

County of San Mateo  
Planning and Building Division

**THE PROTECTED TREE ORDINANCE OF SAN MATEO COUNTY**  
(Part Three of Division VIII of the San Mateo County Ordinance Code)

**CHAPTER 1. INTENT AND PURPOSE**

**SECTION \_\_\_\_\_ . 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 groups of trees of great beauty. The health and welfare of the citizens of the County require that these trees be conserved in order to preserve the scenic beauty and property values of the County, reduce erosion, flood hazards and risk of landslides, maintain plant, animal and human habitats, intercept pollutants in the air, and mitigate impacts of climate change. The Board of Supervisors finds that establishing regulations controlling the removal, propagation and preservation of trees within the County will further the maintenance and advancement of these public values.

The Board of Supervisors finds and declares that the tree canopy in the County is considerably altered from conditions encountered by settlers starting in the 18<sup>th</sup> Century. Logging, land clearing, stream channelization, grazing, suburban and urban development and other land management practices contributed to considerable loss of indigenous trees throughout the County. In the urbanized areas, historic canopy was often supplemented or replaced first by fruit trees, and subsequently by a mix of indigenous and exotic trees. 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 this division to regulate the removal of trees within the urbanized areas of the County in order to retain as many trees as possible, consistent with the purpose of this section and the reasonable use and enjoyment of private property. It is also the intent of this division to preserve as many protected trees as possible throughout the County, particularly indigenous trees, to provide for a healthy urban forest, and increase tree cover as ecologically appropriate in certain areas of the County through staff review of tree removal permit applications and the development review process. Consistent with these goals it is the County's intent that there shall be no-net loss in the County's tree canopy, and over time, areas historically covered by trees, will increase tree cover.

**SECTION \_\_\_\_\_ . TITLE.** This ordinance shall be known as the "Protected Tree Ordinance."

## **CHAPTER 2. DEFINITIONS**

**Section XXXX DEFINITIONS.** For the purposes of this part, 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 of Section XXXX. in this Ordinance
2. BASAL AREA means the cross-sectional area of a tree 4.5 feet above ground.
3. BUILDING ENVELOPE means the area of a parcel:
  - a. upon which, under applicable zoning regulations, a structure may be built, without a variance or home improvement exception;
  - b. that is necessary for the construction of primary access to structures located on the parcel, where there exists no feasible means of access which would avoid protected trees.
4. 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.
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 approved by the director.
6. COMMUNITY DEVELOPMENT DIRECTOR means the Community Development Director of the County of San Mateo, including his or her authorized or appointed representatives.
7. COMMUNITY OF TREES means a group of trees of any size, 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.
8. COUNTY means the County of San Mateo acting by and through its authorized representatives.
9. DEAD TREE means a tree that is dead or that has been damaged beyond repair or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs or branches, exists to sustain life: a tree with a brown and dry cambium

layer of bark, over more than 65% of the trunk perimeter; in winter, a tree that entirely lacks buds, or has buds that are dry and shriveled over the entire tree, and has not grown any foliage for more than a year).

10. DEVELOPMENT means any work upon any property in the County which requires a subdivision, rezoning, planning permit, variance, use permit, building permit, demolition permit, grading permit or other County approval or which involves excavation, landscaping, construction or clearing and grubbing or landscaping subject to requirements of the California Water Efficient Landscape Ordinance within the dripline or any area that would affect a protected tree. In the Coastal Zone, development as defined in the County's Local Coastal Program.
11. DIAMETER means measurement of the trunk diameter. For the purpose of applying this section, diameter shall be measured 4.5 feet (54 inches) above natural grade. Measurement of multi-trunked trees shall be determined by the sum of all trunk diameters measured at 4.5 feet (54 inches) above natural grade.
12. DRIPLINE area means the area around the trunk of the tree extending out a distance ten times the diameter of the trunk, or the outer edge of the tree canopy, whichever is greater.
13. DYING TREE means a tree that is in such an advanced state of decline due to damage or disease – where an insufficient amount of live tissue, green leaves, limbs or branches exists to sustain life – that death is unavoidable.
14. EFFECTIVELY REMOVE means activities that include, but are not limited to, any extreme root or branch pruning that is not consistent with standard arboriculture practices for a healthy tree and compaction within the dripline, poisoning, or introduction of pests or disease, that results in the tree's permanent disfigurement, destruction, or removal pursuant to this chapter.
15. EMERGENCY means a 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 that meets the "extreme" or "high" risk characteristics as defined by the International Society of Arborists. Pursuant to this section the Community Development Director determines when an emergency situation exists, based on information provided by the property owner or applicant.
16. EXOTIC TREE means any tree known not to be a native indigenous tree, including any tree which has been planted or has escaped from cultivation, but not native trees.
17. HERITAGE TREE means a tree or grouping of trees specifically designated by action of the Board of Supervisors that possess exceptional aesthetic, biological, cultural, or historic value and is expected to have a continuing contribution to the community,

18. HAZARD TREE means a tree that meets the “extreme” or “high” risk characteristics as defined by the International Society of Arborists and 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 people or property (a target) that have the potential to cause death, injury or property damage if they fail.
19. INDIGENOUS TREE means any tree originating or occurring naturally in San Mateo County. For example, *Pinus radiata* (Monterey Pine) and *Cupressus macrocarpa* (Monterey Cypress) are indigenous to Monterey and Santa Cruz Counties, but they are not indigenous to the urbanized areas of San Mateo County.
20. LARGE PROTECTED TREE means any indigenous tree, which has a 24-inch or greater diameter (75-inch circumference) growing in its native range.
21. MULTI-TRUNK TREE means a tree that has more than one major supporting stem or trunk growing from a single root mass located at ground level or just above the trunk flare.
22. NATIVE TREE means trees native to California that are not indigenous trees.
23. NESTING SEASON means February 1st through August 15th as defined by the California Department of Fish and Wildlife.
24. PERSON means an individual, public agency, including the County and its departments, firm, association and corporation, and their employees, agents or representatives.
25. POLLARDING means a pruning technique where the ends of the branches of a tree are terminated with a heading cut to a predetermined length, and then resultant epicormic shoots that emerge from just below the heading cut are cut back on an annual basis, forming an enlarging “knob” or knuckle” at the end of the remaining branches over time. Pollarding should be done on small branches no more than 2 inches in diameter and is only allowed without a permit on fruitless mulberry trees (*Morus alba*) or other species approved by the County Arborist.
26. PRIVATE PROPERTY means all property not owned by the County of San Mateo or any other public agency.
27. PROTECTED TREE means a tree regulated by the County of San Mateo as set forth in Section. \_\_\_\_\_, Protected Trees.

28. PRUNING means the selective removal of plant parts to meet specific goals and objectives, including but not limited to: safety and risk reduction; clearance; health maintenance; aesthetic improvement; growth control; and to enhance performance or function by developing and preserving tree structure and health.
29. PUBLIC PROPERTY means all property owned by the County of San Mateo, any other city, county, city and county, special district or other public agency in the unincorporated area of San Mateo County.
30. PUBLIC NUISANCE means any tree, shrub, plant or part thereof growing in, or overhanging, a public street or right-of-way, interfering with the use of any public street or public place in the County, or tree which, in the opinion of the Director, endangers the life, health, safety, comfort or property of any persons using such public street, or in such public place, because of the tree's or shrub's location, condition of its limbs, roots or trunk, or because of its diseased condition, is hereby declared to be a public nuisance.
31. PUBLIC 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.
32. REMOVE means any of the following: (1) complete removal, such as cutting to the ground or extraction, of a protected tree; (2) raking any action foreseeably leading to the death of a tree or permanent damage to its health; including but not limited to severe pruning, cutting, girdling, poisoning, overwatering, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, or paving within the dripline area of a tree.
33. SEVERE PRUNING means topping or removal of foliage or significant scaffold limbs or large diameter branches so as to cause permanent damage and/or disfigurement of a tree, and/or which does not meet specific pruning goals and objectives as set forth in the current version of the International Society of Arboriculture Best Management Practices—Tree Pruning and ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management—Standard Practices, (Pruning). Severe Pruning shall also include pruning as described in Section \_\_\_\_\_ of this Ordinance.
34. SHRUB means a bushy, woody plant, usually with several permanent stems, and usually not over fifteen (15) feet high at maturity.
35. SIGNIFICANT IMPACT ON A PROPERTY FROM A TREE means an unreasonable interference with the normal and intended use of the property.
36. STREET TREE means a tree in a public place, or along or within a public street or right-of-way.

37. 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.
38. TREE means a woody perennial plant characterized by having a main stem or trunk, or a multi stemmed trunk system with a more or less definitely formed crown, and is usually over ten feet high at maturity.
39. TREE CANOPY replacement standard means a replacement tree formula to mitigate removal of a protected tree. The standard is based on measuring the widest distance across the canopy of a tree for the purpose of determining the mitigating size and number of replacement trees.
40. TREE PROTECTION ZONE (TPZ) means the area of a temporary fenced tree enclosure under the tree's dripline or as specified in a report prepared by a certified or consulting arborist. The TPZ is a restricted activity zone before and after construction where no soil disturbance is permitted unless approved and supervised by the certified or consulting arborist.
41. TREE RISK RATING means a categorization of risk 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. For purposes of this division, Tree Risk Rating shall be the rating of tree risk as provided for in the International Society of Arboriculture (ISA) Tree Risk Assessment Best Management Practices Tree Risk Rating Matrix, which categorizes risk as Extreme, High, Moderate or Low.
42. TREE VALUE STANDARD means the method of appraising a tree's value to a property using the Trunk Formula Method or Replacement Cost Method as described in the most recent edition of the Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers (CTLA) and the Species Classification and Group Assignment by the Western Chapter of the International Society of Arboriculture (ISA).
43. 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.
44. 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.
45. URBAN, OR URBANIZED AREA means lands that are not zoned RM, RM/CZ, PAD, PAD/CZ, TPZ, AND TPZ-CZ.

**SECTION \_\_\_\_\_ . PROTECTED TREES.** This division shall apply to every property owner and to every person, corporation, partnership, sole proprietorship or other entity responsible for removing, maintaining or protecting a tree. The trees protected by this division are:

1. All trees of the following indigenous species, which have a 10-inch or greater diameter (31.4-inch circumference) when measured four and one-half feet (fifty-four inches) above natural grade:
  - a. Acer macrophyllum - Bigleaf Maple
  - b. Acer negundo californica (box elder)
  - c. Aesculus californica - California Buckeye
  - d. Alnus rhombifolia – White Alder
  - e. Arbutus menziesii - Pacific Madrone
  - f. Chrysolepis chrysophylla - Golden Chinquapin
  - g. Cupressus abramsiana - All Santa Cruz Cypress trees.
  - h. Fraxinus latifolia - Oregon Ash
  - i. Lithocarpus densiflorus - Tan Oak
  - j. Platanus Racemosa - Western Sycamore
  - k. Pinus Attenuata - Knobcone Pine
  - l. Pseudotsuga menziesii - Douglas Fir
  - m. Quercus agrifolia - Coast Live Oak
  - n. Quercus chrysolepis - Canyon Live Oak
  - o. Quercus douglasii - Blue Oak
  - p. Quercus garryana - All Oregon White Oak trees.
  - q. Quercus kelloggii - Black Oak
  - r. Quercus lobata - Valley Oak
  - s. Quercus wislizenii - Interior Live Oak
  - t. Salix coulteri, Salix lasiolepis, Salix lasiandra (any size in riparian corridors, and six (6) inch or larger “trunks” outside riparian corridors)
  - u. Umbellularia californica - California Bay or Laurel
  - v. Torreya californica - California Nutmeg
  - w. Sequoia sempervirens – Redwood. Any Redwood tree that is eighteen inches in diameter (fifty-seven inches in circumference) or more when measured four and one-half feet (fifty-four inches) above natural grade.
2. Any tree 12 inches in diameter (38 inches circumference) or larger that is not an indigenous tree or subject to a permit exemption when measured four and one-half feet (fifty-four inches) above natural grade.
3. Heritage Trees designated by the Board of Supervisors.
4. Any tree that existed at the time of a zoning approval or subdivision approval and was a specific subject of such approval or otherwise covered by subsection (6) of this section (e.g., landscape or site plans).

5. Any tree that was required by the County to be planted or retained by the terms and conditions of a development application, building permit or subdivision approval, tree removal permit or code enforcement action.
6. A protected tree shall also include a stand of trees, the nature of which makes each dependent upon the other for the survival of the stand.
7. Any tree designated for carbon sequestration and storage and/or environmental mitigation purposes as identified in an agreement between the property owner and a responsible government agency or recorded as a deed restriction; and

**SECTION \_\_\_\_\_ DESIGNATION OF HERITAGE TREES.**

1. 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 a heritage tree. A tree may be designated as a heritage tree 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 San Mateo County;
  - c. It possesses distinctive form, size, age, location, and/or historical significance.
2. After Board approval of a heritage tree designation, the Community Development Director shall notify the property owner(s) in writing. A listing of trees so designated, including the specific locations thereof, shall be kept by the Planning and Building Department.
3. Once designated, a heritage tree shall be considered protected and subject to the provisions of this chapter unless removed from the list of heritage trees by action of the Board of Supervisors. The Board of Supervisors may remove a tree from the list upon its own motion or upon written request by the property owner. Request for such action must originate in the same manner as nomination for heritage tree designation, pursuant to a permit issued in conformance with this chapter, it shall be removed from the heritage tree list

**CHAPTER 3. PERMITS, EXEMPTIONS, APPLICATIONS CONDITIONS OF APPROVAL, POSTING, EMERGENCIES, APPEALS**

**SECTION \_\_\_\_\_ . PERMIT REQUIRED.** Except as provided in Section \_\_\_\_\_, a permit shall be required under this Part for the cutting down, pruning that effectively removes a tree, poisoning or otherwise killing or destroying or causing to be removed any protected tree or community of trees, whether indigenous, native or exotic, on any public or private property or for pruning of large protected trees.

**SECTION \_\_\_\_\_ . EXEMPTIONS.** No permits shall be required under this Part in the following circumstances:

1. Tree cutting carried out under the provisions of Parts One (Timber Harvesting Regulations) of Division VIII of the San Mateo County Ordinance Code.
2. Tree cutting in the Resource Management (RM or RM/CZ), Timberland Production Zone (TPZ or TPZ/CZ), and Planned Agricultural (PAD) districts, except within 100 feet of any County or State scenic road or highway, as identified in the San Mateo County General Plan, provided any tree cutting in the RM, RM/CZ, or PAD districts shall be subject to the following:
  - a. Within the Resource Management (RM or RM/CZ) District, the criteria of Sections 6324 through 6326.4 shall apply and any permit issued for such area shall constitute a Certificate of Compliance as required by Section 6461 of the San Mateo County Zoning Regulations.
  - b. Within the Planned Agricultural (PAD) District, the criteria of Sections 6324 through 6326.4 shall apply, in addition to the requirements, if any, of a Coastal Development Permit.
3. Emergency tree cutting to remove a hazard to life and personal property as determined by the Community Development Director, Director of Public Works, or Officer of the California Department of Forestry and Fire Protection.
4. Tree cutting where there is a unique area with a tree management program.
5. Tree cutting which has been authorized by the Planning Commission, Design Review Committee, or Community Development Director as part of a permit approval process in which the provisions of this Part have been considered and applied, and the requisite findings can be made for compliance with this ordinance.

**SECTION \_\_\_\_.** **APPLICATION AND GRANTING OF OVER THE COUNTER TREE REMOVAL PERMITS.** Any person desiring to cut down, destroy, or move one or more of the trees listed in this section whether on public or private property must apply to the San Mateo County Planning Department for an over the counter tree removal permit. Tree species for which over the counter approval may be granted include:

1. *Acacia baileyana* (Bailey Acacia)
2. *Acacia melanoxylon* (Blackwood Acacia)
3. *Aelanthus altissima* (Tree of Heaven)
4. *Eucalyptus* (species)
5. *Ligustrum lucidum*, (Privet)
6. *Myoporum laetum* (Ngaio Tree); and
7. Fruit or nut trees that are less than 18 inches in diameter (57-inch circumference).
8. Removal of *Pinus radiata* (Monterey Pine) of any size within areas designated as high or very high fire hazard zones by CalFire, or tree removal required by a written directive from the Fire Marshal to create defensible space.
9. Dead Trees, with proper documentation and County Arborist approval
10. Dying Trees, with proper documentation and County Arborist approval

A maximum of 3 trees may be removed on a parcel in any given year and no more than 10 trees within 5 years with an over the counter permit. These trees may not be removed during the nesting season of birds protected by the Migratory Bird Treaty Act without a biological survey certifying that no nests for protected birds are present. Applicants will be subject to the replacement planting requirements in Section \_\_\_\_ and Table 3.1 of this ordinance.

Applications for over the counter tree removal permits shall include the items specified in Section \_\_\_\_\_, subparagraphs 1, 3 and 6 and any other additional information required by the Community Development Director

**SECTION \_\_\_\_\_. APPLICATION FOR AND GRANTING OF PROTECTED TREE REMOVAL PERMITS.** Any person desiring to cut down, destroy, move or trim one or more protected trees on public or private property must apply to the San Mateo County Planning and Building Department for a Protected Tree Removal or Pruning Permit. Said application shall include:

1. A completed tree removal application form provided by the Planning Department, signed by the property owner.
2. An arborist report, consistent with the requirements of Section \_\_\_\_ of this ordinance that: identifies the species, the number, size and location of the tree or trees involved, contains a brief statement of the reason for the requested action, includes a written explanation of why each tree(s) should be removed or pruned and how the proposed action is consistent with the Standards of Review in this ordinance;
3. Photographs of the tree(s), annotated as necessary to indicate areas of disease, decay or other characteristics that are the basis of the removal or pruning application; and
4. Any other pertinent information the Community Development Director may require.
5. 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.
6. A permit fee as adopted by the Board of Supervisors.
7. Within 20 working days of receipt of the application, the Planning Director or his authorized representative shall inspect the premises and trees and shall ascertain which trees may be trimmed, cut down, destroyed, moved, or removed; provided however, the Community Development Director may upon receipt of the application and such information, maps, sketches and/or photographs as he or she deems sufficient, make a determination without an inspection. Failure to act within 20 days shall not be deemed approval.

8. 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.
9. A Protected Tree Pruning permit is required where pruning of branches greater than four (4) inches or roots greater than two (2) inches in diameter is proposed for any Heritage tree or large protected tree. Permits for pruning may be granted, denied or granted with conditions. Application submittals under this section shall include the following minimum information for staff review:
  - a. A completed pruning permit application, signed by the property owner.
  - b. A written description of the proposed pruning, including the pruning objectives and pruning methods to be used, consistent with International Society of Arboriculture Best Management Practices—Tree Pruning and ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management—Standard Practices, (Pruning).
  - c. Photographs of the tree indicating where pruning is to occur.
  - d. If required by the Director, a certified or consulting arborist's written report describing the proposed pruning.
  - e. 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 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 damages directly caused by the tree.
  - f. Payment of permit fee, as established by County resolution.
- b. Exempt from the provisions of this Section 9 are instances where, as determined by the Community Development Director, "limb break" or other natural occurrences that cause the loss of the crown or limb of a tree and such loss requires additional corrective cutting. Under such circumstances, appropriate tree surgery may be required, but no permit is needed.

**SECTION \_\_\_\_\_. POSTING NOTICE OF APPLICATION.** The applicant shall cause a notice of application on a form provided by the San Mateo County Planning Department to be posted on each tree for which a permit is required and in at least two conspicuous locations clearly visible to the public, preferably on the roadside at eye level, on or close to the property affected 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. Property owners or their agents applying for grading, use or other permits that include protected tree removal shall post the site and mark any tree(s) proposed for removal consistent with the requirements of this section.

**SECTION \_\_\_\_\_. ARBORIST REPORT REQUIREMENTS**

1. Arborists reports required as part of tree removal applications not involving construction should contain:
  - a. assessment level (e.g., level 1, 2 or 3) and statement of assignment;

- b. genus, species and common name and size (DBH, height and canopy width) of all trees that are the subject of the application and condition of all such trees;
  - c. photographs of the subject tree(s) annotated consistent with findings of the arborists report;
  - d. a site plan showing tree(s) on property including proximity of targets with occupancy rates;
  - e. photographs of the targets if appropriate.
  - f. Likelihood of structural failure from defect or death due to health.
  - g. For trees proposed for removal due to hazards: A discussion of the risk assessment process executed for the subject tree(s) and conclusions based on evaluation. This evaluation shall be consistent with the ISA Tree Risk Assessment protocol, conducted by a Tree Risk Assessment Qualified (TRAQ) arborist.
  - h. Recommendations for risk mitigation of subject tree(s), [Move target, prune tree, remedial measures or removal].
  - i. Description of residual risk for given recommendations, and likelihood of success following remedial measures.
  - j. Additional recommendations for re-assessment intervals.
  - k. Identify limitation of the assessment
  - l. Maintenance requirements for a two-year plant establishment period for replacement trees
  - m. Ongoing remedial requirements for remaining trees in poor health, after removal.
  - n. The report shall conclude with a recommendation as to whether, in the professional judgment of the arborist, the tree(s) should be removed or preserved.
2. All Arborist reports, except those in emergency situations where the tree was removed prior to application, shall include recommendations for remedial measures to preserve the affected tree whenever possible, including but not limited to installation of cabling/bracing systems, select limb removal, proper crown reduction (not topping), root pruning, compaction mitigation within the dripline, and integrated pest management.
  3. Tree removal associated with construction:
    - a. All arborist reports shall be in a booklet/tree survey report form, and shall include the following:
      - (1) Any number of trees:
        - (a) All information required from an Arborist report for a tree removal permit application for health.
        - (b) Tree Plan showing all trees; must be consistent with site survey and development plans.

- (c) All trees on the property shall be included in the report. Show all trees from neighboring properties whose driplines overhang the property, particularly those that would be encroached upon by development, including within the public right-of-way or easements.
- (d) Recommendations for tree protection for all trees to be preserved during construction, if dripline will be impacted.
- (e) Mitigation measures for temporary equipment access (e.g., concrete trucks, truss cranes, fork lifts, etc.) and all ingress/egress to development within driplines to avoid compaction, such as retaining paving over root during construction, mulching, placing metal plates to distribute loads or pruning to provide clearance and avoid tree injury.
- (f) Define remedial measures required to avoid or minimize impacts within dripline.
- (g) Information on impacts to any tree caused by compaction within the Critical Root Zone/Tree Protection Zone. <sup>1</sup>
- (h) Recommended inspection interval schedule during and after construction. Inspection interval is subject to review by the County Arborist (e.g., monthly inspection of tree protection during all exterior work at the home, including excavation, forming, framing, roof work, and siding installation when operations could impact trees, quarterly inspections through duration of project. Arborist must be present during excavation within dripline of the canopy and provide photographic and written documentation when large diameter roots 2" and greater are cut.)
- (i) At minimum, a level 2 risk assessment done for significant and heritage trees to be removed due to construction.
- (j) County Arborist may require a level 3 assessment, including use of exploratory tools such as resistograph or sonic tomography to further quantify defects identified in a Risk Assessment, if tree condition cannot be adequately established with a level 2 assessment. The reporting Arborist may not perform tree removal/pruning/healthcare operations. In an effort to reduce conflicts of interest. The Arborist's report may recommend a Project Arborist (PA's) if reporting arborist is not capable of implementing the required inspection program.
- (k) Maintenance requirements for a two-year plant establishment period for replacement trees and any remedial measures required for existing trees.

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<sup>1</sup> (Compaction and root cuts can cause more damage to a tree from construction than removal of large limbs. The damage caused by compaction or root loss may take 2-5 years to manifest.)

**SECTION \_\_\_\_\_. ARBORIST CREDENTIAL REQUIREMENTS.** Arborists submitting reports in support of tree removal applications or tree protection measures required in Section \_\_\_\_ shall have a current, applicable certification for the assessment provided, at minimum certification from the ISA or from the American Society of Consulting Arborists, or other qualifications approved by the Community Development Director. Arborists preparing reports for tree removals due to hazards shall be ISA Tree Risk Assessment Qualified (TRAQ). Level 3 arborist reports shall be prepared by or under the supervision of an American Society of Consulting Arborists Registered Consulting Arborist or ISA Board Certified Master Arborist.

**SECTION \_\_\_\_\_. REQUIRED REPLACEMENT PLANTING**

- A. The Community Development Director or the deciding body shall impose, as a condition on which a protected tree removal permit is granted that one or more replacement trees of a species and a size designated by the Director or designee, shall be planted in the following order of preference:
1. One (1) or more replacement trees, of a species and size designated by the Director, shall be planted on the subject private property. Table 3-1 The Tree Canopy—Replacement Standard shall be used as a basis for this requirement, in addition to the state Model Water Efficient Landscape Ordinance. The person requesting the permit shall pay the cost of purchasing and planting the replacement trees.
  2. Removed indigenous trees shall be replaced with the same species, unless the Community Development Director determines that another indigenous or other tree species should be required based on the site's carrying capacity for additional trees.
  3. If a removed tree or trees cannot be reasonably replaced with new tree plantings on the subject property due to crowding or other physical constraints, an in-lieu payment in an amount set forth by the Board of Supervisors by resolution shall be paid to the County Tree Replacement Fund to:
    - a. Add or replace trees on public property in the vicinity of the subject property;  
or
    - b. Add or replace trees on other County property; or
    - c. Support the County's urban forestry management program.
  4. When it is not possible to replace a single large, mature tree with an equivalent tree(s), the tree may be replaced with a combination of both the Tree Canopy Replacement Standard and in-lieu payment in an amount set forth by Board of Supervisors resolution and the value shall be determined by using the most recent edition of the Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers paid to the County Tree Replacement Fund.
  5. Replacement plantings shall be chosen so that they can mature to their natural size unconstrained by power lines, structures and adjacent trees. Use small trees

when planting under or near power lines. Plant larger, house-shading trees a sufficient distance away from power lines, structures and other large canopy trees to allow the tree to mature without requiring severe pruning in the future. Factors to be considered include the long term health of the tree in the location and its compatibility with the adjacent uses as well as design considerations.

6. Trees listed in Section \_\_\_\_\_, including *Pinus radiata* (Monterey Pine) may not be planted as replacement plantings anywhere in the County.
7. Replacement indigenous trees shall not be purchased from nurseries contaminated with *Phytophthora ramorum* and other species. Indigenous replacement trees should be purchased from nurseries implementing best management practices to prevent the spread of pathogens.

<b>Table 3.1 - Tree Replacement Standard</b>		
<b>Canopy Size of Removed Tree <sup>1</sup></b>	<b>Replacement Requirement <sup>3</sup></b>	<b>Single Family Residential Replacement Option <sup>2,3</sup></b>
10 feet to 25 feet	One 24-inch box trees	One 15 gallon trees
More than 25 feet to 40 feet	Two 24-inch box trees	Two 15 gallon trees
More than 40 feet and larger	three 24-inch box trees; or Two 36 inch box trees	Not Available

**Notes**

1. To measure an asymmetrical canopy of a tree, the widest measurement shall be used to determine canopy size.
2. Single Family Residential Replacement Option is available for developed single family residential lots under 10,000 square feet. All 15-gallon trees must be planted on-site. Any in-lieu fees for single family residential shall be based on 24" box tree rates as adopted by Board of Supervisors.
3. Replacement Trees shall be approved by the County Arborist and shall be of a species suited to the available planting location, proximity to structures, overhead clearances, soil type, compatibility with surrounding canopy and other relevant factors. Replacement with native species shall be strongly encouraged.

B. The replacement of removed trees when required shall be in a manner prescribed by the Community Development Director or Designee or other decision-making body, as is applicable, but shall be consistent with the following specifications:

1. If any replacement tree dies or is removed at any time shall the landowner shall replace the lost tree or trees at his/her expense. All replacement trees shall be maintained as described in the arborist report and tree removal permit, the maintenance period will be automatically extended for a period of two (2) additional years for any replacement trees that are replace due to death or unauthorized removal.
2. Where a tree or trees have been removed on undeveloped lands and no existing

water system is available on the parcel, the replacement tree or trees, if required to be installed, shall be of sufficient size that watering need not be done by automatic means if feasible. Under such circumstances, water can be imported by tank or some other suitable method, such as tree watering bags, which would ensure tree survival.

3. Postponing the planting of replacement trees can be done if approved by the Community Development Director or designee.

### **SECTION \_\_\_\_\_. DETERMINATION AND CONDITIONS OF PERMIT.**

The Community Development Director or deciding body shall determine whether to grant a permit. The Community Development Director may consult with other County departments or outside agencies at his/her discretion. When a development application for any zoning approval, or subdivision of land, including lot line adjustment, is under consideration by the Planning Commission, the determination on the tree removal permit shall be made concurrently by the Planning Commission with the related matter.

### **SECTION \_\_\_\_\_. STANDARDS OF REVIEW.**

The Community Development Director or deciding body shall review each application for a tree removal permit required by this division using the following standards of review. The standards of review are intended to serve as criteria for evaluating tree removal requests and the basis upon which the Community Development Director or the deciding body will subsequently determine whether or not one or more of the Required Findings listed in Section \_\_\_\_\_ - \_ can be made.

1. The general health and anticipated longevity of the tree(s) proposed for removal and condition of the tree or trees with respect to: (a) disease, (b) imminent danger of falling, (c) structural failure, (d) proximity to existing or proposed structures, (e) structural damage to a building, or (f) a public nuisance caused by a tree. The International Society of Arboriculture (ISA) Best Management Practices for Tree Risk Assessment shall be used in determining a Tree Risk Rating.
2. The condition of the tree giving rise to the permit application cannot be improved and reduced to a less than significant level by the reasonable application of preservation, preventative measures or routine maintenance.
3. The removal of the tree(s) will not result in a density of trees or tree cover that is inconsistent with the neighborhood.
4. The number of trees the particular parcel can adequately support according to good urban forestry practices, or whether a protected tree is a detriment to or crowding another protected tree.
5. 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.
6. In connection with a proposed subdivision of land into two (2) or more parcels, the removal of a protected tree is unavoidable due to restricted access to the property or deemed necessary to repair a geologic hazard (landslide, repairs, etc.).

7. The retention of a protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent.

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8. In the absence of development, protected trees shall not be removed unless determined by the Community Development Director, on the basis of a tree report prepared by a certified arborist for the applicant and other relevant information, that the tree should be removed because it is dead, is hazardous, is a detriment to or crowding an adjacent protected tree, is impacting the foundation or eaves of the primary residence; and that treatments or corrective practices are not feasible.
9. In the case of development on a single-family residential lot, other than in connection with a subdivision:
  - a. Protected trees shall not be removed unless the trunk or basal flare of the protected tree is touching or within the building footprint, or the public works director or urban forester has determined, on the basis of a tree report prepared by a certified arborist for the applicant and other relevant information, that the tree should be removed because it is dead, is hazardous, is a detriment to or crowding an adjacent protected tree.
  - b. If removal is allowed because the tree trunk is located in the building footprint, or the trunk or basal flare is in the building area, or because the public works director or urban forester has determined that the tree is so close to the building area that construction would result in the death of the tree, the tree removed shall be replaced in accordance with the standards in Section \_\_\_\_\_ and Table 3.1 and such replacements shall result in no net loss or increase of tree canopy within 15 years.
10. 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 access to the property or deemed necessary to repair a geologic hazard (landslide, repairs, etc.). Tree replacements shall result in no net loss or increase of tree canopy within 15 years. 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. On single-family residential parcels, the portion of the parcel deemed to be the building envelope access shall not exceed ten feet in width.
11. In all circumstances other than those described in paragraphs (a), (b) and (c) of this section 7, protected trees shall not be removed unless one of the following applies:
  - a. The Community Development Director has determined, on the basis of a tree report prepared by a certified arborist for the applicant and other relevant information, that the tree should be removed because it is dead, dangerous or constitutes a nuisance. In such cases, the dripline area of the removed tree, or an equivalent area on the site, shall be preserved from development of any structure unless removal would have been permitted under paragraph (2) of this section, and tree replacement in accordance with the standards in Table 3.1 of Section \_\_\_\_\_ shall be required.
  - b. Removal is permitted as part of project approval under the County Zoning Ordinance, because retention of the tree would result in reduction of the otherwise-permissible building area for the primary residence by more than twenty-five percent.

- c. Removal is necessary to achieve other important County policy objectives, such as multi-family housing.

12. In determining whether there is a significant impact, the typical longevity of the subject tree species, the size of the tree relative to the property, and whether the condition can be corrected shall be considered. Normal maintenance, including but not limited to pruning not requiring a permit under this division, and leaf removal and minor damage to paving or fences shall not be considered when making a determination of significant impact

13. All Protected Tree pruning shall be in accordance with the current version of the International Society of Arboriculture Best Management Practices—Tree Pruning and ANSI A300-Part 1 Tree, Shrub and Other Woody Plant Management—Standard Practices, (Pruning).

**SECTION \_\_\_\_\_. ACTION ON PERMIT.** The Community Development Director shall review the application and, if necessary, inspect the site and shall determine on the basis of the information provided, the site inspection and the criteria contained herein whether to grant, grant with conditions, or deny the permit. Whenever any action is taken on a permit, the Community Development Director shall provide the applicant with a written statement indicating said action, and conditions imposed and the findings made in taking such action.

**SECTION \_\_\_\_\_. SCENIC CORRIDORS.** Any permits which involve substantial alteration of vegetation within a scenic corridor shall be acted upon by the Planning Commission. The Planning Commission may approve, conditionally approve, or deny the permit.

**SECTION \_\_\_\_\_. CONDITIONS OF APPROVAL.** In granting any permit as provided herein, the Community Development Director, Planning Commission, or Board of Supervisors may attach reasonable conditions to ensure compliance with the intent and purpose of this ordinance including, but not limited to:

- (c) Use of measures to effect erosion control, soil and water retention and diversion or control of increased flow of surface waters.
- (d) Use of measures to ensure that the contemplated action will not have adverse environmental effects relating to shade, noise buffers, protection from wind, air pollution, and historic features.
- (e) Removal of posting following all tree cutting activity and inspection by the County.

**SECTION --- \_\_\_\_\_ REQUIRED FINDINGS**

The Community Development Director, Director's designee, or deciding body shall approve a protected tree removal permit, severe pruning permit, or pruning permit for Heritage trees or large protected trees only after making at least one of the following

findings, except for cases involving development where at least findings 4 and 5 shall be made:

1. The tree is dead, severely diseased, decayed or disfigured to such an extent that the tree is unable to recover or return to a healthy and structurally sound condition.
2. The tree has a tree risk rating of Extreme or High on the ISA Tree Risk Rating Matrix as set forth in the ISA Tree Risk Assessment Best Management Practices, or successor publication.
3. The tree is crowding other protected trees to the extent that removal or severe pruning is necessary to ensure the long-term viability of adjacent and more significant trees.
4. In the case of development, there is no alternative building site for a house, commercial structure, parking lot, driveway, or accessory structure, the applicant has minimized tree removal and trees and other vegetative land cover are proposed for removal only where necessary for the construction of structures or paved areas. The retention of the tree restricts the economic enjoyment of the property 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 or deciding body that there are no reasonable alternatives to preserve the tree.
5. 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.
6. The tree has caused or may imminently cause significant damage to an existing structure that cannot be controlled or remedied through reasonable modification of the root or branch structure of the tree.
7. The retention of the protected tree would result in reduction of the otherwise-permissible building envelope by more than twenty-five (25) percent.
8. The removal of the tree is unavoidable due to restricted access to the property, despite limiting the width of access to 10 feet in width.
9. The removal of the tree is necessary to repair a geologic hazard.
10. The removal of the tree and replacement with a more appropriate tree species will enhance the County's urban forest.

**SECTION \_\_\_\_\_. EXISTING TREE PLAN-APPLICATION REQUIREMENTS.**

Applicants seeking Planning or Building permits (including Use, Design Review, Grading or Demolition permits) 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. A tree survey shall be conducted prior to submittal of any development application proposing the removal of or impact to one or more protected trees. The development application shall include an Existing Tree Plan and Tree Protection Plan based on this survey. The tree survey inventory numbers shall correspond to a numbered metal tag placed on each tree on site during the tree survey. The Existing Tree Plan shall be a separate sheet(s), shall be prepared by a certified or consulting arborist, and shall include the following information:
  - a. Property lines and easements;
  - b. The locations of existing trees or groups of trees, including driplines 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 driplines overhanging the project site. In addition, for trees four (4) inches in diameter or larger, the plan shall specify the precise location of the trunk and crown spread, and the species, size (diameter, height, crown spread) and condition of the tree.
  - c. Notation of all trees classified as protected trees;
  - d. A table listing each tree by number, DBH, genus, species, and common name;
  - e. Identify all trees that could potentially be affected by the project (directly or indirectly-immediately or in long term), such as upslope grading or compaction outside of the dripline;
  - f. For Demolition permits, show the building footprint for the structure to be removed;
  - g. The footprint of any existing or new structures, including additions;
  - h. The location of existing and proposed site utilities, including water, sewer, drainage, gas, underground electrical, voice/data, septic field, well head, or other;
  - i. An Arborist's report is required for protected 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 dripline of the tree(s);
  - j. The Arborist's report shall assess the tree condition for all protected trees, and any measures necessary to protect trees on-site during demolition or construction. Tree protection measures shall comply with San Mateo County's tree protection requirements;

- k. 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 construction.
- l. Existing Tree Plans shall NOT include:
  - (1) Proposed Landscaping
  - (2) Topographic Lines
  - (3) Finished Floor Elevations
2. The Existing Tree Plan and Tree Protection Plan shall be reviewed by the County's arborist who shall, after making a field visit to the property, indicate in writing or as shown on approved plans, which trees are recommended for preservation (based on a retention rating of high/moderate/low) using, as a minimum, the Standards of Review set forth in section \_\_\_\_\_. This plan shall be made part of the staff report to the Community Development Director or deciding body for its consideration of the application for new property development;
3. When development impacts are within the dripline of or will affect any protected tree, the applicant shall provide a tree preservation report prepared by a certified or consulting arborist. The report, based on the findings of the tree survey plan and other relevant information, shall be used to determine the health and structure of existing trees, the effects of the proposed development and vegetation removal upon the trees, recommendations for specific precautions necessary for their preservation during all phases of development (demolition, grading, during construction, landscaping); and shall also indicate which trees are proposed for removal. The tree preservation report shall stipulate a required tree protection zone (TPZ) for trees to be retained, including street trees, protected trees and trees whose canopies are hanging over the project site from adjacent properties. The TPZ shall be fenced as specified in section \_\_\_\_\_:
  - a. The final approved tree preservation report shall be included in the building permit set of development plans and printed on a sheet titled: Tree Preservation Instructions (Sheet T-1). Sheet T-1 shall be referenced on all relevant sheets (civil, demolition, utility, landscape, irrigation) where tree impacts from improvements may be shown to occur;
  - b. The County reviewing body through its site and design plan review shall endeavor to protect all trees recommended for preservation by the County's arborist. The County reviewing body may determine if any of the trees recommended for preservation should be removed, if based upon the evidence submitted the reviewing body determines that due to special site grading or other unusual characteristics associated with the property, the preservation of the tree(s) would significantly preclude feasible development of the property as described in Section \_\_\_\_\_;

- c. Approval of final site or landscape plans by the appropriate County reviewing body shall comply with the following requirements and conditions of approval:
- (1) The applicant shall, within ninety (90) days of final approval or prior to issuance of a grading or building permit, whichever occurs first, secure an appraisal of the condition and value of all trees included in the tree report affected by the development that are required to remain within the development using the Tree Value Standard methodology as set forth in this Chapter. The appraisal of each tree shall recognize the location of the tree in the proposed development. The appraisal shall be performed in accordance with the current edition of the Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers (CTLA) and the Species and Group Classification Guide published by the Western Chapter of the International Society of Arboriculture. The appraisal shall be performed at the applicant's expense, and the appraisal shall be subject to the Director's approval.
  - (2) The site or landscape plans shall indicate which trees are to be removed. However, the plans do not constitute approval to remove a tree until a separate permit is granted. The property owner or applicant shall obtain a protected tree removal permit, as outlined in section 29.10.0980, for each tree to be removed to satisfy the purpose of this division.

**SECTION \_\_\_\_\_ . TREE PROTECTION PLAN.** All proposals for development (Building or Planning Permit) on sites where proposed construction has the potential to impact a significant tree shall submit a tree protection plan, for review and approval, prior to the issuance of a Building or Planning permit. Said protection plan shall be required as needed depending upon site conditions and shall include the following:

1. Prior to issuance of occupancy permits for authorized development or acceptance of subdivision improvements, the applicant shall submit to the Community Development Director a final tree preservation report prepared by a certified or consulting arborist. This report shall consider all trees that were to remain within the development. The report shall note the trees' health in relation to the initially reported condition of the trees and shall note any changes in the trees' numbers or physical conditions. The applicant will then be responsible for the loss of any tree not previously approved for removal. For protected trees, which were removed, the developer shall pay a penalty in the amount of the appraised value of such tree in addition to replacement requirements contained in Section \_\_\_\_\_. The applicant shall remain responsible for the health and survival of all trees within the development for a period of five (5) years following acceptance of the public improvements of the development or certificate of occupancy.
2. Prior to issuance of any demolition, grading or building permit, the applicant or contractor shall submit to the Building Department a written statement and photographs verifying that the required tree protection fence is installed around street trees and protected trees in accordance with the tree preservation report.

3. If required by the Director and conditioned as part of a discretionary approval, a security guarantee shall be provided to the County. Prior to the issuance of any permit allowing construction to begin, the applicant shall post cash, bond or other security satisfactory to the Director, in the penal sum of five thousand dollars (\$5,000.00) for each tree required to be preserved, or twenty-five thousand dollars (\$25,000.00), whichever is less. The cash, bond or other security shall be retained for a period of one (1) year following acceptance of the public improvements for the development and shall be forfeited in an amount equal to five thousand dollars (\$5,000.00) per tree as a civil penalty in the event that a tree or trees required to be preserved are removed, destroyed or severely damaged.
4. An applicant with a proposed development which requires underground utilities shall avoid the installation of said utilities within the dripline of existing trees whenever possible. In the event that this is unavoidable, all trenching shall be done using directional boring, air-spade excavation or by hand, taking extreme caution to avoid damage to the root structure. Work within the dripline of existing trees shall be supervised at all times by a certified or consulting arborist.
5. It shall be a violation of this division for any property owner or agent of the owner to fail to comply with any development approval condition concerning preservation, protection, and maintenance of any protected tree.
  - a. Identify, establish, and maintain tree protection zones throughout the entire duration of the project;
  - b. Isolate tree protection zones 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;
  - c. Maintain tree protection zones free of equipment and materials storage; contractors shall not clean any tools, forms, or equipment within these areas;
  - d. 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 topplers. 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;
  - e. Normal irrigation shall be maintained, but oaks shall not need summer irrigation, unless the arborist's report directs specific watering measures to protect trees;
  - f. Street tree trunks and other trees not protected by dripline fencing shall be wrapped with straw wattles, orange fence and 2x4 boards in concentric layers to a height of eight feet; and

- g. Prior to Issuance of a Building Permit (including Grading or Demolition Permits), the Planning and Building Department shall complete a pre-construction site inspection, as necessary, to verify that all required tree protection and erosion control measures are in place.
- h. Prior to issuance of an occupancy permit, the applicant must demonstrate to the satisfaction of the Community Development Director via a site inspection to verify that all required tree protection and erosion control measures remained in place during construction, and that all preserved trees are in good health and replacement trees are planted as required and in good health.

**SECTION \_\_\_\_\_. PERMIT ON-SITE.** The approved Tree Cutting Permit shall be posted on the site at all times during the tree cutting 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.

**SECTION \_\_\_\_\_. EXPIRATION OF PERMIT.** If work authorized by an approved permit is not commenced within a period of one year from the date of approval, the permit shall be considered void.

**SECTION \_\_\_\_\_. EMERGENCIES.**

In case of an emergency, when a tree or large branch has partially fallen or it is apparent it is about to fall and poses an immediate threat to persons or property, the tree or large branch may be removed without prior County review or approval. The County does not require an arborist report before the removal in this instance.

Prior to emergency removal or pruning, the applicant shall document the emergency conditions as required in this section. Following the emergency removal or pruning, the applicant shall submit a tree removal or pruning application to the Community Development Director within five (5) working days thereafter, and the provisions regarding replacement trees in accordance with Section \_\_\_\_\_ of this Part shall be required. The action must be substantiated after the fact by the applicant supported by an arborist assessment with photographs (taken before tree removal or cutting), abatement information, insurance claim and other relevant information and completion of a Tree Removal Application.

If corroborating evidence (as described above) is not submitted, then the property owner and/or applicant shall be required to apply for an After-the-Fact tree removal permit (subject to required fees and conditions of approval). If the tree removal or pruning was not an emergency, the action will be treated as a violation of this ordinance.

**Section \_\_\_\_\_ Hazardous Trees.** In instances where a tree does not show clear evidence of imminent failure (i.e. – uprooting, sudden dramatic leaning, split trunks and other evidence of storm damage) but could still present a hazard due to failing health/defects and the proximity and nature of potential targets, a property owner can

apply for an expedited approval to remove said tree. The expedited process will eliminate noticing and appeal periods.

In order to qualify for this expedited process, the property owner (or their representative) must submit an International Society of Arboriculture (ISA) Basic Tree Risk Assessment Form prepared by an arborist who is ISA TRAQ (Tree Risk Assessment Qualification) certified. Trees must have a risk rating of “high” or “extreme” to qualify for the emergency process.

The emergency process is still subject to permitting fees and tree replacement requirements, as appropriate.

Trees that fall below the “high” risk rating are subject to the normal permitting process for removal.

**SECTION \_\_\_\_\_ . APPEALS.** The applicant or any other person who is aggrieved by the issuance or non-issuance of the permit or any conditions thereof, or by any other action taken by the Community Development Director as authorized by this Part, may appeal in the manner set forth below. A statement by the appellant shall be required indicating how the appellant 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.

- (a) Any action under this Part taken by the Community Development Director may be appealed to the Planning Commission by filing a written notice of appeal with the Secretary of the Planning Commission within ten (10) days of the issuance or denial of said permit. The Planning Commission shall hear such appeal within thirty (30) days of the date of filing of the written protest. 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 as provided for in Section 12,022.
- (b) Any action under this Part taken by the Planning Commission may be appealed to the Board of Supervisors by filing a written notice of appeal with the Secretary of the Planning Commission within (10) days from the decision of the Planning Commission. 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 as provided for in Section 12,022 herein.

**SECTION \_\_\_\_\_ . MIGRATORY BIRD PROTECTION.** Conduct tree removal, tree trimming, or grading activities outside of the nesting season. California Department of

Fish and Wildlife biologists have defined the nesting season as February 1st through August 15th. If other timing restrictions make it impossible to avoid the nesting season, the trees should be surveyed by a qualified biologist to identify nesting birds. Active nests should be avoided. If an active nest is found, follow-up surveys shall be conducted to confirm when the nest is no longer active. Delay removal or pruning activity within 300 feet of an active nest until the nest is no longer active

**SECTION \_\_\_\_\_. PEST AND DISEASE MANAGEMENT AND CONTROL.** Property owners shall care for trees on their property in a manner that controls pests to the maximum extent practicable. Arborists, contractors and others conducting tree planting, pruning or removal shall conduct these activities in a manner that controls pests and prevents the spread of disease to maximum extent practicable. Tools used on sites where disease, such as phythophthora sp. is present, may not be used on non-contaminated sites unless the tools have been properly cleaned consistent with best management practices.

#### **CHAPTER 4. INSPECTIONS, VIOLATIONS**

**SECTION \_\_\_\_\_. 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 \_\_\_\_\_. INSPECTION.** The Planning and Building 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 applicant shall be given a written notice of any violations observed at the time of inspection for correction thereof.

**SECTION \_\_\_\_\_. VIOLATIONS: CEASE AND DESIST; REMEDIATION OF UNLAWFUL TREE CUTTING.** 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 cutting 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 Community Development Director determines that one or more significant trees have been removed, cut, or trimmed without the required permit or permits, the following additional requirements shall be imposed:

- 1) 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 remaining 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 of any remaining trees on the property.
    - 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(s) removed.
    - Replacement shall occur on the subject parcel or at a location approved by the County.
  - (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).
  - (d) 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 below under Section 12,032.2, and satisfy all conditions in connection therewith, including replacement planting.
- 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 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 that 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 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 below under Section 12,032.2, and satisfy all conditions in connection therewith, including replacement planting.

**SECTION \_\_\_\_\_ . VIOLATIONS: PENALTIES FOR INFRACTION.** 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 penalty fine, as follows:

First Significant Tree	\$2,500
Second Significant Tree	\$3,750
Each Additional Significant Tree	\$5,000

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.

**SECTION \_\_\_\_\_ . VIOLATIONS: CUMULATIVE REMEDIES.** The remedies for violations set forth in Sections 12,032 and 12,032.2 can be enforced separately or cumulatively. In addition to the penalties provided for in this Chapter, any violations may be addressed by civil action.

**SECTION \_\_\_\_\_ . VIOLATIONS: 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 Part. The Community Development Director 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 cutting violates

this Part, proof may be submitted to the Community Development Director, including documentation and professional tree surgeon or arborist reports that a tree cutting permit is not required. If the Community Development Director determines that a tree cutting permit is required, the property owner and/or party responsible for the tree cutting work shall apply for the necessary tree cutting permit within a specified time period set by the Community Development Director.

**SECTION \_\_\_\_\_ . NOTICE OF EXPUNGEMENT.** A notice of expungement of the notice of violation shall be recorded with the Office of the County Recorder when:

- (a) The Community Development Director or other appellate authority determines that a tree cutting permit is not required; or
- (b) 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. The meeting of any long term conditions, such as maintenance of replacement plantings, is to be guaranteed by a surety deposit to run with the land and the term for which shall not be imposed as a demand for meeting these requirements for the expungement.