

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

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

13. Protected Tree. The following tree species and any natural hybrids of these tree species are considered protected tree species:

- 1) Hardwoods: Big Leaf Maple (*Acer macrophyllum*), Black Oak (*Quercus kelloggii*), Blue Oak (*Quercus douglasii*), Boxelder (*Acer negundo*), California Black Walnut (*Juglans californica*), California Buckeye (*Aesculus californica*), Canyon Live Oak (*Quercus chrysolepis*), Coast Live Oak (*Quercus agrifolia*), Cottonwood species (*Populus fremontii*, *P. trichocarpa*), Interior Live Oak (*Quercus wislizenii*), Madrone (*Arbutus menziesii*), Oregon Ash (*Fraxinus latifolia*), Oregon Oak (*Quercus garryana*), Red or White Alder (*Alnus rubra*, *A. rhombifolia*), Valley Oak (*Quercus lobata*), Willow species (*Salix laevigata*, *S. lucida*)
- 2) Softwoods: Cypress species (*Hesperocyparis macrocarpa*, *H. macnabiana*), Grand Fir (*Abies grandis*), Pine species (*Pinus attenuata*, *P. contorta*, *P. lambertiana*, *P. muricata*, *P. ponderosa*, *P. sabiniana*), Redwood (*Sequoia sempervirens*), Western Hemlock (*Tsuga heterophylla*)

## SECTION 26-88-010(M) TREE PROTECTION ORDINANCE

### A. General Provisions.

1. Defined terms. As used in this Sec. 26-88-010.M:
  - a. A reference to “this ordinance” is to Sec. 26-88-010.M.
  - b. A reference to a “subsection” is to a subsection (A-E) of this ordinance, unless otherwise specified.
  - c. “Housing development project” shall be defined as provided in Government Code, Sec. 65589.5(h).
2. The intent of this ordinance is to:
  - a. Support essential community and ecosystem functions of trees by requiring their protection and requiring mitigations for their removal; and
  - b. Facilitate hazard reduction, forest health, and property maintenance by exempting qualifying activities from permits or mitigations.
3. Except as otherwise provided in this ordinance, land uses shall be designed to avoid the destruction of protected trees.
4. Permit requirement.
  - a. Unless a use permit is required per subsection A.4.b. or an exemption applies under subsection B, a ministerial zoning permit is required for removal of protected trees.
  - b. Unless an exemption applies under subsection B, a use permit is required for the following:
    1. removal of redwoods with single stem d.b.h. exceeding 48”
    2. removal of oaks and other hardwoods with single stem d.b.h. exceeding 36”.

Use permits for large tree removal shall not be approved unless the decision maker makes the findings required by Section 26-92-080, mitigation is provided for as described in subsection E of this ordinance, and the tree removal is done in a manner that is in support of the intent of this ordinance.

5. A permit application for removal of protected trees shall:
  - a. Include a site plan for that parcel that (1) identifies the area of the parcel that encompasses the protected perimeter of protected trees proposed for removal, and (2) within that area additionally identifies the following:
    1. Protected trees greater than six inches (6”) diameter at breast height (d.b.h.) proposed for removal or retention; and
    2. Existing and proposed structures, including agricultural and residential accessory structures; and
    3. Existing and proposed land uses; and
    4. Existing and proposed accessory uses of the land; and
    5. Existing and proposed building envelopes; and
  - b. Specify the proposed plan for complying with subsection E for mitigation, including a description of and all locations of proposed plantings; and

- c. Be accompanied by required application fees and include all other information that may be required on the application form or by the Director, necessary to make determinations under this ordinance.
- 6. Interpretation and application.
  - a. As applied to a housing development project, this ordinance shall accommodate development at the density and intensity allowed by the site's zoning and as permitted in compliance with applicable state law, including but not limited to the State Density Bonus Law.
  - b. Compliance with this ordinance shall not render a legal parcel undevelopable.
- 7. Preemption. This ordinance shall apply except to the extent preempted by state or federal law.
- 8. Housing development projects that qualify as "housing for very low-, low-, or moderate-income households," as defined in Government Code Section 65589.5(h), and by right housing development projects that are zoning compliant and located entirely within a general plan-designated urban service area, are not subject to mitigation required by subsection E of this ordinance.
- 9. Compliance with this ordinance does not alleviate the need to comply with all other local, state, or federal requirements that may be applicable to tree removal, including any prohibitions, permits, approvals, or authorizations required by local, state, or federal resource agencies.
- 10. Permit Sonoma and the Department of Agriculture are authorized to enforce this ordinance.

**B. Exemptions.**

The following activities are exempt from this ordinance, subject to the limitations and exceptions specified for each activity:.

**1. Health and Safety Exemptions.**

**i. Fire Risk Reduction.**

- 1. Protected tree removal that is no more than necessary to comply with fire safety laws and regulations, including tree removal required to comply with state or local defensible space requirements, including Sonoma County Code Chapter 13A and California Public Resources Code Section 4291.
- 2. Protected tree removal that is no more than necessary to obtain or maintain property insurance coverage, when required by an insurance company that insures an occupied dwelling or occupied structure, and when in accordance with the requirements and restrictions of state law, including Public Resources Code section 4291.
- 3. Fire risk reduction activities that results in protected tree removal when the activity or tree removal is documented to be directed, ordered, overseen, recommended, or approved by the public agency having fire protection responsibility for

the area. This includes prescribed or cultural burning projects. Nothing in this section is intended to modify the applicability of Section 26-02-070 of Chapter 26, related to applicability of Chapter 26 to governmental units.

4. Fire risk reduction activities that results in protected tree removal when the activity or tree removal is undertaken by the County, CAL FIRE, or other public agencies. This includes prescribed or cultural burning projects. Nothing in this section is intended to modify the applicability of Section 26-02-070 of Chapter 26, related to applicability of Chapter 26 to governmental units.
  5. Protected tree removal authorized by a plan, program, project, or entitlement subject to direct oversight of the tree removal work by a governmental agency.
- ii. Emergency Operations. Protected tree removal or activities that may result in protected tree removal undertaken by public agencies during emergency operations or in post-disaster remediation. Nothing in this section is intended to modify the applicability of Section 26-02-070 of Chapter 26, related to applicability of Chapter 26 to governmental units.
  - iii. Hazardous, Dead, Dying, or Diseased Trees.
    1. Removal of a hazardous, dead, dying, or diseased protected tree is exempt from this ordinance if either of the following criteria are met:
      - a. The removal of the hazardous, dead, dying, or diseased protected tree occurs inside the defensible space zone of a structure, as defined by County Code Chapter 13A and state law applicable to defensible space; or
      - b. The removal of the hazardous, dead, dying, or diseased protected tree occurs outside of the defensible space zone of a structure, and (1) the tree is within striking distance of a structure, (2) the tree creates a potential health and safety hazard due to the risk of the tree falling, and (3) the tree is structurally unstable, and the structural instability cannot be remedied.
    2. Removal of a hazardous, dead, dying, or diseased protected tree that would otherwise require a use permit for tree removal, requires a ministerial zoning permit, and is otherwise exempt from subsection E, "Required mitigations

for removal of protected trees,” of section 26-88-080(M), if the following criteria are met:

- a. The hazardous, dead, dying, or diseased tree is over 36” dbh;
  - b. Tree removal will occur outside of the defensible space zone of a structure as defined by County Code Chapter 13A and state law applicable to defensible space;
  - c. The permit application demonstrates that a certified arborist or Registered Professional Forester has determined that the tree removal is necessary to protect life or property from the threat of harm caused by the tree.
3. The removal of a hazardous, dead, dying, or diseased protected tree subject to a ministerial zoning permit is exempt from subsection E, “Required mitigations for removal of protected trees,” of this ordinance, if the following criteria are met:
- a. The permit application includes a written determination by a certified arborist or Registered Professional Forester that concludes that the tree removal is necessary to protect life or property from the threat of harm caused by the tree.
4. An application for a permit for removal of the hazardous, dead, dying or diseased trees required by this ordinance may be submitted within 30 days after hazardous tree removal, where immediate removal was necessary for public health or safety reasons.
5. The Director may waive standards that are otherwise applicable to a permit application for removal of a hazardous, dead, dying, or diseased protected tree, upon findings that such waiver is necessary to comply with subsection A. subdivision 6 of Section 26-88-080(M).

**2. Stewardship and Resource Management Exemption.**

1. Resource conservation, restoration, or enhancement projects. Protected tree removal for soil, water, wildlife, or other resource conservation, restoration, or enhancement projects where a public agency takes full responsibility for the work or has approved or funded the work. Nothing in this section is intended to modify the applicability of Section 26-02-070 of Chapter 26, related to applicability of Chapter 26 to governmental units.

2. Removal of protected trees provided for in a County approved Oak Woodland Management Plan, or Forest Management Plan, Natural Communities Conservation Plan, Habitat Conservation Plan, Streamside Conservation Plan or similar conservation management plan as determined by the Director.
3. **Forest Management Activities Exemption.** Removal of protected trees is exempt from this ordinance if it meets any of the following criteria:
  - i. Timber Harvest. The tree removal occurs as part of activities that are the subject of a valid timber harvesting permit approved by the State of California;
  - ii. Timber Management. The tree removal occurs as part of activities that meet the definition of Timber Management on RRD or TP zoned parcels; or
  - iii. Forestry Activities.
  - iv. The tree removal occurs as part of activities defined in California Public Resources Code Sections 750 through 781 as forestry conducted on forested landscapes overseen by a Registered Professional Forester.
4. **Pest Control Exemption.** The protected tree removal occurs as part of selective vegetation removal that is part of an integrated pest management program administered by a state licensed Pest Control Advisor.
5. **Maintenance of Existing Agricultural Activities Exemption.** Unless otherwise specified, the following are exempt from this ordinance:
  - i. Removal of protected trees no more than necessary to maintain existing grazing, livestock management, or similar agricultural production, not involving cultivation or structures, means: (1) maintenance of existing access roads; (2) maintenance of associated infrastructure; (3) activities necessary to maintain agricultural use of the existing agricultural operation. The intentional clearing of protected trees for the purposes of establishing new grazing or livestock areas is not exempt.
  - ii. Removal of protected trees no more than necessary to maintain an existing cultivated agricultural crop area, as follows: (1) maintenance of existing access roads; (2) maintenance of drainage or drainage infrastructure; (3) maintenance of irrigation or irrigation infrastructure; (4) activities necessary to maintain agricultural use of the existing agricultural crop cultivation area, including planting, seeding, fertilizing, weeding, tree trimming, and harvesting.
  - iii. Protected tree removal is not exempt from this ordinance if it is for the expansion of existing cultivation areas or the establishment of new cultivation areas into land not used for

agricultural crop cultivation at the time this provision became effective, and no other exemption applies.

6. **Property Maintenance Exemption.** Unless otherwise specified, the following are exempt from this ordinance:

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

C. **Construction Standards.** Development permit applications proposing a project or activity involving disturbance on or within the protected perimeter of retained protected trees shall be subject to the following construction standards, unless the Director waives one or more standards and makes findings consistent with section 26-88-010(M), subsection A, subdivision 6:

1. Protected trees, their protected perimeter and whether they are to be retained or removed are to be clearly shown on all improvement plans. A note shall be placed on the improvement plans that "Construction is subject to requirements established by Sonoma County to protect certain trees."
2. Before the start of any clearing, excavation, construction or other work on the site, every tree designated for protection on the approved site plan shall be clearly delineated with a substantial barrier (steel posts and barbed wire, chain link fencing, orange construction fencing, or other exclusionary barrier) at the protected perimeter or limits established during the permit process. The delineation markers shall remain in place for the duration of all work. All trees to be removed shall be clearly marked. A scheme shall be established for the removal and disposal of brush, earth and other debris as to avoid injury to any protected tree.
3. Where proposed development or other site work must encroach upon the protected perimeter of a protected tree, special measures shall be incorporated to allow the roots to obtain oxygen, water and nutrients. Tree wells or other

techniques may be used where advisable. No changes in existing ground level shall occur within the protected perimeter unless a drainage and aeration scheme approved by a certified arborist is utilized. No burning or use of equipment with an open flame shall occur near or within the protected perimeter (except for authorized controlled burns).

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

**D. General Development Provisions.** Development removing protected trees shall adhere to the following.

1. Underground trenching for utilities shall avoid tree roots within the protected perimeter. If avoidance is impractical, tunnels should be made below major roots. If tunnels are impractical and cutting roots is required, it shall be done by hand-sawn cuts after hand digging trenches. Trenches shall be consolidated to serve as many units as possible.
2. Compaction within the protected perimeter shall be avoided.
3. Paving with either concrete or asphalt over the protected perimeter should be avoided. If paving over the protected perimeter cannot be avoided, affected trees shall be treated as removed for purposes of calculating arboreal values.
4. Wherever possible, septic systems and/or leachlines shall not be located on the uphill side of a protected tree.
5. An application for a development permit that proposes removal of one or more protected trees, or that would impact a protected tree, shall demonstrate that no feasible options are available to avoid removal or impacts to protected trees.
6. Security posted for the purpose of insuring the proper construction of public or private improvements shall also include an amount sufficient to secure any requirements imposed pursuant to this section. In addition, security for potential tree damage shall be twenty-five percent (25%) of the amount posted for planned tree replacement. In lieu fees shall be paid prior to recording any maps. Such security shall not be released until protection requirements, including planting replacement trees, and any long term maintenance requirements have been satisfactorily discharged. The initial bond amount may be reduced to cover only the maintenance and replacement of trees after construction is completed.
7. The Valley Oak-*Quercus lobata* shall receive special consideration in the design review and other discretionary permit processes to the extent that mature specimens shall be retained to the fullest extent feasible. Valley Oaks contribute



greatly to Sonoma County's visual character, landscape, habitat, carbon sequestration and they provide important visual relief in urban settings. On existing parcels created without the benefit of an accompanying EIR,-review shall focus on the preservation of Valley Oaks to the fullest extent feasible. Where such preservation would render a lot unbuildable, partial protection with accompanying appropriate mitigations developed by a certified arborist shall be incorporated into the project design. In such cases where only partial protection can be achieved, full replacement in accordance with the arboreal value chart shall be required.

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

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

1. Option 1. Tree Replacement Using Arboreal Value Chart No. 1
2. Option 2. In-lieu Payment. The following in-lieu payments apply:
  - a. For tree removal requiring a Use Permit for the removal of redwoods with a single stem 48” DBH or larger or the removal of protected hardwoods with a single stem 36” DBH or larger, payment amount shall be determined using a methodology for tree replacement cost contained in the most recent version of “Guide for Plant Appraisal” published by the Council of Tree and Landscape Appraisers or an alternative methodology of common practice acceptable to the applicable decision maker issuing the permit. Appraisal of cost shall be conducted by a qualified professional certified or licensed to make such determinations.
  - b. For protected tree removal not subject to the Use Permit requirements for the removal of redwoods with a single stem 48” DBH or larger or the removal of protected hardwoods with a single stem 36” DBH or larger, the in-lieu payment shall be \$510 per arboreal value point as determined by Arboreal Value Chart No. 1.

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

d.b.h. (inches)	Removed Trees	Weighted Value	Arboreal Value
6-12		1	
over 12-18		2	
over 18-24		3	

d.b.h. (inches)	Removed Trees	Weighted Value	Arboreal Value
over 24-30		4	
Over 30-36		5	
over 36-42		6	
<p>Weighted values for trees that exceed the preceding size classes shall be based on the same increment established in this table (i.e. one additional weighted value point per 6" step in dbh.) For example, a tree with d.b.h. of over 48" to 54" shall have a weighted value of 8</p>			

Total Arboreal Value \_\_\_\_

The arboreal value (the A.V.) is used to calculate the replacement number or in-lieu fee payment.

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

Arboreal Valuations. All trees to be replaced shall be the same native species as that removed unless specific approval has been granted by the Director or the Agricultural Commissioner.

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

= two 15-gallon trees\*\*

= \$510 in-lieu fee

2 points A.V. = 24" Box Tree\*\*  
= \$1,020 in-lieu fee

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

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

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



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

b. Permitted Use, Zoning Districts. Except as otherwise provided in subsection (b) of this

c. Application Requirements. The use permit application for a major timberland