

ORDINANCE NO. .

COUNTY OF SAN MATEO
PLANNING AND BUILDING DIVISION
(Excerpt from the San Mateo County Ordinance Code)

**REGULATIONS FOR THE PRESERVATION, PROTECTION, REMOVAL AND
TRIMMING OF HERITAGE TREES
ON PUBLIC AND PRIVATE PROPERTY**
(Amending Ordinance No. 2427 - April 5, 1977)

CHAPTER 1. PURPOSE, FINDINGS, INTENT, AND POLICY

SECTION 11,000. The Board of Supervisors finds and declares that the County of San Mateo is an area of great natural beauty and that its outstanding heritage tree population has been and continued to be an invaluable asset in contributing to the economic, environmental, and aesthetic stability of the County and the welfare of its people and of future generations. The County is a highly desirable residential, business, and recreational area because of its great scenic beauty, its forests, trees and beaches, mountains, proximity to the San Francisco Bay and the Pacific Ocean, its equable climate, its parks and recreational areas, and other natural characteristics. Irresponsible, wanton, and wholesale destruction of heritage trees could, among other things, diminish such beauty, scientific and historical values, adversely affect the environment, reduce property values, detract from scenic highways, and destroy the County's recreational economy.

SECTION 11,001. The Board of Supervisors further finds and declares that it has already passed legislation to regulate the commercial harvesting of forest products in this County and that it does not intend by this enactment to affect that ordinance, but that it is the intention of the Board to control and supervise in a reasonable manner the cutting of heritage trees within the unincorporated area of the County as herein prescribed.

SECTION 11,002. It is further found and declared that, for the above reasons and in order to protect and preserve heritage trees in San Mateo County on both public and private property and to enhance the environment, the economy, and promote the general welfare and prosperity of the County, while respecting and recognizing individual rights to develop, maintain, and enjoy private property to the fullest possible extent, consistent with the public interest, convenience, and necessity, it is necessary to enact this ordinance and regulate the removal of heritage trees in the unincorporated area of San Mateo County. Designation of a heritage tree does not give or intend to give the public access to, or use or enjoyment of, private property.

CHAPTER 2. PRESERVATION OF TREES ON PRIVATE PROPERTY

SECTION 11,050. DEFINITIONS. For the purposes of this part, the following words shall have the meaning ascribed to them in this section:

- (a) "Person" means individuals, firms, associations and corporations, and agents, employees or representatives thereof.
- (b) "County" means the County of San Mateo acting by and through its authorized representatives.
- (c) "Tree" means a woody plant which has the inherent capacity of producing naturally one main erect axis of at least 12 feet, continuing to grow for a number of years more vigorously than the lateral axes.
- (d) "D.B.H." means diameter at breast height, 4 1/2 feet above average ground level.
- (e) "Basal area" means the cross-sectional area.
- (f) "Exotic Tree" means any tree introduced into areas of the County where such trees are not native as a part of their natural distribution.
- (g) "Heritage Tree" means any of the following:

Class 1 shall include any tree or grove of trees so designated after Board inspection, advertised public hearing and resolution by the Board of Supervisors. The affected property owners shall be given proper written notice between 14 and 30 days prior to inspection and/or hearing by the Board.

Class 2 shall include any of the following trees, healthy and generally free from disease, with diameter equal to or greater than the sizes listed:

- (1) Acer macrophyllum - Bigleaf Maple of more than 36 inches in d.b.h. west of Skyline Boulevard or 28 inches east of Skyline Boulevard.
- (2) Arbutus menziesii - Madrone with a single stem or multiple stems touching each other 4 1/2 feet above the ground of more than 48 inches in d.b.h., or clumps visibly connected above ground with a basal area greater than 20 square feet measured 4 1/2 feet above average ground level.
- (3) Chrysolepis chrysophylla - Golden Chinquapin of more than 20 inches in d.b.h.
- (4) Cupressus abramsiana - All Santa Cruz Cypress trees.
- (5) Fraxinus latifolia - Oregon Ash of more than 12 inches in d.b.h.

- (6) Lithocarpus densiflorus - Tan Oak of more than 48 inches in d.b.h.
 - (7) Pseudotsuga menziesii - Douglas Fir of more than 60 inches in d.b.h. east of Skyline Boulevard and north of Highway 92.
 - (8) Quercus agrifolia - Coast Live Oak of more than 48 inches in d.b.h.
 - (9) Quercus chrysolepis - Canyon Live Oak of more than 40 inches in d.b.h.
 - (10) Quercus garryana - All Oregon White Oak trees.
 - (11) Quercus kelloggii - Black Oak of more than 32 inches in d.b.h.
 - (12) Quercus wislizenii - Interior Live Oak of more than 40 inches in d.b.h.
 - (13) Quercus lobata - Valley Oak of more than 48 inches in d.b.h.
 - (14) Quercus douglasii - Blue Oak of more than 30 inches in d.b.h.
 - (15) Umbellularia californica - California Bay or Laurel with a single stem or multiple stems touching each other 4 1/2 feet above the ground of more than 48 inches in d.b.h., or clumps visibly connected above ground with a basal area of 20 square feet measured 4 1/2 feet above average ground level.
 - (16) Torreya californica - California Nutmeg of more than 30 inches in d.b.h.
 - (17) Sequoia sempervirens - Redwood of more than 84 inches in d.b.h. west of Skyline Boulevard or 72 inches d.b.h. east of Skyline Boulevard.
- (h) "Protected Tree" means a tree specially listed as endangered by either the California Native Plant Society's List as amended or the Federal Register or any tree species designated protected by the Board of Supervisors.
 - (i) "Private Property" means all property not owned by the County of San Mateo or any other public agency.
 - (j) "Public Property" means all property owned by a public entity which is controlled or regulated by San Mateo County.
 - (k) "Trim" or "Prune" means the cutting of or removal of any limbs, branches or roots of trees which will not seriously impair the health of trees.
 - (l) "Effectively Remove" includes, but is not limited to, any extreme pruning (including root pruning) that is not consistent with standard arboriculture practices for a healthy tree and that result in the tree's permanent disfigurement, destruction, or removal pursuant to this chapter.

SECTION 11,051. PERMIT REQUIRED TO REMOVE, DESTROY, OR TRIM TREES.

It shall be unlawful for any person to cut down, destroy, move, trim or prune a tree so that it effectively removes any heritage tree growing on any public or private property within the unincorporated area of San Mateo County without first obtaining a permit from the San Mateo County Planning Department except as herein provided. The Community Development Director may require that a permit for trimming of a heritage tree in an area defined by the General Plan as urbanized be carried out only by a licensed tree surgeon. A minimal charge shall be made for permits required by this ordinance.

Any area to which a valid Timber Harvesting Permit applies is exempt from this Ordinance.

SECTION 11,051.1. EXISTING TREE PLAN - APPLICATION REQUIREMENTS.

Applicants seeking Planning or Building permits (including Grading or Demolition permits) for development on a site where construction has the potential to impact a Heritage Tree shall submit an Existing Tree Plan separate from, but consistent with the required site plan, to assess tree impacts associated with proposed demolition or development, and establish tree protection measures for demolition or development when activity would occur within the dripline of a significant tree or a heritage tree.

An Existing Tree Plan shall be consistent with a site survey (if said survey is required by the associated Planning or Building permit) prepared by a licensed surveyor or registered civil engineer with the existing trees plotted with accurate trunk locations and the dripline areas of all trees or groups of trees located on the site.

(1) The Existing Tree Plan shall be a separate sheet that depicts:

- Property lines and easements;
- The locations of existing trees or groups of trees, including drip lines with each tree numbered, and identified by trunk diameter at breast height (DBH), with an "X" through each tree proposed for removal, including on site trees and trees adjacent to the project site, with drip lines overhanging the project site;
- A table listing each tree by number, DBH, genus, species and common name;
- For demolition permits, show the building footprint for the structure to be removed;
- The footprint of any existing or new structures, including additions;

- The location of existing and proposed site utilities, including water, sewer, drainage, gas, underground electrical, voice/data, septic field, well head, or other;
- Existing Tree Plans shall NOT include (1) Proposed Landscaping or (2) Finished Floor elevations.

(2) In addition to said plan:

- An arborist's report is required for significant or heritage trees proposed for removal on the basis of poor health, potential hazard, or when a significant or heritage tree(s) is proposed to remain, but new development would encroach within the drip line of the tree.
- The arborist's report shall assess tree condition for all significant or heritage trees, and any measures necessary to protect trees on site during demolition or construction, including any remedial measures necessary to sustain impacted trees. Tree protection measures shall comply with San Mateo County's tree protection requirements.
- For development within a tree dripline the report shall assess potential tree survival and longevity, and special measures needed to protect any such trees during or post construction.

Prior to Issuance of a Building permit (including Grading or Demolition permits), the Planning and Building Department shall complete a pre-construction site inspection to verify that all required tree protection and erosion control measures are in place. It shall be the responsibility of the applicant to schedule such an inspection prior to the commencement of construction.

SECTION 11,052. APPLICATION FOR AND GRANTING OF PERMITS. Any person desiring to cut down, destroy, move or trim one or more heritage trees on public or private property must apply to the San Mateo County Planning Department for a Heritage Tree Removal/Trimming Permit on a form provided by the Planning Department. Said application shall, consistent with Section 11,051.1 above, include a detailed site plan and arborist report, contain a brief statement of the reason for the requested action, and describe any other pertinent information the Community Development Director may require. The arborist report shall assesses the condition and health of the tree proposed for removal, the actions that could be taken to avoid removal, and the recommended course of action. The submitted arborist report shall be subject to the review of an independent arborist, who shall provide a recommendation to the Community Development Director and other decision making bodies on whether to deny or conditionally approve the application.

Within 20 working days of receipt of the application, the Community Development Director or his authorized representative shall inspect the premises and the trees that are the subject of the permit; provided however, the Community Development Director

may upon receipt of the application and such information, maps, sketches and/or photographs as he deems sufficient, make a determination without an inspection; provided further, failure to act within 20 days shall not be deemed approval. If trimming is to be performed by a licensed tree surgeon, the tree surgeon's inspection and decision may be accepted by the Community Development Director for purposes of compliance with this section.

If no action on the approved permit is taken within a period of one year from the date of approval, the permit shall be considered void. The determination of the Community Development Director in granting or denying the permit or in affixing conditions shall be based upon the following criteria:

- (a) The general health of the tree;
- (b) The anticipated longevity of the tree;
- (c) Whether the tree is a public nuisance;
- (d) Proximity to existing or proposed structures and interference with utility services;
- (e) The necessity of the required action to construct improvements or otherwise allow economic or other enjoyment of the property;
- (f) The number, species, size and location of existing trees in the area;
- (g) The effect of the requested action in terms of historic values;
- (h) The topography of the land and effect of the requested action on erosion, soil retention, water retention, and diversion or increased flow of surface waters.

The Community Development Director may refer the application to another department, committee, or person for report and recommendation.

In granting a Heritage Tree Removal/Trimming Permit, the Community Development Director or their representative may attach reasonable conditions to insure compliance with the content and purpose of this ordinance, such as, but not limited to, requiring replacement of trees removed with plantings acceptable to the Community Development Director or their representative. If a permit is denied or conditions attached, the Community Development Director or their representative shall provide the applicant with a written statement of the reasons for said denial or conditions based upon the above standards.

The Community Development Director shall give priority to those applications based upon imminent hazard.

SECTION 11,053. EMERGENCIES. If an emergency develops which requires immediate response for the safety of life or property, action may be taken by seeking

oral permission of the Community Development Director or their designee, notwithstanding other provisions contained in this chapter. If the Community Development Director or their designee is not available and action must be taken, the Community Development Director shall be notified within 72 hours of the emergency action. The owner of the property on which the emergency action took place shall submit an After-the-Fact application for Heritage Tree Removal/Trimming Permit within 30 days from which the emergency trimming or removal took place.

SECTION 11,054. PRESERVATION AND MAINTENANCE OF EXISTING TREES.

- (1) When proposed structures or developments encroach into the dripline area of any heritage tree, special construction to allow irrigation and aeration of roots, as determined by the Community Development Director, may be required with respect to any application for a building permit.
- (2) The existing ground surface within the dripline of the heritage tree shall not be cut, filled, compacted, or paved without having first obtained permission of the Community Development Director. Tree wells or other techniques may be used where advisable. Excavation adjacent to such trees, where material damage to the root system will result, shall be allowed only after obtaining a permit as provided under Sections 11,051 and 11,052.
- (3) Consistent with the requirements of Section 11,051.1 (EXISTING TREE PLAN - APPLICATION REQUIREMENTS) above, all applications for building permits, use permits, variances and other applicable permit applications shall be accompanied by a scaled plot plan indicating the location, size and species of heritage trees as defined in this Ordinance, which may be impacted upon by said permit execution.

SECTION 11,055. BUILDING PERMITS. When any building permit is applied for pursuant to the San Mateo County Ordinance Code and a proposed structure would require the cutting down, destruction, moving, removal, or trimming of one or more heritage trees, the Building Inspection Section of the Planning and Building Department shall refer the matter to the Community Development Director who shall take into consideration the provisions of this Ordinance before signing the building permit. In addition, as a condition of approval for all development that has the potential to impact a heritage tree, the applicant shall submit a tree protection plan prior to the issuance of a Building or Planning permit. Said protection plan shall include the following:

- (1) Identify, establish and maintain tree protection zones throughout the entire duration of the project;
- (2) Isolate tree protection zones from all construction activity using 5-foot tall, orange plastic fencing supported by poles pounded into the ground, located at the driplines as described in the arborist's report;

- (3) Maintain tree protection zones free of equipment and materials storage; contractors shall not clean any tools, forms or equipment within these areas;
- (4) If any large roots or large masses of roots need to be cut, the roots shall be inspected by a certified arborist or registered forester prior to cutting as required in the arborist's report. Any root cutting shall be undertaken by an arborist or forester and documented. Roots to be cut shall be severed cleanly with a saw or topers. A tree protection verification letter from the certified arborist shall be submitted to the Planning Department within five (5) business days from site inspection following root cutting.
- (5) Normal irrigation shall be maintained, but oaks shall not need summer irrigation, unless the arborist's report directs specific watering measures to protect trees; and
- (6) Street tree trunks and other trees not protected by dripline fencing shall be wrapped with straw wattles, orange fence and 2" x 4" boards in concentric layers to a height of 8 feet.

CHAPTER 3. PRESERVATION OF HERITAGE TREES - ENFORCEMENT

SECTION 11,100. NOTIFICATION. Any person who owns or controls a heritage tree shall give a 60-day notice to the County of San Mateo of intent to sell lands upon which those trees are growing if such lands are contiguous to an existing County park.

SECTION 11,101. PERMISSION TO ENTER PROPOSED PERMIT AREA. Filing of an application for a Tree Cutting Permit shall constitute a grant of permission for County personnel concerned with administering this Part 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 any requirements to maintain replacement trees as conditions to the permit.

SECTION 11,102. INSPECTION. The Planning Department may cause sufficient inspections to be made of the permit area to assure compliance with the provisions of this part and the requirements of any applicable law. Upon completion of any inspection, the permittee shall be given a written notice of any violations observed at the time of inspection for correction thereof.

SECTION 11,103. VIOLATIONS: CEASE AND DESIST; REMEDIATION OF UNLAWFUL TREE REMOVAL, CUTTING OR TRIMMING. If the Chief Building Official or Community Development Director or their designated representative, or any officer of the San Mateo County Sheriff's Department or any other peace officer finds any tree removal, cutting, or trimming activity for which a permit under this Part is required but not issued, or the tree cutting is not in substantial compliance with an issued permit or the plans and specifications relating thereto, an order to cease work may be issued. No

further tree cutting may be done except upon approval of the Community Development Director. 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 Part, or as may be provided by law in Division VI (Zoning Regulations), San Mateo County Ordinance Code.

In the event that the Chief Building Official or Community Development Director determines that one or more heritage trees have been removed, cut or trimmed without the required permit or permits, the following additional requirements shall be imposed:

- (1) Any person who violates the provisions of this Part, including property owners and persons performing tree removal or trimming activities, shall be subject to a fine, as follows:

First Heritage Tree	\$5,000
Second Heritage Tree	\$7,500
Each Additional Heritage Tree	\$10,000

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 trimming, if different than the owner of record. For the purposes of this Section, each single tree being cut without benefit of a permit shall constitute a separate infraction, the fine being cumulative.

- (2) Additionally, if a violation of this Ordinance occurs 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 requirements of this section are satisfied.
- (b) The owner of the affected property, or their representative, shall be required to obtain a permit in accordance with Chapter 3 of this Part. The owner or applicant shall be required to submit a mitigation plan for review and approval by the Planning and Building Department. The mitigation plan shall include:
- Measures for protection or remediation of any remaining trees on the property, and
 - Shall provide for replacement of each tree removed or heavily damaged.
 - Size, number and species of replacement tree(s) shall be at the discretion of the Planning and Building Department and shall be commensurate with the size and species of tree removed.

- Replacement shall occur on the subject parcel or at a location approved by the County.
 - At the time of permit application, the applicant shall pay all fees, including investigation fees of 10 times the normal permit fee, as well as the penalty fines cited above under Section 11,103.1 , and satisfy all conditions in connection therewith, including replacement planting.
- (c) The stop work notice shall remain in effect, and no construction shall be allowed on the affected property, until such time as the Community Development Director has determined that the above described mitigation plan has been fully implemented, up to and including 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).
- (3) 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 Community Development Director (or designee) 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 measures are incorporated into any future development approvals for the property.
 - (b) The owner of the affected property, or their representative, shall be required to obtain a permit in accordance with Chapter 3 of this Part.
 - (c) A Mitigation Plan as described above, shall be submitted by the property owner and reviewed by the Planning and Building Department. Upon approval, said plan shall be implemented prior to rescinding of the moratorium.
 - (d) At the time of the After-the-Fact Tree Removal Application, the applicant shall pay all fees, including investigation fees of 10 times the normal permit fee, as well as the penalty fines cited above under Section 11,103.1, and satisfy all conditions in connection therewith, including replacement planting.

SECTION 11,104. CUTTING, STRIPPING AND KINDRED ACTIONS FORBIDDEN.

Any person who willfully strips off bark from, trims, cuts burls, branches or leaves from, defaces or gouges any part, or destroys by fire any Heritage Tree located in the unincorporated area of San Mateo County without having first received authority under the provisions of the County Timber Harvesting Ordinance or under provisions of this Part is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars

(\$50.00) nor more than five hundred dollars (\$500.00) or by imprisonment in the County jail for not less than 25 nor more than 150 days, or by both such fine and imprisonment.

CHAPTER 4. APPEALS

SECTION 11,105. APPEALS. The applicant, or any other person, who is aggrieved by the issuance or non-issuance of the permit or any penalties or conditions thereof may appeal as set forth below. A statement by the appellant shall be required indicating how he is aggrieved or adversely affected by the decision. At the time the appeal is heard, the Planning Commission shall rule upon the appellant's standing as an aggrieved party. If the Planning Commission rules that the appellant is not aggrieved, all further proceedings shall be stayed except that the appellant may appeal the Planning Commission decision on standing to the Board of Supervisors as herein provided.

- (1) Permits considered and acted upon by the Community Development Director may be appealed to the Planning Commission by filing a written Protest with the Secretary of the Planning Commission within ten (10) days of issuance or denial of said permit. The Planning Commission shall render a decision on the appeal within fifteen (15) days of public hearing. The Community Development Director shall notify the affected parties of said action in writing.
- (2) Permits considered and acted upon by the Planning Commission may be appealed to the Board of Supervisors by filing a written protest with the Secretary of the Planning Commission within (10) days from issuance or denial of said permit. The Board of Supervisors shall hear such appeal within sixty (60) days, and render a decision within fifteen (15) 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 in writing.