximized redesign opportunities to avoid or minimize tree removal, and trees and other vegetative land cover are proposed for removal only where necessary for the construction of structures or necessary paved areas. Denial of authorization to remove a tree in this case would cause a violation of a state housing law.
  - d. In the case of Single-Family development, the retention of the protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent, or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the Director of Planning and Building that there are no reasonable alternatives to preserve the tree, or that such alternatives would have the effect of authorizing permanent structures not compatible or harmonious with other development in the vicinity.

- e. No more than 50% of the property's tree canopy would be lost<sup>2</sup>.
- f. The tree is in severe decline and diseased, or remedial treatments or corrective practices that would facilitate saving the tree are not feasible, as determined by the arborist report.
- g. The tree is a Hazard Tree or otherwise a public nuisance which cannot be corrected through remedial measures.
- h. The tree is suppressing or is suppressed by the growth and development of an adjacent protected tree of higher value, and removal of the tree will create improved growing conditions for the suppressed tree(s) to thrive.
- i. The tree is causing damage to existing infrastructure (including foundation, driveway or eaves) of a residence, commercial, or accessory structure and there are no reasonable solutions adapt or relocate the infrastructure to accommodate for the tree.
- j. The tree has, or will imminently, interfere with utility services where such interference cannot be controlled or remedied through reasonable modification, relocation or repair of the utility service or the pruning of the root or branch structure of the tree; or where removal or pruning is required by a public utility to comply with California Public Utility Commission (CPUC) or Federal Energy Regulatory Commission (FERC) rules or regulations.
- k. The removal of the tree is necessary to repair a geologic hazard.

**8.400.160 - Required Replacement Planting**

- 1. **Number and Species of Replacement Tree(s) Required.** All Protected Tree Removal Permits shall require the planting of one or more replacement trees as a condition of approval, consistent with the following standards:
  - a. One (1) or more replacement trees, shall be planted on the subject private property. The number of replacement trees required shall be as prescribed in Table 2 Tree Replacement Standard.

<b>Table 2 - Tree Replacement Standard</b>		
<b>Canopy Size of Removed Tree <sup>1</sup></b>	<b>Replacement Requirement</b>	<b>Replacement Requirement with Development</b>
Up to 25 feet	One 15-gallon tree (1.5-inch caliper)	One 24-inch box tree (2-inch caliper)
25 feet to 40 feet	Two 15-gallon trees (1.5-inch caliper)	Two 24-inch box trees (2-inch caliper)

<sup>2</sup> If a project design complies with all objective standards applicable to the development of the property but would result in removal of more than 50% of the tree canopy, the project applicant must demonstrate that the loss of tree canopy has been minimized to the fullest feasible extent, and that a design that preserves more than 50% of the tree canopy would result in a structure inconsistent with the prevailing pattern of development in the vicinity. A project may not be found to minimize the loss of tree canopy to the fullest feasible extent if tree removals result from inclusion of new impermeable surfaces, swimming pools, or any accessory structures other than required covered parking or Accessory Dwelling Units where permitted.

More than 40 feet	Three 24-inch box trees (2-inch caliper); or Two 36-inch box trees (2.5-inch caliper)	Three 24-inch box trees (2-inch caliper); or Two 36-inch box trees (2.5-inch caliper)
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*Notes:*

1. *For an asymmetrical tree canopy, the widest measurement shall be used to determine canopy size.*
- b. The Replacement Tree(s) shall be a species selected from the County's Protected Tree Replacement Species List, suited to the available planting location, proximity to structures, overhead clearances, soil type, compatibility with surrounding canopy, and other relevant factors.
- c. Removed Protected Indigenous trees shall be replaced with the same species unless the Director of Planning and Building determines that another indigenous or other tree species is more appropriate. Considerations for non-indigenous tree replacement shall include the site's carrying capacity for additional trees, risk of known or potential future pest and disease threats, an indigenous replacement tree that would threaten the health and safety of the property owner or immediate neighbors. If the tree removed is infested or diseased, then trees not susceptible to the disease or pest should be planted.
- d. Trees listed in Section 8.400.130: Expedited Tree Removal Permit Requirements, may not be planted as replacement plantings anywhere in the County.

**2. Replacement Tree Planting and Maintenance Requirements.** Replacement tree planting shall be specified in writing in accordance with the most recent version of the ANSI A300 (Part 6) Planting and Transplanting standard and trees installed as described in the most recent edition of the ISA Best Management Practices: Tree Planting and Transplanting. The subject property owner shall pay the cost of purchasing, planting, and maintaining the required replacement trees, which shall be consistent with the following specifications:

- a. All replacement trees shall be maintained for a period of three (3) years, unless otherwise prescribed as described in the arborist report and tree removal permit conditions. If any replacement tree dies or is removed at any time, the landowner shall replace the lost tree(s) at their own expense. The maintenance period will be automatically extended for a period of three (3) additional years for any replacement trees that are replaced due to death or unauthorized removal.
- b. Where no existing water system is available on the parcel, supplemental watering such as water imported by tank, tree watering bags, or saplings planted with biodegradable watering reservoirs, will be required to ensure tree survival.
- c. Postponing the planting of replacement trees can be approved by the Director of Planning and Building, if such postponement does not exceed 9

months, and would increase the survival rate of the replacement tree(s).

3. **Fees In-lieu of Replanting.** In cases where replacing the tree(s) is inappropriate due to existing tree canopy or site restrictions, in-lieu replacement fees will be required.
  - a. An in-lieu payment for each tree removed and not replaced onsite, in the amount of \$3,345.00, shall be paid to the County Tree Replacement Fund, used to add or replace trees on public or private property in the vicinity of the subject property on other County-owned or private property; or to support the County's urban forestry management program.

#### **8.400.170 - Tree Plan Requirements with Development Application.**

1. Applicants seeking Planning or Building permits as part of a development application (including but not limited to Use, Design Review, Grading or Demolition permits) shall also submit an Existing Tree Plan and a Tree Protection Plan, where proposed construction has the potential to impact protected tree(s). These plans must be consistent with a site survey (if said survey is required by the associated Planning or Building Permit and was prepared by a licensed Surveyor or registered Civil Engineer), drawn to scale, and prepared by a certified arborist to assess tree impacts associated with proposed demolition or development. Both plans will establish tree protection measures for demolition or development that must be implemented throughout the duration of the proposed project.
2. Any damage to a protected tree shall require the immediate attention of a certified arborist to determine the extent of the damage and to determine if replacement trees will be required.
3. In instances where development is proposed in the tree protection zone of protected tree(s) to be preserved, the Existing Tree Plan and Tree Protection Plan shall be reviewed by the Director of Planning and Building. The Director shall make a field visit to the property and indicate in writing which trees are recommended for preservation. The review will be conducted using the Review Criteria (Section 8.400.140: Processing of Protected Tree Permits). These plans shall be included for the new property development applications, and made part of the staff report to the Director of Planning and Building for its consideration.

#### **8.400.180 - Conditions of Approval.**

In granting any permit as provided herein, the Director of Planning and Building may attach reasonable conditions to ensure compliance with the intent and purpose of this ordinance including, but not limited to:

1. Use of measures to effect erosion control, soil and water retention and diversion or control of increased flow of surface waters.
2. Use of measures to ensure that the contemplated action will not have adverse environmental effects relating to sensitive habitats, protected wildlife, shade, noise buffers, wind protection, air pollution, and historic features. In the event an active nest is found, this may include the postponement of activities until nests are no

longer active.

3. Other conditions as necessary to implement the provisions of this ordinance, including Replacement Planting per Section 8.400.160: Required Replacement Planting.
4. The tree removal will not have adverse effects on erosion, soil retention, water retention, and diversion or increased flow of surface water.
5. The tree proposed for removal is not in a sensitive habitat as defined in the County's General Plan, Local Coastal Program, or Habitat Conservation Plans.

#### **8.400.190 - Expiration of Permit.**

If work authorized by an approved Protected Tree Removal or Pruning Permit or an Expedited Tree Removal Permit is not commenced within a period of one (1) year from the date of approval, the permit shall be considered void. If the permit requires an extension, a written request and payment of permit extension fees may be submitted to the Director of Planning and Building. If a permit granted under this ordinance is processed concurrently with another planning permit that has a later expiration date, the later expiration date may apply, including any extension granted for other permits.

#### **8.400.200 - Appeals.**

The applicant or any other person who is aggrieved by the permit decision by the Director of Planning and Building as authorized by this ordinance, may appeal in the manner set forth below. Expedited Tree Removal Permits and Protected Tree Pruning Permits issued pursuant to this ordinance may not be appealed. A statement by the appellant shall be required indicating how the appellant is aggrieved or adversely affected by the decision.

1. The permit decision by the Director of Planning and Building may be appealed to the Planning Commission by filing a written notice of appeal with the Department and paying an appeal fee as set by the Board of Supervisors within ten (10) business days of the issuance or denial of the subject permit. The Planning Commission shall hear such appeal in a timely manner. The Planning Commission shall render a decision on the appeal within fifteen (15) calendar days of the public hearing. The action taken by the Planning Commission shall be reported to the affected parties.
2. The appeal decision by the Planning Commission may be appealed to the Board of Supervisors by filing a written notice of appeal with the Department and paying an appeal fee as set by the Board of Supervisors within (10) business days from the decision of the Planning Commission. The Board of Supervisors shall hear such appeal in a timely manner and render a decision within fifteen (15) calendar days following such hearing. The decision of the Board of Supervisors shall be final. The action taken by the Board of Supervisors shall be reported to the affected parties.

#### **8.400.210 - Permit Posting During Tree Removal.**

The approved Protected Tree Removal Permit, Protected Tree Pruning Permit or Expedited Tree Removal Permit shall be posted on the site at all times immediately

prior to and during the tree removal or pruning operation and shall be available to any person for inspection. The issued permit shall be posted in a conspicuous place at eye level at a point nearest the street. The posted permit shall be removed once the approved tree removal or pruning has been completed.

#### **8.400.220 - Permission to Enter Proposed Permit Area.**

Filing of an application for any permits required by this ordinance shall constitute a grant of permission for County personnel concerned with administering this ordinance to enter the subject permit area during normal working hours from the date of application to the completion of any approved action for the purpose of inspecting said area for compliance with these rules and applicable law. Such right of entry shall be granted by the landowner through the duration of the required three (3) year maintenance period of the replacement tree.

#### **8.400.230 - Emergencies.**

Pursuant to this section the Director of Planning and Building determines when an emergency exists, based on information provided by the property owner or applicant. A protected tree may be removed or severely pruned without a prior permit where it presents an imminent danger to life, property, utilities, or essential transportation systems, or a tree risk rating of High or Extreme is present, as assessed by an ISA Tree Risk Assessment Qualified Arborist (TRAQ). In such event, the property owner or applicant shall be responsible for the following:

1. Notify the Director of Planning and Building during business hours, or the County Sheriff's Department if after business hours of the proposed emergency action, including removal or severe pruning, based on the tree risk assessment of a TRAQ certified arborist.
2. Documentation: Photo documentation shall be taken of the subject tree and emergency situation if it is safe to do so. No later than 72 hours after the emergency action has been taken, the property owner shall submit photo documentation and written verification prepared by a TRAQ-certified arborist to the Director of Planning and Building confirming the emergency condition and describing the action taken. Insurance claim and other relevant information shall be included.
3. If documentation is not submitted, or the Director of Planning and Building determines that the condition was not reasonably determined to have been an emergency requiring immediate action, the tree removal may be treated as a violation of this ordinance.
4. Replacement trees, in accordance with Section 8.400.160: Required Replacement Planting of this ordinance shall be required.

#### **8.400.240 - Application and Designation of Heritage Trees.**

Upon nomination by any person and with the written consent of the property owner(s), the Board of Supervisors may designate a tree or trees as Heritage Tree(s). Plants listed by the California Invasive Plant Council as Invasive Species are not eligible for designation.

1. **Application for Designation of Heritage Tree(s).** Applications for Heritage Tree designation shall include the following:
  - a. A completed Heritage Tree Designation form provided by the Department, signed by the property owner.
  - b. Photographs of the tree(s) from multiple aspects and distances.
  - c. Documentation supporting the findings for designation.
  - d. Any other pertinent information the Director of Planning and Building may require.
  - e. A fee as adopted by the Board of Supervisors.

Upon receipt of a complete application, the Director of Planning and Building may inspect the tree. The Director of Planning and Building shall notice the surrounding property owners within 300 feet of the lot containing the tree that is subject of the application and interested parties.

2. **Action on Designation.** Action on Heritage Tree designation shall be made by the Board of Supervisors. A tree may be designated upon a finding that it is unique and of importance to the community due to any of the following factors:
  - a. It is an outstanding specimen of a desirable species.
  - b. It is one of the largest or oldest trees in unincorporated San Mateo County.
  - c. It possesses exceptional and unique form, size, age, horticultural, aesthetic, biological, cultural, location, and/or historical significance.
  - d. It meets the definition of Heritage Tree consistent with Section 8.400.240 in that it possesses exceptional and unique size, age, horticultural significance, aesthetic, biological, cultural, or historic value, and is irreplaceable and expected to have a continuing contribution to the community.

After Board of Supervisors approval of a Heritage Tree designation, the Director of Planning and Building shall notify the property owner(s) of the designation in writing. A listing of trees designated as Heritage, including the specific locations, shall be kept by the Department. Once designated, a Heritage Tree shall be considered protected and subject to the provisions of this ordinance.

3. **Deed Restriction and Covenant.** Following Board of Supervisors approval, the issuance of the designation shall be complete and in effect upon recordation of a deed restriction and covenant.
4. **Removal of Designation.** A Heritage Tree(s) may have the designation removed if the tree(s) die or are removed pursuant to this ordinance, based upon a finding that it is appropriate and necessary to delist including lack of structural capacity,



declining vigor, disease causing mortality, death, or hazard as determined by the County Arborist. The County shall record a document extinguishing the covenant.

#### **8.400.250 – Violations: Cease and Desist. Remediations of Unlawful Tree Removal.**

If the Director of Planning and Building, Building Official, any Code Compliance Officer, officer of the San Mateo County Sheriff's Department, or any other peace officer find any tree pruning or removal activity for which a permit under this ordinance is required but not issued, or the tree pruning or removal is not in substantial compliance with an issued permit or the plans and specifications relating thereto, an order to cease work shall be issued.

No further grading, construction, tree pruning, or removal may be done except upon approval of the Director of Planning and Building. Conditions may be imposed as necessary to protect the health, safety, and welfare of the public, including the condition that corrective work be done within a designated time in accordance with the provisions of this ordinance, or as may be provided by law in Division VI (Zoning Regulations), San Mateo County Ordinance Code.

In the event the Director of Planning and Building determines that one or more protected trees have been removed, effectively removed, or pruned, without the required permit or permits, the following additional requirements shall be imposed:

1. In the case of a violation during development of a property:
  - a. A stop work notice may be issued on all construction of any kind on the property to remain in effect until the remaining requirements of this section are satisfied.
  - b. The owner of the affected property, or their representative, shall be required to submit a mitigation plan for review and approval by the Director of Planning and Building. The mitigation plan shall include:
    - (1) New or revised arborist report for the damaged and/or affected tree(s)
    - (2) Measures for protection of any remaining trees on the property.
    - (3) Replacement plan for each tree removed or effectively removed.
    - (4) Size, quantity, and species of replacement tree(s) shall be at the discretion of the Director of Planning and Building and shall be commensurate with the size and species of tree(s) removed.
    - (5) Replacement shall occur on the subject parcel or at a location approved by the Director of Planning and Building.
  - c. The stop work notice shall remain in effect, and no construction shall be allowed on the affected property, until such time as the Director of Planning and Building has determined that the above described mitigation plan has been approved and fully implemented, up to and including (1) installation of

all replacement planting, (2) the payment of all fees cited below under Section 8.400.260: Penalties for Infraction, (3) the submittal of a non-revocable bond, made payable to the County of San Mateo, for the long-term maintenance of the replacement tree(s), if required by the Director of Planning and Building.

2. If a violation of this ordinance occurs in the absence of development or while an application for a building permit or discretionary development approval is pending:
  - a. The Director of Planning and Building may issue a temporary moratorium on development of the subject property, not to exceed eighteen (18) months from the date the violation occurred. The purpose of the moratorium is to provide the County an opportunity to study and determine appropriate mitigation measures for the tree removal, and to ensure that measures are incorporated into any future development approvals for the property.
  - b. A Mitigation Plan as described above, shall be submitted by the property owner and reviewed by the Director of Planning and Building.
  - c. The moratorium shall remain in effect, and no construction shall be allowed on the affected property, until such time as the Director of Planning and Building has determined that the above described mitigation plan has been approved and fully implemented, up to and including (1) installation of all replacement planting, (2) the payment of all fees cited below under Section 8.400.260: Penalties for Infraction, (3) the submittal of a non-revocable bond, made payable to the County of San Mateo, for the long-term maintenance of the replacement tree(s), if required by the Director of Planning and Building.

**8.400.260 - Penalties for Infraction.**

Any person who violates the provisions of this ordinance, including property owners and persons performing tree removal or pruning activities, shall be subject to a penalty fine, as follows:

<b>Table 3: Penalties for Infraction</b>			
<b>Incidence of Violation</b>	<b>Cumulative inches of DSH removal</b>		
	<b>DSH 12"- 24"</b>	<b>DSH 25"- 48"</b>	<b>DSH &gt;48"</b>
<b>First violation</b>	\$1,500	\$4,500	7,500
<b>Second violation</b>	\$4,500	\$10,500	\$18,000
<b>Third violation</b>	\$7,500	\$15,000	\$22,500

The above cited fines shall be served on the record owner of the subject property. Additionally, the above cited fines may be served on the person(s) performing the tree removal or pruning, if different than the owner of record. For the purposes of this Section, each single tree being cut without a permit shall constitute a separate infraction, and the resulting fine shall be cumulative. The Director of Planning and

Building may reduce the fines only under extraordinary circumstances where the required fine would be excessive.

#### **8.400.270 - Cumulative Remedies.**

The remedies for violations set forth in this Chapter can be enforced separately or cumulatively. These remedies shall be in addition to any other remedies available at law or equity. Nothing in this chapter shall prevent the County from using one or more other remedies to address violations, whether those remedies are administrative, civil or criminal."

#### **8.400.280 - Recordation of Notice of Violation.**

A notice of violation may be recorded in the Office of the County Recorder for non-compliance with the provisions of this ordinance. The Director of Planning and Building shall notify, by certified mail, the owner of the affected real property and any other known party responsible for the violation of the recordation. If the property owner or other responsible party disagrees with the County's determination that the tree removal violates this ordinance, proof may be submitted to the Director of Planning and Building, including documentation in an arborist report that a Protected Tree Removal or Protected Tree Pruning Permit is not required. If the Director of Planning and Building determines that a tree removal or pruning permit is required, the property owner and/or party responsible for the tree cutting work shall apply for the necessary tree removal or pruning permit within a specified period set by the Director of Planning and Building.

#### **8.400.290 - Notice of Expungement.**

A notice of expungement of the notice of violation shall be recorded with the Office of the County Recorder when or more of the following conditions are met:

1. The Director of Planning and Building determines that a Protected Tree Removal Permit or Protected Tree Pruning Permit is not required; or
2. All permit conditions have been met including those conditions imposed as part of project review under any other provisions of the San Mateo County Ordinance Code for the parcel affected by the notice of violation.
3. All fines have been paid and mitigation measures required under this ordinance have been implemented.

The meeting of any long-term conditions, such as maintenance of replacement plantings, may be guaranteed by a surety deposit to run with the land, and the term shall not be imposed as a demand for meeting expungement requirements.

### **SECTION 4.**

If any portion of this ordinance is for any reason held by any court to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof nor other applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**SECTION 5.**

This ordinance shall take effect thirty (30) days from the passage date thereof, except in the County's Coastal Zone, where it shall be effective immediately upon certification by the California Coastal Commission.

\* \* \* \* \*

*Regularly passed and adopted this 22<sup>nd</sup> day of October, 2024*

*AYES and in favor of said ordinance:*

*Supervisors:* DAVE PINE

NOELIA CORZO

RAY MUELLER

DAVID J. CANEPA

*NOES and against said ordinance:*

*Supervisors:* NONE

*Absent Supervisor:* WARREN SLOCUM

*Vice President, Board of Supervisors  
County of San Mateo  
State of California*

*Certificate of Delivery*

*I certify that a copy of the original ordinance filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.*

*Assistant Clerk of the Board of Supervisors*