

PROPOSED REGULATIONS ON THE USE OF CONSERVANCY LAND

Recommended Action: Adopt Resolution 23-09-02 (Attachment 1), approving the proposed regulations on the use and management of California Tahoe Conservancy (Conservancy) land (Proposed Regulations).

Executive Summary: Staff seeks Board authorization to adopt the Proposed Regulations (Attachment 1, Exhibit A). The Proposed Regulations will clarify Conservancy practices and procedures for the use and management of its land and facilities. The Proposed Regulations are consistent with Goal 1 of the Conservancy's Strategic Plan, which tasks the Conservancy with adopting regulations to safeguard people and the environment. If the Board approves the Proposed Regulations, staff will finalize and submit the appropriate materials to the Office of Administrative Law (OAL) to complete adoption pursuant to the Administrative Procedure Act (APA).

Location: Land on the California side of the Lake Tahoe Basin (Basin) owned or managed by the Conservancy.

Fiscal Summary: Approving the Proposed Regulations will not incur an additional cost. Conservancy staff will complete the rulemaking process and work to implement the Proposed Regulations as part of its regular workload.

Overview

History

The Conservancy owns and manages approximately 4,700 properties, totaling approximately 6,500 acres, on the California side of the Basin. Many of these are small parcels scattered throughout urban areas. The Conservancy manages its land to achieve multiple benefits, including healthy urban forests, open space, wildlife habitat, water quality, and recreation. Approximately 15 of the Conservancy's parcels are developed recreation areas, including Eagle Rock, Tahoe Pines, and the portion of Van Sickle Bi-State Park that is within California. The Conservancy must operate and maintain these facilities to ensure public health and safety.

Government Code section 66907.9 directs the Conservancy to "take whatever actions are reasonably necessary and incidental to the management of lands and facilities

under its ownership or control,” and authorizes the Conservancy to “[a]dopt and enforce regulations governing the use of those lands and facilities.” To adopt regulations, state agencies must follow the rulemaking process set forth in the APA (Government Code section 11340 *et seq.*) and OAL regulations, which includes documenting the rationale for proposed regulations and asking for public input.

The Conservancy last completed rulemaking in 1987, when it adopted regulations pertaining to Conservancy meetings, the Conservancy’s conflict of interest code, and implementation of the California Environmental Quality Act (CEQA). These regulations appear in Division 5.3 of Title 14 of the California Code of Regulations.

On June 9, 2023, the Conservancy initiated the rulemaking process by publishing a Notice of Proposed Rulemaking (NPR) in the California Regulatory Notice Register. Also on June 9, the Conservancy posted the NPR, Initial Statement of Reasons, and text of the Proposed Regulations on the [Conservancy website](https://tahoe.ca.gov/regulations-on-the-use-of-conservancy-land) at: <https://tahoe.ca.gov/regulations-on-the-use-of-conservancy-land>. The Conservancy invited the public to submit written comments from June 9 to July 26, and to comment during a virtual public hearing held on July 26. The Conservancy received one written comment suggesting technical changes to the regulatory text. Staff reviewed and considered the comment but determined that revisions to the text were not necessary. In accordance with the APA, staff will summarize and address the comment in the Final Statement of Reasons.

Detailed Description of Recommended Action

1. Major Elements and/or Steps of the Recommended Action

The Proposed Regulations address needs identified by the Conservancy’s Land Management Program. Specifically, they include four new provisions to clarify Conservancy practices and procedures with respect to the use and management of its land and facilities:

- Section 12130 describes procedures to temporarily close Conservancy land to minimize risks to public health and safety or the environment;
- Section 12131 describes parking restrictions on Conservancy land;
- Section 12131 identifies the public hours of use for Conservancy recreation sites;
- Section 12133 prohibits unauthorized damage to or removal of trees and other vegetation on Conservancy land.

In addition, Section 12052 would be amended to add new definitions related to the provisions described above.

If the Board approves the Proposed Regulations, staff will finalize and submit the rulemaking record to OAL. Upon submission, OAL has 30 working days to review the record for compliance with the APA and OAL regulations. If OAL approves the Proposed Regulations, it will file them with the Secretary of State (SOS). The effective date of the Proposed Regulations depends on the SOS filing date. Regulations that are filed

between September 1 and November 30 take effect on January 1; regulations that are filed between December 1 and February 29 take effect on April 1.

2. Overall Context and Benefits

The Proposed Regulations will improve the Conservancy’s ability to manage its lands and facilities by clarifying procedures for temporary closures and imposing reasonable parking restrictions and hours of use, while still maintaining reasonable and equitable public access to state lands. The anticipated benefits include minimizing risks to public health and safety and protecting state facilities and natural and cultural resources. Staff anticipates initiating additional rulemakings in the coming years based on the Land Management Strategy and Strategic Plan Update, both of which the Conservancy is currently developing. Lessons learned from this rulemaking process will assist staff in carrying out future rulemaking efforts.

Finally, adoption of the Proposed Regulations is consistent with Strategic Plan Goal 1, which tasks the Conservancy with developing land and forest stewardship standards and guidelines, protocols, data management systems, remote sensing technologies, and regulations that safeguard people and the environment, create consistency and operational efficiencies, and secure financial sustainability.

3. Schedule for the Recommended Action

Task	Anticipated Completion Date
Submit rulemaking record to OAL	September 2023
OAL reviews rulemaking record	November 2023
Proposed Regulations take effect	January 1, 2024

Financing

Approval of the Proposed Regulations will not incur an additional cost. Conservancy staff will complete the rulemaking process and work to implement the Proposed Regulations as part of its regular workload.

Authority

Consistency with the Conservancy’s Enabling Legislation

The recommended action is consistent with the Conservancy’s enabling legislation. Specifically, Government Code section 66907.9 authorizes the Conservancy to take whatever actions are reasonably necessary and incidental to the management of lands and facilities under its ownership or control, including adopting and enforcing regulations governing the use of those lands and facilities.

Consistency with the Conservancy’s Strategic Plan

The recommended action is consistent with Strategic Plan Goal 1, which tasks the Conservancy with developing land and forest stewardship standards and guidelines,

protocols, data management systems, remote sensing technologies, and regulations that safeguard people and the environment, create consistency and operational efficiencies, and secure financial sustainability.

Consistency with the Conservancy's Program Guidelines

The recommended action is consistent with the Conservancy's Special Use Guidelines because it is consistent with the Land Management program objectives and existing uses of Conservancy land.

Consistency with External Authorities

The recommended action is consistent with the APA because it authorizes staff to submit the Proposed Regulations to OAL and complete the rulemaking process.

Compliance with the California Environmental Quality Act

Pursuant to the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), certain classes of activities are exempt because they have been determined by the Secretary of the California Natural Resources Agency to have no significant effect on the environment. Pursuant to Public Resources Code sections 21001(f) and 21082, the Conservancy has also adopted regulations to implement, interpret, and make specific the provisions of CEQA (Cal. Code Regs., tit. 14, § 12100 et seq.). Staff has evaluated the Proposed Regulations and found them to be exempt under CEQA. The Proposed Regulations qualify for a categorical exemption under CEQA Guidelines section 15301 (Existing Facilities), as well as the Conservancy's CEQA regulations, section 12102.1, because they address the operation and management of existing public properties, facilities, and vegetation and involve no expansion of the existing uses. Staff has prepared a notice of exemption (NOE) (Attachment 2). If the Board approves the Proposed Regulations, staff will file the NOE with the State Clearinghouse pursuant to CEQA Guidelines, section 15062.

List of Attachments

Attachment 1 – Resolution 23-09-02

- Exhibit A – Text of Proposed Regulations

Attachment 2 – Notice of Exemption

Conservancy Staff Contact

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