



A Tradition of Stewardship  
A Commitment to Service

**Planning, Building and Environmental Services**

1195 Third Street, Suite 210  
Napa, CA 94559  
www.co.napa.ca.us

Main: (707) 253-4417  
Fax: (707) 253-4336

**David Morrison**  
Director

## Summary of Water Quality and Tree Protection Ordinance

The table below provides a summary and comparison of Board of Supervisors changes to the County’s Conservation Regulations (Napa County Code - Chapter 18.108) as part of their adoption of the Water Quality and Tree Protection Ordinance on April 9, 2019.

|                                     | Original Code Requirements  | WQTPO   |
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| <b>Slopes</b>                       | <u>Code Section 18.108.060:</u><br>Development on 30% to 50% slope prohibited unless exempt or with a Use Permit; development prohibited over 50% unless exempt | No change.  |
| <b>Municipal Reservoir Setbacks</b> | <u>Code Section 13.28.040.A:</u><br>200-foot setback  | <u>Code Section 18.108.027.G:</u><br>No earthmoving activities within 500-feet of Kimball and Bell Canyon Reservoirs or within 200-feet of any other sensitive domestic water supply (i.e., Rector Reservoir, Milliken Reservoir, Friesen Lakes, Lake Curry, Lake Madigan)  |
| <b>Wetland Definition</b>           | <u>Not specified in Code:</u><br>CEQA documents use federal definition with soil, plant, and saturation parameters.   | <u>Code Section 18.108.030:</u><br>Adopted a definition for wetlands incorporating both federal and state definitions, and establishing that the more protective definition shall control in event of conflict.   |
| <b>Wetland Setbacks</b>             | <u>Code Section 18.40.170.D:</u><br>25-foot minimum in Industrial Park (IP) Zone; 50-foot minimum setback is imposed via CEQA.                                  | <u>Code Section 18.108.026:</u><br>50-foot setback from wetlands with limited ability to reduce setback as recommended by qualified professional biologist and approved by director.  |
| <b>Stream Definition</b>            | <u>Code Section 18.108.030:</u><br>Watercourses designated by USGS, listed in Resolution 94-19, or with well-defined channel and stream vegetation.             | <u>Code Section 18.108.030:</u><br>Added definition of “Ephemeral” or “Intermittent” Stream to mean “any natural channel with defined bed and banks containing flowing water or showing evidence of having contained flowing water, such as deposit of rock, sand, gravel, or soil, that does not meet the definition of “stream” in this chapter.”<br>Definition of “Stream” remained unchanged. |

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| <b>Stream Setbacks</b>        | <u>Code Section 18.108.025:</u><br>Varies between 35 feet and 150 feet, depending on slope.   | <u>Code Section 18.108.025:</u><br>Added a 35-foot minimum setback for ephemeral or intermittent streams. Setbacks subject to CEQA.  |
| <b>Tree Canopy Definition</b> | <u>Code Section 18.108.030:</u><br>Defines tree canopy as the crown area in a natural and continuous stand of trees, when viewed from the latest aerial photograph.   | <u>Code Section 18.108.030:</u><br>Definition of Vegetation Canopy Cover amended to “the biotic communities classified as oak woodland, riparian oak woodland, or coniferous forest based on the current Manual of California Vegetation (MCV) and as described in the Napa County Baseline Data Report (2005 or as amended).”   |
| <b>Tree Canopy Retention</b>  | <u>Code Section 18.108.027:</u><br>60% minimum retention in municipal reservoir watersheds and subject to CEQA.   | <u>Code Section 18.108.027:</u><br>70% minimum retention in municipal watersheds and subject to CEQA.<br><br><u>Code Section 18.108.020.C (added):</u><br>70% minimum retention in AW zoning district and subject to CEQA.   |
| <b>Shrub Canopy</b>           | <u>Code Section 18.108.027:</u><br>40% minimum retention in municipal reservoir watersheds and subject to CEQA.   | No change.   |
| <b>Tree Mitigation Ratio</b>  | <u>Not specified in Code:</u><br>Policies CON-17 and CON-24:<br>Minimum 2:1 preservation ratio  | <u>Code Section 18.108.020.D (added):</u><br>In the AW zoning district, generally 3:1 mitigation ratio. 2:1 mitigation may occur as part of a stream restoration plan or if mitigation includes substantial public benefits.<br><br>Removal of non-native species is not subject to mitigation requirements.   |
| <b>Mitigation Location</b>    | <u>Not specified in Code:</u><br>County practice is a tiered approach. Mitigation occurs first on developable land on-site. Where that is insufficient (in whole or in part), mitigation occurs in a combination of ways including a reduction in project size, and off-site mitigation for habitat of same or better quality, within the same watershed. | <u>Code Section 18.108.020.D (added):</u><br>Tiered approach. In the AW zoning district, mitigation first occurs on-site on lands with slopes of 30% or less and outside of stream and wetland setbacks. Where that is insufficient, mitigation may occur on slopes greater than 30% and up to 50% in areas with the highest biological and water quality protections. Where those options are insufficient, mitigation may occur off-site within the same watershed and where the habitat is of the same or better quality. |

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|                                 | Where that is not feasible, mitigation occurs within Napa County where there is public benefit.  |   |
| <b>Effective Ordinance Date</b> | Specific to each ordinance.  | Effective May 10, 2019 (30 days from adoption)  |
| <b>Exemptions</b>               | <u>Code Section 18.108.050 (H):</u><br>Creation and/or maintenance of firebreaks required by and completed under CalFire direction.  | <u>Code Section 18.108.050.H:</u><br>Exempts creation or maintenance of defensible space for legally constructed structures or the implementation of fire management strategies completed under the guidance of the California Department of Forestry and Fire Protection.<br><br><u>Code Section 18.108.030:</u><br>Definition of “Defensible Space” added to mean “that area described in the Napa County Defensible Space Guidelines which is adjacent to each side of a building or structure and must be cleared of all brush, flammable vegetation, or combustible growth, subject to exception referenced in County Code 8.36.” County Code 8.36 is Napa County Fire Hazard Abatement Ordinance. |
|                                 | <u>Code Section 18.108.050(I):</u><br>Exempts clearing of vegetation and/or grading specifically authorized by a state timber harvesting permit where erosion control measures were included in the project, but does not exempt projects that include a state timber conversion permit is a part of or included as a component of the state timber harvesting permit. | No significant change.  |
|                                 | <u>Policy Manual 12.B:</u><br>Fire rebuild structures are not subject to new road or wastewater requirements, if they do not exceed 125% of the legal footprint of the destroyed structure.  | <u>Code Section 18.108.050.V (added):</u><br>Exempts reconstruction of existing legally constructed structures lost to fire or other natural disaster when the rebuild area of disturbance does not exceed 125% of the original footprint, with some restrictions related to encroachment into stream setbacks. This rebuild exemption may only be used once.   |
|                                 | <u>Code Section 18.108.050.S:</u><br>Replanting less than one acre is exempt within the same vineyard footprint.<br><u>Code Section 18.108.025.B.2.b:</u>  | <u>Code Section 18.108.050.S:</u><br>Clarifies that replanting of less than one acre is exempt within the same vineyard footprint for <u>legally planted</u> vineyards.   |

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|  | <p>Stream setbacks shall not be required for the replanting of existing vineyards within the same footprint.</p> <p><u>Code Section 18.108.055.A:</u><br/>Replanting is exempt from slope limitations within same vineyard footprint, subject to approval of an erosion control plan or vineyard replanting program.</p>  | <p><u>Code Section 18.108.025.B.2.b:</u><br/>Clarifies that stream setbacks shall not be required for the replanting of existing vineyards within the same footprint for <u>legally planted</u> vineyards.</p> <p><u>Code Section 18.108.055.A:</u><br/>No change.</p>  |
|  | <p><u>Local CEQA Guidelines:</u><br/>Creation of a 5.5 acre or less vineyard qualifies for Categorical Exemption.</p> <p><u>CalFire Forest Practices Rules Section 1104.1(a):</u><br/>Conversion of timberland to a non-timber use of less than 3 acres is exempt from Timber Conversion Plan requirements.</p> <p><u>Regional Water Quality Control Board General Order R2-2017-0033:</u><br/>Exempts existing or new vineyards of less than 5 acres and on slopes of less than 30% from Waste Discharge requirements.</p> | <p><u>Ordinance Section 17:</u><br/>New provisions of Ordinance do not apply to earthmoving activities associated with an agricultural project of five acres or less on slopes less than thirty percent. However, this type of project is still subject to CEQA and must comply with the Conservation Regulations in effect as of May 9, the day prior to the effective date of the revised ordinance.</p> <p>New provisions of the Ordinance do not apply to earthmoving, land clearing or grading activities associated with development of specific Housing Development Sites identified in County Code Chapter 18.82 of the :AH Affordable Housing Combination district. However, these projects must still comply with the Conservation Regulations in effect as of May 9, the day prior to the effective date of the revised ordinance.</p> |

**Note:** This summary table is provided for information purposes only. Please refer to County Code Section 18.108 for specific policy details ([https://library.municode.com/ca/napa\\_county/codes/code\\_of\\_ordinances?nodeId=TIT18ZO\\_CH18.108CORE](https://library.municode.com/ca/napa_county/codes/code_of_ordinances?nodeId=TIT18ZO_CH18.108CORE)) or contact the Department of Planning, Building and Environmental Services (PBES) at (707) 253-4417 to discuss how your project may be affected by these policies. Additional details are also included in the County's Implementation Guide, which can be found on the County's website (<https://www.countyofnapa.org/2526/Water-Quality-and-Tree-Protection-Ordina>)