NOTICE IS HEREBY GIVEN that the Advisory Planning Commission of the Tahoe Regional Planning Agency will conduct its regular meeting at 9:30 a.m. on Thursday, November 12, 2009 at the TRPA Offices, located at 128 Market Street, Stateline, NV. The agenda for the meeting is attached hereto and made a part of this notice.

November 4, 2009

Joanne S. Marchetta
Executive Director
AGENDA

I. CALL TO ORDER AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. PUBLIC INTEREST COMMENTS

Any member of the public wishing to address the Advisory Planning Commission on any item not listed on the agenda may do so at this time. Public comment on Public Hearing items will be taken at the time those agenda items are heard.

NOTE: THE ADVISORY PLANNING COMMISSION IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.

IV. DISPOSITION OF MINUTES

V. PUBLIC HEARINGS

A. Recommendation on Amendment to Chapter 4, Project Review and Exempt Activities, Chapter 71, Tree Removal and Related Chapters to clarify Tree Removal Regulations for Trees under 14” Diameter at Breast Height (DBH)

VI. PLANNING MATTERS

A. Regional Plan Update Briefing

VII. REPORTS

A. Executive Director

B. General Counsel

C. APC Members

VIII. ADJOURNMENT
I. CALL TO ORDER AND DETERMINATION OF QUORUM

Meeting called to order at 9:30 a.m.

Members Present: Mr. Angelocci, Mr. Donohue, Mr. Greene, Mr. Jepsen, Ms. Kemper, Ms. Krause, Mr. Plemel, Ms. McMahon, Ms. Merchant, Ms. Sertic, Mr. Riley, Mr. Thompson, Mr. Tolhurst, Mr. Upton, Ms. Garcia for Mr. Walker

Members Absent: Mr. Goldberg, Mr. LeFevre, Mr. Loftis, Mr. Maurer, Mr. McIntyre

II. APPROVAL OF AGENDA

Ms. Marchetta requested a continuance of agenda item 5A due to the absence of Mr. Goldberg. She started that further background work was also needed for the item.

Mr. Upton moved approval with amendments.

Motion carried unanimously.

III. PUBLIC INTEREST COMMENTS

Dave McClure expressed his opposition to the APC’s role in assisting the TRPA Board with technical and scientific issues.

Jerry Denzen stated he also wanted to express his disappointment with the APC’s current role.

IV. DISPOSITION OF MINUTES

Ms. Kemper moved approval with amendments.

Motion carried.

Mr. Angelocci abstained.

V. PUBLIC HEARINGS

A. Recommendation on Amendment to Chapter 4, Project Review and Exempt Activities, Chapter 71, Tree Removal, and Related Chapters to Clarify Tree Removal Regulations for Trees under 14” Diameter at Breast Height (DBH)
This item was continued at the request of the Executive Director.

B. Recommendation on Shorezone Cleanup Amendments to Chapter 4, Project Review and Exempt Activities, and Chapter 54, Shorezone Project Findings and Development Standards

Mr. Jepsen recused himself.

Staff member Gabby Barrett presented the recommended Shorezone cleanup amendments.

Commission Comments and Questions

Ms. Kemper stated it would be helpful to have an example for item number two.

Ms. Rinke clarified the revised amendment would create a structure that was parallel to the structure for piers.

Mr. Upton asked what was meant by “material”.

Ms. Rinke clarified the term “material” was designed to obtain meaningful environmental benefit and that the language was already in the rules.

Ms. Merchant asked about the appeal process.

Ms. Rinke clarified an Executive Director determination including issues of a permit would be appealable to the Board.

Ms. Merchant asked for an example of what was meant by a “material net environmental benefit”.

Ms. Rinke provided an example.

Ms. Merchant asked for an explanation regarding why the word “replacement” was changed to “reconstruction”.

Mr. Barrett stated they were trying to match defined terms on the second page of Chapter 53.

Mr. Angelocci clarified these were for structures other than piers that conform to the location and design standards.

No Public Comment

Ms. Krause asked if it would be better for number 3 to be separated.

Ms. Rinke clarified they wanted to stick with statutory structures.

Ms. Krause stated individuals may be confused in the future if it was not separated.

Mr. Upton moved to recommend to the Governing Board that they make the Chapter 6 and Ordinance 87-9 findings.
Motion carried unanimously.

Mr. Upton moved to recommend to the Governing Board adoption of the attached ordinance adopting the Code of Ordinance with amendments.

Motion carried unanimously.

VI. ADMINISTRATIVE MATTERS

A. Discussion of Governing Board and APC Meeting/Agenda Management Policy Changes

Deputy Executive Director Jerry Wells presented the discussion of the Governing Board and APC meeting/agenda management policy changes.

Item No. 1 – Return EIS scoping to APC

Commission Comments and Questions

Mr. Tolhurst asked if there were other examples for Item No. 8 besides following Robert’s Rules of Order.

Mr. Wells stated items have not been defined, but public comment would not be restricted.

Executive Director Marchetta explained the “pro” and “con” procedure for Board comment.

Mr. Tolhurst commented that clarifying questions should be made to better understand the issue presented and that opinions should be heard after public comment.

Item No. 2 – Delegate certification of EISs and project consistency findings to the APC with or without the right of appeal to the Board

Mr. Tolhurst stated he was at the Governing Board and brought up the issue to delegate EIS certification to the APC.

Ms. Kemper suggested the APC have training on the TRPA Environmental Review Process. She stated EIS certification should be tied to a project decision in order to ensure that mitigation measures were properly carried out in the permit.

Ms. Rinke clarified they were talking about delegation of the technical adequacy findings of the document to APC and not project findings.

Ms. Kemper stated that was the current action of the APC.

Mr. Donohue stated that, in his opinion, the certification should remain with the Board, if they want to re-hear the issue rather than accept the APC recommendation. He commented that relationship building between the APC and the TRPA should be the critical element.
Executive Director Marchetta stated that was the core issue. The TRPA was looking for a technical advisory body that they were willing to stand behind.

Mr. Tolhurst commented that the TRPA was considering hiring technical advisors for scientific matters.

Mr. Angelocci commented that the first question is to clarify whether the APC would be delegated to make the final decision of the agency.

Mr. Wells clarified that the APC would still be expected to make recommendations on findings of project consistencies, but project action would be at the Board level.

Mr. Greene asked if there would be more lawsuits if APC recommendations were not appealable except through court action.

Ms. Rinke clarified it could work both ways.

Ms. Marchetta stated one of the underlying reasons for this type of change was to address technical problems early.

Mr. Greene asked if Board members attending APC meetings would be members of the public or the Board.

Ms. Rinke clarified they would be members of the public.

Mr. Tolhurst stated that one of the underlying issues was that public issues were not raised until after APC meetings.

Ms. Rinke stated the Board could also limit issues raised on an appeal before it becomes questionable whether it is in conflict with the Open Meeting Law.

Ms. Merchant stated she would recommend consider implementing Item No. 3 for a six-month period before implementing Item No. 2, in order to prove their decision-making to the Board. There should also be an appeal process at the Governing Board level, but that limits public comment.

Mr. Tolhurst stated one issue that came up at the Governing Board meeting was accountability. He commented that building a relationship with the Governing Board was a continuing process because change in membership of the Board.

Ms. Rinke commented on staff’s plug for the APC’s technical expertise.

Mr. Upton commended that he agreed that the APC should have the final determination and that the appeal process has detailed issues of concern. He suggested reviewing a policy agenda.

Item No 3 – Delegate review of projects and planning matters identified in Chapter 4 Appendix A of the Code to the APC with or without the right of appeal to the Board
Mr. Angelocci commented on the need for more authority at the APC level to deal with issues of concern and the more effort that will be needed by APC members if that authority was given.

Ms. McMahon commented she would support delegating both the EIS certification and the items listed under No. 3 to the APC because of the time it would save the Governing Board. She also agreed those items should be appealable to the Governing Board.

Ms. Kemper expressed concern about the APC’s possible lack of expertise on some issues.

Mr. Wells clarified there would need to be a code amendment in order to make changes to Appendix A, but right now they needed to know if the Board wanted to move forward on this issue.

Ms. Kemper suggested that the APC be responsible for the delegation of MOUs.

Mr. Wells clarified that the APC was responsible for delegating permitting authority MOUs and that cooperative MOUs between agencies can be assigned by the Executive Director.

Ms. Kemper asked if the Forest Service MOU was considered a cooperative or delegation MOU.

Mr. Wells clarified that it was a cooperative MOU.

Ms. Rinke clarified that there were three types of MOUs: delegation, exempt activity, and cooperative. The delegation and exempt activity MOUs were both covered in Chapter 4 and both require Governing Board approval.

Mr. Upton expressed his favor of delegating items 2 and 3. With regards to his comments earlier regarding an appeal letter, he added the appeal letter should be on an issue that was discussed and should also include why there was opposition to the APC’s decision.

Mr. Angelocci asked if a statement of appeal was defined and what needs to be included.

Ms. Rinke clarified there could be a more precise definition, but it does state that the basis for the appeal is needed.

Mr. Angelocci asked about the majority when voting on issues.

Mr. Wells stated there would have to be a 5-9 vote by the Governing Board if an issue was appealed.

Item No. 4 – Schedule matters to be heard by both APC and Governing Board at least 1 month apart and change the APC meeting to the first Wednesday of each month
Mr. Wells stated he needed to know if the APC would be available for a meeting on the first Wednesday of the month versus the second and if items could be heard one month apart.

Mr. Tolhurst stated he commented at the Governing Board meeting that a more thorough set of meeting minutes would be needed and that holding a meeting the first Wednesday of the month would be easier for him.

All members but Mr. Angelocci, Ms. Merchant and Mr. McIntyre could adjust their schedules to the 1st Wednesday of the month.

Mr. Jepsen suggested considering another day other than the first Wednesday of the month.

Mr. Tolhurst commented that the APC needed to first consider moving the meeting date.

Mr. Upton commented that Thursdays would be easier for him than Wednesday meetings. He asked if moving the meeting date forward one week would allow enough time to provide information to the Governing Board.

Mr. Wells clarified they felt they needed the four to six week time to make the transition especially with more detailed minutes.

Mr. Donohue suggested there could be sufficient time to provide information between the APC and the Governing Board without having to re-arrange meeting schedules if it was only to provide more detailed minutes.

Ms. Merchant pointed out that she attended the last Governing Board meeting as an alternate and had expressed concern about the month lag time in providing information to the Board on items that already had pressing timelines.

Mr. Tolhurst stated another issue that came up at the Governing Board was that the additional month would provide staff with more time to respond to issues with a project.

Mr. Greene requested getting Board meeting minutes in APC packets.

Item 5 – Require technical reports related to APC or Board action items to be submitted well in advance of the hearings and submitted to APC first for items to be heard by both APC and the Board

Item 6 – Establish additional independent technical expertise to compliment staff and APC on certain technical issues

Mr. Wells asked APC members to volunteer on how to establish additional independent technical expertise.

Mr. Donohue commented it might be helpful to provide Board members information to determine if there was additional technical expertise within the APC rather than outsourcing this expertise.
Mr. Wells clarified there were a few of the Board members that questioned the level of expertise on the APC.

Mr. Donohue reiterated it would be helpful to have an information exchange about the individuals on the APC.

Ms. Merchant and Mr. Tolhurst volunteered their services.

Mr. Tolhurst commented that it would be helpful for the board to have a better understanding of the APC expertise.

Mr. Upton commented that staff needed to be harder against attitudes that rights were violated during “technical reports”. He stated he was not clear why staff summaries were needed sooner than expected.

Mr. Wells clarified that staff summaries were needed in order to determine the issue of technical reports.

Regarding Item No. 6, Mr. Upton commented that projects should be examined on a case-by-case and based on their environmental impact.

Ms. Marchetta stated she was not sure how to respond to Mr. Upton’s comments, but that there may be individuals who would vehemently disagree.

Mr. Upton stated that may be true, but the way to get around that would be through better scientific expertise.

VII. REPORTS

A. Executive Director

Ms. Marchetta gave the Executive Director’s report on Governing Board decisions from last month.

B. General Counsel

Ms. Rinke gave the APC an update on current litigation.

C. APC Members

Ms. Merchant apologized for Mr. McClure sending e-mail to other APC members. She stated she would provide background information regarding her qualifications if necessary.

Ms. Sertic announced proposal requests were currently open for 319 non-point source funds. Approximately $1 million is available. The RFP closes October 14, 2009. They are also working on a combined 2008/2010 305B/303D list of impaired waters. Data from the period from October 2002 through September 2009 was being requested. They are working on a listing criteria document for public comment to be available at the end of September 2009. The Pier Review process with the TMDL was completed. Overall, comments were supportive of the models that were used.
Ms. Kemper added pier reviewer comments were posted on-line and may be distributed along with more information before the end of the year.

Ms. Sertic reported that the TMDL Crediting Program would begin tomorrow at the TRPA office from 1:30 p.m. to 4:30 p.m.

Ms. Kemper added that the program would be a stakeholder meeting primarily targeting the Public Works Departments, because the biggest pollutant for lake clarity loss was fine sediment from urban environments.

Mr. Greene provided background information and announced the Historical Society guest lecturer tomorrow will be discussing the TV series “Bonanza” because of its 50th Anniversary. He was also talking with staff about some historical exhibits of the TRPA. He encouraged all APC members to review their organizations’ history.

Ms. Garcia announced the Washoe Tribe would be having a booth at the Bijou Bash to be held at Lake Tahoe this weekend.

Ms. McMahon announced she would be on maternity leave beginning next week. She introduced Dirk Goering who will be her replacement.

Mr. Donohue requested an updated APC roster and to receive code changes.

VIII. ADJOURNMENT

Chair Mr. Tolhurst adjourned the meeting at 11:50 a.m.

Respectfully submitted,

Judy Nikkel
Clerk to the Commission

The above meeting was taped in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 589-5243. In addition, written documents submitted at the meeting are available for review at the TRPA Office, 128 Market Street, Stateline, Nevada.
MEMORANDUM

Date: November 4, 2009

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Recommendation on Amendment to Chapter 4, Project Review and Exempt Activities, Chapter 71, Tree Removal and Related Chapters to clarify Tree Removal Regulations for Trees under 14” Diameter at Breast Height (DBH).

Requested Action: Staff requests that the Advisory Planning Commission recommend that the Governing Board (GB) make the proposed Code amendment to clarify Subparagraph 4.2.A(13), Section 71.3, and Section 75.3 in regards to Code changes made in November 2007.

Staff Recommendation: Staff recommends that the APC recommends that the Governing Board make the required findings and approve the proposed changes to the Code.

Required Motion(s): To recommend approval of the proposed action, the APC should make the following motions, based on this staff summary and the evidence in the record:

1) A motion to recommend approval by the Governing Board of the required findings (see Attachment A), including a finding of no significant effect; and;

2) A motion to recommend approval by the Governing Board of the proposed ordinance. (See Attachment B).

Project Description/Background: The proposed amendments will modify the Code language adopted in November 2007 regarding vegetation removal in the Basin. In November 2007, the TRPA Governing Board amended the Code to require a tree removal permit for all trees greater than 14 inches and diameter at breast height (DBH) in November 2007. The Code had previously required a tree removal permit for all trees greater than 6 inches DBH. This amendment generally made the removal of all trees 14 inches DBH or less exempt from the requirement for a TRPA Tree Removal Permit. The basis of the amendment was to streamline and expedite the removal of trees for defensible space. The Board also had concerns, however, regarding scenic impacts and, therefore, retained the 6 inch DBH limit for all trees between lakefront homes and the lake. Attachment C provides a copy of Code sections referenced in the amendments...

Since adoption of the amendments in November 2007, it has become apparent that, in addition to lakefront homes, there are upland scenic issues that require clarification. As a result, staff proposes the current amendments, which will clarify the validity of previously agreed upon scenic screening requirements that may be affected by...
vegetative removal for defensible space. Pursuant to the proposed amendments, properties with previously issued permits requiring vegetation retention for scenic screening will still be authorized to remove vegetation for defensible space, but they will then be required to contact TRPA to develop alternative, agreed upon, fire-safe scenic mitigation. This change will clarify the relationship between the Code amendment and previously issued permits and allow the attainment of scenic thresholds while still providing a streamlined process for defensible space.

Also, Section 75.3 *Vegetation Management to Prevent the Spread of Wildfire*, is outdated and specifies defensible space requirements at 30 feet. This is inconsistent with California PRC 4291 which requires at least 100 feet (or the property line which ever is less) of defensible space and the Living with Fire Guidelines, agreed to by the Tahoe Basin Fire Chiefs and TRPA, which also recommends at least 100 feet of defensible space.

These Code changes have been provided to the Basin Fire Chiefs and have received their input and approval.

Issues/Concerns: To date the November 2007 amendment has been very successful and has accelerated defensible space assessments and compliance. It has come to our attention, however, that the amendment is creating confusion for certain property owners who, subject to a previously issued permit, are required to retain vegetation on their property for scenic screening. These individuals are relying on the amendment to remove all vegetation less than 14 inches dbh regardless of the previously agreed upon scenic screening requirements. Staff discussed this issue with the legal committee and received direction from the legal committee to clarify the validity of these previously agreed upon scenic screening requirements while still providing for a streamlined defensible space process for these properties. The proposed amendments meet both of these goals – it allows owners of these properties to remove trees less than 14 inches DBH without a TRPA Permit, but then requires these property owners to contact TRPA and to provide for alternative, agreed-upon, fire safe scenic mitigation.

Regional Plan Compliance: The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 6 of the TRPA Code of Ordinances (see attachment A for details).

If you have any questions please contact Mike Vollmer at (775) 589-5268 or via email at mvollmer@trpa.org.

Attachments/Exhibits:
- Required Findings and Rationale (Attachment A)
- Draft Ordinance (Attachment B)
- Proposed Language Amendments (Attachment B, Exhibit 1)
- Excerpts of Chapter 71, and 74 (Attachment C)
6.3 Threshold-Related Findings: The following specific findings shall be made, pursuant to Articles V(c), V(g) and VI(b) of the Compact in addition to any other findings required by law.

6.3.A Findings Necessary To Approve Any Project: To approve any project, TRPA must find, in accordance with Sections 6.1 and 6.2, that:

1. The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, plan area statements and maps, the Code and other TRPA plans and programs.

   **Rationale:** The amendment to Chapter 4.2.A(13) Project Review and Exempt Activities, Chapter 71.3 Tree Removal and Chapter 75.3, will not adversely affect implementation of the Regional Plan. Staff’s proposed amendments are consistent with the Regional Plan and TRPA plans and programs. The proposed amendments will help maintain scenic quality while promoting heath and safety concerns with regard to fire safety and defensible space. The amendments will clarify the scenic requirements for homeowners required by permit conditions to maintain scenic quality on their properties.

2. The project will not cause the environmental threshold carrying capacities (thresholds) to be exceeded; and

   **Rationale:** The amendments will clarify the requirement that lakeshore and other scenic corridor properties with vegetative screening as part of permit requirements are required to provide alternative scenic mitigations if vegetation removal relied upon for scenic mitigation is required for defensible space. This change will promote the attainment of scenic thresholds. Chapter 30.15.D (3) Design Standards, prohibits vegetation screening that is inconsistent with local fire protection standards.

3. Wherever federal, state or local air and water quality standards applicable for the region, whichever are strictest, must be attained and maintained pursuant to Article V(d) of the Tahoe Regional Planning Compact, the project meets or exceeds such standards.

   **Rationale:** Any project that may come forth due to this provision will be required to meet air and water quality standards as set forth in the TRPA Compact.

6.5 Findings Necessary To Amend Or Adopt TRPA Ordinances, Rules Or Other TRPA Plans And Programs:
To approve any amendment or adoption of the Code, Rules or other TRPA plans and programs which implement the Regional Plan, TRPA must find, in addition to the findings required pursuant to Section 6.3, and in accordance with Sections 6.1 and 6.2, that the Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

**Rationale:** See Findings and Rationale listed above. The amendment is consistent with the Compact and will promote the attainment and maintenance of the thresholds.

**Environmental Documentation:** Staff has completed an Initial Environmental Checklist for the proposed Code of Ordinance changes. Staff will recommend that a Finding of No Significant Effect (FONSE) be made for the Code Amendment based on the IEC, Chapter 6 and 13 findings and information contained in this Staff Summary.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2009 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE CODE OF ORDINANCES OF THE TAHOE REGIONAL PLANNING AGENCY; CHAPTER 4 PROJECT REVIEW AND EXEMPT ACTIVITIES, CHAPTER 71 TREE REMOVAL AND CHAPTER 75, AMENDING THE REQUIREMENT FOR A TREE REMOVAL PERMIT FOR TREES GREATER THAN 6 INCHES DIAMETER AT BREAST HEIGHT BY INCREASING THE DIAMETER OF TREES REQUIRING A TREE REMOVAL PERMIT TO TREES GREATER THAN 14 INCHES DIAMETER AT BREAST HEIGHT, AND PROVIDING FOR OTHER MATTERS PROPERLY REALATING THERETO.

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

Section 1.00

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1.50 The Governing Board finds that the amendments adopted here 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.

1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Amendment of Chapters 4, 71, and 75 of the TRPA Code of Ordinances and Rules of Procedures

2.10 Subsection 6.60 of Ordinance No. 87-9, as amended, is hereby further amended by amending Subparagraph 4.2.A(13), Subsection 71.3, and Subsection 75.3 as set forth in Exhibit 1, dated November 4, 2009 which attachment is appended hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the 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 Code of Ordinances shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Code of Ordinances are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending Subparagraph 4.2.A(13), Subsection 71.3, and Subsection 75.3 of the TRPA Code of Ordinances is authorized by the Compact to become effective immediately, but in the exercise of its discretion, the Governing Board defers the effective date of the ordinance and the amendments until 60 days after adoption in order to produce education and outreach materials for the public.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held November 18, 2009 by the following vote:

Ayes:
Nays:
Abstentions:
Absent

__________________________
Allen Biaggi, Chair
Tahoe Regional Planning Agency
Governing Board

AGENDA ITEM V.A.
Proposed Language Amendments to Chapter 4 Project Review and Exempt Activities, Chapter 71 Tree Removal and Chapter 75 Sensitive and Uncommon Plant Protection and Fire Hazard Reduction

Chapter 4
PROJECT REVIEW AND EXEMPT ACTIVITIES

4.2 List Of Exempt Activities: The following activities are not subject to review and approval by TRPA provided they do not result in the creation of additional land coverage or relocation of land coverage, comply with Sections 30.6, 30.9 and 30.10 and meet all restrictions set forth below.

4.2.A General Activities: The following general activities are exempt:

(13) Removal of trees 14 inches d.b.h or less are exempt except as provided in Section 71.3 and Subparagraph 74.2.A (3). Cutting, moving, removing, killing or materially damaging up to 100 live trees greater than fourteen inches d.b.h. and 30 inches d.b.h. in westside forest types and 24 inches d.b.h. in eastside forest types, per year within a project area provided all live trees to be removed are marked and a tree removal permit is issued pursuant to a memorandum of understanding between a qualified agency and TRPA, and the tree removal does not constitute substantial tree removal as defined in Subsection 71.4.I. The memorandum of understanding shall be consistent with the standards in Chapter 71.

Chapter 71
TREE REMOVAL

71.3 General Standards: The cutting, moving, removing, killing, or materially damaging of live trees, the removal of disease-infested and hazardous trees, and the attachment of appurtenances to trees, shall comply with this chapter. The removal of trees 14 inches d.b.h. or less is exempt from TRPA approval under subsection 4.2.A(13) and requirements of this chapter. A TRPA permit is required for the removal of trees 6 inches d.b.h. and greater on lakefront properties where the trees to be removed provide vegetative screening of existing structures, as viewed from Lake Tahoe. Except as provided in subsections 71.5.B, and

§ Amended 11/20/02
§§ Amended 5/23/01
71.5.J§§, removal of trees greater than fourteen inches d.b.h. shall require approval by TRPA. If vegetative screening is part of a permit requirement, and vegetation removal is required for defensible space, alternative scenic mitigation shall thereafter be approved by TRPA. Permits shall be granted or denied in conformity with the provisions of this chapter. Such tree-related projects and activities also shall conform to the other provisions of the Code §§

Chapter 75  
Sensitive and Uncommon Plant Protection and Fire Hazard Reduction

75.3 Vegetation Management To Prevent The Spread Of Wildfire: Within areas of significant fire hazard, as determined by local, state or federal fire agencies, flammable or other combustible vegetation shall may be removed, thinned, or manipulated in accordance with local and state law, up to 30 feet from any structure to prevent the spread of wildfire. Sufficient quantities of residual vegetation should remain in this 30 foot zone to stabilize the soil and prevent erosion. Whenever possible, vegetation in this zone should be thinned, tapered, cut back, or otherwise selectively manipulated, rather than removed entirely. Re-vegetation with approved species, or other means of erosion control, may be required where vegetative ground cover has been eliminated or where erosion problems may occur.

§§ Amended 1/28/04; Amended 7/28/04
§§§ Amended 7/22/98
Copies of Code Sections Referenced in Proposed Amendments

Chapter 71
TREE REMOVAL

71.3 General Standards: The cutting, moving, removing, killing, or materially damaging of live trees, the removal of disease-infested and hazardous trees, and the attachment of appurtenances to trees, shall comply with this chapter. The removal of trees 14 inches d.b.h. or less is exempt from TRPA approval under subsection 4.2.A (13) and requirements of this chapter. A TRPA permit is required for the removal of trees 6” d.b.h. and greater on lakefront properties where the trees to be removed provide vegetative screening of existing structures, as viewed from Lake Tahoe. Except as provided in subsections 71.5.B, and 71.5.J, removal of trees greater than fourteen inches d.b.h. shall require approval by TRPA. Permits shall be granted or denied in conformity with the provisions of this chapter. Such tree-related projects and activities also shall conform to the other provisions of the Code.

71.3.A 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.

71.3.B Harvest Or Tree Removal Plan: In cases of substantial tree removal, as set forth in subsection 71.4.I, 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.

71.5.B Dead, Dying, Or Diseased Tree Removal: To enhance forest health, trees reported by a qualified forester to be dead, dying or diseased may be removed upon approval by TRPA. (See Subsection 78.2.D.) Dead trees may be removed without TRPA approval. Green stumps shall be treated, and insect-infested wood shall be disposed of, or treated as appropriate, as specified by a qualified forester.

71.5.J§ Tree Removal During Emergency Fire Suppression Activities: Trees may be removed when an emergency fire suppression need exists as determined by the local, state or federal fire suppression agency involved in a fire suppression activity.
Chapter 74
VEGETATION PROTECTION AND MANAGEMENT

74.2 Protection of Stream Environment Zones: No project or activity shall be undertaken in an SEZ (land capability 1b) which converts SEZ vegetation to a non-native or artificial state, or which negatively impacts SEZ vegetation through action including, but not limited to, reducing biomass, removing vegetation, or altering vegetation composition.

74.2.A Exceptions: The following are exceptions:

(1) Manipulation or management of SEZ vegetation may be permitted in accordance with the Code of Ordinances for purposes of SEZ vegetation health or wildlife or fish habitat improvements, and after approval of a vegetation management plan pursuant to Subsection 74.4.B., or as provided in Subsections 20.4, 20.5.C., or 79.2, or Chapters 71 or 72.

(2) Maintenance of landscaping that was installed prior to the creation of TRPA, or installed for the purpose of scenic quality pursuant to Chapter 30, Design Standards, or pursuant to a TRPA permit§, or under a TRPA exemption prior to August 1, 1997, provided that fertilizer use is restricted in accordance with the BMP Handbook and described in Subsection 81.7.A§§, unless a remedial action pursuant to Section 74.3 has been taken by TRPA.

(3) Removal of vegetation may be permitted pursuant to Subsections 4.2.A(5), 4.3.A(6), or 65.2, or 54.3, Chapter 73, or under defensible-space guidelines approved by TRPA. §§§