ORDINANCE NO: O-2016-66

AN ORDINANCE AMENDING CHAPTER 12.11 OF TITLE 12 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE

The Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

The Board of Supervisors of the County of Alameda ordains that Chapter 12.11 shall be amended to read as follows:

Chapter 12.11

REGULATION OF TREES IN COUNTY RIGHT-OF-WAY

The County Board of Supervisors finds that the preservation of trees within the right-of-way enhances the natural scenic beauty, sustains the long term potential increase in property values, protects the surrounding area from soil erosion, moderates the effects of extreme weather conditions and temperatures, improves air quality including increasing the oxygen output of the area which is needed to combat air pollution, creates the identity and quality of the County’s businesses and residences, and improves the attractiveness of the County to visitors.

The Board of Supervisors finds that to avoid future maintenance problems, minimize conflicts with infrastructure, and prevent impediments to pedestrian, motorized, and non-motorized traffic, it is necessary to regulate tree planting in the right of way.

The Board of Supervisors finds that establishing and maintaining appropriate diversity in tree species and age classes leads to a more robust and sustainable urban forest.

For these reasons, the Board of Supervisors finds that in order to promote the public health, safety and general welfare of the County, while at the same time recognizing individual rights to develop private property in a manner which will not be prejudicial to the public interest, it is necessary to enact this Chapter to preserve trees located within the right-of-way and to control the planting, maintenance and removal of those trees.
This Chapter may be referred to collectively as the County’s “Tree Ordinance.”

12.11.100 Definitions.

As used in this Chapter, the following terms, phrases and words are assigned the following meanings unless the context indicates otherwise. Words not defined in this Chapter shall have the definitions set forth in Section 12.08.020 of Chapter 12.08 of the County’s General Ordinance Code. Other words not defined herein or in Section 12.08.020 shall be given their common ordinary meaning.

a. Right-of-Way. “Right-of-way” means land, which by deed, conveyance, agreement, dedication, usage or process of law is reserved for use as a public roadway. For the purpose of this chapter, the right-of-way shall include not only the surface of the roadway and the earth beneath the roadway, but also all facilities and natural features located across, along, beneath, in, on, over, under, upon and within the roadway.

b. Day or Days. Unless otherwise specified, “day” refers to a calendar day and “days” refers to calendar days.

c. Director. “Director” refers to the Director of the Alameda County Public Works Agency or his or her designee. The Director is authorized to promulgate rules, regulations, and policies for the administration and implementation of this Chapter. The Director shall also have the authority to interpret such rules, regulations, and policies.

d. Dripline. “Dripline” or “dripline area” refers to the area surrounding the tree trunk whose outer perimeter is defined by the unaltered length of the outermost branch tips.

e. Maintenance or Maintaining. “Maintenance” or “maintaining” includes all actions affecting or which may affect the growth or health of any tree such as, by way of example and not limitation, the cutting, trimming, pruning, or growth regulation of any tree. However, as used in this Chapter, “maintenance” does not include the trimming, pruning, cutting or removal of tree branches one inch or less in diameter.

f. Pollarding. “Pollarding” is specialty pruning in which a tree with a large-maturing form is kept relatively short. Starting on a young tree, intermodal cuts are made at a chosen height, resulting in the development of callous knobs at the cut height. Pollarding requires regular (usually annual) removal of the sprouts arising from the cuts.
g. **Pruning.** “Pruning” involves removing branches (or occasionally roots) from a tree using approved practices to achieve a specified objective. Topping and attempted pollarding of mature trees are not proper pruning methods, and are not acceptable practices.

h. **Recommended Tree List.** The “Recommended Tree List” is a County-approved list of suitable tree species from which selection can be made to plant trees in the right of way.

i. **Topping.** “Topping” is excessive reduction of tree size by cutting live branches and leaders to stubs, without regard to long-term tree health or structural integrity. Topping is not an acceptable practice.

j. **Tree or Trees.** “Tree” or “trees” shall mean a woody perennial plant with a single or multiple trunks which typically develop a mature size of over seven inches in diameter and ten or more feet in height. For the purposes of this chapter, Palms, Yuccas, and any plant required to be planted as a replacement tree shall be considered trees.

k. **Tree Advisory Board.** “Tree Advisory Board” is a five-member board comprised of citizens of the County who are appointed by the Board of Supervisors. One appointment will be made by each member of the Board of Supervisors. Each Tree Advisory Board member shall serve a term of 24 months subject to re-appointment. Should the term expire prior to re-appointment, the existing member shall continue to serve until such appointment is made. The Tree Advisory Board shall be an advisor to the Director, shall assist the Director in making policy decisions related to this Ordinance, including as to the Tree Manual, shall hear certain appeals and conduct certain hearings as provided in this Chapter, and shall advise the Director on recommending action to the Board of Supervisors where the administrative remedies established herein may not fully redress the injury to trees in the County right-of-way.

l. **Tree Manual.** “Tree Manual” means a document prepared by the Public Works Agency that states policies, procedures and other relevant information regarding the selection, planting, maintenance and removal of trees located in the right-of-way.

m. **Utility or Utilities.** “Utility” or “utilities” means any person who owns, leases, operates or licenses a facility in order to provide gas, water, electricity, sewer, telecommunications, cable television or other customer services regardless of whether such a person is deemed a public utility by the California Public Utilities Commission (CPUC).
12.11.110 Protection of Trees

A. In accordance with the California Government Code, Section 53067, no person shall top, head back, stub or pollard any tree located within the right-of-way. A tree that has been pollarded in the past may continue to be pollarded in the future so long as the property owner obtains the Director’s prior, written approval.

B. No person shall attach or keep attached to any tree located within the County right-of-way or to the guard or stakes intended for the protection of such a tree, any rope, wire, nails, tacks, staples, advertising posters, or any other material or item. This Section shall not apply to staking or other material used to secure a tree.

C. No person shall cause or allow any poison or other substance harmful to trees to lie, leak, pour, flow or drip upon or into the soil within the dripline of any tree located within the right-of-way.

D. No person shall set fire to or permit any fire to burn when such fire or heat therefrom will injure or damage any tree located within the right-of-way.

E. No person shall operate any device or equipment, such as mechanical weeding devices, in such a manner as to injure or damage any tree located within the right-of-way.

F. If any construction, repair work or other similar activity is proposed in an area adjacent to or in the right-of-way, the property owner shall take all necessary measures prior to and during the work to protect any tree located in the right of way. The costs of any such protection is the sole responsibility of the property owner and the person or entity performing the work.

12.11.120 Tree Planting, Maintenance, and Removal Responsibilities And Requirements

A. The planting, maintenance, removal, or replacement of any tree located in the right-of-way between the private property line and the edge of the paved street shall be the responsibility of the adjacent property owner on whose frontage the tree is located irrespective of who planted said tree. It is a public nuisance for such property owners to fail to maintain, to injure, to improperly remove or improperly fail to remove, or to conduct unauthorized planting of trees in the right-of-way. The adjacent property owner shall bear all costs of such planting, maintenance, removal, and replacement and shall restore the right-of-way if the
right-of-way is disturbed in the course of such planting, maintenance, removal, or replacement.

B. The Director shall have the authority to monitor, inspect, maintain, remove, plant, or repair any tree located in the right-of-way, if necessary to further the goals of this Chapter and/or protect the public health, safety or welfare.

**12.11.130 Abatement Authority**

A. If determined to be necessary in order to protect the public health, safety or welfare, or public convenience, the Director may require a property owner to trim, cleanup, support, repair, replace, perform other maintenance, or take other corrective action with respect to any tree adjacent to the frontage of the owner’s property and located between the private property line and the edge of the paved street within the right-of-way. The Director shall also have the authority to require that a tree be removed from the right-of-way under any of the following circumstances:

1. If the tree is dead or dying or is damaged by storm, accident or disease as to be beyond the point of recuperation as determined by a certified arborist.

2. If the tree has damaged the roadway facilities (including but not limited to the sidewalk, curb, gutter and pavement) and further damage cannot be prevented by reasonable tree maintenance procedures such as root pruning or sidewalk/curb realignment.

3. If the tree constitutes a hazard to the public.

4. In conjunction with an approved development of the adjacent property.

B. Notwithstanding any other provision in this Chapter, in the event that there is an immediate threat to public health and safety, the Director may summarily perform work to remove such threat directly with County personnel or retain others to do that work. The Director may seek the cost of such summary abatement, including labor, equipment, materials, inspection, and administrative costs, from the responsible property owner.

C. The Director will require replacement of a tree within the right-of-way that is improperly removed or damaged. Where replacement is inadequate to correct the harm caused by an improperly removed or damaged tree or is impracticable, the Director may also require the property owner to pay the loss of value of such tree into a tree mitigation fund as abatement for such loss of value. Said mitigation fund shall be used for purposes of preservation and enhancement of
the urban forest, consistent with the purposes of this ordinance, and pursuant to policies and procedures set forth in the Tree Manual. For purposes of calculating loss of value from a removed or damaged tree, the most recent edition of the "Guide for Establishing Values of Trees and Other Plants" by the council of tree and landscape appraisers (in effect of the time of the violation) shall be presumed to provide the appropriate measure.

D. If the Director requires abatement or seeks costs from a property owner when County personnel performs summary abatement work, the Director shall provide notice of the need for abatement or request for costs. Such notice will describe the necessary abatement and provide opportunity for the property owner to correct the condition if such condition can be corrected. Upon receipt of such notice, the property owner may request a hearing before the Tree Advisory Board. Upon such request, the Director will refer the matter to the Tree Advisory Board, which shall provide notice of a hearing to the person who requested the hearing. Such notice shall set forth the date, place and time of the hearing. The notice shall schedule the hearing within 30 days of the property owner’s request or at a regularly-scheduled Tree Advisory Board meeting. At the requested hearing, the Tree Advisory Board shall hear the matter and make a written recommendation to the Board of Supervisors. In its discretion, the Board of Supervisors may adopt the recommendation of the Tree Advisory Board without further hearing or it may set the matter for de novo hearing. If the property owner does not request a hearing within ten days after the Director mails the notice of the need for abatement, the Director shall have the authority to order abatement and/or specially assess the costs of abatement without further action.

E. Nothing in this Chapter shall be deemed to alter or diminish the Director’s authority to abate under any statutory authority or at common law.

12.11.140 Encroachment Permit Required

A. The planting, maintaining, or removing of any tree in the right-of-way, and all associated facilities, such as irrigation systems, tree wells, root barriers and supports, are encroachments subject to the permitting and other requirements of this Chapter. It shall be unlawful for any person or utility to so encroach upon the right-of-way without first obtaining an encroachment permit as provided in this Chapter. The application for an encroachment permit under this Chapter shall be filed with the Director and approved by the Director prior to beginning the proposed activity or work.

B. The planting, maintaining, or removing of any tree in the right-of-way shall be in conformance with standards and procedures provided by the Director.
C. In issuing an encroachment permit under this Chapter, the Director may require the property owner or other applicant proposing to perform work in the right-of-way to execute a written maintenance agreement with the County and may require the property owner to plant or replace trees pursuant to the Tree Manual.

D. Unless excepted by the Director in writing in the encroachment permit or otherwise, the planting, maintenance, or removal of any tree located in the right-of-way for which an encroachment permit is required under this Chapter shall be performed by a contractor holding a valid C27 or C61/D49 license with the California State Contractors Licensing Board and such other additional, valid license(s) as required by federal, State, or local law to do the proposed work.

E. All maintenance work on trees located in the right-of-way (including but not limited to trimming or pruning) shall be in compliance with the most recent version of the International Society of Arboriculture Tree Pruning Guidelines, the most recent version of the Standard Practices for Tree Care Operations: Tree, Shrub, and other Woody Plant Maintenance (ANSI A300), the Tree Manual, and specifications provided by the Director in the encroachment permit. Topping and attempted pollarding of mature trees are not proper pruning methods, and are not acceptable practices.

F. All maintenance work on trees located in the right-of-way (including but not limited to trimming or pruning) for purposes of providing clearance for overhead utility facilities shall also be in accordance with the Specification for Utility Line Clearance Pruning and the Preferred Pruning Technique of Alameda County, copies of which are available from the Director. Prior to beginning such work, any person or utility proposing to so encroach shall submit to the Director a written plan prepared by a certified arborist showing the nature and extent of the proposed work.

G. Any tree(s) planted under this Chapter shall be selected from the Recommended Tree List unless otherwise approved by the Director.

H. The Director shall have the authority to approve the removal of a tree from the right-of-way as part of a scheduled tree removal and replacement program or in conjunction with an approved roadway improvement project.

12.11.150 Individual Permits

A. An encroachment permit under this Chapter shall be referred to as an “Individual” permit. An application for an Individual Permit shall be made to the
County Public Works Agency or its designated agent and shall contain the following information:

1. The property address where the work will be performed;

2. The name, address and phone number of the property owner; and,

3. If different than (2) above, the name, address and phone number of the person who will perform the proposed work;

4. A detailed description of the work to be performed including, by way of example, the number and type of trees to be planted, maintained or removed; and the species of the replacement trees, if any; and,

5. The approximate date or dates when the work is to be done.

B. The Individual permit application must be accompanied by payment of all applicable fees as established under this Chapter by the Director and approved by the County Board of Supervisors.

C. An Individual permit is valid for a period of ninety (90) days from the date of issuance, or, if on appeal, ninety (90) days from the final decision. The duration of an Individual permit may be extended by the Director for such additional reasonable time period following a request by the permittee showing good cause to allow such an extension.

12.11.160 Contractor Permits for Maintenance Only

A. Licensed contractors may apply to the Public Works Agency or its designated agent for an annual encroachment permit under this Chapter for tree maintenance only. Such a permit shall be referred to as a “Contractor” permit and shall be for a maximum of twelve (12) months in duration.

B. In lieu of obtaining an Individual encroachment permit for tree maintenance, any person proposing to maintain any tree within the right-of-way may retain a licensed contractor who has a valid, existing Contractor permit at the time the work is to be performed. However, retaining a licensed contractor with a valid, existing Contractor permit shall not excuse that person proposing to encroach in the right-of-way from any other provision or requirement of this Chapter unless specifically permitted by the Director in writing before work proceeds.

C. In order to obtain a Contractor permit, a contractor must meet the following requirements:
1. The contractor has a valid C27 or C61/D49 license with the California State Contractors Licensing Board and such other additional, valid license(s) as required by federal, State, or local law to do the proposed work;

2. The contractor has agreed in writing to perform all permitted work in accordance with County-approved International Society of Arboriculture standards and other applicable standards or guidelines approved by the Director; and,

3. The contractor has paid any applicable fee established by the Director, and approved by the County Board of Supervisors.

12.11.170 Criteria for Issuance of Permit and Conditions

The Director shall consider all relevant information in evaluating a permit application under this Chapter and in imposing reasonable conditions, if any, on the permittee including, but not limited to:

1. The nature and extent of the proposed work;

2. The age, condition and health of the existing tree including disease, if any, deadwood, and the tree’s stability;

3. Danger to the public or to property including adjacent residences and other trees;

4. Interference with existing utilities;

5. The effect the tree is having on adjacent property or facilities including by way of example sidewalk areas, and whether any effects on the property or facilities can be mitigated by means such as a root barrier or relocation of the facilities;

6. Whether the proposed work is necessary in order to allow reasonable use of the property;

7. Whether the tree is anchoring or supporting a slope or the adjacent soil and the effects the proposed work would have on slope or soil stability and/ soil erosion;

8. The number of other trees in the area and the effect the proposed work would have on the neighborhood esthetics and general appearance;
9. The effect the proposed work would have on surrounding property values; and,

10. The proposed efforts, if any, of the applicant to mitigate the effects or results of the proposed work. In the case of proposed tree removal, such mitigation might include, for example, efforts to replace an existing tree or trees with one or more trees of a type consistent with the character of the neighborhood.

12.11.180 Workers’ Compensation Insurance
The Director shall require that the contractor performing the work, the property owner, or any other applicant for a permit under this Chapter, wherein in the judgment of the Director the estimated value proposed work is one hundred dollars ($100) or more, conform to the workers’ compensation insurance requirements of the California Labor Code.

12.11.190 Insurance
The Director shall require that the contractor performing the work, the property owner, or any other applicant for a permit under this Chapter furnish evidence of insurance coverage in an amount and to the extent specified by the Director. The Director may also require payment and/or performance bonds as necessary.

12.11.200 Indemnification, Hold Harmless and Defense of County
The Director may require that the property owner or any other applicant for a permit under this Chapter furnish a statement indemnifying the County and agreeing to hold harmless and defend the County in a format and manner specified by the Director. Such a statement may be recorded with the County Recorder’s Office.

12.11.210 Emergency Situations
A. If personal injury or property damage is imminent due to the hazardous or dangerous condition of a tree located in the right-of-way, the tree may be removed, pruned or trimmed or other necessary action taken without a permit so long as the action taken in response to the emergency situation is reasonable under the circumstances and does not exceed the type of action necessary to address the emergency situation.

B. When any emergency work is performed under these provisions, the property owner or person performing the work shall promptly notify the Public Works Agency about the emergency situation, advise the Agency of the work done and
apply for a permit under this Chapter for any further work to be performed to
to address the situation.

C. In the case of removal of a tree under such an emergency situation, the
person removing the tree shall promptly notify the Public Works Agency about
the emergency, advise the Agency of the work performed and promptly apply for
a permit under this Chapter to replace the tree, and replace the tree pursuant to
the Tree Manual or as otherwise ordered by the Director applying the criteria of
Section 12.11.170.

12.11.220 Fees
The Director is authorized to establish a schedule of fees, subject to approval by
the Board of Supervisors, to recover the costs and expenses incidental to the
administration or implementation of the provisions of this Chapter. The schedule
may include provision for annual or other periodic fee increases based on an
appropriate consumer price index applicable to Alameda County.

12.11.230 Monitoring and Revocation of Permit
A. The Director shall have the authority to monitor and inspect any permitted
work.

B. A permit issued under this Chapter may be revoked by the Director if the
conditions of the permit or any provision of this Chapter are being or have been
violated or are not fulfilled in a timely manner or the permittee or his or her
contractor is violating any other law, statute or ordinance by engaging in or
attempting to perform the permitted work.

C. Before taking any action to revoke the permit, the Director shall provide
written notice of intent to revoke the permit to the permittee of the proposed
revocation. The notice shall state the grounds for the proposed revocation and a
date, time and place of an administrative hearing before the TAB in which the
permittee will be given an opportunity to respond or otherwise show cause why
the permit should not be revoked. The hearing shall be scheduled for the next
available TAB meeting.

D. The Director’s written notice must be either personally served upon the
permittee or mailed to the permittee at the address shown on the application. If
personally served, that notice shall be provided to the permittee at least three (3)
days before the date of the hearing. If mailed, that notice shall be provided at
least five (5) days before the date of the hearing. If the notice is mailed, the five
(5) day notice period begins on the date the notice is mailed.
E. Upon conclusion of the hearing under this Section, the TAB may revoke the permit if the TAB finds noncompliance as provided in subpart B above, or if other good cause exists on which to do so. The TAB may allow the permittee to proceed on such terms and conditions as are necessary to ensure compliance with the terms of the permit, any other provisions of this Code or with any other law, statute or ordinance.

F. The TAB’s decision on permit revocation shall be in writing, shall state the basis for the decision, and shall be final.

G. Any permittee who has had a Contractor permit revoked shall not be eligible for a new Contractor permit for a period of six months from the date of the final decision revoking that permit. During that six-month period, the permittee may apply for Individual permits. If a permittee has his or her Contractor permit revoked for a second time, that permittee shall not be eligible for a new Contractor permit for a period of one year from the date of the final decision revoking that permit for a second time. During that one year period, the permittee may apply for Individual permits.

12.11.240 Permit Denial Appeals

A. The applicant for any permit under this Chapter may appeal the denial of a permit application or any other related decision of the County Public Works Agency under this Chapter to the Tree Advisory Board.

B. All appeals to the Tree Advisory Board must be in writing and must specify the grounds for the appeal. All appeals must also provide an address for the appellant to which the County may send decisions or notices related to the appeal. All such appeals must be filed with the Director no later than thirty (30) days after the earliest of the following dates: (1) the date that written notice of the contested action was mailed to the applicant; or (2) the date the contested action occurred if the applicant had actual or constructive knowledge of the action. The appellant must pay all applicable fees at the time of filing.

C. Untimely appeals may be summarily rejected by the Director. The Director’s decision to summarily deny any appeal for untimeliness may be appealed to the County Board of Supervisors in the manner provided for other appeals to the Board of Supervisors under Section 12.11.270. The Tree Advisory Board may consider an appeal without waiver of the County’s right to raise procedural defects such as untimeliness.
D. The Tree Advisory Board's decision on appeals of denials of permit applications or any other related decision of the County Public Works Agency under this Chapter shall be in writing, shall state the basis for the decision, and shall be final.

12.11.250 Administrative Penalties

A. Unless otherwise specified, the violation of any provision of this chapter, or the failure to comply with any of the mandatory requirements of this chapter, including non-compliance with an abatement order, shall constitute a misdemeanor, except that, notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter, may, at the discretion of the Director, be charged and prosecuted as an administrative violation in accordance with this section, and, if appropriate, may also be declared a public nuisance and abated in accordance with provision Section 12.11.130 of this Chapter, and may be subject to any other remedy provided by law.

B. Any person, including, but not limited to, the property owner, the person performing the work, and/or any other responsible person, who violates the provisions of this Chapter or any condition imposed upon any permit issued hereunder shall be liable to the County for a civil penalty of up to $1000 per violation, under a schedule of penalties established by the Director and approved by the Board.

C. The foregoing monetary penalties shall be deemed non-exclusive, cumulative and in addition to any other penalty or remedy the County may have at law or in equity, including, but not limited to, injunctive relief to prevent violations of this Chapter, civil damages, and criminal penalties.

D. The Director shall send notice of the assessment of administrative penalties to the responsible party.

E. The Tree Advisory Board shall advise the Director on effective implementation and enforcement of this ordinance. Where there are aggravating factors, such as evidence of willful violations or damage to trees identified as high value in the schedule of fines, the Tree Advisory Board may advise the Director as to whether to recommend to the Board of Supervisors that additional remedies should be sought.
12.11.260  Appeals of Assessment of Administrative Penalties

A. A person who has been assessed administrative penalties under this Chapter may appeal the assessment or amount of such penalties to the Tree Advisory Board.

B. All appeals to the Tree Advisory Board must be in writing and must specify the grounds for the appeal. All appeals must also provide an address for the appellant to which the County may send decisions or notices related to the appeal. All such appeals must be filed with the Director no later than thirty (30) days after the date that written notice of the administrative penalties was mailed. The appellant must pay all applicable fees at the time of filing.

C. Untimely appeals may be summarily rejected by the Director. The Director’s decision to summarily deny any appeal for untimeliness may be appealed to the County Board of Supervisors in the manner provided for other appeals to the Board of Supervisors under Section 12.11.270. The Tree Advisory Board may consider an appeal without waiver of the County’s right to raise procedural defects such as untimeliness.

D. If no timely appeal is filed as provided above, the decision of the Director shall be final.

E. Timely appeals shall be referred by the Director for hearing before the Tree Advisory Board. Notice of hearing shall be sent to the appellant and shall set forth the date, place and time of the hearing. The notice shall schedule the hearing for the next available Tree Advisory Board meeting. The notice of hearing must be either personally served upon the appellant or mailed to the appellant at the address shown on the appeal. If personally served, that notice shall be provided to the permittee at least three (3) days before the date of the hearing. If mailed, that notice shall be provided at least five (5) days before the date of the hearing. If the notice is mailed, the five (5) day notice period begins on the date the notice is mailed. Where there is a timely appeal, the deadline to pay the penalty being appealed shall be extended until conclusion of the appeal.

F. Upon conclusion of the hearing under this Section, the Tree Advisory Board may affirm, reverse, or reduce the assessed administrative penalty.

G. The Tree Advisory Board’s decision on appeals of administrative penalties shall be in writing, shall state the basis for the decision, and shall be final.
12.11.270  Appeals to the Board of Supervisors
For any appeal to the Board of Supervisors described herein, the appeal must be in writing and must specify the grounds for the appeal. Such an appeal to the Board of Supervisors must be filed with the Clerk of the Board of Supervisors no later than ten (10) days after the date of service of the Director’s notice of summary denial of the appeal for untimeliness. The appellant must pay all applicable fees at the time of filing.

12.11.280  Noncompliance
Administrative penalties for violation of this Chapter shall be payable to the County. Administrative penalties provided for herein must be paid within 30 days of notice of imposition of the penalty. Untimely payment of civil penalties shall bear interest at the legal rate and may also be subject to an administrative penalty as established by the Public Works Agency and approved by the Board.

If a property owner fails to comply with an order for abatement within the time period specified, the Director may cause the nuisance to be abated by county employees or through private contract. The cost of abatement shall be billed to the property owner and shall become due and payable within thirty (30) calendar days after that. If any person fails to timely pay any administrative penalty provided for herein, the penalty shall bear interest at the legal rate and may also be subject to a further penalty for late payment as established by the Public Works Agency and approved by the Board.

12.11.290  Solar Shade Control Act
The County is exempt from the provisions of the Solar Shade Control Act, Chapter 12 (commencing with Section 25980) of Division 15 of the Public Resources Code.

12.11.300  Severability
Should any Section, subpart, clause, provision or any part of this Chapter be declared by a Court of competent jurisdiction to be unconstitutional, beyond the authority of the County or otherwise invalid, such decision shall not affect the validity of the remaining portion or portions of the Section.

12.11.310  Non-Liability of County
Nothing in this chapter shall be deemed to impose any liability for damages or a duty of care or maintenance upon the County or any of its officers or employees. Nor does anything in this Chapter relieve an adjacent property owner from the duty described herein to protect trees and to keep trees in such condition as to
prevent those trees from constituting a hazard, imposing an impediment to travel, or otherwise creating a public nuisance.

SECTION II

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 6th day of December 2016, by the following called vote:

AYES: Supervisors Carson, Miley, Valle, Chan -4
NOES:  
EXCUSED: President Haggerty -1

SCOTT HAGGERTY
President of the Board of Supervisors
County of Alameda, State of California

ATTEST: ANIKA CAMPBELL-BELTON
Clerk of the Board of Supervisors, County of Alameda

Approved as to Form
DONNA R. ZIEGLER, County Counsel

By: Kathy Lee