

To the Honorable County Clerk of the County of Napa: We, the undersigned, registered and qualified voters of the County of Napa, hereby propose an initiative measure to amend the County of Napa General Plan and Napa County Code. We petition you to submit this measure to the Board of Supervisors of the County of Napa for submission of the measure to the voters of the County of Napa at the earliest special or general election for which it qualifies.

The measure provides as follows:

WATER, FOREST AND OAK WOODLAND PROTECTION INITIATIVE OF 2016

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 “Water, Forest and Oak Woodland Protection Initiative of 2016” (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 zone district that protect forests and tree canopy near streams and wetlands as well as oak woodlands.
- C. Protection of Streams and Wetlands:** Natural areas along streams and wetlands play a critical role in protecting County water resources by filtering water for municipal, rural and agricultural use, reducing water pollution, alleviating flooding and providing important habitat for fish and wildlife. This Initiative provides enhanced protection for these areas by preserving forests and riparian habitat along stream corridors and wetlands within the Agricultural Watershed zone district. This Initiative is intended to complement the protections the County wisely established decades ago for agricultural and open space lands in the Agricultural Preserve.
- D. Protection of Oak Woodlands:** Napa County’s oak woodlands are one of its defining scenic features and most biologically diverse natural resources. The County’s oak trees play a key role in sustaining healthy watersheds and water quality by reducing soil erosion and providing habitat for over 300 wildlife species and over 1,000 plant species. They also provide numerous recreational, ecological, and economic benefits by enhancing the natural scenic beauty for residents and visitors, protecting property values 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 throughout the County unless appropriate conservation steps are taken immediately. A program to encourage and make possible the long-term conservation of oak trees and oak woodlands within the Agricultural Watershed zone district is a necessary part of the County’s environmental and water quality protection policies.

SECTION 3: GENERAL PLAN AMENDMENTS

This Initiative hereby amends the Napa County General Plan (“General Plan”), adopted June 3, 2008, as amended through February 16, 2016 (“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: Preserve watersheds, water quality and wildlife habitat by protecting forests and trees along streams and wetlands and by protecting oak woodlands. To implement this goal, the Water, Forest and Oak Woodland Protection Initiative of 2016 establishes water quality buffer zones and an Oak Removal Permit program applicable to all land in the Agricultural Watershed zone district.

- (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 Water, Forest and Oak Woodland Protection Initiative of 2016, water quality buffer zones shall be established along streams and wetlands within the Agricultural Watershed zoning district.

Policy AG/LU-0.6: Conserve and protect oak woodlands within the Agricultural Watershed zoning district by implementing an Oak Removal Permit program in accordance with the Water, Forest and Oak Woodland Protection Initiative of 2016.

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:

Subject to the mandatory requirements of the Water, Forest and Oak Woodland Protection Initiative of 2016, 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 3:1 ratio when retention of existing vegetation is found to be infeasible.**
- 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 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.

- A.** *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:*

Section 18.20.050 – Water Quality Buffer Zones.

- A.** **In all AW districts, the following areas shall constitute water quality buffer zones:**
- 1.** **Within one hundred and twenty-five (125) feet, as measured horizontally from the top of the bank, on both sides of any Class I stream;**
 - 2.** **Within one hundred (100) feet, as measured horizontally from the top of the bank, on both sides of any Class II stream;**
 - 3.** **Within thirty-five (35) 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 (150) 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 timber removal, as defined in subsection (D), shall be allowed or undertaken within the water quality buffer zones established by this section.**
- C.** **Timber removal is allowed within water quality buffer zones:**
- 1.** **Within one hundred fifty (150) 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;**
 - 2.** **To remove downed and dead trees or dying or diseased trees;**
 - 3.** **Where necessary to comply with written County or state recommendations or requirements for fuel or firebreaks;**
 - 4.** **Where necessary to avert an imminent threat to public health or safety;**
 - 5.** **Where required for the development or maintenance, pursuant to any local, state or federal permit, of access roads, septic or wastewater systems, water wells, water resources and storage facilities, public works facilities, pedestrian trails, flood control projects, or stream crossings;**
 - 6.** **Within ten (10) feet of the centerline of any driveway that serves an existing or proposed structure for which the owner has obtained all legally required**

permits;

7. Within a recorded utility right-of-way;
8. On land owned by any public agency; or
9. Where undertaken by or at the direction or order of a federal, state or local agency to preserve or restore wildlife habitat, alleviate an existing hazardous condition, or abate a public nuisance.

This subsection (C) is not intended to, and shall not, relieve any person of the obligation to obtain an Oak Removal Permit where required by Section 18.20.060 or a permit required by any other section of this Code.

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 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. **“Conversion of timberland” means conversion pursuant to Public Resources Code section 4621.**
5. **“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.**
6. **“Other removal of trees” means causing the death or removal of any tree of any species that is five (5) inches or more in diameter, measured at 4.5 feet above mean natural grade, by cutting, dislodging, poisoning, burning, topping or damaging of roots. “Other removal of trees” does not include timber operations or conversion of timberland.**
7. **“Timber operations” means “timber operations” as defined in Public Resources Code section 4527.**
8. **“Timber removal” means timber operations, conversion of timberland, or other removal of trees. “Timber removal” does not include removal or**

harvest of incidental vegetation such as berries, ferns, greenery, mistletoe, herbs, shrubs, or poison oak.

9. **“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, streams or natural watercourses as designated by a solid line or dash and three dots symbol shown on the largest scale United States Geological Survey map most recently published.**
 10. **“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.**
 11. **Any terms not defined by this section shall have the meaning set forth in Section 1.04.010 or Chapter 18.08 of the County Code or their ordinary and common usage.**
- E. **Nothing in this section shall preclude the County from requiring larger setbacks pursuant to Chapter 18.108.**

Section 18.20.060 – Oak Removal Permit Program.

A. Oak Removal Permit Required.

1. **In all AW districts, unless an Oak Removal Permit has been approved by the director, no person shall remove from a single parcel of five (5) or more acres during any calendar year:**
 - a. **Any valley oak tree greater or equal to five (5) inches in diameter, measured at 4.5 feet above mean natural grade; or**
 - b. **Ten (10) or more oak trees of any species greater than or equal to five (5) inches in diameter, measured at 4.5 feet above mean natural grade.**
2. **All applications for an Oak Removal Permit shall include the following:**
 - a. **Name, address, phone number and email contact for property owner and applicant;**
 - b. **Parcel number(s) and general plan and zoning designations of the affected property;**

- c. **Proposed Oak Removal Plan;**
 - d. **Any other additional information required by the director or requested on the application form, if such form is available from the director; and**
 - e. **All applicable application fees.**
3. **The provisions of this section do not apply to:**
- a. **Land owned by any public agency; or**
 - b. **The removal of oak trees where the director issues a written statement that emergency action to protect the public health or safety necessitates the removal of the oak tree(s) within a time period that makes the submission and approval of an Oak Removal Permit application infeasible. The director shall post any such statement on the County website within fourteen (14) days of its issuance.**

B. Oak Removal Plan.

1. **An Oak Removal Permit application shall include an Oak Removal Plan prepared and signed by a registered professional forester or certified arborist. At a minimum, the Oak Removal Plan shall include the following information:**
- a. **Present and proposed use of parcel(s);**
 - b. **Reason(s) for proposed oak tree removal and explanation of why preservation of existing oak tree(s) is infeasible;**
 - c. **Existing and proposed (post-project) oak canopy cover percentages for the parcel;**
 - d. **Parcel map indicating the location of all existing oak trees and oak woodlands and the location of all oak trees proposed for removal;**
 - e. **Number, acreage, size (diameter at 4.5 feet above mean natural grade), condition, and species of all oak trees proposed for removal;**
 - f. **Proposed conditions of approval and remediation measures;**
 - g. **Copies of all previous Oak Removal Permits and Oak Removal Plans approved for the parcel;**
 - h. **Number and location of any oak trees removed after February 16, 2016 without an Oak Removal Permit; and**

section shall include:

1. **Compliance with the best management practices for tree protection during construction activities set forth in Appendix D, Section 1 of the Napa County Voluntary Oak Woodland Management Plan (2010); and**
 2. **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 and complies with the best management practices for Maintenance, Restoration, and Rehabilitation of Oak Woodlands set forth in Appendix D, Section 3 of the Napa County Voluntary Oak Woodland Management Plan (2010).**
 3. **Where remediation pursuant to subsection (E)(2) 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 remediation under this subsection.**
 4. **For the purposes of this subsection (E), “comparable” oak trees or oak woodlands preserved as remediation must be on land 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.**
- F. Exceptions. The director may make limited exceptions to the provisions of subsections (D)(2) and (E) of this section in the following circumstances, but only to the minimum extent necessary to address those circumstances:**
1. **To permit the removal of dying or diseased trees or trees that pose an imminent threat to the public health and safety or general welfare;**
 2. **Where oak tree removal is undertaken by or at the direction or order of a federal, state or local agency to preserve or restore wildlife habitat, alleviate an existing hazardous condition, or abate a public nuisance or where oak tree**

removal is necessary for the development and maintenance, pursuant to any local, state or federal permit, of access roads, septic or wastewater systems, water wells, water resources and storage facilities, pedestrian trails, flood control projects, or stream crossings;

3. To permit the removal of trees necessary to create fire breaks or fuel breaks in accordance with written County or state fire protection policies or to provide access to or along rights-of-way; or
4. Where substantial evidence shows that application of this section would violate the constitution or laws of the United States or of the State of California.

G. **Appeals.** The applicant or any member of the public may appeal the director's decision to grant or deny an Oak Removal Permit to the Planning Commission and shall be considered an "interested person" as defined in subdivision (F) of Section 2.88.010 of this Code. The procedures for appeal shall be as described in Chapter 2.88 of this Code.

H. **Annual Report.** Within one year of the effective date of this Initiative, and annually thereafter, the director shall prepare and submit to the board a report setting forth the following information: a summary of all Oak Removal Permits issued; a map identifying areas of oak tree removal, replanting, and permanent preservation pursuant to this section; a report of the total acreage of oak trees removed, replanted, and permanently preserved, by species, pursuant to this section; and the information required by Section 18.20.070(D).

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

1. "Canopy cover" means the area, defined as a percentage of total ground area of the parcel, directly under the live branches of an oak tree.
2. "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.
3. "Oak tree" means any tree in the genus *Quercus* that is not growing on timberland.
4. "Oak woodland" means an oak stand which consists of two (2) or more oak trees of at least five (5) inches in diameter measured at 4.5 feet above mean natural grade, with a greater than ten (10) percent oak canopy cover. A parcel may contain one or more oak woodlands. "Oak woodland" does not include timberland.

5. “Remove” or “removal” means causing a tree to die or be removed as a result of human activity by cutting, dislodging, poisoning, burning, topping or damaging of roots.
 6. “Parcel” means any plot, lot or acreage shown as a unit on the latest equalized county assessment roll.
 7. “Timberland” means “timberland” as defined in Public Resources Code section 4526.
 8. Any terms not defined by this section shall have the meaning set forth in Section 1.04.010 or Chapter 18.08 of the County Code or their ordinary and common usage.
- J. Adoption of Application Fee. Within six (6) months after the effective date of the Water, Forest and Oak Woodland Protection Initiative of 2016, the board shall, by resolution, establish the application fee for an Oak Removal Permit. To the extent permitted by law, the application fee shall be established in an amount reasonably necessary for such fees to pay the total costs incurred by the department in administering and enforcing the Oak Removal Permit program.**

Section 18.20.070 - Enforcement of Section 18.20.050 and Section 18.20.060.

- A. The director shall promptly investigate complaints of violations of Section 18.20.050 or Section 18.20.060 and make a determination within thirty (30) days of receipt of the initial complaint whether a violation has occurred. Whenever the director determines that a violation of either of these sections has occurred, the director 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 (14) days of their issuance. Each violation of Section 18.20.050 or Section 18.20.060 and each failure to comply with the director’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, including, but not limited to: requiring the property owner of the parcel on which a violation of Section 18.20.060 occurred to submit an Oak Removal Permit application and an Oak Removal Plan that comply with the provisions of Section 18.20.060; removal of vegetation, crops, infrastructure, or structures put in place or constructed in violation of Section 18.20.050 or Section 18.20.060; replacement of cut or damaged trees; or replanting of disturbed areas. If full remediation of the area damaged by the violation is infeasible, 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 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 Chapter 1.20, Chapter 1.24, Chapter 1.28, and Chapter 18.144. 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 Water, Forest and Oak Woodland Protection Initiative of 2016, and annually thereafter, the director 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 director 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 the most current Council of Tree and Landscape Appraisers (CTLA) “Guide for Plant Appraisal”; or**
 2. **The full cost of remediating any damage caused by the violation in accordance with the provisions of subsection (E) of Section 18.20.060.**

Section 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 to proceed prior to the effective date of the Water, Forest and Oak Woodland Protection Initiative of 2016.

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 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:

Subject to the mandatory requirements of the Water, Forest and Oak Woodland Protection Initiative of 2016, The 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.)

B. 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 2016, the voters adopted the Water, Forest and Oak Woodland Protection Initiative of 2016 to provide additional protections for County streams and wetlands within the Agricultural Watershed zone district.

- (ii) 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 Water, Forest and Oak Woodland Protection Initiative of 2016.**

- (iii) 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 Water, Forest and Oak Woodland Protection Initiative of 2016,** 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 Water, Forest and Oak Woodland Protection Initiative of 2016,** **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.

- (iv) 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 V**oluntary Oak Woodland Management Plan (2010) to identify and mitigate significant direct and indirect impacts to oak woodlands. **Subject to the mandatory requirements of the Water, Forest and Oak Woodland Protection Initiative of 2016,** ~~The M~~itigation may be accomplished 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]

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

Subject to the mandatory requirements of the Water, Forest and Oak Woodland Protection Initiative of 2016, ~~t~~The County shall encourage active forest management practices to preserve and maintain existing forests and timberland, allowing for their economic and beneficial use.

- (vi) 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]

- (vii) 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 Water, Forest and Oak Woodland Protection Initiative of 2016** (also see Policy CON-27 which retains existing stream setback requirements).

C. 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. **Subject to the mandatory requirements of the Water, Forest and Oak Woodland Protection Initiative of 2016,** ~~The M~~itigation may be accomplished 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 Elections Code section 9122. 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 and directed to amend the County of Napa General Plan, all specific or community plans, the County Code, including the Zoning Code, and other ordinances and polices 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 and policies.
- 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 grant, or by inaction allow to be approved by operation of law, any general plan amendment, rezoning, specific plan, subdivision map, use permit, development plan, building permit, development agreement, or any other discretionary entitlement 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, including those portions related to timber harvesting and conversion, 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. 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 the prohibition of timber removal in specified locations in the County of Napa near streams and wetlands or to the requirement to obtain approval of an oak removal permit before removing oak trees 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.

728761.20