ORDINANCE 1039B

AN ORDINANCE AMENDING LINCOLN MUNICIPAL CODE §§ 18.69.000 AND 18.69.030 TO ALLOW THE CITY TO PARTICIPATE IN OAK TREE PRESERVATION ON A MORE REGIONAL BASIS VIA THE PLACER COUNTY CONSERVATION PROGRAM; AND FINDING THE ORDINANCE IS EXEMPT FROM ENVIRONMENTAL REVIEW UNDER CEQA

WHEREAS, Chapter 18.69 [Oak Tree Preservation] was enacted by ordinance in 1984; and

WHEREAS, the City Council at that time found and determined that oak trees within the City are beneficial to the health and welfare of the citizens of Lincoln in that they preserve and promote natural beauty, reduce soil erosion, enhance property values, improve air quality, help maintain climatic balance, decrease wind velocities, abate noise, aid in water absorption, and help reduce energy consumption for air cooling by providing shade, and that preservation of these oak trees is in the public interest; and

WHEREAS, the City Council further stated its policy to preserve all oak trees possible through the City's development review process while at the same time recognizing individual rights to develop private property; and

WHEREAS, since that time, when restoration or replacement of oak trees on a developing parcel is not possible, the City has been collecting fees pursuant to Lincoln Municipal Code § 18.69.030(2) for the planting of new trees, and the maintenance of City-owned trees and trees within the City's rights-of-way; and

WHEREAS, since 2004, the City has collected fees for mitigation of 25,765.03 inches of oak tree diameter for oak trees removed by developers; and

WHEREAS, the oak tree preservation fund, Fund 290, currently has a balance of $1,382,941.61, which reflects a $700,000 reduction of the fund due to a contract recently approved by City Council for an oak tree preservation and maintenance project; and

WHEREAS, the ordinance in its current form limits oak tree preservation activities to within the City limits; and

WHEREAS, expansion of oak tree preservation on a more regional view of natural resource management via the Placer County Conservation Program (PCCP) will allow the City to participate in greater efficiencies and economies of scale through the facilitation of acquisition of larger scale mitigation projects that would not be practicable if restricted to the City limits; and

WHEREAS, the PCCP incorporates a Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) into a comprehensive local program that strengthens local control over land use and natural resource protection and more efficient protects natural resources by creating new reserves that will be larger in scale,

more ecologically and hydrologically viable, and easier to manage than the individual mitigation sites created under an individual project-by-project approach; and

WHEREAS, participation in the PCCP will advance the findings and determinations originally made by the ordinance in 1984; that is, that oak trees are beneficial to the health and welfare of the citizens of Lincoln in that they preserve and promote natural beauty, reduce soil erosion, enhance property values, improve air quality, help maintain climatic balance, decrease wind velocities, abate noise, aid in water absorption, and help reduce energy consumption for air cooling by providing shade, and that preservation of oak trees is in the public interest; and

WHEREAS, the proposed revisions to Lincoln Municipal Code Chapter 18.69 maintains the City's discretion to use oak tree preservation funds to continue with the preservation and maintenance of oak trees within the City limits; and

WHEREAS, any funds to be transferred from Fund 290 [Oak Tree Mitigation] to the PCCP would come before the City Council for a resolution directing the transfer and intended purpose for the use of the funds.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LINCOLN does ordain as follows:

Section 1. The City Council hereby incorporates by reference the recitals set forth above.

Section 2. This Ordinance is not subject to the California Environmental Quality Act ("CEQA"), as codified at Public Resources Code §§ 21000, *et seq.*, and as further governed by 14 California Code of Regulations §§ 15000, *et seq.*, because it is not a project as contemplated by 14 C.C.R. § 15378. In addition, even if this Ordinance were subject to CEQA, the City Council finds this Ordinance would be exempt from the requirements of CEQA pursuant to 14 C.C.R. § 15061(b)(3), because there is no possibility it will have a significant effect on the environment.

Section 3. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. City Council hereby declares that it would have adopted the Ordinance and each section, sub-section, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases or portions to be declared invalid or unconstitutional.

Section 4. Within fifteen days of passage of this Ordinance, the City Clerk shall cause the full text of the Ordinance, with the names of those City Councilmembers voting for and against the Ordinance, to be published in the Lincoln News Messenger. In lieu of publishing the full text of the Ordinance, the City Clerk, if so directed by the City Attorney and within fifteen days, shall cause a summary of the Ordinance, prepared by the City Attorney and with the names of the City Councilmembers voting for and against the Ordinance, to be published in the Lincoln News Messenger, and shall post in the office of the City Clerk a certified copy of the City Councilmembers voting for and against

the Ordinance. The publication of a summary of the Ordinance in lieu of the full text of the Ordinance is authorized only where the requirements of Government Code § 36933(c)(1) are met.

Section 5. Amendment. Lincoln Municipal §§ 18.69.000 is hereby amended to read as follows:

> **18.69.000 - Purpose.**
> The city council finds and determines that oak trees are beneficial to the health and welfare of the citizens of Lincoln in that they preserve and promote natural beauty, reduce soil erosion, enhance property values, improve air quality, help maintain climatic balance, decrease wind velocities, abate noise, aid in water absorption, and help reduce energy consumption for air cooling by providing shade, and that preservation of these oak trees is in the public interest.
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> It shall be the policy of the city to preserve all oak trees possible through its development review process while at the same time recognizing individual rights to develop private property.

Section 6. Amendment. Lincoln Municipal §§ 18.69.030 is hereby amended to read as follows:

> **18.69.030 - Restoration and replacement of trees.**
> If it is determined pursuant to the procedure set forth in Section 18.54.080 that an oak tree(s) has been removed or irrevocably harmed so that its death is imminent in violation of the conditions of project approval, the city may require one or more of the following to correct the violation:
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> (1) Replacement of the oak tree(s) removed or irrevocably harmed in violation of the conditions of project approval by planting replacement specimen trees of no less than 15 gallons in size, having a total combined diameter at the time of planting equal to the diameter of the removed tree(s).
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> (2) If the project site is not capable of supporting all the required replacement trees, a fee shall be paid to the city equal to the retail cost, at the time of the violation, of the replacement trees required in subsection (1) of this section, but which cannot be accommodated on the project site. Such fees shall be deposited in a separate fund and used to plant new trees, to secure oak tree habitat, to maintain existing trees owned by the city and to maintain trees located within the city's right-of-way.
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> (3) In addition to the remedies set forth in subsections (1) and (2) of this section, the city shall have recourse to any penalty which may be imposed under this title for failure to comply with conditions of project approval.

INTRODUCED at a regular meeting of the City Council of the City of Lincoln held on September 14, 2021.

PASSED AND ADOPTED this 28th day of September, 2021.

AYES:	COUNCILMEMBERS:	Lauritsen, Karleskint, Silhi
NOES:	COUNCILMEMBERS:	Andreatta
ABSENT:	COUNCILMEMBERS:	Joiner

Alyssa Silhi, Mayor

ATTEST:

Gwen Scanlon, City Clerk