

PROPOSED REGULATIONS ON THE USE OF CONSERVANCY LAND

Recommended Action: Adopt Resolution 24-04-04 (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). Staff revised the text of the Proposed Regulations following the Board's approval in September 2023, to address issues identified by the Office of Administrative Law (OAL) during its review. As revised, the Proposed Regulations remain 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 re-submit the appropriate materials to OAL to complete the adoption process.

Location: Land on the California side of the Lake Tahoe 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 implement the Proposed Regulations as part of its regular workload.

Overview

History

On June 9, 2023, the Conservancy initiated the process to adopt regulations on the use and management of Conservancy land by publishing a Notice of Proposed Rulemaking (NOPR) in the California Regulatory Notice Register. Also on June 9, the Conservancy posted the NOPR, Initial Statement of Reasons, and proposed regulations text on the Conservancy website. The Conservancy invited the public to submit written comments from June 9 to July 26, and to comment during a virtual public hearing on July 26.

The Board considered and approved the proposed regulatory text in September 2023. Following Board approval, staff submitted the rulemaking record to OAL, as required by the Administrative Procedure Act (APA). OAL reviews agencies' rulemaking records for compliance with the APA and OAL procedures, and to confirm that proposed

regulations satisfy the following substantive standards: authority, reference, consistency, clarity, non-duplication, and necessity.

During its review of the Conservancy's rulemaking record, OAL identified issues with clarity and non-duplication in certain provisions of the regulations text. To address these concerns, Conservancy staff withdrew the rulemaking from formal review and worked with OAL staff on revisions to the text. Staff then held a new public comment period on the modified text from February 6 to February 21, 2024. The Conservancy received no public comments. The Notice of Modified Text of Proposed Regulations and 15-Day Public Comment Period (15-Day Notice) is available 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>.

Detailed Description of Recommended Action

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

The Proposed Regulations include the changes made to the regulations text after the September 2023 Board Meeting. These changes are summarized below and in the 15-Day Notice, and are shown in full in Exhibit A to Attachment 1.

- In Sections 12130, 12131, 12132, and 12133, staff deleted "unless otherwise authorized" and similar phrases as they were unnecessary. The regulations describe who is exempt from the provisions or how to obtain an exemption.
- In Section 12130, staff added language to provide that the Executive Officer's designee may temporarily close Conservancy land for the reasons described in the section. This change reflects a suggestion by a member of the Conservancy Board during the September 2023 Board meeting and provides flexibility.
- In Section 12130, staff moved language referencing trespass under Penal Code section 602 to clarify that its purpose is to ensure the public is adequately informed of the potential consequences of a violation. In addition, staff deleted the reference to Penal Code section 602 from Section 12132 as it was unnecessary.
- In Section 12131, staff clarified that the Conservancy may restrict or establish time limits on parking in designated parking lots, and added language to describe why it may be necessary for the Conservancy to implement parking restrictions. In addition, staff deleted the subsection referencing the Vehicle Code as it was unnecessary.
- In Sections 12131 and 12132, staff clarified that the Conservancy will grant temporary exceptions to applicable parking restrictions and to recreation site hours of use if the listed criteria are satisfied, and to explain how an exemption may be requested.

If the Board approves the Proposed Regulations, staff will finalize and re-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 March 1 and May 31 take effect on July 1; regulations that are filed between June 1 and August 31 take effect on October 1.

2. Overall Context and Benefits

The benefits of the Proposed Regulations remain the same as when presented to the Board in September 2023. 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. Lessons learned from this rulemaking process—including from working with OAL on the recent text revisions—will help inform future rulemaking efforts.

3. Schedule for the Recommended Action

Task	Anticipated Completion Date
Re-submit rulemaking record to OAL	April 2024
OAL reviews rulemaking record	April - May 2024
Proposed Regulations take effect	July 1, 2024

Financing

Approval of the Proposed Regulations will not incur an additional cost. Conservancy staff will complete the rulemaking process and 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 3). 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 24-04-04

- Exhibit A – Text of Proposed Regulations

Attachment 2 – Notice of Exemption

Conservancy Staff Contact

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