

ORDINANCE NO. 2018-01

AN ORDINANCE OF THE PEOPLE OF NAPA COUNTY ENACTING THE NAPA COUNTY WATERSHED AND OAK WOODLAND PROTECTION INITIATIVE OF 2018, AMENDING THE NAPA COUNTY GENERAL PLAN AND COUNTY CODE BY (1) CREATING WATER QUALITY BUFFER ZONES WITHIN THE AGRICULTURAL WATERSHED ZONING DISTRICT AND RESTRICTING TREE REMOVAL WITHIN THOSE ZONES; (2) STRENGTHENING OAK REMOVAL REMEDIATION STANDARDS; AND (3) ESTABLISHING A PERMIT PROGRAM FOR OAK TREE REMOVAL ONCE 795 ACRES OF OAK WOODLAND HAVE BEEN REMOVED

The people of the County of Napa do hereby ordain as follows:

SECTION 1: TITLE

This Initiative shall be known and may be cited as the “Napa County Watershed and Oak Woodland Protection Initiative of 2018” (hereinafter “Initiative”).

SECTION 2: PURPOSE AND FINDINGS

- A. **Purpose:** Water affects the quality of life of every Napa County resident. The purpose of this Initiative is to protect the water quality, biological productivity, and economic and environmental value of Napa County’s streams, watersheds, wetlands and forests, and to safeguard the public health, safety and welfare of the County’s residents. The people of Napa County desire that this Initiative be enforced to the fullest extent possible to achieve these goals.
- B. **Effect of this Initiative:** This Initiative adopts policies and zoning requirements for the Agricultural Watershed zoning district that protect forests and tree canopy near streams and wetlands and ensure the long-term preservation of Napa’s oak woodlands. This Initiative is intended to complement the protections the County wisely established decades ago for agricultural and open space lands in the Agricultural Preserve.
- C. **Water Quality Protection:** Natural areas along streams and wetlands play a critical role in protecting County water resources by reducing erosion, alleviating flooding, and improving water quality. The County’s oak trees and oak woodlands also play a key role in sustaining healthy watersheds and water quality by reducing soil erosion, slowing runoff, capturing rainfall, improving the water holding capacity of soil, increasing nutrient retention, and mitigating flooding. Preserving Napa County’s water resources is critical to the long-term health of its residents and their environment.
- D. **Protection of Streams and Wetlands:** Trees and vegetation along streams and wetlands filter water for municipal, rural and agricultural use, reduce water pollution, and provide important habitat for fish and wildlife. This Initiative provides enhanced protection for

these areas by preserving forest and riparian habitat along stream corridors and wetlands within the Agricultural Watershed zoning district.

- E. **Importance of Oak Woodlands:** Napa County's oak woodlands are one of its defining scenic features and most biologically diverse natural resources, providing habitat for over 300 wildlife species and over 1,000 plant species. Napa's oak woodlands provide numerous recreational, ecological, and economic benefits by enhancing the natural scenic beauty for residents and visitors, protecting property values, improving water quality, and moderating temperature extremes and climate change, all of which improve the health, safety, and general welfare of County residents. The County's oak populations, however, are threatened by development, deforestation, fire and pathogens such as Sudden Oak Death and infestations of the Goldspotted Oak Borer parasite. The combination of human impacts and other hazards will cumulatively fragment oak ecosystem continuity and damage watersheds throughout the County unless appropriate conservation steps are taken. A program to ensure the long-term conservation of oak trees and oak woodlands within the Agricultural Watershed zoning district is a necessary part of the County's environmental and water quality protection policies.

- F. **Protection of Oak Woodlands:** This Initiative will protect oak woodlands within the Agricultural Watershed zoning district by requiring the replacement of lost oaks or preservation of comparable habitat at a 3:1 ratio and by establishing an Oak Removal Limit. The Oak Removal Limit takes effect when 795 additional acres of oak woodlands have been removed. This acreage limit takes into consideration the historic rate of oak woodland removal associated with new vineyard development, the General Plan's projection that a maximum of 10,000 acres of new vineyards would be developed by 2030, the planning horizon of the current General Plan, and other projected growth and constraints on growth under the General Plan.

- G. **Building on the Legacy of Measure J:** Just as Measure J in 1990 reaffirmed and locked in place the General Plan land use designations and minimum parcel sizes for agricultural lands, this Initiative reaffirms the extent of oak woodland removal reasonably necessary for the vineyard and other development envisioned under the current General Plan. The 2008 General Plan recognized that removal of some oak woodlands was necessary to allow the future growth, including vineyard development, envisioned under that plan. As County leaders recognized at the time they adopted the General Plan in 2008, however, oak woodlands play a critical role in protecting the County's watersheds, water supply, and habitat. By adopting this Initiative, the voters have determined that the Oak Removal Limit respects expectations under the 2008 General Plan and the growth it anticipated. The voters have further determined that unrestricted removal of oak woodlands beyond this Oak Removal Limit is unsustainable and would be detrimental to the health, well-being, and general welfare of the County. Therefore, once the Oak Removal Limit is reached, any removal of oak trees would, with limited exceptions, require a permit which the County could issue only after making specified findings.

SECTION 3: GENERAL PLAN AMENDMENTS

This Initiative hereby amends the Napa County General Plan (“General Plan”), adopted June 3, 2008, as amended through October 5, 2017 (“submittal date”), as shown below. Text to be inserted in the General Plan is indicated in **bold** type. Text to be deleted from the General Plan is indicated in ~~strike through~~ type. Text in standard type currently appears in the General Plan and is readopted by this Initiative. The language adopted and readopted in the following amendments may be changed only by a vote of the people.

A. *The General Plan’s Agricultural Preservation and Land Use Element is hereby amended as follows:*

- (i) The following new Goal AG/LU-8 is added to the list of “Agricultural Preservation and Land Use Goals,” currently on page AG/LU-12 of the General Plan:

Goal AG/LU-8: To help ensure the long-term sustainability of agriculture in Napa County, preserve watersheds, water quality and wildlife habitat within the Agricultural Watershed zoning district by protecting forests and trees along streams and wetlands and by protecting oak woodlands. To implement this goal, the Napa County Watershed and Oak Woodland Protection Initiative of 2018 amended the County Code to establish water quality buffer zones and an Oak Removal Limit that limits oak removal after 795 acres of oak woodlands are removed, as measured from September 1, 2017.

- (ii) The following new heading and new Policies AG/LU-0.5 and AG/LU-0.6 are added immediately before the section entitled Agricultural Preservation Policies, currently on page AG/LU-13 of the General Plan:

AGRICULTURAL WATERSHED DISTRICT POLICIES

Policy AG/LU-0.5: Pursuant to the Napa County Watershed and Oak Woodland Protection Initiative of 2018, implement water quality buffer zones along streams and wetlands within the Agricultural Watershed zoning district.

Policy AG/LU-0.6: Ensure the long-term health and protection of oak woodlands within the Agricultural Watershed zoning district and sustainable build-out of the 2008 General Plan by establishing an Oak Removal Limit of 795 acres as set forth in the Napa County Watershed and Oak Woodland Protection Initiative of 2018. After the Oak Removal Limit is reached, additional oak removal shall, with limited exceptions, require a permit subject to the findings required by that Initiative.

B. *The General Plan’s Conservation Element is hereby amended as follows:*

- (i) Policy CON-24 of the Conservation Element’s “Natural Resources Policies,” currently on page CON-30 of the General Plan, is hereby amended as follows:

Pursuant to the Napa County Watershed and Oak Woodland Protection Initiative of 2018, require a permit for any oak removal within the Agricultural Watershed

zoning district after the Oak Removal Limit is reached unless specified exceptions apply. Continue to maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including one or more of the following:

- a) Preserve, to the extent feasible, oak trees and other significant vegetation that occur near the heads of drainages or depressions to maintain diversity of vegetation type and wildlife habitat as part of agricultural projects.
- b) Comply with the Oak Woodlands Preservation Act (PRC Section 21083.4) regarding oak woodland preservation to conserve the integrity and diversity of oak woodlands, and retain, to the maximum extent feasible, existing oak woodland and chaparral communities and other significant vegetation as part of residential, commercial, and industrial approvals.
- c) Provide replacement of lost oak woodlands or preservation of like habitat at a **minimum 2:1** ratio when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible. **Within the Agricultural Watershed zoning district, require replacement of lost oak woodlands or permanent preservation of like habitat at a minimum 3:1 ratio when retention of existing vegetation is found to be infeasible, except where the Napa County Watershed and Oak Woodland Protection Initiative of 2018 provides for an exception to this requirement.**
- d) Support hardwood cutting criteria that require retention of adequate stands of oak trees sufficient for wildlife, slope stabilization, soil protection, and soil production be left standing.
- e) Maintain, to the extent feasible, a mixture of oak species which is needed to ensure acorn production. Black, canyon, live, and brewer oaks as well as blue, white, scrub, and live oaks are common associations.
- f) Encourage and support the County Agricultural Commission's enforcement of state and federal regulations concerning Sudden Oak Death and similar future threats to woodlands.

[Implemented by Action Item CON NR-7]

SECTION 4: NAPA COUNTY CODE AMENDMENTS

This Initiative hereby amends the Napa County Code Title 18, also known as the Napa County Zoning Code, as amended through the submittal date, as shown below. Text to be inserted in the Zoning Code is indicated in **bold** type. The language adopted in the following amendments may be changed only by a vote of the people.

To Chapter 18.20, "AW Agricultural Watershed District," commencing with

section 18.20.010, after the text of section 18.20.040, add the following:

18.20.050 Water Quality Buffer Zones.

A. In all AW districts, on parcels greater than one acre, the following areas shall constitute water quality buffer zones:

1. Within one hundred and twenty-five feet, as measured horizontally from the top of the bank, on both sides of any Class I stream;
2. Within seventy-five feet, as measured horizontally from the top of the bank, on both sides of any Class II stream;
3. Within twenty-five feet, as measured horizontally from the top of the bank, on both sides of any Class III stream; and
4. Within one hundred and fifty feet of any wetland, as measured horizontally from the point at which the area no longer meets the definition of wetland.

B. Except as provided in subsection (C) of this section, no tree removal, as defined in subsection (D), shall be allowed or undertaken within the water quality buffer zones established by this section.

C. Tree removal is allowed within water quality buffer zones under any of the following circumstances:

1. To remove downed and dead trees or dying or diseased trees;
2. Where necessary to comply with written county or state recommendations or requirements for fuel or firebreaks;
3. Where necessary to avert an imminent threat to public health and safety;
4. Where required for the development or maintenance of any of the following, provided that the development or maintenance occurs pursuant to all applicable laws: access roads; septic or wastewater systems or other facilities necessary for the protection of public health; water wells; water resources and storage facilities; public works facilities; solar energy systems; electric vehicle charging stations; telecommunications or cellular towers; pedestrian, bicycle, or equestrian trails; flood control projects; or stream crossings;
5. Within a recorded utility right-of-way;
6. On land owned by any public agency;
7. Where undertaken by or at the direction or order of a federal, state or local agency as part of a project or program to preserve, restore or improve habitat, alleviate an existing hazardous condition, or abate a public nuisance;
8. Where undertaken or authorized by a federal or state agency;
9. Within eleven feet of the centerline of any driveway that serves an existing or proposed structure for which all legally required permits have been issued; or
10. Within one hundred fifty feet from any point of a residence or any other structure that is subject to the requirements of the California Building Code or from any point of any proposed such residence or structure for which the owner has obtained all legally required permits.

This subsection (C) is not intended to, and shall not, relieve any person of the obligation to obtain a permit where required by Section 18.20.060 or to comply with any other policy or law.

- D. For purposes of this section, the following terms have the following meanings:
1. "Class I stream" means a perennial watercourse that serves as a domestic water

supply, or that provides habitat to sustain fish for all or part of the year.

2. “Class II stream” means a perennial or intermittent watercourse that provides aquatic habitat for non-fish aquatic species, including invertebrates.

3. “Class III stream” means an intermittent or ephemeral watercourse showing evidence of a defined bed and banks, annual scour and capacity to transport sediment to a Class I or Class II stream.

4. “Dying or diseased trees” means trees that have been designated in writing by a certified forester, forest pathologist or arborist as: having tested positive for Sudden Oak Death; necessary to remove to control the spread of disease or insect pests to healthy trees; or posing an imminent threat to public health and safety.

5. “Tree removal” means causing the death or removal of any living tree of any species that is five inches or more in diameter, measured at four feet six inches above mean natural grade, by cutting, dislodging, poisoning, burning, topping or damaging of roots, but does not include removal or harvest of incidental vegetation such as berries, ferns, greenery, mistletoe, herbs, shrubs, or poison oak. This section applies to all county approvals relating to any conversion of timberland pursuant to Public Resources Code section 4621, including but not limited to County Erosion Control Plans, but does not otherwise apply to timber operations undertaken pursuant to state timber harvest plans.

6. “Watercourse” means any well-defined channel with distinguishable bed and bank showing evidence of having contained flowing water indicated by deposit of rock, sand, gravel, or soil, including, but not limited to, a “Stream” as defined in Section 18.108.030.

7. “Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

E. This section does not apply to replanting within the footprint of existing vineyards or within the footprint of vineyards having obtained all legally required discretionary permits from the county where the initial vineyard planting or final discretionary permit approval occurred prior to the effective date of the Napa County Watershed and Oak Woodland Protection Initiative of 2018.

F. Nothing in this section shall preclude the county from requiring larger stream or wetland setbacks pursuant to any other policy or regulation.

G. This section does not apply:

1. To property within an Affordable Housing Combination District (AHCD) or other combination or overlay district whose primary purpose is to provide affordable housing or to residential housing projects whose approval is necessary to comply with state law; or

2. Where application of this section would be inconsistent with state or federal law.

18.20.060 Oak Removal Requirements.

A. Oak Removal Remediation. In issuing any discretionary approval for activities or projects on privately owned parcels of land within the AW district that are greater than one acre, the county shall require replacement of lost oak trees or oak woodlands, or permanent preservation of comparable habitat, at a minimum 3:1 ratio as follows:

1. On-site replacement of removed oak trees or oak woodlands at a 3:1 ratio or permanent preservation of comparable oak trees or oak woodlands at a 3:1 ratio by:

- a. Permanently preserving comparable oak trees or oak woodlands on-site through dedications, conservation easements, or similar measures; or
- b. Replanting and monitoring of replacement oak trees on-site pursuant to a plan that ensures replacement of failed plantings. The plan shall include a provision requiring a registered professional forester or certified arborist to file with the county, in the fifth year after the completion of replanting, a report that evaluates the survival rate of replanted oaks. If the survival rate is below eighty percent, the property owner or applicant shall implement additional remediation to ensure 3:1 replacement of the original oak trees removed.

2. Where on-site remediation pursuant to subsection (A)(1) of this section is infeasible, purchase of a conservation easement or payment of in-lieu fees sufficient to provide permanent preservation of comparable oak trees or oak woodlands at a 3:1 ratio shall be required. All such in-lieu fees shall be deposited into a separate fund that shall be used exclusively for the purposes of oak woodland preservation.

3. For the purposes of this subsection (A), “comparable” oak trees or oak woodlands preserved as remediation must be on land in Napa County as close as feasible to the site to be remediated and on land that is otherwise capable of being developed under existing county laws and regulations. Areas that are not subject to development or conversion to agricultural use due to existing legal restrictions, such as zoning regulations protecting slopes or stream corridors or existing easements, shall not constitute comparable oak trees or oak woodlands.

4. Remediation is not required under this subsection (A) where oak removal is undertaken in any of the circumstances set forth in subsection (C)(1-9) of Section 18.20.050. This exception is not intended to, and does not, excuse compliance with any other oak remediation policy or law.

B. Mapping. Whenever the county issues an approval for an activity that includes removal, replanting, or preservation of any oak woodlands, the county shall incorporate any relevant oak mapping information into a vegetation classification and mapping program maintained by the county.

C. Annual Report. Within one year of the effective date of the Napa County Watershed and Oak Woodland Protection Initiative of 2018, and annually thereafter, county staff shall prepare and submit to the Board of Supervisors a report setting forth the following information for all lands within the AW district: the total acreage of oak woodlands removed, replanted, and permanently preserved, in the previous year and from September 1, 2017 to the present; the cumulative total acreage of all oak woodlands removed since September 1, 2017; the total acreage of oak woodlands approved for removal, but not yet removed, pursuant to any county approval; and any other information the county determines is necessary to determine the Oak Removal Limit pursuant to subsection (D) of Section 18.20.060. Where feasible, the Annual Report shall include maps showing the acreage of oak woodlands lost in each vegetation classification.

D. Oak Removal Limit.

1. The “Oak Removal Limit” is reached when the cumulative total acreage of all oak woodlands removed plus all oak woodlands approved for future removal by the county within the AW district since September 1, 2017, equals seven hundred ninety-five acres. All oak woodlands removed within the AW district since September 1, 2017 shall be included in the cumulative total acreage, regardless of whether that removal was authorized or unauthorized. However, oak woodlands approved for removal by the county prior to September 1, 2017, shall

not be included within the Oak Removal Limit, regardless of when they are removed.

2. After the Oak Removal Limit is reached, the county shall not allow any additional oak tree or oak woodland removal within the AW district except pursuant to subsection (E). The county planning director shall immediately notify the board when the Oak Removal Limit established pursuant to the Napa County Watershed and Oak Woodland Protection Initiative of 2018 has been reached and that no further oak removal is permitted except pursuant to subsection (E) of Section 18.20.060.

E. Oak Removal after the Oak Removal Limit Is Reached.

1. Once the Oak Removal Limit is reached, removal of any oak woodland or any oak tree of at least five inches in diameter, measured at four feet six inches feet above mean natural grade, on private land within the AW district is permitted only pursuant to a county oak removal permit. An oak removal permit for removal of more than ten oak trees on a single parcel within a twelve month period shall be in the form of a county use permit and be subject to all applicable State and county use permit requirements in addition to the requirements set forth in this section.

2. An oak removal permit may be issued only if the county determines or, for a use permit, the planning commission or board of supervisors finds, that the oak removal complies with the applicable provisions of this code, is consistent with the policies and standards of the general plan and any applicable specific plan, and is necessary either to: (a) ensure the economically viable agricultural use of a parcel, provided that (i) the parcel is a minimum of one hundred sixty acres; and (ii) the permit allows removal of no more than five oak trees from that parcel during any ten year period; or (b) address one or more of the circumstances set forth in subsection (C)(1)-(10) of Section 18.20.050. These determination or findings shall be in addition to any other determinations or findings required by county or state law.

3. An oak removal permit may also be issued, or the requirement for a permit waived, if, after a public hearing, the board finds, based on substantial evidence, that oak removal or waiver of the oak removal permit requirement is necessary to avoid a violation of the constitution or laws of the United States or of the State of California.

4. An oak removal permit shall do all of the following:

a. require compliance with the Oak Removal Remediation requirements set forth in subsection (A), where applicable;

b. allow oak tree removal only to the minimum extent necessary to address the circumstances set forth in subsection (E)(2) and (E)(3); and

c. ensure retention of at least ninety (90) percent of the oak canopy cover on the parcel unless the county makes specific findings explaining why this would be infeasible.

5. The county shall post on the county website notice of all oak removal permits within seven days of their issuance.

F. Definitions. For the purposes of this section and Section 18.20.070, the following terms have the following meanings:

1. "Oak tree" means any live tree in the genus *Quercus* that is not growing on timberland.

2. "Oak woodland" means an oak stand with a greater than ten percent canopy cover. An oak stand consists of at least two oak trees of at least five inches in diameter, measured at four feet six inches feet above mean natural grade. A parcel may contain one or more oak woodlands. "Oak woodland" does not include timberland.

3. “Remove” or “removal” means causing a tree to die or be removed as a result of human activity by cutting, dislodging, poisoning, intentional burning, topping or damaging of roots, but does not include removal or harvest of incidental vegetation such as berries, ferns, greenery, mistletoe, herbs, shrubs, or poison oak.

4. “Timberland” means “timberland” as defined in Public Resources Code section 4526.

G. This section does not apply:

1. to property within an Affordable Housing Combination District (AHCD) or other combination or overlay whose primary purpose is to provide affordable housing or to residential housing projects whose approval is necessary to comply with state law;

2. to projects or activities that are not subject to local permit requirements under state or federal law or where application of this section is otherwise inconsistent with state or federal law; or

3. to oak removal undertaken by or at the direction or order of a federal or state agency.

18.20.070 Enforcement of Section 18.20.050 and Section 18.20.060.

A. The county shall promptly investigate complaints of violations of Section 18.20.050 or Section 18.20.060 and make a determination within thirty days of receipt of the initial complaint whether a violation has occurred. Whenever the county determines that a violation of either of these sections has occurred, the county shall notify the violator in writing of the violation and require that appropriate remedial conditions be implemented or adhered to by a date specified. All notices of violation shall be published on the county website within fourteen days of their issuance. Each violation of Section 18.20.050 or Section 18.20.060 and each failure to comply with the county’s notice or meet the deadlines specified therein shall constitute a separate and distinct violation, punishable as set forth in this section.

B. Conditions in the notice of violation shall include actions sufficient to fully remediate the environmental damage caused by the violation. These conditions may include, but are not limited to: removal of vegetation, crops, infrastructure, or structures put in place or constructed in violation of Section 18.20.050 or Section 18.20.060 and on-site replacement or replanting of cut or damaged trees at a 3:1 ratio. If full remediation of the area damaged by the violation is infeasible or insufficient, the full remediation requirement may be satisfied by permanent protection of an area with comparable ecological values as close to the damaged site as feasible at a minimum of a 3:1 ratio to the area damaged by the violation.

C. Penalties. It is unlawful and a public nuisance for any person to violate any of the provisions of Section 18.20.050 or Section 18.20.060 for any purpose or to cause any other person to do so. Such a violation shall be enforceable as a misdemeanor and subject to any and all available judicial and administrative enforcement actions, including, but not limited to, the provisions addressing civil and administrative penalties, stop orders, and public nuisance abatement procedures set forth in the county code. The amount of the administrative penalty for violations of Section 18.20.050 or Section 18.20.060 shall be the maximum administrative penalty that the county has established for violations of this code.

D. Within one year of the effective date of the Napa County Watershed and Oak Woodland Protection Initiative of 2018, and annually thereafter, the county shall prepare and submit to the board a report setting forth the following information for the previous year: the

number of formal complaints received concerning violations of Section 18.20.050 and Section 18.20.060; the status of investigations into such complaints; copies of all notices of violation issued pursuant to these sections; and a summary of all actions taken to remediate such violations, including a map showing areas damaged by such violations and areas on which remediation has occurred.

E. In addition to the penalties set forth in subsection (C) of this section, the county may require any person who removes an oak tree in violation of the provisions of Section 18.20.060 to pay a sum of money equal to:

1. The cumulative value of the individual oak trees removed as measured by a standard tree appraisal system designated by the county; or
2. The full cost of remediating any damage caused by the violation in accordance with the provisions of subsection (A) of Section 18.20.060.

18.20.080 Applicability.

Section 18.20.050 through Section 18.20.070 do not apply to projects or activities for which the owner or applicant has obtained a vested right, pursuant to state law, or has obtained all legally required discretionary permits from the county necessary for it to proceed, prior to the effective date of the Napa County Watershed and Oak Woodland Protection Initiative of 2018.

SECTION 5: CONFORMING AMENDMENTS

In light of the General Plan amendments set forth above in Section 3 of this Initiative, the General Plan is hereby further amended as set forth below in order to promote internal consistency among the various sections of the General Plan. Text to be inserted in the General Plan is indicated in **bold** type. Text to be deleted from the General Plan is indicated in ~~strike through~~ type. Text in standard type currently appears in the General Plan and is not changed by this Initiative. The language in the following amendments may be further amended without a vote of the people in the course of future updates and revisions to the General Plan, provided that any such amendments do not conflict with any provisions of Sections 3 and 4 of this Initiative.

A. In the Summary and Vision Element:

- (i) Insert the following new paragraph following the last indented bullet in the existing text currently on page SV-4 of the General Plan:

In 2018, the voters adopted the Napa County Watershed and Oak Woodland Protection Initiative of 2018 to provide additional protections for County streams, wetlands and oak woodlands within the Agricultural Watershed zoning district. These changes included an increase in the habitat replacement ratio required to mitigate potential losses of oak woodlands.

B. In the Agricultural Preservation and Land Use Element:

- (i) Policy AG/LU-17, currently on page AG/LU-15 of the General Plan, is amended to read:

Consistent with the Napa County Watershed and Oak Woodland Protection Initiative of 2018, tThe County encourages active, sustainable forest management practices, including timely harvesting to preserve existing forests, retaining their health, product, and value. The County also encourages timber plantations for fuel wood and lumber production. (For more policies related to the managed production of resources and forest management practices, please see the Conservation Element.)

C. **In the Conservation Element:**

- (i) Insert the following new paragraph following the fourth paragraph of the existing text currently on page CON-10 of the General Plan:

In 2018, the voters adopted the Napa County Watershed and Oak Woodland Protection Initiative of 2018 to provide additional protections for County streams and wetlands within the Agricultural Watershed zoning district.

- (ii) Insert the following new paragraph prior to the first full paragraph of the existing text currently on page CON-22 of the General Plan:

In 2018, the voters adopted the Napa County Watershed and Oak Woodland Protection Initiative of 2018 to provide additional protections for County watersheds and oak woodlands within the Agricultural Watershed zoning district. This Initiative recognized that preserving watersheds and oak woodlands are important to the long-term sustainability of County vineyards and other agriculture.

- (iii) Policy CON-19, currently on page CON-29 of the General Plan, is amended to read:

The County shall encourage the preservation of critical habitat areas and habitat connectivity through the use of conservation easements or other methods as well as through continued implementation of the Napa County Conservation Regulations associated with vegetation retention and setbacks from waterways **and the Napa County Watershed and Oak Woodland Protection Initiative of 2018.**

- (iv) Policy CON-26, currently on pages CON-30 to CON-31 of the General Plan, is amended to read:

Consistent with Napa County's Conservation Regulations **and the requirements of the Napa County Watershed and Oak Woodland Protection Initiative of 2018,** natural vegetation retention areas along perennial and intermittent streams ~~shall may~~ vary in width with steepness of the terrain, the nature of the undercover, ~~and~~ type of soil, **and the underlying zoning district.** The design and management of natural vegetation areas shall consider habitat and water quality needs, including the needs of native fish and special status species and flood protection where appropriate. Site-specific setbacks shall be established **pursuant to Napa County's Conservation Regulations and the requirements of the Napa County Watershed and Oak Woodland Protection Initiative of 2018,** and in coordination with Regional Water Quality Control Boards,

California Department of Fish and Game, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration National Marine Fisheries Service, and other coordinating resource agencies that identify essential stream and stream reaches necessary for the health of populations of native fisheries and other sensitive aquatic organisms within the County's watersheds.

Where avoidance of impacts to riparian habitat is infeasible along stream reaches, appropriate measures will be undertaken to ensure that protection, restoration, and enhancement activities will occur within these identified stream reaches that support or could support native fisheries and other sensitive aquatic organisms to ensure a no net loss of aquatic habitat functions and values within the county's watersheds.

- (v) Action Item CON NR-7, currently on page CON-35 of the General Plan, is amended to read:

The County ~~has shall-adopted a~~ **the Napa County Voluntary Oak Woodland Management Plan (2010)** to identify and mitigate significant direct and indirect impacts to oak woodlands. **Where oak removal is permitted under the Napa County Watershed and Oak Woodland Protection Initiative of 2018, M**itigation may be accomplished **in accordance with the Initiative** through a combination of the following measures:

- a) Conservation easement and land dedication for habitat preservation;
- b) Payment of in-lieu fees; and/or
- c) Replacement planting of appropriate size, species, area, and ratio.

[Implements Policy 24]

- (vi) Policy CON-35, currently on page CON-32 of the General Plan, is amended to read:

Consistent with the Napa County Watershed and Oak Woodland Protection Initiative of 2018, ~~t~~The County shall encourage active forest management practices to preserve and maintain existing forests and timberland, allowing for their economic and beneficial use.

- (vii) Policy CON-45, currently on page CON-38 of the General Plan, is amended to read:

Protect the County's domestic supply drainages through vegetation preservation and protective buffers to ensure clean and reliable drinking water consistent with state regulations and guidelines. Continue implementation of current Conservation Regulations **and zoning regulations** relevant to these areas, such as vegetation retention requirements, consultation with water purveyors/system owners, implementation of erosion controls to minimize water pollution, and prohibition of detrimental recreational uses. [Implemented by Action Item CON WR-3]

- (viii) Policy CON-50(a), currently on page CON-39 of the General Plan, is amended to read:

Preserve riparian areas through adequate buffering and pursue retention, maintenance, and enhancement of existing native vegetation along all intermittent and perennial streams through existing stream setbacks in the County's Conservation Regulations **and the Napa County Watershed and Oak Woodland Protection Initiative of 2018** (also see Policy CON-27 which retains existing stream setback requirements).

D. In the Implementation Element:

- (i) Action Item CON NR-7, currently on page IP-7 of the General Plan, is amended to read:

The County ~~has shall~~ adopted ~~a~~ **the Napa County V**oluntary Oak Woodland Management Plan **(2010)** to identify and mitigate significant direct and indirect impacts to oak woodlands. **Where oak removal is permitted under the Napa County Watershed and Oak Woodland Protection Initiative of 2018,** ~~M~~itigation may be accomplished **in accordance with the Initiative** through a combination of the following measures:

- a) Conservation easement and land dedication for habitat preservation;
- b) Payment of in-lieu fees;
- c) Replacement planting of appropriate size, species, area, and ratio.

(B; CDPD)

SECTION 6: EXEMPTIONS FOR CERTAIN PROJECTS

- A. The provisions of this Initiative shall not be applicable to the extent, but only to the extent, that they would violate the constitution or laws of the United States or of the State of California.
- B. In the event a property owner contends that application of this Initiative effects an unconstitutional taking of property, the property owner may request, and the Board of Supervisors may grant, an exception to application of any provision of this Initiative if the Board of Supervisors finds, based on substantial evidence, that both: (1) the application of any aspect of this Initiative would constitute an unconstitutional taking of property; and (2) the exception will allow the cutting or removal of trees only to the minimum extent necessary to avoid such a taking.
- C. The provisions of this Initiative shall not be applicable to any person or entity that has obtained, as of the effective date of this Initiative, a vested right, pursuant to State law, to undertake any activities that would be prohibited by this Initiative.

SECTION 7: IMPLEMENTATION

- A. Effective Date:** This Initiative shall take effect as provided in the California Elections Code. Upon the effective date of this Initiative: (1) the provisions of Sections 3 and 5 of the Initiative are hereby inserted into the Napa County General Plan, as an amendment thereof; except that if the four amendments of the mandatory elements of the General Plan permitted by State law for any given calendar year have already been utilized in the year in which the Initiative becomes effective, this General Plan amendment shall be the first amendment inserted into the Napa County General Plan on January 1 of the next year; and (2) the provisions of Section 4 of the Initiative are hereby inserted into the Napa County Code as an amendment thereof. Upon the effective date of this Initiative, any provisions of the County Code or of any other County of Napa ordinance or resolution that are inconsistent with the General Plan amendments and County Code amendments adopted by this Initiative shall not be enforced in a manner inconsistent with this Initiative.
- B. Interim Amendments:** The date that the notice of intention to circulate this Initiative was submitted to the elections official of the County of Napa is referenced herein as the “submittal date.” The Napa County General Plan in effect on the submittal date as amended by this Initiative comprises an integrated, internally consistent, and compatible statement of policies for the County of Napa. In order to ensure that nothing in this Initiative measure would prevent the General Plan from being an integrated, internally consistent, and compatible statement of the policies of the County, as required by State law, and to ensure that the actions of the voters in enacting this Initiative are given effect, any amendment or update to the General Plan that is adopted between the submittal date and the date that the General Plan is amended by this Initiative measure shall, to the extent that such interim-enacted provision is inconsistent with the General Plan provisions adopted by this Initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the General Plan. Likewise, any amendment to the County Code that is adopted between the submittal date and the date that the County Code is amended by this Initiative shall, to the extent that such interim-enacted provision is inconsistent with the County Code provisions adopted by this Initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the County Code.
- C. Other County Ordinances and Policies:** The County of Napa is hereby authorized to amend the County of Napa General Plan, all specific or community plans, the County Code, including the Zoning Code, and other ordinances, polices and plans, including climate action plans, affected by this Initiative as soon as possible as necessary to ensure consistency between the provisions adopted in this Initiative and other sections of the General Plan, specific or community plans, the County Code, including the Zoning Code, and other County ordinances, policies, and plans.
- D. Reorganization:** The General Plan and County Code may be reorganized or readopted in different format, and individual provisions may be renumbered or reordered, in the

course of ongoing updates of the General Plan and County Code, provided that the provisions of Section 3 of this Initiative shall remain in the General Plan, and the provisions of Section 4 of this Initiative shall remain in the County Code, unless earlier repealed or amended by vote of the people of the County.

- E. Implementing Ordinances:** The Board of Supervisors is authorized, after a duly noticed public hearing, to adopt implementing ordinances, guidelines, rules, and/or regulations, as necessary, to further the purposes of this Initiative.
- F. Enforcement and Defense of Initiative:** The Board of Supervisors shall take all steps reasonably necessary to enforce this Initiative and to defend it against any challenge to its validity.
- G. Project Approvals:** Upon the effective date of this Initiative, the County and its departments, boards, commissions, officers, and employees shall not take any action which is inconsistent with this Initiative.

SECTION 8: SEVERABILITY AND INTERPRETATION

This Initiative shall be interpreted so as to be consistent with all applicable federal, State, and County laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application. Any singular term shall include the plural and any plural term shall include the singular. All references to County and State code sections shall mean those code sections, including any amendments, in effect at the time of their application. The title and captions of the various sections in this Initiative are for convenience and organization only, and are not intended to be referred to in construing the provisions of this Initiative. The provisions of this Initiative shall be liberally interpreted in order to give effect to its purposes.

SECTION 9: CONFLICTING LAW

- A.** In the event that this measure and another measure or measures relating to tree removal in specified locations in the County of Napa near streams and wetlands or to oak removal or remediation shall appear on the same County election ballot, the provisions of these other measures shall be deemed to be in conflict with this measure. In the event that more than one such measure passes and this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void in their entirety. In the event that more than one such measure passes and the other measure or measures shall receive a

greater number of affirmative votes than this measure, the following rules shall apply: if more than one such measure passes, then both measures shall go into effect except to the extent that particular provisions of one measure are in direct, irreconcilable conflict with particular provisions of another measure. In that event, as to those conflicting provisions only, the provisions of the measure which received the most votes shall prevail.

- B. If this measure is approved by the voters but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this measure shall be self-executing and shall be given the full force of law.

SECTION 10: AMENDMENT OR REPEAL

Except as otherwise provided herein, this Initiative may be amended or repealed only by the voters of Napa County.

The foregoing ordinance was passed by a vote of the people of Napa County, on _____, 2018 by the following vote:

AYES: _____

NOES: _____

The vote on this ordinance was declared by the Board of Supervisors on _____, 2018.

BRAD WAGENKNECHT
Chair, Napa County Board of Supervisors

ATTEST:
Clerk of the Board of Supervisors

By: _____