

ORDINANCE NO. 1831

**ORDINANCE AMENDING APPENDIX 2, TREE ORDINANCE, OF THE 2003 KIRKWOOD SPECIFIC PLAN, TO ESTABLISH THAT HAZARDOUS TREE REMOVAL AND DEFENSIBLE SPACE CLEARING FOR PER PUBLIC RESOURCES CODE 4291 IS EXEMPT FROM PERMITTING REQUIREMENTS**

The Board of Supervisors of the County of Amador ordains as follows:

**SECTION I.** Legislative findings.

1. The Board of Supervisors finds and declares that the Kirkwood Tree Ordinance conflicts with the California Public Resources Code in by requiring for local tree removal permits for defensible space vegetation removal.
2. The Board of Supervisors finds and declares that the tree removal permits create an administrative burden for property owners to remove dead, dying, diseased, and hazardous trees.
3. This ordinance intends to clarify that hazardous tree removal or vegetation removal required for defensible space clearing per Public Resources Code 4291 is not subject to review by the Tri-County Technical Advisory Committee provided that the tree/vegetation removal is certified by a qualified forest professional.

**SECTION II.** Appendix 2, Tree Ordinance, of the 2003 Kirkwood Specific Plan, is hereby amended as follows:

**2003 KIRKWOOD SPECIFIC PLAN, APPENDIX 2, TREE ORDINANCE**

This ordinance has been established to provide procedures for tree removal and trimming for all trees within the Plan boundary. Trees on national forest lands are excluded from these guidelines; however, they are subject to USFS guidelines. These guidelines recognize the need to establish a permitting process and standards for the removal/trimming of trees at Kirkwood. It is not the intent of this ordinance to hinder development, but instead to promote harmony between land improvements and their surroundings.

This Ordinance in no way relieves the property owner and/or Licensed Timber Operator from adhering to the requirements of the California Department of Forestry and Fire Protection (CDF) for tree harvesting activities on private lands within the State of California.

**A. DEFINITIONS**

1. Approving Body: The approving body shall be the Tri-County Technical Advisory Committee.

2. 2. DBH: Diameter at breast height; diameter of tree measured at four and one-half feet (4 ½') above the ground on the high side of a tree.
3. Qualified Forest Professional: A licensed arborist, licensed forester, licensed timber operator, or defensible space inspector employed by the California Department of Forestry and Fire Protection or a local Fire Protection District.

#### B. PERMIT PROCEDURE

1. No person, firm, corporation, public agency or utility provider shall destroy, remove, cut down, kill, damage, trim, top or prune any tree on any private property without a tree permit and authorization by the approving body.

2. The following are exempted from the above:

A) Trees that have been identified for removal as part of a conditional use permit, special use permit, building permit, or other land use/development permits.

B) Trees that have been identified by a qualified forest professional as dead, dying, diseased; trees in a hazardous condition presenting an immediate danger to health or property; trees cut during emergencies which present immediate danger to health and property. In the event that a tree is removed without prior approval or verification from a qualified forest professional, a permit shall be applied for after the fact.

C) Trees that have been permitted by the California Department of Forestry and Fire Protection, either through exemption, conversion, or an approved Timber Harvest Plan.

D) Trees and branches that have been identified and documented by a qualified forest professional to be removed to meet the defensible space requirements for distances from structures and vertical and horizontal spacing per the California Public Resources Code 4291 and the associated guidance documents for fuels management provided by the California Department of Forestry and Fire Protection (CAL FIRE) as they currently exist and as may be amended in the future.

E). Removal of any trees in compliance with paragraph B.2.D, above, or removal of any trees within a public utility easement, with a 14" DBH or less shall not require prior approval or verification from a qualified forest professional.

3. Any entity desiring to cut down, remove, or trim/prune one or more trees not exempt per Section B.2, above, shall apply for a tree removal permit through the approving body. The application shall be submitted by the lot owner and shall include the following:

A) Name, address and phone number of applicant and owner of record of the land on which the activity is to occur.

B) Written consent of the owner of record of the land, if other than the applicant.

C) The location of the land on which the removal/trimming is to occur.

D) Method of removal of the material and identification of measures to protect residual trees, vegetation and soils within the site

E) A plot plan drawn to scale showing accurate location, number, species, size (DBH) and approximate age of the trees to be removed/trimmed. The plan should also show the general location, characteristics and densities of the trees to be left on the site and any improvements on the property, and, all areas that are part of the active work area, including access routes, staging areas, log decks, and skidding or dragging routes.

F) A brief statement of the reasons for the activity.

G) Any additional information that may be requested by the approving body. Written documentation from a qualified forest professional regarding items in paragraph B.3.5 A through G, below.

5. Prior to the issuance of a tree removal permit, the approving body shall ascertain whether the tree can be removed. The determination of the approving body in granting or denying a permit shall be based upon, but not limited to, the following:

A) Whether or not the preservation of the tree would unreasonably compromise the owner's development of the land.

B) The condition of the tree with respect to disease, general health, danger of falling, etc.

C) The approximate age of the tree compared to its life span;

D) The number of existing trees in the area and the effect of the removal upon public health, safety, visual beauty and general welfare of the area;

E) The effect of the removal on soil erosion and stability, particularly near streams or steep slopes.

F) The potential for the tree to be a public nuisance or interfere with utility service;

G) Present and future visual screening potential;

H) Any other information the approving body finds pertinent to the decision including, if necessary, information obtained at a previous Tri-TAC meeting.

6. If a permit is denied, written notification shall be provided to the applicant including the reasons for denial.

7. The approving body shall have discretion to require that a cash bond of up to \$500 be provided to the applicable county. The purpose of the bond is to insure compliance with the

requirements of the approved permit. The decision of the approving body on whether or not to require a bond shall be based on the scope of the activities authorized under the permit and the potential for adverse environmental impacts if the terms of the permit are not followed.

8. The approving body may revoke the permit whenever there has been a false statement or misrepresentation in the application upon which the permit was based.

### C. TREE REMOVAL PROVISIONS

1. It shall be the responsibility of the person removing or trimming any tree to maintain a copy of the approved tree removal permit, building permit, or other permit of which the tree removal is a part, at the tree removal site.

2. Existing healthy trees, soils and native vegetation on the site shall be preserved and protected by adequate means during any construction or felling of adjacent trees.

3. Damage to residual trees and vegetation shall be avoided. Damaged trees shall be repaired in accordance with Item #2 under the Penalties section of this Ordinance.

4. No tree shall be intentionally felled into a perennial or seasonal stream.

5. Any stump left in the ground shall be treated with approved chemicals or methods to prevent the spread of forest tree diseases. In addition, all stumps left in the ground shall be left at a height not more than 12 inches on the high side (uphill) of the stump.

6. Slash, debris and non-merchantable timber generated by the removal shall be disposed of in a manner approved by the approving body. Where material will be transported off site for disposal, documentation of disposal may be required.

7. All tree removal sites shall be winterized before the end of the construction season to prevent erosion and loss of soil from the site.

8. Activities permitted under this ordinance shall comply with all other applicable ordinances and regulations with particular attention to grading, soil erosion and sediment control requirements.

9. Removal of trees within an identified wetland must adhere to the regulatory guidance of the US Army Corps of Engineers, US Fish and Wildlife Service, and California Department of Fish and Wildlife.

### D. DAMAGED OR HAZARDOUS TREES

1. The approving body may determine, on the advice of a competent authority, that a tree is diseased, insect infested or hazardous to the public, and may declare the tree to constitute a public nuisance. Upon making such a determination, the approving body shall, by written notice, notify the owner of the land on which the tree or trees are located of the condition and

his duty to remove it within a specified period. If the owner refuses or fails to do so, the approving body shall take the necessary steps to remove the nuisance and charge the owner the cost, which shall be a lien on the property.

2. All diseased and bug-infested trees shall be treated prior to removal by approved methods to prevent the spread of such disease or infestation.

3. For each damaged or hazardous tree removed, it may be required that five seedlings of the same or similar species be planted on the property. These seedlings shall be planted in locations specified by the licensed arborist or forester who determined the trees to be damaged or hazardous. The arborist or forester shall be particularly aware of the visual impact the removed trees will have on the property and surrounding properties, and shall locate the seedlings accordingly. A minimum of sixty percent of the required seedlings shall be successfully established and thriving following two growing seasons after planting.

#### E. APPEAL PROCEDURES

To appeal conditions or denial of a permit, the lot owner may appeal to the Planning Commission of the appropriate county (Alpine, Amador, or El Dorado). The county shall levy appropriate fees.

#### F. PENALTIES

1. Any party that is in violation of the provisions of this ordinance shall be subject to conditions of restoration of the site or monetary penalties as follows:

A) For each tree removed without authorization, the replacement of the tree shall be based on a replacement value of \$30.00/inch at DBH for each illegally removed tree. The replacement shall consist of trees of the same or similar species. The approving body will determine the actual replacement size.

B) If a project site is not capable of supporting all the replacement trees, the violator shall pay the sum equivalent to \$30.00/inch at DBH for each illegally removed tree to the affected County.

2. Any damage to surrounding trees during the removal process shall be repaired with tree sealer and any necessary tree surgery.

Note: This Ordinance does not address the requirements for Timber Harvest Plans. THP's are required to comply with the Forest Practices Act (FPA) and California Board of Forestry rules. In most instances, THP's are required to be prepared by a Registered Professional Forester.

**SECTION III.** A summary of this ordinance shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 14<sup>th</sup> day of March, 2023, by the following vote:

AYES: Jeffrey Brown, Brian Oneto, Patrick Crew, Frank Axe, Richard Forster

NOES: None

ABSENT: None



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Jeffrey Brown, Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the  
Board of Supervisors, Amador County, California

Deputy

  
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