

MEMORANDUM OF UNDERSTANDING
BETWEEN THE TAHOE REGIONAL PLANNING AGENCY
AND THE CITY OF SOUTH LAKE TAHOE

This Memorandum of Understanding ("MOU") is entered into this 25th day of JUNE, 2013 between the Tahoe Regional Planning Agency ("TRPA"), a bi-state agency created under the Tahoe Regional Planning Compact and the City of South Lake Tahoe ("City").

RECITALS

- A. Pursuant to the authority of the Lake Tahoe Regional Planning Compact ("Compact"), P.L. 96-551, the TRPA issues permits for activities that may affect the natural resources of the Lake Tahoe Region. Pursuant to TRPA Code of Ordinances ("Code") Section 61.1.7.D, the TRPA can issue permits for removal of trees that have been reported to be a fire hazard by a qualified forester (as defined in TRPA Code Section 90.2) or for defensible space purposes associated with a building or structure as identified by a defensible space assessor (as defined in TRPA Code Section 90.2). Pursuant to section 61.3.6.D of the Code, within areas of significant fire hazard, as determined by local, state or federal agencies, combustible vegetation may be removed, thinned or manipulated to prevent the spread of wildfire.
- B. The City of South Lake Tahoe Fire Department (hereinafter the "Fire Department") has pursuant to its police powers, the responsibility to protect the public health, safety, and welfare of its residents and to "make and enforce within [the City] limits all local police, sanitary and local ordinances and regulations not in conflict with the general law." Pursuant to the California Public Resources Code Sections 4290-4291, the Fire Department as a duly organized department of City government has the authority to require the elimination and removal of fire hazards on private lands within the City limits, including the removal and elimination of dry grass, stubble, brush, or other flammable material that in its judgment constitutes a fire hazard.
- C. TRPA and the City desire to cooperate to eliminate fire hazards and to protect lives and property within the City limits. Under TRPA Code Section 61.1.3, TRPA may delegate its tree removal permitting authority for the prevention of fire to qualified agencies.
- D. TRPA and the City are collaborating on a plan to protect Lake Tahoe and its residents from catastrophic wildfire. Educating and assisting private property owners in achieving defensible space is a key component in the plan to restore the forest to healthy conditions. In an effort to encourage public participation, this MOU is intended to streamline the process for homeowners seeking tree removal permits for the creation of defensible space or elimination of fire hazards.
- E. The TRPA and the City acknowledge that neither party waives any legal or jurisdictional authority that they may presently have with regard to the issuance of tree removal permits for creation of defensible space and the elimination of fire hazards.

- F. The procedures outlined in this MOU will ensure that tree removal permits issued by the Fire Department will be for the purpose of eliminating fire hazards within the City of South Lake Tahoe consistent with applicable provisions of the Regional Plan for the Lake Tahoe Region.

NOW THEREFORE, IT IS UNDERSTOOD BY THE TRPA AND THE FIRE DEPARTMENT:

1. TRPA hereby delegates to the Fire Department, as specified in this MOU, the authority held by TRPA to issue permits for the removal or treatment of trees and other vegetation within defensible space distances stated in Public Resources Code 4291 deemed to be a fire hazard within the incorporated area of the City of South Lake Tahoe on private property. This MOU replaces the previous MOU dated August 21, 2007.
2. The qualified forester or defensible space assessor (as defined in TRPA Code Section 90.2) shall issue tree removal permits in accordance with the provisions of this MOU and all applicable standards of the TRPA Code and state law.
3. The Fire Department shall develop procedures for tracking permit applications and permits issued and shall share this information with TRPA.
4. The tree removal permits issued by the Fire Department shall include as conditions of approval all applicable standards of the TRPA Code and state law. The Fire Department shall provide the property owners or their agents with information sufficient to assure that they are aware of applicable regulations. TRPA shall work with the Fire Department to develop informative materials for delivery to the public.
5. This MOU does not delegate TRPA's authority to review projects involving substantial tree removal (TRPA Code Section 61.1.8) or removal of trees not deemed to be a fire hazard. Substantial tree removal projects and removal of non-fire hazard trees shall be reviewed by TRPA.
6. This MOU does not delegate TRPA's authority to review projects involving vehicle entry into Stream Environment Zones (SEZ's) or SEZ setbacks (TRPA Code Section 61.1.6.C). Vehicle entry into these areas shall be reviewed by TRPA.
7. This MOU shall be effective when signed by both of the parties hereto and may be terminated at any time by either party with 30 days prior written notice to the other party. In the event this MOU is terminated by TRPA, the Fire Department's responsibilities with respect to any aspect, section, or provision of TRPA's obligations regarding permits for removal of trees shall be borne entirely by the TRPA and the Fire Department shall have no further duties related to such obligations.
8. The Fire Department shall provide all material necessary for the administration of this MOU including, but not limited to, marking paint, applications and permit forms. TRPA shall not be responsible for any of the Fire Department's costs of implementing this MOU, including administration fees.

9. The Fire Department shall coordinate with TRPA to determine whether there are prior or pending TRPA actions with regard to any particular property under review and the effect of the proposed tree removals on TRPA's prior or pending action, if any.
10. The TRPA shall provide guidance and training to the Fire Department's qualified foresters and defensible space assessors to enable them to identify and avoid, minimize, and/or mitigate potential impacts to TRPA's environmental threshold carrying capacities ("thresholds"), including, but not limited to water quality, vegetation, scenic quality and wildlife habitat, potentially resulting from issuance of permits by the Fire Department to the extent that mitigation is possible and still comply with fire safety standards. The Fire Department shall report to TRPA any unavoidable potential impacts so that TRPA may provide the Fire Department with appropriate mitigation measures prior to the Fire Department's issuance of the permit. The Fire Department shall incorporate the mitigation measures into the Fire Department's tree removal permit as long as the mitigation measures do not interfere with the Fire Department's enforcement of its applicable fire codes and do not render tree removal impracticable. If the mitigation measures interfere with the Fire Department's fire code enforcement, the Fire Department will bring the issue to TRPA's attention for identification of alternative mitigation. In the final analysis, the enforcement of defensible space standards detailed in California Public Resources Code 4291 shall be controlling.
11. The Fire Department shall provide to TRPA on a monthly basis copies of all tree removal permits issued during the past month.
12. Any appeals from tree removal permits related to TRPA's delegated authority shall be filed with TRPA.
13. The Fire Department and/or TRPA may perform compliance inspections to ensure compliance with the conditions of approval of tree removal permits issued under the MOU. The Fire Department shall report immediately to TRPA all violations of permit conditions or other applicable TRPA regulations.
14. None of the authorities, duties or responsibilities set forth in this MOU shall be assigned, transferred or subcontracted by the Fire Department without the prior written consent of TRPA.

In witness whereof, the parties have entered into this Memorandum of Understanding.

TAHOE REGIONAL PLANNING AGENCY

Date: 6/25/2013


By: Joanne S. Marchetta
Executive Director

Date: 8/5/13

CITY OF SOUTH LAKE TAHOE

By: 

Nancy Kerry
City Manager

APPROVED AS TO FORM:

Date: 4/24/13

By: 

Patrick Enright
City Attorney

ATTEST:

Date: 5/24/13

By: 

Susan Alessi
City Clerk

