

TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2020 - 02

AN AMENDMENT TO ORDINANCE NO. 87-9, AS AMENDED, TO AMEND THE TRPA CODE OF ORDINANCES, CHAPTER 61 REGARDING PRESCRIBED BURNING AND TREE REMOVAL.

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00 Findings

- 1.10 It is desirable to amend TRPA Ordinance 87-9, as previously amended, by amending the TRPA Code of Ordinances to further implement the Regional Plan pursuant to Article VI (a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 The TRPA Code of Ordinances amendments were the subject of an Initial Environmental Checklist (IEC), which was processed in accordance with Chapter 3: *Environmental Documentation* of the TRPA Code of Ordinances and Article VI of the Rules of Procedure. The TRPA Code of Ordinances amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirement of an Environmental Impact Statement (EIS) pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) and the Governing Board have each conducted a noticed public hearing on the proposed TRPA Code of Ordinances amendments. The APC has recommended Governing Board adoption of the necessary findings and adopting ordinance. At these hearings, oral testimony and documentary evidence were received and considered.
- 1.40 The Governing Board finds that the TRPA Code of Ordinances amendments adopted hereby will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.50 Prior to the adoption of this ordinance, the Governing Board made the findings required by Section 4.5 of the TRPA Code of Ordinances, and Article V(g) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 TRPA Code of Ordinances Amendments

Ordinance 87-9, as previously amended, is hereby amended by amending the TRPA Code of Ordinances, as set forth in Exhibit 1.

Section 3.00 Interpretation and Severability

The provisions of this ordinance amending the TRPA Code of Ordinances adopted hereby shall be liberally construed to affect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Regional Plan Package shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Regional Plan Package are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending the TRPA Code of Ordinances shall become effective on April 26, 2020.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held on February 26, 2020, by the following vote:

Ayes: Ms. Aldean, Mr. Beyer, Ms. Berkgigler, Ms. Faustinos, Mr. Bruce, Ms. Gustafson, Mr. Cashman, Ms. Laine, Mrs. Cegavske, Ms. Novasel, Mr. Lawrence, Mr. Yeates

Absent: Mr. Shute, Mr. Rice



William Yeates, Chair
Tahoe Regional Planning Agency
Governing Board

EXHIBIT 1: CODE AMENDMENTS

Language to be added is shown in blue with an underline. Language to be removed is ~~shown in red with a strikeout~~. Relocated language is indicated in green with double underline.

Section 1. Renumber Subsection 61.1.4, *Old Growth Enhancement and Protection* as Subsection 61.3.7, with no changes to the language.

Section 2. Renumber Subsection 61.1.7, *Reasons for Tree Removal* and its subparagraphs as Subsection 61.1.4, with no changes to the language.

Section 3. Modify Subsection 61.1.4, Subparagraph A, Hazardous Tree Removal to read as follows:

61.1. TREE REMOVAL

61.1.4. Reasons for Tree Removal

Except for trees identified for retention under subsection 61.3.7 ~~61.1.4~~, tree removal shall incorporate measures and prescriptions that promote a range of threshold standards and SEZs pursuant to subsection ~~paragraph~~ 61.3.10 ~~61.1.6.C~~. Trees may be removed for the reasons provided below.

A. Hazardous Tree Removal

To protect lives and property, trees reported by a qualified forester to be hazardous to property or lives may be removed upon approval by TRPA unless otherwise exempt through a Memorandum of Understanding. Other vegetation shall be protected during removal operations to prevent their damage. ~~injury~~.

Section 4. Within Subsection 61.1.4, renumber Subparagraphs B, *Emergency Tree Removal*; D, *Fire Hazard Tree Removal*; and J, *Tree Removal During Emergency Fire Suppression Activities* as Subparagraphs A.2, A.1, and A.3 respectively.

Section 5. Add a new Subparagraph B, *Ecosystem Management Goals and EIP Projects* to Subsection 61.1.4 to read as follows:

61.1. TREE REMOVAL

61.1.4. Reasons for Tree Removal

B. Ecosystem Management Goals and EIP Projects

Section 6. Renumeral Subparagraph 61.1.6.A, *Management Objectives* as Subparagraph 61.1.4.B.1 and modify the language.

61.1. TREE REMOVAL

61.1.4. Reasons for Tree Removal

B. Ecosystem Management Goals and EIP Projects

~~61.1.6. — Reasons for Tree Removal~~

~~A.1. Management Objectives~~

~~Management techniques shall be employed that are consistent with the following objectives, where applicable: —~~ Trees may be removed to meet ecosystem management goals:

- ~~a~~1: Restoration and expansion of stream environment zones and riparian vegetation;
- ~~b~~2: Improvement of the structural diversity of all forests based on judgement of qualified forester, ~~including the protection and establishment of younger-aged trees;~~
- ~~c~~3: Enhancement of native wildlife species and/or native wildlife habitat diversity;
- ~~d~~4: Enhancement and protection of tree species of limited occurrence, such as aspen, black cottonwood, ponderosa pine, Douglas-fir, incense-cedar, sugar pine, western white pine, mountain hemlock, whitebark pine, and western juniper;
- ~~e~~5: Protection of sensitive lands;
- ~~f~~6: Minimization of construction of new roads;
- ~~g~~7: Revegetation of existing temporary roads;
- ~~h~~8: Avoidance of disturbance of stream environment zones, unless to enhance the health of stream environment zones through projects intended to thin trees or prescribe burn ~~remove trees~~ within SEZ in accordance with subparagraph ~~61.3.10~~ 61.1.6.C;
- ~~i~~9: Utilization of existing openings or disturbed areas as landings where appropriate;
- ~~10~~: ~~Provisions for revegetation;~~
- ~~j~~11: The promotion of a diversity of seral stages, species diversity, and age class ~~late-seral or old-growth characteristics;~~
- ~~12~~: ~~Early successional stage vegetation management; and~~
- ~~k~~13: ~~Fuels management for fire hazard reduction; and~~
- l: Forest health and resilience to drought, insects, disease, and climate change.

Section 7. Within Subsection 61.1.4, renumber Subparagraphs C, *Dead, Dying, or Diseased Tree Removal*; E, *Early Successional Stage Vegetation Management*; and F, *Tree Removal for Enhancement of Forest Health* as Subparagraphs B.2, B.3, and B.4, respectively and modify the language to read as follows:

61.1. TREE REMOVAL

61.1.4. Reasons for Tree Removal

B. Ecosystem Management Goals and EIP Projects

2C. Dead, Dying, or Diseased Tree Removal

To enhance forest health, dying, or diseased trees may be removed upon approval by TRPA. Dead trees less than or equal to 30 inches in westside forest types and less than or equal to 24 inches in eastside forest types may be removed without TRPA approval pursuant to subsection 2.3.2.E.

3E. Tree Removal for Early Successional Stage Vegetation Management

Tree removal may be permitted when it has been determined by TRPA that it is appropriate to convert an area to, and/or maintain an area in, an early successional stage vegetation type. (See Chapter 90 for definition of "early successional stage vegetation management.") Where ~~revegetation~~ [soil stabilization](#) is required ~~to stabilize soils~~ and/or [the replacement of](#) removed vegetation, the applicant shall provide a [revegetation or soil stabilization](#) plan in accordance with subsection 61.4.5.

4K. Tree Removal to Enhance Scenic View Points from Public Roadways

Select trees may be removed to enhance scenic viewpoints from scenic turnouts located on highways, public right-of-ways and other public lands immediately adjacent to highway corridors.

Section 8. Within Subsection 61.1.4, renumber Subparagraphs G, *Tree Removal for Solar Access*; H, *Tree Removal for Ski Areas and Rights-of-Way*; I, *Tree Removal for Development*; and K, *Tree Removal to Enhance Scenic View Points from Public Roadways* as Subparagraphs C, E, F, and G, respectively, with no changes to the language.

Section 9. Within Subsection 61.1.4, move a portion of Subparagraph E into a new Subparagraph D, *Public Utility Rights-of-Way*, to read as follows:

61.1. TREE REMOVAL

61.1.4. Reasons for Tree Removal

D. Public Utility Rights-of-Way

The removal of trees within utility and public rights-of-way may be allowed if TRPA finds that the removal is for public health and safety. When a tree-related emergency exists, the utility or public agency may remove the trees and advise TRPA of the action on the next business day. At that time TRPA may issue an emergency permit in accordance with its Rules of Procedure.

E. **Tree Removal for Ski Areas and Rights-of-Way**

~~The tree removal standards below apply to ski areas and utility and public rights-of-way.~~

- ~~1. For expansion of ski areas, including but not limited to, the widening of runs and the addition or replacement of lifts, only the minimum number of trees necessary for the operation of the ski area shall be removed.~~
- ~~2. The removal of trees within utility and public rights-of-way may be allowed if TRPA finds that the removal is for public health and safety. When a tree-related emergency exists, the utility or public agency may remove the trees and advise TRPA of the action on the next business day. At that time TRPA may issue an emergency permit in accordance with its Rules of Procedure.~~

Section 10. Modify Subsection 61.1.5, *General Tree Removal Standards* to read as follows:

61.1. TREE REMOVAL

61.1.5. General Tree Removal Standards

The cutting, moving, removing, killing, or materially damaging of live trees, and the attachment of appurtenances to trees, shall comply with this subsection. The removal of trees 14 inches dbh or less shall be exempt from TRPA approval under subparagraph 2.3.2.M and requirements of this chapter, except as provided herein. Removal of trees greater than 14 inches dbh shall require approval by TRPA except as provided in subparagraphs [61.1.4.A.2](#), ~~61.1.7.B~~ and [61.1.4.A.3](#), ~~61.1.7.J~~. Removal of trees greater than six inches dbh on lakefront properties where the trees to be removed provide vegetative screening of existing structures as viewed from Lake Tahoe requires TRPA approval, except as provided in subsections [61.1.4.A.2](#), ~~7.B~~ and [3.J](#). Permits shall be granted or denied in conformity with the provisions of this chapter.

A. **Additional Code Standards**

Such tree-related projects and activities also shall conform to the provisions of the Code as provided below.

1. If vegetative screening is required by an existing permit for any property, the vegetative screening shall not be removed without

prior approval from TRPA except for defensible space purposes pursuant to subparagraph 61.3.6.D.

2. If tree and/or vegetation removal to occur on any property where existing permit conditions require retention of vegetation, including tree and/or vegetation removal for defensible space purposes pursuant to subparagraph 61.3.6.D, alternative scenic mitigation shall be proposed to TRPA within 30 days of vegetation removal and shall be subject to review and approval by TRPA notwithstanding the permit exemption in subparagraph 2.3.2.M.

B. Findings

Before tree-related projects and activities are approved by TRPA, TRPA shall find, based on a report from a qualified forester, that the project or activity is consistent with this chapter and the Code. TRPA may delegate permit issuance to a federal, state, or other qualified agency through a memorandum of understanding.

C. Harvest or Tree Removal Plan

In cases of substantial tree removal, as set forth in subparagraph 61.1.8, the applicant shall submit a harvest plan or tree removal plan prepared by a qualified forester. The plan shall set forth prescriptions for tree removal, water quality protection, vegetation protection, residual stocking levels, reforestation, slash disposal, fire protection, and other appropriate considerations. The plan, as approved by TRPA, shall become a part of the project and prescriptions contained in the plan shall be conditions of approval. [TRPA may consider plans developed pursuant to the California Forest Practice Rules or other CEQA documents completed by a qualified forester to meet the intention of this section provided all the required elements are addressed.](#)

Section 11. Delete Subparagraph H, *Restocking* from Subsection 61.1.6.

Section 12. Renumber Subparagraphs J, *Historic Resource Protection*, J.1, and J.2 of Subsection 61.1.6 as Subsection 61.3.8 and Subparagraphs 61.3.8.A and 61.3.8.B, respectively, with no change to the language.

Section 13. Renumber Subparagraphs K, *Wildlife, Habitat, and Sensitive Plants* and K.1 through K.3 of Subsection 61.1.6 as Subsection 61.3.9 and Subparagraphs 61.3.9.A through 61.3.9.C, respectively, with no change to the language.

Section 14. Within Subsection 61.1.6, renumber Subparagraph B, *Cutting Practices* as Subparagraph A and modify the language to read as follows:

61.1. TREE REMOVAL

61.1.6. Minimum Standards for Tree Removal

AB. Cutting Practices

The following cutting practice standards apply:

1. Sufficient trees shall be reserved and left uncut and undamaged to meet the minimum acceptable stocking standards of the appropriate state or federal forestry agency, except in cases of early successional stage management;
2. Group selections shall be limited to use for achieving management objectives based on the judgement of a qualified forester, ~~as approved by TRPA~~. Group selections shall be limited in size to less than five acres (See subparagraph 61.1.6);
3. All live trees to be cut shall be marked on bole and stump with paint by, or under the supervision of, a qualified forester prior to TRPA approval. Trees to be removed or protected may be designated by other means in situations involving clear cuts or thinning of exceptionally dense thickets, or other situations that warrant an alternate method of designation. The alternate method shall be stated in the plans and must be approved by TRPA;
4. Damage to unmarked trees and residual vegetation shall be avoided to the extent feasible;
5. All trees shall be felled in line with the skidding direction wherever possible;
6. All trees shall be limbed on all sides where feasible and topped prior to skidding except where whole tree skidding is less disruptive to the forest resources;
7. Stumps shall be cut as low as can be done safely and to the extent that is feasible for harvesting equipment; ~~kept to a height of six inches or less on the side adjacent to the highest ground, except where safety or imbedded metal make this impractical~~;
8. If stump removal will result in greater than three cubic yards of soil disturbance, a grading permit shall be obtained from TRPA prior to removal of stumps;
9. Green stumps shall be treated to prevent the spread of root disease as specified by a qualified forester; and
10. Insect-infested wood and wood susceptible to insect infestation shall be treated or disposed of as specified by a qualified forester.

Section 15. Renumber Subparagraphs 61.1.6.C, *Tree Cutting within Stream Environment Zones* and its subparagraphs C.1 through C.5 as Subsection 61.3.10 and Subparagraphs 61.3.10.A through E, respectively, with no change in language.

Section 16. Within Subsection 61.1.6, renumber Subparagraphs D through F as Subparagraphs B through D, respectively, with no change in language.

Section 17. Within Subsection 61.1.6, renumber Subparagraph G, Slash Disposal as Subparagraph E and modify the language to read as follows:

61.1. TREE REMOVAL

61.1.6. Minimum Standards for Tree Removal

EG. Slash Disposal
Slash shall be disposed of according to an approved slash disposal plan.
~~within two years of project completion by the methods below.~~

1. Lop and scatter, pile and burn or broadcast burn (consistent with Sections 61.2 and 65.1), chip, or haul away. All burns shall be located beyond approved buffers at least 50 feet from any stream channel, unless it can be demonstrated, using best available science, that slash burning within the approved buffer 50 feet of a channel will not cause adverse environmental impacts.
2. Cull logs and other material shall be disposed of as required by the permit.

Section 18. Within Subsection 61.1.6, renumber Subparagraph I, *Erosion Control*, as Subparagraph F and modify the language to read as follows:

61.1. TREE REMOVAL

61.1.6. Minimum Standards for Tree Removal

F. Erosion Control
The adequacy of all required BMPs shall be confirmed at the time of the TRPA pre-operations inspection. Any modifications to the required BMPs as determined by TRPA shall be incorporated into the project permit at that time or as determined to be necessary throughout forest management operations. The following erosion control standards apply:

1. The following Temporary BMPs are required to be installed prior to the commencement of any forest management or equipment operations:
 - a. Temporary erosion controls and vegetation protection measures.
 - b. Equipment exclusion area boundary markings or fencing, as necessary to comply with the TRPA-approved forest management plan.
2. Excavated material shall be stored upslope from the excavated areas to the extent possible. No material shall be stored in any SEZ, wet area, or stream buffer zone.

3. [Projects must have design criteria to avoid tracking soil off the project site.](#) ~~Soil shall not be tracked off the project site.~~ Equipment operations shall cease when a violation of this condition exists. The site shall be cleaned and the road right-of-way swept clean when necessary.
4. No equipment or vehicle repairs, other than necessary maintenance of harvest equipment, shall be permitted in the project area unless authorized by TRPA. The discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin is prohibited. Spill containment and absorbent materials shall be kept on site at all times. All petroleum products and hazardous waste shall be removed from the project area and disposed of at an approved location.

Section 19. Renumber Subsection 61.1.9, *Commercial Tree Removal* as Subsection 61.1.7, with no change to the language.

Section 20. Modify Subparagraph 61.1.8.B to read as follows:

61.1. TREE REMOVAL

61.1.8. Substantial Tree Removal

Substantial tree removal shall be activities on project areas of three acres or more and proposing the removal of more than 100 live trees 14 inches dbh or larger, or proposing tree removal that as determined by TRPA after a joint inspection with appropriate state or federal Forestry staff does not meet the minimum acceptable stocking standards set forth in subparagraph 61.1.6.H. Substantial tree removal projects shall be processed by the appropriate state and federal agencies in coordination with TRPA as required below.

A. Private Parcels

The review process for private parcels shall include the following:

1. Harvest plan shall be written by a qualified forester;
2. Harvest plan shall be submitted to the appropriate state and federal agencies and TRPA with an initial environmental checklist or environmental assessment;
3. Preparation of environmental impact statement if necessary;
4. Pre-approval field review;
5. Approval of project by TRPA;
6. Pre-harvest field review; and
7. Post-harvest review.

B. Public Parcels

1. [The review process for substantial tree removal for public parcels administered by public land management agencies may be](#)

determined according a to Memorandum of Understanding (MOU) between the partner agency and the TRPA. For agencies without an MOU with the TRPA, the process shall be the same as for private parcels listed above. ~~public parcels administered by the U.S. Forest Service shall include the following:~~

- ~~a.—Coordination with TRPA at the initial planning stages;~~
- ~~b.—Preparation of environmental assessment;~~
- ~~c.—Preparation of environmental impact statement (if necessary);~~
- ~~d.—Submittal of tree removal or harvest plan;~~
- ~~e.—Approval of project by TRPA; and~~
- ~~f.—TRPA monitoring and evaluation.~~

- ~~2. —For other public parcels the process shall be the same as for private parcels in 1 above.~~

Section 21. Delete Subparagraph 61.2.3.B, Limitations.

Section 22. Delete Subparagraph 61.2.5.B.7.