



**CONTRA COSTA COUNTY**  
**DEPARTMENT OF CONSERVATION & DEVELOPMENT**  
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TO: Sonia Bustamante – District I Chief of Staff  
Gayle Israel – District II Chief of Staff  
Mark Goodwin – District III Chief of Staff  
Anne O – District IV Chief of Staff  
David Fraser – District V Chief of Staff

FROM: Jamar Stamps, Principal Planner 

DATE: March 26, 2021

SUBJECT: **Tree Ordinance Update**

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The Department of Conservation and Development (“DCD”), Community Development Division has been working on updating the County Tree Ordinances (County Code Division 816 – Trees), which have not been updated in over 25 years. DCD has incorporated a variety of updates and changes consistent with other municipal tree codes, as well as deleted certain provisions, to simplify the ordinances for the public and staff.

A summary of those updates include:

- Deletion of Chapter 816-4 - HERITAGE TREE PRESERVATION (“HTP”) DISTRICT
- Removal of underutilized or antiquated text
- New definitions
- Revised qualifications for a “protected tree”
- Updated permit and notification process

The draft ordinance (attached) is now available for your Board appointed advisory bodies (MACs, TACs) and Community Service Districts (if applicable) to review and provide comment. DCD staff is available to present and update your respective advisory bodies upon request. Please send presentation requests by Friday, April 9, 2021, or written comments by Friday, April 30, 2021. Presentation requests and written comments may be provided via email to [jamar.stamps@dcd.cccounty.us](mailto:jamar.stamps@dcd.cccounty.us).

att: County Ordinance: (1) Original, (1) Updated, Comparison Table

cc: A. Bhat, DCD  
R. Hernandez, DCD

**Division-816 (Original)**

Division 816 - TREES

Chapter 816-2 - —TOV TREE OBSTRUCTION OF VIEWS COMBINING DISTRICT

**Article 816-2.2. General**

816-2.202 - —TOV combining district.

All land within a land use district combined with a —TOV tree obstruction of views combining district shall be subject to the provisions in this chapter.

(Ord. 84-3).

816-2.204 - Purpose and intent.

The purpose of this chapter is to provide a method for private property owners to gain restoration of views and sunlight lost due to tree growth by another private property owner as defined in Article 816-2.4. It is not intended by this chapter to create any greater right to a view or access to sunlight than existed at the time any claimant purchased his property.

(Ord. 84-3).

816-2.206 - Objectives.

The objectives of, and the justification for, this chapter are to:

- (1) Preserve and promote the aesthetic benefits provided by trees, views of surrounding locale, and access to light;
- (2) Preserve and promote the beneficial use and enjoyment of privately owned land within the county;
- (3) Preserve, maintain, and enhance property values within the county;
- (4) Discourage the maintenance of trees that provide excessive shade and unduly diminish desirable views.

(Ord. 84-3).

**Article 816-2.4. Definitions**

816-2.402 - General.

Unless otherwise specifically provided, or required by the context, the following terms have these meanings for the purposes of this chapter.

(Ord. 84-3).

816-2.404 - Claimant.

"Claimant" means any owner of real property who believes in good faith that the growth, maintenance or location of trees situated on the property of another diminishes the beneficial use, economic value and enjoyment of this property, and who files a view claim under Section 816-2.424.

(Ord. 84-3).

816-2.406 - Obstruction.

"Obstruction" means any blocking or diminishing of a view by tree growth, maintenance or location.

(Ord. 84-3).

816-2.408 - Thinning.

"Thinning" means the selective removal of entire branches from a tree so as to improve the tree's structural condition.

(Ord. 84-3).

816-2.410 - Topping.

"Topping" means the removal of the upper portion of a tree's trunk or primary leader.

(Ord. 84-3).

816-2.412 - Trimming.

"Trimming" means the selective removal of portions of branches from a tree so as to modify the tree's form, shape or profile and/or improve the tree's appearance.

(Ord. 84-3).

816-2.414 - Tree.

"Tree" means any woody perennial plant, usually with one main trunk, attaining a height of at least eight feet at maturity.

(Ord. 84-3).

816-2.416 - Tree owner.

"Tree owner" means the owner of real property on which are situated tree(s) whose growth, maintenance or location allegedly diminishes the beneficial use, economic value and enjoyment of the property of another.

(Ord. 84-3).

816-2.418 - Tree removal.

"Tree removal" means the destruction of any tree by cutting, girdling, interfering with the water supply, applying chemicals, or regrading around the base of the trunk.

(Ord. 84-3).

816-2.420 - View.

"View" means a range of sight including pleasing vistas or prospects or scenes. Views include, but are not limited to, the sight of geologic features, bays, oceans, sky lines, bridges and distant cities.

(Ord. 84-3).

816-2.422 - View arbitrator.

"View arbitrator" means any person mutually agreed to by the claimant and tree owner, a landscape architect registered and licensed by the state of California or other selected in accordance with applicable Arbitration Rules of the American Arbitration Association.

(Ord. 84-3).

816-2.424 - View claim.

"View claim" means the claimant's verified written basis for arbitration or court action under this chapter, which clearly establishes all of the following:

- (1) The precise nature and extent of the alleged view obstruction and particulars of the manner in which it diminishes the beneficial use, economic value and enjoyment of the claimant's property, including all pertinent corroborating physical evidence available;
- (2) The exact location of all trees alleged to cause a view obstruction, the address of the property upon which the trees are located, and the present tree owner's name and address. This requirement may be satisfied by the inclusion of tree location, property address and tree owner information on a valid property survey or plot plan submitted with the view claim;
- (3) Any mitigating actions proposed by the parties involved to resolve the alleged view claim;
- (4) The failure of personal communication between the claimant and the tree owner to resolve the alleged view obstruction as set forth in this chapter. The claimant must provide physical evidence that written attempts at conciliation have been made and filed. Such evidence may include, but is not limited to, copies of and receipts for certified or registered mail correspondence.

(Ord. 84-3).

816-2.426 - Windowing.

"Windowing" means the creation of a limited horizontal viewing plan through the head of a tree or trees.

(Ord. 84-3).

#### **Article 816-2.6. Standards**

816-2.602 - General.

Unless otherwise specifically provided, the provisions of this article are to be utilized to resolve view claim disputes.

(Ord. 84-3).

816-2.604 - Rights.

A claimant has no right greater than that which existed at the time of the claimant's acquisition of the property involved in the view claim, and shall provide evidence to prove the extent of that original view and right.

(Ord. 84-3).

816-2.606 - View character.

The character of a view shall be determined by evaluating:

- (1) The vantage point(s) from which the view is obtained;
- (2) The existence of landmarks or other unique features in the view; and
- (3) The extent to which the view is diminished by factors other than the tree(s) involved in the claim.

(Ord. 84-3).

816-2.608 - Obstruction.

The character of the view obstruction shall be determined by evaluating:

- (1) The extent of the alleged view obstruction, expressed as a percentage of the total view, and calculated by means of a surveyor's transit or by photography or both; and
- (2) The extent to which landmarks or other unique features in the view are obstructed.

(Ord. 84-3).

816-2.610 - Benefits and burdens.

The extent of benefits and/or burdens derived from the alleged view obstruction tree(s) shall be determined with consideration given to the tree(s)' contribution to the following factors:

- (1) Visual screening;
- (2) Wildlife habitat;
- (3) Soil stability, as measured by soil structure, degree of slope and extent of tree(s) root system;
- (4) Energy conservation and/or climate control, and/or interference in efficient operations of claimant's solar energy systems;
- (5) Effects on neighboring vegetation;
- (6) Visual quality of the tree(s), including but not limited to species characteristics, size, form, texture, color, vigor and location;
- (7) The economic value of the tree(s), as measured by the criteria developed by the American Society of Landscape Architects; and
- (8) Other tree-related factors, including but not limited to indigenous tree species, specimen tree quality, rare tree species, and historical value.

(Ord. 84-3).

816-2.612 - Restoration evaluation.

Any restorative action shall be evaluated based on the standards of this article and consideration of the following:

- (1) The effectiveness of the restorative action in reducing the view obstruction;
- (2) Any adverse impact of the restorative action on the benefits derived from the tree(s) in question;
- (3) The structural and biological effects of the restorative action on the tree(s) in question; and
- (4) The cost of the restorative action, as determined by consultation with licensed landscape architects.

(Ord. 84-3).

816-2.614 - Restoration limits.

Restorative actions shall be limited to the following:

- (1) Trimming;
- (2) Thinning;
- (3) Windowing;
- (4) Topping;
- (5) Tree removal with necessary replacement planting; and/or
- (6) No action.

(Ord. 84-3).

816-2.616 - Restoration implementation.

All restorative actions shall be undertaken subject to the following:

- (1) Restorative actions must be consistent with all applicable statutes, ordinances, and regulations.
- (2) Where possible, restorative actions shall be limited to the trimming and/or thinning of branches; but, when is not a feasible solution, windowing is the preferable solution.
- (3) When thinning, trimming and windowing of branches is not a feasible solution, topping shall be considered.
- (4) Tree removal shall only be considered when all other restorative actions are judged to be ineffective and shall be accompanied by replacement plantings of appropriate plant material necessary to restore the maximum level of benefits lost due to tree removal. Replacement plantings can be required on the tree owner's or the claimant's property.
- (5) In those cases where tree removal eliminates or significantly reduces the tree owner's benefits of shading, visual screening, or privacy, replacement screen plantings shall, at the tree owner's option, be established prior to tree removal; notwithstanding the provisions of subsection (4) of this section, the tree owner may choose tree removal with replacement plantings as an alternative to trimming, thinning, windowing, or topping.
- (6) All trimming, thinning, windowing, topping or removal required under this chapter must be performed by a qualified tree trimmer or as approved by the view arbitrator.

(Ord. 84-3).

## **Article 816-2.8. Procedure**

### 816-2.802 - Initial reconciliation.

A claimant who believes in good faith that the growth, maintenance, or location of trees situated on the property of another diminishes the beneficial use, economic value and enjoyment of views naturally accruing to the claimant's property shall notify the tree owner in writing of such concerns. The submission of said notification to the tree owner should be accompanied by personal discussions, if possible, to enable the claimant and the tree owner to attempt to reach a mutually agreeable solution to the alleged view obstruction in accordance with the provisions of this chapter.

(Ord. 84-3).

### 816-2.804 - Arbitration.

Where the initial reconciliation process fails, the claimant and the tree owner may elect binding arbitration pursuant to this chapter to resolve the alleged view obstruction. The view arbitrator shall be fully qualified under this chapter and shall be agreed to by both the claimant and the tree owner, who shall indicate such agreement in writing and with the arbitrator's consent. The arbitration agreement may provide for employment of experts representing the parties or may be limited to an investigation of the view claim conducted by the view arbitrator. The view arbitrator shall follow the terms and conditions of this chapter to reach a fair resolution of the view claim, and shall submit a complete written report to the claimant and the tree owner. The report shall include the view arbitrator's findings with respect to all standards listed in Article 816-2.6 and a complete listing of all mandated restorative actions. All mandated restorative actions shall be implemented within thirty days of the delivery of the arbitration report to the claimant and the tree owner, or within such other period recommended by expert advice to be required by seasons of the year, type of tree, etc. The findings of the view arbitrator shall be final.

(Ord. 84-3).

### 816-2.806 - Costs.

The costs of arbitration and all mandated restorative actions and/or replacement plantings shall be apportioned between the claimant and the tree owner as mutually agreed to, or in the absence of agreement as follows:

- (1) The claimant and tree owner shall each pay fifty percent of such costs in those cases involving any tree planted by the tree owner subsequent to March 1, 1984.
- (2) In all other cases, the claimant shall pay one hundred percent of such costs.

(Ord. 84-3).

### 816-2.808 - Litigation.

In those cases where the initial reconciliation process fails to resolve the view claim and binding arbitration is not chosen by the parties, civil legal action may be pursued by the claimant.

(Ord. 84-3).

## **Article 816-2.10. Liabilities and Enforcement**

#### 816-2.1002 - Liabilities.

The issuance of an arbitration report pursuant to this chapter does not establish any public use or access not already in existence with regard to the property for which the arbitration report and decision are issued, and does not create any liability for the county, any other public agency or entity, or the arbitrator with regard to any restorative actions or replacement plantings to be performed.

(Ord. 84-3).

#### 816-2.1004 - Enforcement.

Violations of this chapter are not misdemeanors or infractions. Enforcement of this chapter shall be by the involved private parties. Any claimant may seek to enforce any restorative action mandated pursuant to this chapter through ordinary legal proceedings.

(Ord. 84-3).

### Chapter 816-4 - HERITAGE TREE PRESERVATION (HTP) DISTRICT

#### **Article 816-4.2. General**

#### 816-4.202 - HTP district.

All land within Contra Costa County shall be subject to the provisions in this chapter.

(Ord. 88-83).

#### 816-4.204 - Intent and findings.

- (a) Among the features that contribute to the attractiveness and livability of the county are its heritage trees growing as single specimens, in clusters or in woodland situations. These trees have significant psychological and tangible benefits for both residents of and visitors to the county.
- (b) Heritage trees contribute to the visual framework of the county by providing scale, color, silhouette and mass. Heritage trees contribute to the climate of the county by providing shade, moisture and wind control. Heritage trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Heritage trees contribute to the economy of the county by sustaining property values and reducing the cost of drainage systems for surface water. Heritage trees provide landmarks of the county's history, and a critical element of nature in the midst of urban settlement.
- (c) For all these reasons, it is in the interest of the public health, safety and welfare of the county to regulate the removal of heritage trees, to require adequate protection of trees during construction, and to promote the appreciation and understanding of heritage trees.

(Ord. 88-83).

#### 816-4.206 - Regulations.

- (a) The community development department, after consulting with and considering the recommendations of the building inspection, public works and agriculture department, may from time to time propose to the board of supervisors regulations to establish procedures to implement this chapter and to make more specific the standards and guidelines prescribed in this chapter. Such

regulations as are approved by resolution of the board of supervisors shall have the force and effect of law unless otherwise indicated.

- (b) Regulations may be promulgated to set forth criteria for granting and denying destruction permits and, among other things, to govern the marking of heritage trees and the prevention of excessive pruning.

(Ord. 88-83).

816-4.208 - Arboricultural expertise.

All departments engaged in decisions regarding heritage trees may utilize such qualified arboricultural expertise as is required to implement this chapter in accordance with their current budget accounts.

(Ord. 88-83).

#### **Article 816-4.4. Definition and Designation**

816-4.402 - Heritage tree definition.

"Heritage tree" means:

- (1) A tree seventy-two inches or more in circumference measured four and one-half feet above the natural grade; or
- (2) Any tree or a group of trees particularly worthy of protection, and specifically designated as a heritage tree by the board of supervisors pursuant to the provisions of this chapter, because of:
  - (A) Having historical or ecological interest or significance, or
  - (B) Being dependent upon each other for health or survival, or
  - (C) Being considered an outstanding specimen of its species as to such factors as location, size, age, rarity, shape, or health.

(Ord. 88-83).

816-4.404 - Designation.

- (a) The county or regional planning commission for its territorial area of jurisdiction shall receive nominations through the county community development department from any person for the registration of heritage trees on any property. When any property's owner has not joined with or consented to a nomination, that owner shall be provided timely notice of the date and time at which the planning commission and/or board will consider the nomination.
- (b) If the planning commission approves the nominated trees, this decision shall be forwarded to the board for its consideration. If the board approves the heritage tree designation as recommended, then the tree shall be officially registered by resolution and thereafter a permit shall be required for its removal.
- (c) If the planning commission does not approve a heritage tree nomination, its decision is final unless appealed to the board pursuant to and otherwise regulated by the special permit provisions of Chapter 26-2.
- (d) The planning commission or board in designating a heritage tree shall consider the criteria of Section 816-4.402.

- (e) All designated heritage trees shall be appropriately marked with the permission of involved property owners so as to provide continuing notice to the public of heritage tree status.
- (f) A nomination fee of one hundred dollars shall be imposed per application. An appeal fee of fifty dollars per appeal shall be assessed.

(Ord. 88-83).

#### **Article 816-4.6. Destruction or Removal**

816-4.602 - Prohibition.

Except as provided in this chapter, no person shall destroy or remove any designated heritage tree unless a permit has been obtained therefor. This chapter does not require a permit for nor prevent trimming, pruning, or maintenance of a heritage tree where such does not result in destruction nor substantially change the tree's form or shape.

(Ord. 88-83).

816-4.604 - Emergency destruction.

In case of an emergency caused by any designated heritage tree being in a hazardous or dangerous condition requiring immediate action for the safety of structures or human life, such tree may be removed with the permission of the zoning administrator or building inspector if designated by the zoning administrator, without formal application. The zoning administrator may request certification from a tree expert as to the immediate need for action if the need is not clearly apparent.

(Ord. 88-83).

#### **Article 816-4.8. Preservation**

816-4.802 - Encroachment, construction or excavation.

When proposed developments or construction encroach into the drip line or a radius of twelve feet from the trunk of any designated heritage tree, whichever is greater, special construction to allow the roots to breathe, obtain water and nutrients shall be required, as determined necessary by the building inspection department to minimize damage to such tree visible above ground level. Excavation, cuts, fills or compaction of the existing ground surface within the drip line or a radius of twelve feet from the trunk of a designated heritage tree, whichever is greater, shall minimize such damage to the root system so as to result in least damage to such tree. Permission is required prior to back filling. Tree wells may be used where approved by the building inspection department. The cost of required pruning or other treatment to compensate for root damage and/or cost of removal shall be at the expense of the involved developer and/or contractor but may be shared by the owner. Such pruning as is done shall not cause permanent injury or destroy any designated heritage tree.

(Ord. 88-83).

816-4.804 - Storage and dumping.

No person shall store or dump any oil, gas, or chemicals that may be harmful to trees, nor place heavy construction machinery or construction materials in the open within the drip line of any designated heritage tree or within a radius of twelve feet from the trunk of such tree, whichever is greater.

(Ord. 88-83).

816-4.806 - Burning.

Burning of any material within or near the drip line of any designated heritage tree shall not be done where such will injure the tree.

(Ord. 88-83).

816-4.808 - Attachments.

No person shall attach any wire (except as needed for support) or sign (other than approved tree identification signs) to any heritage tree where such wire or sign may damage such designated heritage tree.

(Ord. 88-83).

816-4.810 - Damage notification.

The contractor, developer or owner or any agent thereof shall notify the building inspection department without undue delay of any damage that occurs to any heritage tree during construction. The cost of repair of the damage or tree replacement shall be at the expense of the responsible party and the repair work done according to standards approved by the building inspection department.

(Ord. 88-83).

#### **Article 816-4.10. Permits**

816-4.1002 - Application.

- (a) Any application for a permit to destroy, cut down or remove a designated heritage tree shall be submitted to the community development department by the owner or his authorized agent (satisfactory evidence of such authorization to be submitted with the application) on the form provided by the community development department together with any specified fee.
- (b) The application shall contain the location, number, species, size, and heritage designation of the tree to be destroyed, cut down or removed and a statement of reasons for the proposed action, together with such other information as may be required by the community development department.

(Ord. 88-83).

816-4.1004 - Procedure.

Before issuing a permit, the zoning administrator shall have inspected or cause to be inspected, the property, the heritage tree that is the subject of the permit, and the surrounding area. A permit shall be granted, modified, conditioned, or denied based upon the following factors:

- (1) The health, damage, danger of falling of the designated heritage tree that is the subject of the permit and whether said heritage tree acts as a host for plants or animals parasitic to other trees which are endangered thereby.
- (2) The presence of public nuisance factors, and the proximity to or interference with utilities, or interference with existing buildings to the extent that a tree or trees cannot be trimmed or buttressed to fit the site.

- (3) The prevention of development as a result of heritage tree protection and preservation.
- (4) The pursuit of good professional practices of forestry or landscape design.

(Ord. 88-83).

816-4.1006 - Appeal.

The zoning administrator's decision on the permit application is final unless appealed to the planning commission having territorial jurisdiction pursuant to and otherwise regulated by the special permit provisions of Chapter 26-2.

(Ord. 88-83).

816-4.1008 - Development coordination.

- (a) An application for a permit to destroy, cut down or remove any designated heritage tree in connection with any development, shall be submitted and combined with the initial application for approval of the development and shall be considered together with the review and decision on the development.
- (b) The proposed development shall indicate on its plan all trees designated as heritage trees. The heritage trees shall be evaluated and their individual treatment considered with respect to the land use and proposed development.
- (c) The involved planning agency division may grant, grant with modifications or conditions, or deny the requested heritage tree application.
- (d) Any appeal of a decision made by a planning agency division on the requested heritage tree application shall be made in the same manner and subject to the same procedure as a decision on the involved combined planning or subdivision entitlement for the development.

(Ord. 88-83).

816-4.1010 - Priority.

In the case of any conflict between the provisions of this chapter and those of Chapter 816-2, the provisions of this Chapter 816-4 shall prevail.

(Ord. 88-83).

Chapter 816-6 - TREE PROTECTION AND PRESERVATION

#### **Article 816-6.2. Title and Purpose**

816-6.2002 - Title.

This chapter shall be known as the "tree protection and preservation ordinance" of Contra Costa County.

(Ords. 94-59, 94-22).

816-6.2004 - Purpose.

This chapter provides for the preservation of certain protected trees in the unincorporated area of this county. In addition, this chapter provides for the protection of trees on private property by controlling tree removal while allowing for reasonable enjoyment of private property rights and property development for the following reasons:

- (1) The county finds it necessary to preserve trees on private property in the interest of the public health, safety and welfare and to preserve scenic beauty.
- (2) Trees provide soil stability, improve drainage conditions, provide habitat for wildlife and provide aesthetic beauty and screening for privacy.
- (3) Trees are a vital part of a visually pleasing, healthy environment for the unincorporated area of this county.

(Ords. 94-59, 94-22).

816-6.2006 - Coordination.

This chapter's requirements are intended to be in addition to those otherwise required by this code. In the case of any conflicts, the director shall determine the requirements applicable and the director's decision shall be final in the absence of a timely filed appeal pursuant to Chapter 26-2.

(Ords. 94-59, 94-22).

#### **Article 816-6.4. Definitions**

816-6.4002 - Generally.

The definitions in this article govern the construction of this chapter, unless the context otherwise requires.

(Ords. 94-59, 94-22).

816-6.4004 - Arborist.

"Arborist" means a person currently certified by the Western Chapter of the International Society of Arboriculture, as an expert on the care of woody trees, shrubs and vines in the landscape, a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists or such other arborist who, after review by the director, is determined to meet the standards established for certified or consulting arborists hereinabove described.

(Ords. 94-59, 94-22).

816-6.4006 - Arborist report.

An arborist report is a report prepared by an arborist on:

- (1) The possible impact of development on trees or existing tree condition;
- (2) The impact of any alteration; and/or
- (3) Restorative or other remedial action that might be feasible to address tree alterations.

(Ords. 94-59, 94-22).

816-6.4008 - Department.

"Department" means the community development department.

(Ords. 94-59, 94-22).

816-6.4010 - Development.

"Development" means any modification of land for human use from its existing state which requires a discretionary entitlement for its establishment or a building and/or grading permit involving a protected tree or trees.

(Ords. 94-59, 94-22).

816-6.4012 - Development application.

A development application is an application for development (as defined in this article) requiring either ministerial or discretionary approvals including design review, use permits, subdivisions, rezoning applications, building and/or grading permits.

(Ords. 94-59, 94-22).

816-6.4014 - Director.

"Director" means the director of community development or his/her designee.

(Ords. 94-59, 94-22).

816-6.4015 - Riparian.

Riparian vegetation is found along creeks and streams. Runoff streams that only carry runoff during the rain seasons in this area are known to support significant riparian vegetation.

(Ords. 94-59, 94-22).

816-6.4016 - Routine pruning.

"Routine pruning" means the removal of dead or dying, diseased, weak or objectionable branches of a tree in a reasonable and scientific manner which does not structurally harm the tree.

(Ords. 94-59, 94-22).

816-6.4018 - Topping.

"Topping" is the removal of the upper twenty-five percent or more of a tree's trunk(s) or primary leader.

(Ords. 94-59, 94-22).

816-6.4020 - Tree.

"Tree" means a large woody perennial plant with one or more trunks, branches and leaves, not including shrubs shaped to tree forms.

(Ords. 94-59, 94-22).

816-6.4022 - Tree removal.

"Tree removal" means the destruction of any protected tree by cutting, regrading, girdling, interfering with water supply, applying chemicals or by other means.

(Ords. 94-59, 94-22).

816-6.4024 - Undeveloped property.

"Undeveloped property" is:

- (1) A parcel of private land which is vacant or a developed parcel which has remaining development potential;
- (2) A parcel of land which can be further divided in accordance with zoning regulations of the county;
- (3) A parcel of land on which the structures are proposed to be demolished or relocated.

(Ords. 94-59, 94-22).

## **Article 816-6.6. Protected Trees**

816-6.6002 - Prohibition.

No person shall trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree on private property within the county without a tree permit, except as provided for in Section 816-4.1002.

(Ords. 94-59, 94-22).

816-6.6004 - Protected trees.

A protected tree is any one of the following:

- (1) On all properties within the unincorporated area of the county:
  - (A) Where the tree to be cut down, destroyed or trimmed by topping is adjacent to or part of a riparian, foothill woodland or oak savanna area, or part of a stand of four or more trees, measures twenty inches or larger in circumference (approximately 6.5 inches in diameter) as measured four and one-half feet from ground level, and is included in the following list of indigenous trees: *Acer macrophyllum* (Bigleaf Maple), *Acer negundo* (Box Elder), *Aesculus californica* (California Buckeye), *Alnus Rhombifolia* (White Alder), *Arbutus menziesii* (Madrone), *Heteromeles arbutifolia* (Toyon), *Juglans Hindsii* (California Black Walnut), *Juniperus californica* (California Juniper), *Lithocarpus densiflora* (Tanoak or Tanbark Oak), *Pinus attenuata* (Knobcone Pine), *Pinus sabiniana* (Digger Pine), *Platanus Racemosa* (California Sycamore), *Populus fremontii* (Fremont Cottonwood), *Populus trichocarpa* (Black Cottonwood), *Quercus agrifolia* (California or Coast Live Oak), *Quercus chrysolepis* (Canyon Live Oak), *Quercus douglasii* (Blue Oak), *Quercus kelloggii* (California Black

Oak), *Quercus lobata* (Valley Oak), *Quercus wislizenii* (Interior Live Oak), *Salix lasiandra* (Yellow Willow), *Salix laevigata* (Red Willow), *Salix lasiolepis* (Arroyo Willow), *Sambucus callicarpa* (Coast Red Elderberry), *Sequoia sempervirens* (Coast Redwood), *Umbellularia californica* (California Bay or Laurel);

- (B) Any tree shown to be preserved on an approved tentative map, development or site plan or required to be retained as a condition of approval;
  - (C) Any tree required to be planted as a replacement for an unlawfully removed tree.
- (2) On any of the properties specified in subsection (3) of this section:
- (A) Any tree measuring twenty inches or larger in circumference (approximately six and one-half inches diameter), measured four and one-half feet from ground level including the oak trees listed above;
  - (B) Any multistemmed tree with the sum of the circumferences measuring forty inches or larger, measured four and one-half feet from ground level;
  - (C) And any significant grouping of trees, including groves of four or more trees.
- (3) Specified properties referred to in subsection (2) of this section includes:
- (A) Any developed property within any commercial, professional office or industrial district;
  - (B) Any undeveloped property within any district;
  - (C) Any area designated on the general plan for recreational purposes or open space;
  - (D) Any area designated in the county general plan open space element as visually significant riparian or ridge line vegetation and where the tree is adjacent to or part of a riparian, foothill woodland or oak savanna area.

(Ords. 94-59, 94-22).

## **Article 816-6.8. Applications**

### **816-6.8002 - Permit requirement.**

Any person proposing to trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree shall apply to the department for a tree permit, not less than ten days prior to the proposed tree removal or tree alterations.

Persons who would be eligible to apply for three or more individual tree permits under provisions of this chapter may apply for a collective tree permit for the site.

(Ords. 94-59, 94-22).

### **816-6.8004 - Application.**

In addition to any other applicable requirements of this code and county ordinances, the application shall include the following information and items:

- (1) The number, size (including height and diameter measured four and one-half feet above ground), species, location, dripline and condition of each tree proposed to be altered or removed;
- (2) The reason(s) for alteration or removal;
- (3) A plot plan showing the approximate location of all trees on the site, including those proposed to remain;

- (4) Proposed method of tree alteration or removal;
- (5) Information indicating the effect of tree alteration or removal on soil stability and erosion if located on a steep slope or near any creek;
- (6) The signature of the property owner or if the permit is requested by someone other than the owner, a written authorization from the owner;
- (7) Photographs of the tree/s to be affected by grading or trenching, topping or removal;
- (8) A list and set of stamped envelopes addressed to adjacent property owners and other individuals and organizations as may otherwise be indicated by the director of community development. Such envelopes, with no return address, shall be required for notification of the tentative decision to grant a tree permit;
- (9) Additional information as may be required by the county upon review of the above information;
- (10) Application and permit fees.

(Ords. 94-59, 94-22).

#### 816-6.8006 - Review and site inspection.

Prior to making a decision, the director or his designee shall review the application using the criteria and factors specified in this article. Application review may include a site visit.

(Ords. 94-59, 94-22).

#### 816-6.8008 - Arborist or forester report.

If the reasons for alteration or removal relate to the health of the tree or if grading, trenching or filling is proposed under the dripline of an existing tree, or the review is of a collective tree permit and the director determines that more technical expertise is necessary to make the decision, a report prepared by an arborist may be required, to be paid for by the applicant.

(Ords. 94-59, 94-22).

#### 816-6.8010 - Factors.

In granting or denying the tree permit the following factors shall be considered:

- (1) General.
  - (A) The proximity and number of other trees in the vicinity;
  - (B) The relationship of the subject property to general plan open space or open space plans and policies.
- (2) For Approval.
  - (A) The arborist report indicates that the tree is in poor health and cannot be saved;
  - (B) The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means (such as root barriers etc.);
  - (C) The tree is in danger of falling and cannot be saved by some other means (such as pruning);
  - (D) The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.;

- (E) The tree is a species known to be highly combustible and is determined to be a fire hazard;
  - (F) The proposed tree species or the form of the tree does not merit saving (i.e., a tree stunted in growth, poorly formed, etc.);
  - (G) Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot;
  - (H) The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.
  - (I) Where the arborist or forester report has been required, and the director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.
- (3) For Denial.
- (A) The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for nondiscretionary permits);
  - (B) It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree;
  - (C) The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival;
  - (D) The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner;
  - (E) If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements;
  - (F) Any other reasonable and relevant factors specified by the director.

(Ords. 94-59, 94-22).

#### 816-6.8012 - Decision.

The director shall grant or deny tree permits in accordance with this chapter and code. If a permit is granted, the director may attach conditions to insure compliance with this chapter and code. These conditions may include a requirement to replace any or all trees on a comparable ratio of either size or quantity. Single tree permits shall be valid for a period of ninety days and may be renewed for additional periods by the director upon request by the applicant. Collective tree permits shall be valid for a period of time to be determined by the director based upon individual circumstances.

If a permit is denied, the director shall state the reason for denial. Notice of decision shall be mailed to the applicant.

(Ords. 94-59, 94-22).

#### 816-6.8014 - Appeals.

Any person may appeal the director's decision within ten calendar days of the director's decision to the planning commission having jurisdiction in accordance with Chapter 26-2. Further appeals may be

made as provided by Chapter 26-2. Appeals shall be made in writing and state the specific reasons why the decision does not meet the criteria and factors for granting or denial of a permit as stated in this chapter.

(Ords. 94-59, 94-22).

#### **Article 816-6.10. Permit Exceptions**

816-6.1002 - No permit.

A tree permit is not required for the following situations:

- (1) **Hazardous Situation.** Any tree whose condition creates a hazardous situation which requires immediate action as determined by the director, building inspector, sheriff, involved fire district or a utility company to protect its facilities. During off-hours, when officials described above are unavailable, the hazardous situation may be corrected and a report of the incident and description of the hazard shall be submitted to the director within ten days of the incident.
- (2) **Prior Approval.** Any tree whose removal was specifically approved as a part of an approved development plan, subdivision, other discretionary project or a building permit.
- (3) **Routine pruning not involving topping or tree removal.**
- (4) **Commercial plantings.** Planting, removal and harvesting in connection with Christmas tree farms, orchards and nurseries.
- (5) **Rangeland Management.** Normal activities associated with range management and the disposition of wood incidental to rangeland management on agriculturally zoned properties (with each parcel containing at least twenty acres but also including properties in adjacent common ownership interest of at least twenty acres), will not require a tree permit. "Rangeland management activities" are defined as including but not limited to the clearing and thinning of trees for purposes of reducing fire risk or enhancement of forage production, removing obstruction to stormwater runoff flow, maintaining adequate clearance on range roads and fire trails, fencing maintenance and protecting equipment and constructions.
- (6) **Public Agencies/Utilities.** Trimming and clearing within public agency or utility easements and rights-of-way for maintenance of easement or right-of-way will not require a tree permit. Lands owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this provision.

(Ords. 94-59, 94-22).

816-6.1004 - Proposed development.

- (a) On any property proposed for development approval, tree alterations or removal shall be considered as a part of the project application.
- (b) All trees proposed to be removed, altered or otherwise affected by development construction shall be clearly indicated on all grading, site and development plans. Except where the director otherwise provides, a tree survey shall be submitted as a part of the project application indicating the number, size, species and location of the dripline of all trees on the property. This survey shall be overlaid on the proposed grading and development plans. The plan shall include a tabulation of all trees proposed for removal.
- (c) The granting or denial of a tree removal program which is a part of a development proposal covered by this section shall be subject to Sections 816-6.8008 and 816-6.8014. A separate tree removal permit shall not be required.

(Ords. 94-59, 94-22).

### **Article 816-6.12. Tree Protection**

#### **816-6.1202 - Tree protection.**

Except where otherwise provided by the involved development's conditions of approval or approved permit application, on all properties where trees are required to be saved during the course of development, the developer shall follow the following tree preservation standards:

- (1) Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on a site with trees to be preserved, the applicant shall install fencing at the dripline or other area as determined by an arborist report of all trees adjacent to or in the area to be altered. Prior to grading or issuance of any permits, the fences may be inspected and the location thereof approved by appropriate county staff.
- (2) No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the dripline unless indicated on the grading plans approved by the county and addressed in any required report prepared by an arborist. If grading or construction is approved within the dripline, an arborist may be required to be present during grading operations. The arborist shall have the authority to require protective measures to protect the roots. Upon completion of grading and construction, an involved arborist shall prepare a report outlining further methods required for tree protection if any are required. All arborist expense shall be borne by the developer and applicant unless otherwise provided by the development's conditions of approval.
- (3) No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the dripline of any tree to be saved.

(Ords. 94-59, 94-22).

#### **816-6.1204 - Deposit conditions.**

Prior to the issuance of any grading or building permit for a property where trees are required by this chapter to be saved, the owner or developer shall deposit cash or other acceptable security with the department on a per tree basis in the amount established by the involved development's conditions of approval or approved applications.

As required, the county may hold the deposit for a two-year period to guarantee the health of the trees for a two-year period upon completion of construction. In addition, the applicant or developer may be required to enter into a tree maintenance agreement secured by said deposit/bond by which they agree to maintain said trees in a living and viable condition throughout the term of the agreement. This agreement may be transferred to any new owner of the property for the remaining length of the agreement.

(Ords. 94-59, 94-22).

#### **816-6.1206 - Construction tree damage.**

A development's property owner or developer shall notify the department of any damage that occurs to any tree during the construction process. The owner or developer shall repair any damage as determined by an arborist designated by the director.

Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species as approved by the director to be reasonably appropriate for the particular situation.

(Ords. 94-59, 94-22).

816-6.1208 - Violations.

Violations of this chapter are punishable and may be corrected in any manner provided by this code or as otherwise allowed by law. Each tree damaged or removed in violation of this chapter shall constitute a separate offense.

(Ords. 94-59, 94-22).

# Division-816 (Update)

ORDINANCE NO. 2020-XX **DRAFT**

TREE PROTECTION AND PRESERVATION

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

**SECTION I. SUMMARY.** This ordinance amends Chapter 816-6 of the County Ordinance Code to protect and preserve specified categories of trees as vital natural resources in the unincorporated area of the County.

**SECTION II.** Chapter 816-6 of the County Ordinance Code is amended to read:

**Chapter 816-6**  
**TREE PROTECTION AND PRESERVATION**

**Article 816-6.2**  
**General**

**816-6.202 Title.** This chapter is known as the Tree Protection and Preservation Ordinance of Contra Costa County. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.204 Findings.** The board of supervisors finds as follows:

- (a) Trees provide soil stability, improve drainage conditions, provide habitat for wildlife, and provide aesthetic beauty and screening for privacy.
- (b) Trees are a vital part of a visually pleasing, healthy environment for the unincorporated area of this County.
- (c) It is necessary to preserve certain trees on private property in the interest of the public health, safety, and welfare, and to preserve scenic beauty. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.206 Purposes.** The purposes of this chapter are to provide for the preservation of certain protected trees in the unincorporated area of the county, and to provide for the protection of certain trees on private property by regulating tree removal while allowing for reasonable enjoyment of private property rights and property development. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.208 Definitions.** For purposes of this chapter, the following words and phrases have the following meanings:

- (a) “Certified arborist” means an arborist certified by the International Society of Arboriculture.
- (b) “Designated heritage tree” means a tree previously designated by resolution of the board of supervisors as a heritage tree.
- (c) “Development” means any improvement of real property that requires the approval of a subdivision, land use permit, development plan, variance, grading permit, or building permit.
- (d) “Discretionary development approval” means the approval of a subdivision, land use permit, development plan, variance, or any other development approval by the board of supervisors, planning commission, or zoning administrator.
- (e) “Dripline” means the area of ground directly underneath any portion of the canopy of a tree.
- (f) “Routine maintenance” means actions taken to maintain the health of a tree, including but not limited to removal of deadwood, removal of diseased or crossing limbs, control of deleterious insects, or pruning in a reasonable manner that does not structurally harm the tree.
- (g) “Tree” means a live woody plant with a single perennial stem or multiple perennial stems. (Ords. 2020-XX § 2, 94-59, 94-22).

**Article 816-6.4  
Protected Trees**

**816-6.402 Protected trees.** A protected tree is any of the following:

- (a) A tree that is a species listed in Section 816-6.404, and is:
  - (1) a single-stem tree that is 48 inches or larger in circumference measured 4.5 feet above the natural grade;
  - (2) a multi-stemmed tree that is 72 inches or larger in aggregate circumference measured 4.5 feet above the natural grade; or
  - (3) a multi-stemmed tree that has a single stem that is 48 inches or larger in circumference measured 4.5 feet above the natural grade.
- (b) A designated heritage tree.

- (c) A tree shown to be preserved on an approved tentative map, development plan, or site plan, or required to be preserved as a condition of approval.
- (d) A tree required to be planted as a replacement tree pursuant to this chapter. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.404 Listed tree species.**

- (a) *Acer macrophyllum* (Bigleaf Maple)
- (b) *Acer negundo* (Box Elder)
- (c) *Aesculus californica* (California Buckeye)
- (d) *Alnus Rhombifolia* (White Alder)
- (e) *Arbutus menziesii* (Madrone)
- (f) *Juglans Hindsii* (California Black Walnut)
- (g) *Juniperus californica* (California Juniper)
- (h) *Lithocarpus densiflora* (Tanoak or Tanbark Oak)
- (i) *Pinus attenuata* (Knobcone Pine)
- (j) *Platanus Racemosa* (California Sycamore)
- (k) *Populus fremontii* (Fremont Cottonwood)
- (l) *Quercus agrifolia* (California or Coast Live Oak)
- (m) *Quercus chrysolepis* (Canyon Live Oak)
- (n) *Quercus douglasii* (Blue Oak)
- (o) *Quercus kelloggii* (California Black Oak)
- (p) *Quercus lobata* (Valley Oak)
- (q) *Quercus wislizenii* (Interior Live Oak)
- (r) *Salix lasiandra* (Yellow Willow)

- (s) Salix laevigata (Red Willow)
- (t) Sequoia sempervirens (Coast Redwood)
- (u) Umbellularia californica (California Bay or Laurel)

(Ords. 2020-XX § 2, 94-59, 94-22).

### **Article 816-6.6 Permit**

**816-6.602 Permit requirement.** No person may cut down, destroy, or remove a protected tree, or trench, grade, or fill within the dripline of a protected tree, without first obtaining a tree removal permit as provided in this chapter. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.604 Permit exceptions.** A tree removal permit is not required in the following situations:

- (a) Hazardous situation. A tree that presents a hazard to life or property that requires immediate action to remedy, as determined by the zoning administrator, building inspector, sheriff, or fire chief. If none of the listed officials are available, the property owner may remedy the hazardous situation and submit a report of the incident and description of the hazard to the department within 10 days of the incident.
- (b) Prior approval. A tree that is specifically approved for removal in connection with an approved development plan, site plan, subdivision, or building permit.
- (c) Routine maintenance.
- (d) Commercial plantings. Removal and harvesting in connection with holiday tree farms, orchards, or nurseries.
- (e) Rangeland management. Normal activities associated with rangeland management on agriculturally-zoned properties that are 20 acres or larger. These activities include but are not limited to: clearing and thinning trees to reduce fire risk or enhance forage production; removing obstructions to stormwater runoff flow; maintaining adequate clearance on range roads and fire trails; fence maintenance; and protecting equipment and construction. Agriculturally-zoned parcels that are adjacent and under common ownership with an aggregate size of 20 acres or larger satisfy the acreage requirements of this subsection.
- (f) Public lands. Property owned in fee by a public agency.

- (g) Public agency/utilities easements. Trimming and clearing within a public agency or utility easement or right-of-way for the purpose of maintaining the easement or right-of-way. Property owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this subsection. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.606 Application.** An application for a tree removal permit must be made in writing on a form provided by the department and contain the following information:

- (a) A site plan showing the approximate location of all trees on the property, including those proposed to remain. For a tree removal permit application submitted in connection with proposed development, the site plan must be overlaid on all proposed grading, building, and development plans.
- (b) The size (including height and diameter measured 4.5 feet above the natural grade), species, dripline, and condition of each protected tree proposed to be removed or impacted by trenching, grading, or filling within the dripline.
- (c) Information indicating the effect of tree removal on drainage, soil stability, and erosion control.
- (d) Photographs of the protected tree(s) to be removed or impacted by trenching, grading, or filling within the dripline.
- (e) The signature of the property owner or, if the permit is requested by someone other than the owner, a written authorization from the owner.
- (f) Additional information as may be required by the department.
- (g) Application and permit fees. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.608 Arborist Report.**

- (a) A report prepared by a certified arborist must be submitted with an application for a tree removal permit if:
  - (1) the application is submitted in connection with an application for a discretionary development approval;
  - (2) the application is for the removal of three or more protected trees; or
  - (3) the reason for removal is related to the health of the protected tree.

- (b) An arborist report shall include all of the following:
  - (1) The health, age, and condition of the protected tree(s) to be removed or impacted.
  - (2) The value of the protected tree(s) to be removed or impacted.
  - (3) The possible impact from development on any protected trees to remain.
  - (4) Feasible restorative or other remedial actions to address tree removal or impacts, including but not limited to a replacement tree planting plan. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.610 Permitting procedure.**

- (a) Except as set forth in subsection (b), the zoning administrator will consider an application for a tree removal permit under the administrative decision procedure specified in Article 26-2.21.
- (b) An application for a tree removal permit that is submitted in connection with an application for a discretionary development approval will be considered in conjunction with the application for the discretionary development approval. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.612 Decision.**

- (a) Required findings. No tree removal permit will be issued unless all the following findings are made:
  - (1) Approval of the tree removal permit will not be detrimental to the public health, safety, or welfare.
  - (2) Feasible measures have been incorporated into the permit to mitigate the effects of tree removal and impacts to remaining trees.
- (b) Evaluation factors. The following factors will be considered and used to support the required findings:
  - (1) The overall health and structural condition of the protected tree(s) to be removed or impacted.
  - (2) The proximity and number of other trees on the property and in the general vicinity.

- (3) The number of healthy protected trees that the property will support, with and without the proposed development.
- (4) The effect of tree removal on drainage, soil stability, erosion control, windscreen, visual screening, and privacy, and whether the effects can be feasibly mitigated.
- (5) The potential for the protected tree(s) to cause damage to public utilities, streets, sidewalks, or existing structures.
- (6) Factors unique to the property, including topographic constraints, parcel configuration, and other physical limitations.
- (7) Whether reasonable development of the property requires removal or impacts to the protected tree(s), and whether the development could be reasonably redesigned or accommodated at another location on the property.
- (8) Whether the extent of trenching, grading, or filling within the dripline is likely to result in a subsequent decline of the impacted protected tree that would pose a risk to public safety or hazard to adjacent structures.
- (9) Whether there are any feasible alternatives that would allow for the preservation of the protected tree(s). (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.614 Conditions of approval.** An approved tree removal permit will include conditions necessary to ensure compliance with this chapter, including the tree preservation requirements in Article 816-6.8, and may include other feasible measures to mitigate the effects of tree removal and impacts to remaining trees. (Ords. 2020-XX § 2, 94-59, 94-22).

### **Article 816-6.8 Tree Preservation**

**816-6.802 Tree replacement.** A protected tree may not be removed unless one or more replacement trees are planted at the subject property as follows:

- (a) The ratio of replacement trees to protected trees removed will be three to one, except that the number of replacement trees may be reduced if it is determined based on an arborist report that the subject property would not support the total number of required replacement trees.
- (b) Replacement trees must be of the same species as the protected tree to be removed.
- (c) Replacement trees must be planted as 15-gallon trees, except that up to 50 percent of the required replacement trees may be planted as 5-gallon trees if it is determined based on an

arborist report that long-term tree health and survival will be improved by starting with a smaller container size.

- (d) An approved tree removal permit that is connected with a discretionary development approval will require compliance with an arborist-evaluated replacement tree planting plan. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.804 Tree protection.** The following tree protection measures apply to all protected trees that will remain after development on a property is completed:

- (a) The parking or storing of vehicles, equipment, machinery, construction materials, construction trailers, oil, or chemicals within the dripline of a protected tree is prohibited.
- (b) If no grading or construction is approved within the dripline of a protected tree, fencing shall be installed at the dripline prior to the start of any grading or construction activities.
- (c) If an approved tree removal permit allows for trenching, grading, or filling within the dripline of a protected tree, the permit may require that an arborist be present during the trenching, grading, or filling operations to advise on measures to protect the tree. After the trenching, grading, or filling operations are completed, the arborist will prepare a report describing further measures required, if any, for protection of the tree. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.806 Tree removal only after issuance of building or grading permit.** An approved tree removal permit that is connected with proposed development shall require that a protected tree that is approved for removal may not be removed until a grading or building permit for the proposed development is issued. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.808 Deposit.**

- (a) Before any grading or building permit is issued for a property where one or more protected trees are to remain after development on the property is completed, the applicant shall deposit cash or other acceptable security with the department on a per tree basis in the amount of \$1,000 per tree, or as otherwise established by an applicable tree removal permit or discretionary development approval.
- (b) To guarantee the health of the protected tree, the department will retain the deposit for a two-year period commencing upon the completion of construction.
- (c) The applicant may request that the department relinquish all or a portion of the deposit during the two-year period for the cost to prepare an arborist report, or for expenses directly related to preserving the health of the protected tree or, if the protected tree dies, planting and maintaining replacement trees.

- (d) The department will relinquish any remaining deposit funds to the applicant upon termination of the two-year period. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.810 Damage during construction.** A property owner shall notify the department of any damage that occurs to a protected tree during construction. The department may require, at the property owner's expense, an arborist report to evaluate the extent of damage to the protected tree. If the damaged tree dies, or if an arborist report finds that the tree is likely to die due to the damage or has suffered significant damage, the property owner shall plant replacement trees consistent with the requirements of Section 816-6.802. (Ords. 2020-XX § 2, 94-59, 94-22).

### **Article 816-6.10 Enforcement**

**816-6.1002 Separate offense.** Each tree damaged or removed in violation of this chapter constitutes a separate offense. (Ords. 2020-XX § 2, 94-59, 94-22).

**816-6.1004 All remedies.** The County may seek compliance with this chapter by any remedy allowed under this code, including but not limited to administrative fines and any other remedy allowed by law. (Ords. 2020-XX § 2, 94-59, 94-22).

**SECTION III.** Chapter 816-4 of the County Ordinance Code is deleted in its entirety.

**SECTION IV.** Section 26-2.2102 of the County Ordinance Code is amended to read:

**26-2.2102 Decisions without public hearing.** Unless otherwise required by this article, the zoning administrator may, without public hearing, decide applications for any of the following:

- (a) A variance permit pursuant to subsection (1) of Section 26-2.1204.
- (b) A minor subdivision pursuant to subsection (3) of Section 26-2.1204, including an application for improvement exceptions.
- (c) A small lot occupancy permit pursuant to subsection (c) of Section 82-10.002.
- (d) A wireless facility access permit pursuant to Chapter 88-24.
- (e) A short-term rental permit that does not meet one or more of the short-term rental regulations specified in Section 88-32.602.
- (f) A tree removal permit pursuant to Chapter 816-6. (Ords. 2020-XX § 4, 2020-12 § 3, 2020-01 § 3, 2017-11 § 3, 2016-11 § 3, 2011-05 § 5, 95-51 § 3, 80-87 § 2: See Gov. C. § 65901.)

**SECTION V. EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the East Bay Times, a newspaper published in this County.

PASSED on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: DAVID J. TWA,  
Clerk of the Board of Supervisors  
and County Administrator

\_\_\_\_\_  
Board Chair

By: \_\_\_\_\_  
Deputy

[SEAL]

KCK:

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# Comparison Table

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
<b>Purposes</b>	This chapter provides for the preservation of certain protected trees in the unincorporated area of this county. In addition, this chapter provides for the protection of trees on private property by controlling tree removal while allowing for reasonable enjoyment of private property rights and property development for the following reasons: (see "Findings")	The purposes of this chapter are to provide for the preservation of certain protected trees in the unincorporated area of the county, and to provide for the protection of certain trees on private property by regulating tree removal while allowing for reasonable enjoyment of private property rights and property development.
<b>Findings</b>	<ul style="list-style-type: none"> <li>(1) The county finds it necessary to preserve trees on private property in the interest of the public health, safety and welfare and to preserve scenic beauty.</li> <li>(2) Trees provide soil stability, improve drainage conditions, provide habitat for wildlife and provide aesthetic beauty and screening for privacy.</li> <li>(3) Trees are a vital part of a visually pleasing, healthy environment for the unincorporated area of this county.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Trees provide soil stability, improve drainage conditions, provide habitat for wildlife, and provide aesthetic beauty and screening for privacy.</li> <li>(b) Trees are a vital part of a visually pleasing, healthy environment for the unincorporated area of this County.</li> <li>(c) It is necessary to preserve certain trees on private property in the interest of the public health, safety, and welfare, and to preserve scenic beauty.</li> </ul>
<b>Definitions</b>	<p>Arborist. "Arborist" means a person currently certified by the Western Chapter of the International Society of Arboriculture, as an expert on the care of woody trees, shrubs and vines in the landscape, a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists or such other arborist who, after review by the director, is determined to meet the standards established for certified or consulting arborists hereinabove described.</p> <p>Arborist report. An arborist report is a report prepared by an arborist on:</p> <ul style="list-style-type: none"> <li>(1) The possible impact of development on trees or existing tree condition;</li> <li>(2) The impact of any alteration; and/or</li> <li>(3) Restorative or other remedial action that might be feasible to address tree alterations.</li> </ul> <p>Department.</p>	<ul style="list-style-type: none"> <li>(a) "Certified arborist" means an arborist certified by the International Society of Arboriculture.</li> <li>(b) "Designated heritage tree" means a tree previously designated by resolution of the board of supervisors as a heritage tree.</li> <li>(c) "Development" means any improvement of real property that requires the approval of a subdivision, land use permit, development plan, variance, grading permit, or building permit.</li> <li>(d) "Discretionary development approval" means the approval of a subdivision, land use permit, development plan, variance, or any other development approval by the board of supervisors, planning commission, or zoning administrator.</li> <li>(e) "Dripline" means the area of ground directly underneath any portion of the canopy of a tree.</li> </ul>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>"Department" means the community development department.</p> <p>Development.            "Development" means any modification of land for human use from its existing state which requires a discretionary entitlement for its establishment or a building and/or grading permit involving a protected tree or trees.</p> <p>Development application.            A development application is an application for development (as defined in this article) requiring either ministerial or discretionary approvals including design review, use permits, subdivisions, rezoning applications, building and/or grading permits.</p> <p>Director.            "Director" means the director of community development or his/her designee.</p> <p>Riparian.            Riparian vegetation is found along creeks and streams. Runoff streams that only carry runoff during the rain seasons in this area are known to support significant riparian vegetation.</p> <p>Routine pruning.            "Routine pruning" means the removal of dead or dying, diseased, weak or objectionable branches of a tree in a reasonable and scientific manner which does not structurally harm the tree.</p> <p>Topping.            "Topping" is the removal of the upper twenty-five percent or more of a tree's trunk(s) or primary leader.</p>	<p>(f) "Routine maintenance" means actions taken to maintain the health of a tree, including but not limited to removal of deadwood, removal of diseased or crossing limbs, control of deleterious insects, or pruning in a reasonable manner that does not structurally harm the tree.</p> <p>(g) "Tree" means a live woody plant with a single perennial stem or multiple perennial stems.</p>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>Tree. "Tree" means a large woody perennial plant with one or more trunks, branches and leaves, not including shrubs shaped to tree forms.</p> <p>Tree removal. "Tree removal" means the destruction of any protected tree by cutting, regrading, girdling, interfering with water supply, applying chemicals or by other means.</p> <p>Undeveloped property. "Undeveloped property" is:</p> <ul style="list-style-type: none"> <li>(1) A parcel of private land which is vacant or a developed parcel which has remaining development potential;</li> <li>(2) A parcel of land which can be further divided in accordance with zoning regulations of the county;</li> <li>(3) A parcel of land on which the structures are proposed to be demolished or relocated.</li> </ul>	
<p><b>Protected trees</b></p>	<p>Protected trees. A protected tree is any one of the following:</p> <ul style="list-style-type: none"> <li>(1) On all properties within the unincorporated area of the county: <ul style="list-style-type: none"> <li>(A) Where the tree to be cut down, destroyed or trimmed by topping is adjacent to or part of a riparian, foothill woodland or oak savanna area, or part of a stand of four or more trees, measures twenty inches or larger in circumference (approximately 6.5 inches in diameter) as measured four and one-half feet from ground level, and is included in the following list of indigenous trees: <i>Acer macrophyllum</i> (Bigleaf Maple), <i>Acer negundo</i> (Box Elder), <i>Aesculus californica</i> (California Buckeye), <i>Alnus Rhombifolia</i> (White Alder), <i>Arbutus menziesii</i> (Madrone), <i>Heteromeles arbutifolia</i> (Toyon), <i>Juglans Hindsii</i> (California Black Walnut), <i>Juniperus californica</i> (California Juniper), <i>Lithocarpus</i></li> </ul> </li> </ul>	<p>A protected tree is any of the following:</p> <ul style="list-style-type: none"> <li>(a) A tree that is a species listed in Section 816-6.404 ("listed tree species), and is: <ul style="list-style-type: none"> <li>(1) a single-stem tree that is 48 inches or larger in circumference measured 4.5 feet above the natural grade;</li> <li>(2) a multi-stemmed tree that is 72 inches or larger in aggregate circumference measured 4.5 feet above the natural grade; or</li> <li>(3) a multi-stemmed tree that has a single stem that is 48 inches or larger in circumference measured 4.5 feet above the natural grade.</li> </ul> </li> <li>(b) A designated heritage tree.</li> <li>(c) A tree shown to be preserved on an approved tentative map, development plan, or site plan, or required to be preserved as a condition of approval.</li> <li>(d) A tree required to be planted as a replacement tree pursuant to this chapter.</li> </ul>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>densiflora (Tanoak or Tanbark Oak), Pinus attenuata (Knobcone Pine), Pinus sabiniana (Digger Pine), Platanus Racemosa (California Sycamore), Populus fremontii (Fremont Cottonwood), Populus trichocarpa (Black Cottonwood), Quercus agrifolia (California or Coast Live Oak), Quercus chrysolepis (Canyon Live Oak), Quercus douglasii (Blue Oak), Quercus kelloggii (California Black Oak), Quercus lobata (Valley Oak), Quercus wislizenii (Interior Live Oak), Salix lasiandra (Yellow Willow), Salix laevigata (Red Willow), Salix lasiolepis (Arroyo Willow), Sambucus callicarpa (Coast Red Elderberry), Sequoia sempervirens (Coast Redwood), Umbellularia californica (California Bay or Laurel); (26 total listed species)</p> <p>(B) Any tree shown to be preserved on an approved tentative map, development or site plan or required to be retained as a condition of approval;</p> <p>(C) Any tree required to be planted as a replacement for an unlawfully removed tree.</p> <p>(2) On any of the properties specified in subsection (3) of this section:</p> <p>(A) Any tree measuring twenty inches or larger in circumference (approximately six and one-half inches diameter), measured four and one-half feet from ground level including the oak trees listed above;</p> <p>(B) Any multistemmed tree with the sum of the circumferences measuring forty inches or larger, measured four and one-half feet from ground level;</p> <p>(C) And any significant grouping of trees, including groves of four or more trees.</p> <p>(3) Specified properties referred to in subsection (2) of this section includes:</p> <p>(A) Any developed property within any commercial, professional office or industrial district;</p>	<p><b>Listed tree species.</b></p> <p>(1) Acer macrophyllum (Bigleaf Maple)</p> <p>(2) Acer negundo (Box Elder)</p> <p>(3) Aesculus californica (California Buckeye)</p> <p>(4) Alnus Rhombifolia (White Alder)</p> <p>(5) Arbutus menziesii (Madrone)</p> <p>(6) Juglans Hindsii (California Black Walnut)</p> <p>(7) Juniperus californica (California Juniper)</p> <p>(8) Lithocarpus densiflora (Tanoak or Tanbark Oak)</p> <p>(9) Pinus attenuata (Knobcone Pine)</p> <p>(10)Platanus Racemosa (California Sycamore)</p> <p>(11)Populus fremontii (Fremont Cottonwood)</p> <p>(12)Quercus agrifolia (California or Coast Live Oak)</p> <p>(13)Quercus chrysolepis (Canyon Live Oak)</p> <p>(14)Quercus douglasii (Blue Oak)</p> <p>(15)Quercus kelloggii (California Black Oak)</p> <p>(16)Quercus lobata (Valley Oak)</p> <p>(17)Quercus wislizenii (Interior Live Oak)</p> <p>(18)Salix lasiandra (Yellow Willow)</p> <p>(19)Salix laevigata (Red Willow)</p> <p>(20)Sequoia sempervirens (Coast Redwood)</p> <p>(21)Umbellularia californica (California Bay or Laurel)</p>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>(B) Any undeveloped property within any district;</p> <p>(C) Any area designated on the general plan for recreational purposes or open space;</p> <p>(D) Any area designated in the county general plan open space element as visually significant riparian or ridge line vegetation and where the tree is adjacent to or part of a riparian, foothill woodland or oak savanna area.</p>	
<b>Permit requirement</b>	<p>Any person proposing to trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree shall apply to the department for a tree permit, not less than ten days prior to the proposed tree removal or tree alterations.</p> <p>Persons who would be eligible to apply for three or more individual tree permits under provisions of this chapter may apply for a collective tree permit for the site.</p>	<p>No person may cut down, destroy, or remove a protected tree, or trench, grade, or fill within the dripline of a protected tree, without first obtaining a tree removal permit as provided in this chapter.</p>
<b>Permit exceptions</b>	<p>A tree permit is not required for the following situations:</p> <ol style="list-style-type: none"> <li>(1) Hazardous Situation. Any tree whose condition creates a hazardous situation which requires immediate action as determined by the director, building inspector, sheriff, involved fire district or a utility company to protect its facilities. During off-hours, when officials described above are unavailable, the hazardous situation may be corrected and a report of the incident and description of the hazard shall be submitted to the director within ten days of the incident.</li> <li>(2) Prior Approval. Any tree whose removal was specifically approved as a part of an approved development plan, subdivision, other discretionary project or a building permit.</li> <li>(3) Routine pruning not involving topping or tree removal.</li> <li>(4) Commercial plantings. Planting, removal and harvesting in connection with Christmas tree farms, orchards and nurseries.</li> <li>(5) Rangeland Management. Normal activities associated with range management and the disposition of wood incidental to rangeland</li> </ol>	<p>A tree removal permit is not required in the following situations:</p> <ol style="list-style-type: none"> <li>(a) Hazardous situation. A tree that presents a hazard to life or property that requires immediate action to remedy, as determined by the zoning administrator, building inspector, sheriff, or fire chief. If none of the listed officials are available, the property owner may remedy the hazardous situation and submit a report of the incident and description of the hazard to the department within 10 days of the incident.</li> <li>(b) Prior approval. A tree that is specifically approved for removal in connection with an approved development plan, site plan, subdivision, or building permit.</li> <li>(c) Routine maintenance.</li> <li>(d) Commercial plantings. Removal and harvesting in connection with holiday tree farms, orchards, or nurseries.</li> <li>(e) Rangeland management. Normal activities associated with rangeland management on agriculturally-zoned properties that are 20 acres or</li> </ol>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>management on agriculturally zoned properties (with each parcel containing at least twenty acres but also including properties in adjacent common ownership interest of at least twenty acres), will not require a tree permit. "Rangeland management activities" are defined as including but not limited to the clearing and thinning of trees for purposes of reducing fire risk or enhancement of forage production, removing obstruction to stormwater runoff flow, maintaining adequate clearance on range roads and fire trails, fencing maintenance and protecting equipment and constructions.</p> <p>(6) Public Agencies/Utilities. Trimming and clearing within public agency or utility easements and rights-of-way for maintenance of easement or right-of-way will not require a tree permit. Lands owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this provision.</p>	<p>larger. These activities include but are not limited to: clearing and thinning trees to reduce fire risk or enhance forage production; removing obstructions to stormwater runoff flow; maintaining adequate clearance on range roads and fire trails; fence maintenance; and protecting equipment and</p> <p>(a) construction. Agriculturally-zoned parcels that are adjacent and under common ownership with an aggregate size of 20 acres or larger satisfy the acreage requirements of this subsection.</p> <p>(f) Public lands. Property owned in fee by a public agency.</p> <p>(b) (g) Public agency/utilities easements. Trimming and clearing within a public agency or utility easement or right-of-way for the purpose of maintaining the easement or right-of-way. Property owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this subsection.</p>
<p><b>Application.</b></p>	<p>In addition to any other applicable requirements of this code and county ordinances, the application shall include the following information and items:</p> <ol style="list-style-type: none"> <li>(1) The number, size (including height and diameter measured four and one-half feet above ground), species, location, dripline and condition of each tree proposed to be altered or removed;</li> <li>(2) The reason(s) for alteration or removal;</li> <li>(3) A plot plan showing the approximate location of all trees on the site, including those proposed to remain;</li> <li>(4) Proposed method of tree alteration or removal;</li> <li>(5) Information indicating the effect of tree alteration or removal on soil stability and erosion if located on a steep slope or near any creek;</li> <li>(6) The signature of the property owner or if the permit is requested by someone other than the owner, a written authorization from the owner;</li> <li>(7) Photographs of the tree/s to be affected by grading or trenching, topping or removal;</li> </ol>	<p>An application for a tree removal permit must be made in writing on a form provided by the department and contain the following information:</p> <ol style="list-style-type: none"> <li>(a) A site plan showing the approximate location of all trees on the property, including those proposed to remain. For a tree removal permit application submitted in connection with proposed development, the site plan must be overlaid on all proposed grading, building, and development plans.</li> <li>(b) The size (including height and diameter measured 4.5 feet above the natural grade), species, dripline, and condition of each protected tree proposed to be removed or impacted by trenching, grading, or filling within the dripline.</li> <li>(c) Information indicating the effect of tree removal on drainage, soil stability, and erosion control.</li> <li>(d) Photographs of the protected tree(s) to be removed or impacted by trenching, grading, or filling within the dripline.</li> </ol>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>(8) A list and set of stamped envelopes addressed to adjacent property owners and other individuals and organizations as may otherwise be indicated by the director of community development. Such envelopes, with no return address, shall be required for notification of the tentative decision to grant a tree permit;</p> <p>(9) Additional information as may be required by the county upon review of the above information;</p> <p>(10) Application and permit fees.</p>	<p>(e) The signature of the property owner or, if the permit is requested by someone other than the owner, a written authorization from the owner.</p> <p>(f) Additional information as may be required by the department.</p> <p>(g) Application and permit fees.</p>
<b>Arborist Report.</b>	<p>Arborist or forester report.</p> <p>If the reasons for alteration or removal relate to the health of the tree or if grading, trenching or filling is proposed under the dripline of an existing tree, or the review is of a collective tree permit and the director determines that more technical expertise is necessary to make the decision, a report prepared by an arborist may be required, to be paid for by the applicant.</p>	<p>(a) A report prepared by a certified arborist must be submitted with an application for a tree removal permit if:</p> <ul style="list-style-type: none"> <li>(1) the application is submitted in connection with an application for a discretionary development approval;</li> <li>(2) the application is for the removal of three or more protected trees; or</li> <li>(3) the reason for removal is related to the health of the protected tree.</li> </ul> <p>(b) An arborist report shall include all of the following:</p> <ul style="list-style-type: none"> <li>(1) The health, age, and condition of the protected tree(s) to be removed or impacted.</li> <li>(2) The value of the protected tree(s) to be removed or impacted.</li> <li>(3) The possible impact from development on any protected trees to remain.</li> <li>(4) Feasible restorative or other remedial actions to address tree removal or impacts, including but not limited to a replacement tree planting plan.</li> </ul>
<b>Permitting procedure.</b>	<p>Review and site inspection.</p> <p>Prior to making a decision, the director or his designee shall review the application using the criteria and factors specified in this article. Application review may include a site visit.</p>	<p>(a) Except as set forth in subsection (b), the zoning administrator will consider an application for a tree removal permit under the administrative decision procedure specified in Article 26-2.21.</p> <p>(b) An application for a tree removal permit that is submitted in connection with an application for a discretionary development</p>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>Proposed development.</p> <ul style="list-style-type: none"> <li>(a) On any property proposed for development approval, tree alterations or removal shall be considered as a part of the project application.</li> <li>(b) All trees proposed to be removed, altered or otherwise affected by development construction shall be clearly indicated on all grading, site and development plans. Except where the director otherwise provides, a tree survey shall be submitted as a part of the project application indicating the number, size, species and location of the dripline of all trees on the property. This survey shall be overlaid on the proposed grading and development plans. The plan shall include a tabulation of all trees proposed for removal.</li> <li>(c) The granting or denial of a tree removal program which is a part of a development proposal covered by this section shall be subject to Sections 816-6.8008 and 816-6.8014. A separate tree removal permit shall not be required.</li> </ul> <p>Decision.</p> <p>The director shall grant or deny tree permits in accordance with this chapter and code. If a permit is granted, the director may attach conditions to insure compliance with this chapter and code. These conditions may include a requirement to replace any or all trees on a comparable ratio of either size or quantity. Single tree permits shall be valid for a period of ninety days and may be renewed for additional periods by the director upon request by the applicant. Collective tree permits shall be valid for a period of time to be determined by the director based upon individual circumstances.</p> <p>If a permit is denied, the director shall state the reason for denial. Notice of decision shall be mailed to the applicant.</p> <p>Appeals.</p>	<p>approval will be considered in conjunction with the application for the discretionary development approval.</p> <p>Conditions of approval.</p> <p>An approved tree removal permit will include conditions necessary to ensure compliance with this chapter, including the tree preservation requirements in Article 816-6.8, and may include other feasible measures to mitigate the effects of tree removal and impacts to remaining trees.</p> <p>26-2.2102 Decisions without public hearing. Unless otherwise required by this article, the zoning administrator may, without public hearing, decide applications for any of the following:</p> <ul style="list-style-type: none"> <li>(f) A tree removal permit pursuant to Chapter 816-6.</li> </ul>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>Any person may appeal the director's decision within ten calendar days of the director's decision to the planning commission having jurisdiction in accordance with Chapter 26-2. Further appeals may be made as provided by Chapter 26-2. Appeals shall be made in writing and state the specific reasons why the decision does not meet the criteria and factors for granting or denial of a permit as stated in this chapter.</p>	
<p><b>Factors for Decision</b></p>	<p>In granting or denying the tree permit the following factors shall be considered:</p> <ul style="list-style-type: none"> <li>(1) General. <ul style="list-style-type: none"> <li>(A) The proximity and number of other trees in the vicinity;</li> <li>(B) The relationship of the subject property to general plan open space or open space plans and policies.</li> </ul> </li> <li>(2) For Approval. <ul style="list-style-type: none"> <li>(A) The arborist report indicates that the tree is in poor health and cannot be saved;</li> <li>(B) The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means (such as root barriers etc.);</li> <li>(C) The tree is in danger of falling and cannot be saved by some other means (such as pruning);</li> <li>(D) The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.;</li> <li>(E) The tree is a species known to be highly combustible and is determined to be a fire hazard;</li> <li>(F) The proposed tree species or the form of the tree does not merit saving (i.e., a tree stunted in growth, poorly formed, etc.);</li> <li>(G) Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(a) Required findings. No tree removal permit will be issued unless all the following findings are made: <ul style="list-style-type: none"> <li>(1) Approval of the tree removal permit will not be detrimental to the public health, safety, or welfare.</li> <li>(2) Feasible measures have been incorporated into the permit to mitigate the effects of tree removal and impacts to remaining trees.</li> </ul> </li> <li>(b) Evaluation factors. The following factors will be considered and used to support the required findings: <ul style="list-style-type: none"> <li>(1) The overall health and structural condition of the protected tree(s) to be removed or impacted.</li> <li>(2) The proximity and number of other trees on the property and in the general vicinity.</li> <li>(3) The number of healthy protected trees that the property will support, with and without the proposed development.</li> <li>(4) The effect of tree removal on drainage, soil stability, erosion control, windscreen, visual screening, and privacy, and whether the effects can be feasibly mitigated.</li> <li>(5) The potential for the protected tree(s) to cause damage to public utilities, streets, sidewalks, or existing structures.</li> <li>(6) Factors unique to the property, including topographic constraints, parcel configuration, and other physical limitations.</li> <li>(7) Whether reasonable development of the property requires removal or impacts to the protected tree(s), and whether</li> </ul> </li> </ul>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>(H) The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.</p> <p>(I) Where the arborist or forester report has been required, and the director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.</p> <p>(3) For Denial.</p> <p>(A) The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for nondiscretionary permits);</p> <p>(B) It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree;</p> <p>(C) The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival;</p> <p>(D) The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner;</p> <p>(E) If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements;</p> <p>(F) Any other reasonable and relevant factors specified by the director.</p>	<p>the development could be reasonably redesigned or accommodated at another location on the property.</p> <p>(8) Whether the extent of trenching, grading, or filling within the dripline is likely to result in a subsequent decline of the impacted protected tree that would pose a risk to public safety or hazard to adjacent structures.</p> <p>(9) Whether there are any feasible alternatives that would allow for the preservation of the protected tree(s).</p>
<b>Tree replacement.</b>	n/a	<b>Tree replacement.</b> A protected tree may not be removed unless one or more replacement trees are planted at the subject property as follows:

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
		<ul style="list-style-type: none"> <li>(a) The ratio of replacement trees to protected trees removed will be three to one, except that the number of replacement trees may be reduced if it is determined based on an arborist report that the subject property would not support the total number of required replacement trees.</li> <li>(b) Replacement trees must be of the same species as the protected tree to be removed.</li> <li>(c) Replacement trees must be planted as 15-gallon trees, except that up to 50 percent of the required replacement trees may be planted as 5-gallon trees if it is determined based on an arborist report that long-term tree health and survival will be improved by starting with a smaller container size.</li> <li>(d) An approved tree removal permit that is connected with a discretionary development approval will require compliance with an arborist-evaluated replacement tree planting plan.</li> </ul>
<p><b>Tree protection.</b></p>	<p>Tree protection.            Except where otherwise provided by the involved development's conditions of approval or approved permit application, on all properties where trees are required to be saved during the course of development, the developer shall follow the following tree preservation standards:</p> <ul style="list-style-type: none"> <li>(1) Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on a site with trees to be preserved, the applicant shall install fencing at the dripline or other area as determined by an arborist report of all trees adjacent to or in the area to be altered. Prior to grading or issuance of any permits, the fences may be inspected and the location thereof approved by appropriate county staff.</li> <li>(2) No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the dripline unless indicated on the grading plans approved by the county and addressed in any required report prepared by an arborist. If grading or construction is approved within the dripline, an arborist may be</li> </ul>	<p><b>Tree protection.</b> The following tree protection measures apply to all protected trees that will remain after development on a property is completed:</p> <ul style="list-style-type: none"> <li>(a) The parking or storing of vehicles, equipment, machinery, construction materials, construction trailers, oil, or chemicals within the dripline of a protected tree is prohibited.</li> <li>(b) If no grading or construction is approved within the dripline of a protected tree, fencing shall be installed at the dripline prior to the start of any grading or construction activities.</li> <li>(c) If an approved tree removal permit allows for trenching, grading, or filling within the dripline of a protected tree, the permit may require that an arborist be present during the trenching, grading, or filling operations to advise on measures to protect the tree. After the trenching, grading, or filling operations are completed, the arborist will prepare a report describing further measures required, if any, for protection of the tree.</li> </ul>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
	<p>required to be present during grading operations. The arborist shall have the authority to require protective measures to protect the roots. Upon completion of grading and construction, an involved arborist shall prepare a report outlining further methods required for tree protection if any are required. All arborist expense shall be borne by the developer and applicant unless otherwise provided by the development's conditions of approval.</p> <p>(3) No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the dripline of any tree to be saved.</p>	
<p><b>Tree removal only after issuance of building or grading permit.</b></p>	<p>n/a</p>	<p>An approved tree removal permit that is connected with proposed development shall require that a protected tree that is approved for removal may not be removed until a grading or building permit for the proposed development is issued.</p>
<p><b>Deposit.</b></p>	<p>Prior to the issuance of any grading or building permit for a property where trees are required by this chapter to be saved, the owner or developer shall deposit cash or other acceptable security with the department on a per tree basis in the amount established by the involved development's conditions of approval or approved applications.</p> <p>As required, the county may hold the deposit for a two-year period to guarantee the health of the trees for a two-year period upon completion of construction. In addition, the applicant or developer may be required to enter into a tree maintenance agreement secured by said deposit/bond by which they agree to maintain said trees in a living and viable condition throughout the term of the agreement. This agreement may be transferred to any new owner of the property for the remaining length of the agreement.</p>	<ul style="list-style-type: none"> <li>(a) Before any grading or building permit is issued for a property where one or more protected trees are to remain after development on the property is completed, the applicant shall deposit cash or other acceptable security with the department on a per tree basis in the amount of \$1,000 per tree, or as otherwise established by an applicable tree removal permit or discretionary development approval.</li> <li>(b) To guarantee the health of the protected tree, the department will retain the deposit for a two-year period commencing upon the completion of construction.</li> <li>(c) The applicant may request that the department relinquish all or a portion of the deposit during the two-year period for the cost to prepare an arborist report, or for expenses directly related to preserving the health of the protected tree or, if the protected tree dies, planting and maintaining replacement trees.</li> </ul>

## County Tree Protection Ordinance Comparison Table

Code Section	Original (1994)	Proposed (2021)
		(d) The department will relinquish any remaining deposit funds to the applicant upon termination of the two-year period.
<b>Damage during construction.</b>	<p>A development's property owner or developer shall notify the department of any damage that occurs to any tree during the construction process. The owner or developer shall repair any damage as determined by an arborist designated by the director.</p> <p>Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species as approved by the director to be reasonably appropriate for the particular situation.</p>	<p>A property owner shall notify the department of any damage that occurs to a protected tree during construction. The department may require, at the property owner's expense, an arborist report to evaluate the extent of damage to the protected tree. If the damaged tree dies, or if an arborist report finds that the tree is likely to die due to the damage or has suffered significant damage, the property owner shall plant replacement trees consistent with the requirements of Section 816-6.802.</p>
<b>Enforcement.</b>	<p>Violations of this chapter are punishable and may be corrected in any manner provided by this code or as otherwise allowed by law. Each tree damaged or removed in violation of this chapter shall constitute a separate offense.</p>	<p><b>Separate offense.</b> Each tree damaged or removed in violation of this chapter constitutes a separate offense.</p> <p><b>All remedies.</b> The County may seek compliance with this chapter by any remedy allowed under this code, including but not limited to administrative fines and any other remedy allowed by law.</p>