

**THE SIGNIFICANT TREE ORDINANCE
OF SAN MATEO COUNTY**

(Part Three of Division VIII of the San Mateo County Ordinance Code)

CHAPTER 1. FINDINGS, INTENT AND PURPOSE

SECTION 12,000. FINDINGS. The Board of Supervisors finds and declares that the existing and future trees and tree communities located within the County of San Mateo are a valuable and distinctive natural resource. The trees and tree communities of the County augment the economic base through provision of resources for forest products, encouragement of tourism, and enhancement of the living environment. These resources are a major component of both the highly-localized and area-wide environment. The following environmental consequences are among those which could result from the indiscriminate removal or destruction of trees and tree communities in San Mateo County:

- (a) Modification of microclimates.
- (b) Change or elimination of animal habitat, possibly including habitats of endangered species.
- (c) Change in soil conditions, resulting in modified biological activity and erosion of soils.
- (d) Creation of increased susceptibility of flood hazards.
- (e) Increased risk of landslides.
- (f) Increased cost of construction and maintenance of drainage system through increased flow and diversion of surface waters.
- (g) Degradation of the human habitat.
- (h) Loss of environmental benefits of trees in neighborhoods, such as noise reduction, oxygen replacement, carbon dioxide reduction, interception of particulates, aesthetic qualities.
- (i) Potential for irreparable wind damage to adjacent trees.

SECTION 12,001. INTENT. The Board of Supervisors further finds and declares that it has already passed legislation to regulate the commercial harvesting of forest products

in this County and that it does not intend by this enactment to affect those other ordinances regulating tree cutting, but that it is the intent of this Board to control and supervise in a reasonable manner the cutting of significant trees and tree communities within the unincorporated area of the County as herein described. It is further found and declared that the preservation and replacement of significant tree communities on private and public property is necessary to protect the natural beauty of the area, protect property values, and prevent undesirable changes in the environment.

SECTION 12,002. PURPOSE. The Board of Supervisors further finds and declares that it is necessary to enact this ordinance for the above reasons and to promote the public health, safety, general welfare and prosperity of the County, while respecting and recognizing individual rights to develop, maintain and enjoy private property to the fullest possible extent, consistent with the public interest, convenience and necessity.

SECTION 12,003. TITLE. This ordinance shall be known as the "Significant Tree Ordinance."

CHAPTER 2. DEFINITIONS

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

SECTION 12,010. "PERSON" shall mean an individual, public agency, including the County and its departments, firm, association and corporation, and their employees, agents or representatives.

SECTION 12,011. "COUNTY" shall mean the County of San Mateo acting by and through its authorized representatives.

SECTION 12,012. "SIGNIFICANT TREE" shall mean any live woody plant rising above the ground with a single stem or trunk of a circumference of thirty-eight inches (38") or more measured at four and one half feet (4 1/2') vertically above the ground or immediately below the lowest branch, whichever is lower, and having the inherent capacity of naturally producing one main axis continuing to grow more vigorously than the lateral axes.

SECTION 12,012.1. In the RH/DR Zone Districts the definition of significant tree shall include all trees in excess of nineteen inches (19") in circumference.

SECTION 12,013. "PRIVATE PROPERTY" shall mean all property not owned by the County of San Mateo or any other public agency.

SECTION 12,014. "PUBLIC PROPERTY" shall mean all property owned by the County of San Mateo, any other city, county, city and county, special district or other public agency in the unincorporated area of San Mateo County.

SECTION 12,015. “PLANNING DIRECTOR” shall mean the Planning Director of the County of San Mateo, including his authorized or appointed representatives. For the purpose of this ordinance, the Planning Director shall authorize or appoint a representative qualified in the field of forestry, ornamental horticulture, or tree ecology to provide the necessary technical assistance in the administration hereof.

SECTION 12,016. “COMMUNITY OF TREES” shall mean a group of trees of any size which are ecologically or aesthetically related to each other such that loss of several of them would cause a significant ecological, aesthetic, or environmental impact in the immediate area.

SECTION 12,017. “INDIGENOUS TREE” shall mean a tree known to be a native San Mateo County tree. The term may be narrowed in its meaning to include only those trees known to occur naturally in a certain portion of the County. In the Emerald Lake Hills Community Plan area, indigenous tree shall include the following species of trees: Salix coulteri, Salix lasiolepis, Salix lasiandra (all native willows); Acer negundo californica (box elder); Aesculus californica (buckeye); Arbutus menziesii (madrone); Quercus agrifolia (coast live oak); Quercus lobata (valley oak); Quercus douglasii (blue oak); and Umbellularia californica (California bay laurel). This list may be amended to include indigenous trees not currently known to occur naturally upon confirmation by a reputable authority on native trees of San Mateo County.

SECTION 12,018. “EXOTIC TREE” shall mean any tree known not to be a native indigenous tree, hence any tree which has been planted or has escaped from cultivation.

SECTION 12,019. “TRIM” means the cutting of or removal of any limbs or branches of trees which will not seriously impair the health of trees. For the purposes of this Part, the definition of trim shall not apply to any tree being grown as an orchard tree or other fruit or non-indigenous ornamental tree for which trimming and pruning are considered ordinary horticultural practices.

CHAPTER 3. PERMITS, CONDITIONS OF APPROVAL, POSTING, EMERGENCIES, APPEALS

SECTION 12,020. PERMIT REQUIRED. Except as provided in Section 12,020.1, below, a permit shall be required under this Part for the cutting down, removing, poisoning or otherwise killing or destroying or causing to be removed any significant tree or community of trees, whether indigenous or exotic, on any private property.

SECTION 12,020.1. EXEMPTIONS. No permits shall be required under this Part in the following circumstances:

- (a) Tree cutting carried out under the provisions of Parts One (Timber Harvesting Regulations) and Two (Regulation of the Cutting of Heritage Trees) of Division VIII of the San Mateo County Ordinance Code.

- (b) Tree cutting in the Resource Management (RM or RM/CZ), Timberland Production Zone (TPZ or TPZ/CZ), and Planned Agricultural (PAD) districts, except within 100 feet of any County or State scenic road or highway, as identified in the San Mateo County General Plan, provided that any tree cutting in the RM, RM/CZ or PAD districts shall be subject to Section 12,020.3.
- (c) Tree cutting to remove a hazard to life and personal property as determined by the Planning Director, Director of Public Works, or Officer of the California Department of Forestry and Fire Protection.
- (d) Tree cutting where there is a unique area with a tree management program.
- (e) Tree cutting which has been authorized by the Planning Commission, Design Review Committee, or Planning Director as part of a permit approval process in which the provisions of this Part have been considered and applied.

SECTION 12,020.2. TRIMMING IN THE RH/DR DISTRICT. A permit shall be required in the RH/DR district for the trimming of significant indigenous trees where the cut results in the removal of a branch or cutting of the trunk which is 19 inches or greater in circumference at the point of the cut. Exempt from the provisions of this paragraph are instances where, as determined by the Planning Director, "limb break" or other natural occurrences cause the loss of the crown or limb of a tree and such loss requires additional corrective cutting. Under such circumstances, appropriate tree surgery may be required, but no permit is needed.

SECTION 12,020.3. TREE CUTTING IN THE RM, RM/CZ, AND PAD DISTRICTS.

- (a) Within the Resource Management (RM or RM/CZ) district, the criteria of Sections 6324 through 6326.4 shall apply and any permit issued for such area shall constitute a Certificate of Compliance as required by Section 6461 of the San Mateo County Zoning Regulations.
- (b) Within the Planned Agricultural (PAD) district, the criteria of Sections 6324 through 6326.4 shall apply, in addition to the requirements, if any, of a Coastal Development Permit.

SECTION 12,021. PERMIT APPLICATIONS. Any person desiring to cut down, remove, destroy or cause to be removed any tree regulated herein shall apply to the San Mateo County Planning Division for a Tree Cutting Permit on forms provided. Said application shall be accompanied by such drawings, written material, photographs and other information as are necessary to provide data concerning trees within the affected area, which shall include:

- (a) The diameter and height of the tree.
- (b) The type of trees (e.g., coniferous, evergreen hardwood and deciduous hardwood).

- (c) A map or accurate sketch of location and trees proposed to be cut (show other significant trees, shrubs, buildings or proposed buildings within 25 feet of any trees proposed to be cut including any off the parcel; photographs may be used to show the area).
- (d) Method for marking the tree proposed to be trimmed, cut down, removed or destroyed.
- (e) Description of method to be used in removing or trimming the tree.
- (f) Description of tree planting or replacement program, including detailed plans for an irrigation program, if required.
- (g) Reasons for proposing removal or trimming of the tree.
- (h) Street address where tree is located.
- (i) General health of tree to be trimmed, cut down or removed, as documented by a licensed tree surgeon or arborist.
- (j) Other pertinent information which the Planning Director may require.

SECTION 12,021.1. FEES. The application for a tree cutting permit shall be accompanied by a fee as set by resolution of the Board of Supervisors.

SECTION 12,021.2. POSTING NOTICE OF APPLICATION. The applicant shall cause a notice of application on a form provided by the San Mateo County Planning Division to be posted on each tree for which a permit is required and in at least two conspicuous locations clearly visible to the public, preferably on the roadside at eye level, on or close to the property affected indicating the date, a brief description of the application, the identification of the subject property, the address to which comments may be directed and from which further information may be obtained, and the final date for receipt of comments. The applicant shall indicate on the application his or her affidavit that this notice will be posted for at least ten (10) calendar days after the submission of the completed application.

SECTION 12,022. ACTION ON PERMIT. The Planning Director shall review the application and, if necessary, inspect the site and shall determine on the basis of the information provided, the site inspection and the criteria con tuned herein whether to grant, grant with conditions, or deny the permit. Whenever any action is taken on a permit, the Planning Director shall provide the applicant with a written statement indicating said action, and conditions imposed and the findings made in taking such action.

SECTION 12,022.1. SCENIC CORRIDORS. Any permits which involve substantial alteration of vegetation within a scenic corridor shall be acted upon by the Planning

Commission. The Planning Commission may approve, conditionally approve, or deny the permit.

SECTION 12,023. CRITERIA FOR PERMIT APPROVAL. The Planning Director or any other person or body charged with determining whether to grant, conditionally grant or deny a Tree Cutting or Trimming Permit may approve a permit only if one or more of the following findings are made:

- (a) The tree: (1) is diseased; (2) could adversely affect the general health and safety; (3) could cause substantial damage; (4) is a public nuisance; (5) is in danger of falling; (6) is too closely located to existing or proposed structures consistent with LCP Policy 8.9(a); (7) meets standards for tree removal of Chapter 28.1 (Design Review District) of the San Mateo County zoning regulations; (8) substantially detracts from the value of the property; (9) interferes with utility services consistent with San Mateo County Local Coastal Program (LCP) Policy 8.9(a); (10) acts as a host for a plant which is parasitic to another species of tree which is in danger of being infested or exterminated by the parasite; (11) is a substantial fire hazard; or (12) will be replaced by plantings approved by the Planning Director or Design Review Administrator, unless special conditions indicate otherwise.
- (b) The required action is necessary (1) to utilize the property in a manner which is of greater public value than any environmental degradation caused by the action; or (2) to allow reasonable economic or other enjoyment of the property. These findings cannot be made for any property in the Coastal Zone.

SECTION 12,024. CONDITIONS OF APPROVAL. In granting any permit as provided herein, the Planning Director, Planning Commission, or Board of Supervisors may attach reasonable conditions to insure compliance with the intent and purpose of this ordinance including, but not limited to:

- (a) Outside of the RH/DR district, replacement of trees removed shall be with plantings of trees acceptable to the Planning Director.
- (b) In the RH/DR district, replacement shall be in a manner and quantity prescribed by the Design Review Committee but shall not exceed the following specifications:
 - (1) For each loss of a significant indigenous tree in the RH/DR district there shall be a replacement with three (3) or more trees, as determined by the Planning Director, of the same species using at least five (5) gallon size stock.
 - (2) For each loss of a significant exotic tree in the RH/DR district there shall be a replacement with three (3) or more trees, as determined by the Planning Director, from a list maintained by the Planning Director. Substitutes for trees listed by the Planning Director may be considered but only when good reason and data are provided which show that the substitute tree can survive and flourish in the regional climatic conditions.

- (3) Replacement trees for trees removed in the RH/DR district shall require a surety deposit for both performance (installation of tree, staking, and providing an irrigation system) and maintenance. Maintenance shall be required for no less than two (2) and no more than five (5) years as determined by the Planning Director.
 - (4) Loss of any particular replacement prior to the termination of the maintenance period shall require the landowner at his/her expense to replace the lost tree or trees. Under such circumstances, the maintenance period will be automatically extended for a period of two (2) additional years.
 - (5) Release of either the performance or maintenance surety shall only be allowed upon the satisfactory installation or maintenance and upon inspection by the County.
 - (6) Where a tree or trees have been removed on undeveloped lands in the RH/DR district and no existing water system is available on the parcel, the replacement tree or trees, if required to be installed, shall be of sufficient size that watering need not be done by automatic means. Under such circumstances, water can be imported by tank or some other suitable method which would ensure tree survival in accordance with subparagraphs (4) and (5), above.
 - (7) Postponing the planting of replacement trees can be done if approved by the Design Review Administrator.
- (c) Use of measures to effect erosion control, soil and water retention and diversion or control of increased flow of surface waters.
 - (d) Use of measures to insure that the contemplated action will not have adverse environmental effects relating to shade, noise buffers, protection from wind, air pollution and historic features.
 - (e) Removal of posting following all tree cutting activity and inspection by the County.

SECTION 12,025. PERMIT ON SITE. The approved Tree Cutting Permit shall be posted on the site at all times during the tree cutting operation and shall be available to any person for inspection. The issued permit shall be posted in a conspicuous place at eye level at a point nearest the street.

SECTION 12,026. EXPIRATION OF PERMIT. If work authorized by an approved permit is not commenced within a period of one year from the date of approval, the permit shall be considered void.

SECTION 12,027. EMERGENCIES. In case of emergency, caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce

or eliminate the hazard without complying with the other provisions of this Part, except that the person responsible for the cutting or removal of the trees shall report such action to the Planning Director within five (5) working days thereafter, and the provisions regarding replacement trees in accordance with Section 12,024 of this Part shall be required.

SECTION 12,028. APPEALS. The applicant or any other person who is aggrieved by the issuance or non-issuance of the permit or any conditions thereof, or by any other action taken by the Planning Director as authorized by this Part, may appeal in the manner set forth below. A statement by the appellant shall be required indicating how the appellant is aggrieved or adversely affected by the decision. At the time the appeal is heard, the Planning Commission shall rule upon the appellant's standing as an aggrieved party. If the Planning Commission rules that the appellant is not aggrieved, all further proceedings shall be stayed except that the appellant may appeal the Planning Commission decision on standing to the Board of Supervisors as herein provided.

- (a) Any action under this Part taken by the Planning Director may be appealed to the Planning Commission by filing a written notice of appeal with the Secretary of the Planning Commission within ten (10) days of the issuance or denial of said permit. The Planning Commission shall hear such appeal within thirty (30) days of the date of filing of the written protest. The Planning Commission shall render a decision on the appeal within fifteen (15) days of public hearing. The Planning Director shall notify the affected parties of said action as provided for in Section 12,022.
- (b) Any action under this Part taken by the Planning Commission may be appealed to the Board of Supervisors by filing a written notice of appeal with the Secretary of the Planning Commission within (10) days from the decision of the Planning Commission. The Board of Supervisors shall hear such appeal within sixty (60) days and render a decision within fifteen (15) days following such hearing. The decision of the Board of Supervisors shall be final. The action taken by the Board of Supervisors shall be reported to the affected parties as provided for in Section 12,022 herein.

CHAPTER 4. INSPECTIONS, VIOLATIONS

SECTION 12,030. PERMISSION TO ENTER PROPOSED PERMIT AREA. Filing of an application for a Tree Cutting Permit shall constitute a grant of permission for County personnel concerned with administering this Part to enter the subject permit area during normal working hours from the date of application to the completion of any approved action for the purpose of inspecting said area for compliance with these rules and applicable law. Such right of entry shall be granted by the landowner through the duration of any requirements to maintain replacement trees as conditions to the permit.

SECTION 12,031. INSPECTION. The Planning Department may cause sufficient inspections to be made of the permit area to assure compliance with the provisions of

this part and the requirements of any applicable law. Upon completion of any inspection, the permittee shall be given a written notice of any violations observed at the time of inspection for correction thereof.

SECTION 12,032. VIOLATIONS: CEASE AND DESIST; REMEDIATION OF UNLAWFUL TREE CUTTING.

If the Chief Building Official or Planning Director or their designated representative, or any officer of the San Mateo County Sheriff's Department, or any other peace officer finds any tree cutting activity for which a permit under this Part is required but not issued, or the posting as required in this Part has not been properly performed, or the tree cutting is not in substantial compliance with an issued permit or the plans and specifications relating thereto, or a valid tree cutting permit is not immediately present at the job site, an order to cease work may be issued. No further tree cutting may be done except upon approval of the Planning Director. Conditions may be imposed as necessary to protect the health, safety and welfare of the public, including the condition that corrective work be done within a designated time in accordance with the provisions of this Part, or as may be provided by law in Division VI (Zoning Regulations), San Mateo County Ordinance Code. In the event that the Planning Director determines that one or more significant trees have been cut without the required permit or permits, the following additional requirements shall be imposed:

- (a) A stop work notice may be issued on all construction of any kind on the property to remain in effect until the remaining requirements of this section are satisfied.
- (b) The owner of the affected property shall be required to obtain a permit in accordance with Chapter 3 of this Part, and shall pay all fees and satisfy all conditions in connection therewith.
- (c) The stop work notice shall remain in effect, and no construction shall be allowed on the affected property, until the expiration of such period of time as may be prescribed by the Planning Director for the maintenance of the replacement trees in accordance with Section 12,024, as set forth hereinabove.

SECTION 12,032.2. VIOLATIONS: CITATION FOR INFRACTION. A citation, as described in Chapter 2.5 of Division I of the San Mateo County Ordinance Code, may also be issued. Any person to whom a citation is issued under the provisions of this Part shall be subject to a fine, as follows: Upon a first violation, by a fine not exceeding One Hundred Dollars (\$100); for a second violation within a period of one (1) year, by a fine not exceeding Two Hundred Dollars (\$200); and for any additional violation within a period of one (1) year, by a fine not exceeding Five Hundred Dollars (\$500), in accordance with Section 25132 of the Government Code. If personal service of a citation is made on a tree cutting operator, a second citation for the same infraction may be personally served on the record owner of the property. For the purposes of this Section each single tree being cut without benefit of a permit shall constitute a separate infraction, the fine being cumulative.

SECTION 12,032.3. VIOLATIONS: CUMULATIVE REMEDIES. The remedies for violations set forth in Sections 12,032 and 12,032.2 can be enforced separately or

cumulatively. In addition to the penalties provided for in this Chapter, any violations may be addressed by civil action.

SECTION 12,032.4. VIOLATIONS: RECORDATION OF NOTICE OF VIOLATION.

A notice of violation may be recorded in the office of the County Recorder for non-compliance with the provisions of this Part. The Planning Director shall notify by certified mail the owner of the affected real property and any other known party responsible for the violation of the recordation. If the property owner or other responsible party disagrees with the County's determination that the tree cutting violates this Part, proof may be submitted to the Planning Director, including documentation and professional tree surgeon or arborist reports that a tree cutting permit is not required. If the Planning Director determines that a tree cutting permit is required, the property owner and/or party responsible for the tree cutting work shall apply for the necessary tree cutting permit within a specified time period set by the Planning Director.

SECTION 12,032.5. NOTICE OF EXPUNGEMENT. A notice of expungement of the notice of violation shall be recorded with the office of the County Recorder when:

- (a) The Planning Director or other appellate authority determines that a tree cutting permit is not required; or
- (b) All permit conditions have been met including those conditions imposed as part of project review under any other provisions of the San Mateo County Ordinance Code for the parcel affected by the notice of violation. The meeting of any long term conditions, such as maintenance of replacement plantings is to be guaranteed by a surety deposit to run with the land and the term for which shall not be imposed as a demand for meeting these requirements for the expungement.

This Ordinance was adopted in its entirety on May 15, 1990 as Ordinance No. 3229. This action repealed and added Part Three of Division VIII, San Mateo County Ordinance Code.

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