

Public Review DRAFT March 2025
ORDINANCE NO. 2025-XX

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. 2025-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. 2025-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. 2025-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) “Arborist” means:
 - (1) A certified arborist who is certified by the International Society of Arboriculture;
or
 - (2) A consulting arborist who is listed as a member of the American Society of Consulting Arborists.
- (b) “Arborist report” means a written report prepared by an arborist that evaluates the feasibility and impact of a proposed restorative action or actions.
- (c) “Coniferous tree” means any cone-bearing tree with needle-like leaves, as opposed to broad leaves. Coniferous trees include but are not limited to the following tree species: pine, fir, redwood, spruce, cypress, cedar, juniper, and hemlock.
- (d) “Designated heritage tree” means a tree previously designated by resolution of the board of supervisors as a heritage tree, pursuant to Ordinance No. 88-83.
- (e) “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.
- (f) “Discretionary development approval” means the approval of a subdivision, land use permit, development plan, variance, or any other non-ministerial development approval by the board of supervisors, planning commission, or zoning administrator.
- (g) “Dripline” means the area of ground directly underneath any portion of the canopy of a tree.
- (h) “Non-coniferous tree” means any tree except a coniferous tree.
- (i) “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.
- (j) “Tree” means a live woody plant with a single perennial stem or trunk or multiple perennial stems or trunks.
- (k) “Undeveloped parcel” means any of the following:

- (1) A parcel of private land that is vacant or that is developed only with barns, sheds, or other non-habitable structures.
 - (2) A parcel of land that can be further subdivided in accordance with the zoning regulations of the county, except as provided for under Article 94-4.10.
 - (3) A parcel of land with one or more structures that are proposed to be demolished or relocated.
- (l) “Very high fire hazard severity zone” means an area designated as a very high fire hazard severity zone by: (1) the State Department of Forestry and Fire Protection pursuant to Public Resources Code Section 4203 or Government Code Section 51178; or (2) the County or other appropriate local agency pursuant to Government Code Section 51179. (Ords. 2025-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 non-coniferous tree that is:
 - (1) a single-stem tree with a circumference of 28 inches (approximately 9 inches in diameter) or larger, as measured 4.5 feet above the natural grade;
 - (2) a multi-stemmed tree with an aggregate circumference of 42 inches (approximately 13 inches in aggregate diameter) or larger, as measured 4.5 feet above the natural grade; or
 - (3) a multi-stemmed tree that has a single stem with a circumference of 28 inches (approximately 9 inches in diameter) or larger, as measured 4.5 feet above the natural grade.
- (b) A coniferous tree that is:
 - (1) a single-stem tree with a circumference of 48 inches (approximately 15 inches in diameter) or larger, as measured 4.5 feet above the natural grade;
 - (2) a multi-stemmed tree with an aggregate circumference of 66 inches (approximately 21 inches in aggregate diameter) or larger, as measured 4.5 feet above the natural grade; or

- (3) a multi-stemmed tree that has a single stem with a circumference of 48 inches (approximately 15 inches in diameter) or larger, as measured 4.5 feet above the natural grade.
- (c) A designated heritage tree.
- (d) 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.
- (e) A tree required to be planted as a replacement tree pursuant to this chapter. (Ords. 2025-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. 2025-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 permit is not required to remove a tree that presents a hazard to life or property and requires immediate action to remedy the hazard, 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 after the incident.
- (b) Prior approval.
 - (1) A permit is not required to remove a tree that is specifically approved for removal in connection with an approved development plan, site plan, subdivision, or building permit.
 - (2) A permit is not required to trench, grade, or fill within the dripline of a tree if the work is specifically approved in connection with an approved development plan, site plan, subdivision, or building permit.
- (c) Precluded by law. A permit is not required under this chapter if precluded by federal, state, or other applicable law
- (d) Routine maintenance. A permit is not required for routine tree maintenance.

- (e) Commercial plantings. A permit is not required to remove and harvest trees grown at holiday tree farms, orchards, or nurseries.
- (f) Rangeland management. A permit is not required for 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.
- (g) Public lands. A permit is not required to remove a tree from, or to trench, grade, or fill within the dripline of a tree on, property a public agency owns in fee.
- (h) Public agency/utilities easements. A permit is not required to trim or clear a tree located within an easement or right-of-way of a public agency or public utility for the purpose of maintaining the easement or right-of-way. Property owned by a public utility and used for administrative purposes or uses unrelated to the public service provided by the utility is not exempt under this subsection.
- (i) Very high fire hazard severity zone. A permit is not required to remove a tree from property located in a very high fire hazard severity zone.
- (j) Defensible space wildfire buffer. A permit is not required for trimming necessary to do any of the following within 100 feet of a building or structure:
 - (1) Remove branches within 10 feet of a chimney or stovepipe outlet.
 - (2) Remove branches to maintain a distance of 10 feet from other trees.
 - (3) Remove branches to a height of six feet or three times the height of the tallest shrub or other vegetation within the tree's dripline, whichever is greater.
- (k) Certain non-native species. A permit is not required to remove a tree that is any of the following species:
 - (1) Eucalyptus.
 - (2) Monterey Pine.
- (l) Minor work within dripline. A permit is not required to conduct minor work within the dripline of a tree. Minor work includes: the installation of irrigation lines not exceeding one inch in diameter to a depth of not greater than one foot; the construction,

maintenance, or repair of a fence; or the installation of pavers or other porous surfaces intended for pedestrian use. (Ords. 2025-XX § 2, 94-59, 94-22.)

816-6.606 Application. An application for a tree removal permit must 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 with proposed development, the site plan must be overlaid on all proposed grading, building, and development plans.
- (b) The size (including height and circumference or diameter, as 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) The reason for tree removal.
- (d) Information indicating the effect of tree removal on drainage, soil stability, and erosion control.
- (e) Photographs of the protected tree(s) to be removed or impacted by trenching, grading, or filling within the dripline.
- (f) The signature of the property owner or, if the permit is requested by someone other than the owner, a written authorization from the owner.
- (g) Additional information as may be required by the department.
- (h) Application and permit fees. (Ords. 2025-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;
 - (3) the application is to trench, grade, or fill within the dripline of a protected tree; or
 - (4) 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. 2025-XX § 2, 94-59, 94-22.)

816-6.610 Permitting procedure.

- (a) Except as otherwise provided in subsection (b) or (c) of this section, 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 with an application for a discretionary development approval will be considered in conjunction with the application for the discretionary development approval.
- (c) An application for a tree removal permit will be approved ministerially without discretionary review or public hearing and is not subject to the findings requirement in Section 816-6.612, or the tree preservation requirements in Sections 816-8.802 through 816-8.808, if it is not submitted with an application for a discretionary development approval and it meets all of the following.
 - (1) For a non-coniferous tree:
 - (A) If the tree is a single-stem tree, the tree does not exceed 56 inches in circumference (approximately 18 inches in diameter), as measured 4.5 feet above the natural grade.
 - (B) If the tree is a multi-stemmed tree:
 - (i) the tree does not exceed 84 inches in aggregate circumference (approximately 27 inches in aggregate diameter), as measured 4.5 feet above the natural grade; and
 - (ii) no single stem exceeds 56 inches in circumference (approximately 18 inches in diameter), as measured 4.5 feet above the natural grade.

- (2) For a coniferous tree:
 - (A) If the tree is a single-stem tree, the tree does not exceed 94 inches in circumference (approximately 30 inches in diameter), as measured 4.5 feet above the natural grade.
 - (B) If the tree is a multi-stemmed tree:
 - (i) the tree does not exceed 132 inches in aggregate circumference (approximately 42 inches in aggregate diameter), as measured 4.5 feet above the natural grade; and
 - (ii) no single stem exceeds 94 inches in circumference (approximately 30 inches in diameter), as measured 4.5 feet above the natural grade.
- (3) The tree is not located on an undeveloped parcel. (Ords. 2025-XX § 2, 94-59, 94-22.)

816-6.612 Decision. A tree removal permit will not be issued unless at least one of the following findings is made:

- (a) The burden to the applicant in preserving the protected tree outweighs the benefit to the public. The following factors will be considered in weighing the relative burden and benefit of preserving the protected tree:
 - (1) the tree’s general health;
 - (2) the tree’s status as a public nuisance;
 - (3) the tree’s potential to pose a danger from falling, the tree’s proximity to existing or proposed structures;
 - (4) the tree’s potential interference with or impacts to utility services;
 - (5) the tree’s potential to damage infrastructure or private property; and
 - (6) the tree’s status as a host for plant, pest, or disease endangering other trees or plants with infection or infestation that cannot be controlled or remedied through reasonable preservation or preventative procedures and practices.
- (b) It is necessary to remove, or trench, grade, or fill within the dripline of, the protected tree to enable the reasonable and conforming use or improvement of the subject property that is otherwise prevented by the presence of the tree. The “reasonable and conforming use or

improvement of the property” shall be determined in accordance with the County general plan and zoning code. The applicant must demonstrate that there are no reasonable and conforming alternatives to the proposed use or improvement of the property that would not impact the protected tree. (Ords. 2025-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. 2025-XX § 2, 94-59, 94-22.)

Article 816-6.8 Tree Preservation

816-6.802 Tree replacement. A protected tree may not be removed pursuant to a tree removal permit unless one or more replacement trees that meet all of the following criteria are planted at the subject property.

- (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. 2025-XX § 2, 94-59, 94-22.)

816-6.804 Tree protection. On a property proposed for development, the following tree protection measures apply to all protected trees that will remain on the property after development 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. 2025-XX § 2, 94-59, 94-22.)

816-6.806 Deposit.

- (a) Before any grading or building permit is issued for a property where one or more protected trees are to remain on the property after development 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 the 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 beginning when construction is completed.
- (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. 2025-XX § 2, 94-59, 94-22.)

816-6.808 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. 2025-XX § 2, 94-59, 94-22.)

816-6.810 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. 2025-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. 2025-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. 2025-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) An industrial hemp cultivation permit renewal pursuant to Section 88-34.412.
- (g) A sign permit pursuant to Chapter 88-6.
- (h) A tree removal permit pursuant to Chapter 816-6. (Ords. 2025-XX § 4, 2022-03 § 3, 2021-21 § 3, 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: MONICA NINO,
Clerk of the Board of Supervisors

Board Chair

ORDINANCE NO. 2025-XX

DRAFT March 2025

and County Administrator

By:

Deputy

[SEAL]

KCK:

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