

**TOWN OF PARADISE
ORDINANCE NO. 565**

**AN ORDINANCE AMENDING PARADISE MUNICIPAL CODE SECTIONS 8.12.020, 8.12.040,
8.12.050, 8.12.090, 8.12.120, 8.12.150 AND 8.12.160 RELATING TO FELLING, REMOVAL,
DESTRUCTION, DAMAGING AND REPLACEMENT OF TREES**

The Town Council of the Town of Paradise, State of California, does **ORDAIN AS FOLLOWS**:

SECTION 1. Paradise Municipal Code section 8.12.020 is hereby amended to read as follows:

8.12.020 - Purpose of regulations controlling tree removal.

A. In enacting the following regulations, it is important to note that the town is situated in a scenic foothill forest area with a reputation as a restful urban forest. It is the responsibility of all residents and/or property owners of the town to maintain the aesthetic beauty of the town for the benefit of all residents and visitors to the town.

B. The residents of the town believe that trees are a valuable asset that make our environment a healthier and more beautiful place in which to live. It is, therefore, important that the following advantages be emphasized and recognized:

1. Trees enhance the habitat of desirable wild life.
 2. Trees aid in preventing erosion, storm damage and flood damage.
 3. Trees reduce wind velocity by creating wind breaks.
 4. Trees reduce traffic noise, provide shade and promote clean air by converting carbon dioxide to oxygen, and/or absorb pollutants and particulate matter.
 5. Trees improve the aesthetics of the town.
 6. Tree preservation enhances the environmental and economic values of property.
 7. Trees protect stream corridor habitats.
- C. The provisions of this chapter are intended:
1. To limit the indiscriminate felling, removal and destruction of healthy trees.
 2. To preserve the natural beauty of the area.
 3. To maintain a healthy, forested environment by promoting the felling and removal of trees significantly affected by pathogens or invasive insects.
 4. To promote proper tree care and management through education.

SECTION 2. Paradise Municipal Code section 8.12.040 is hereby amended to read as follows:

8.12.040 - Permit and permit fee required.

A. It shall be unlawful to fell a qualifying tree without a duly issued permit in accordance with the provisions of this chapter. A permit shall be required for the felling of qualifying trees that measure either thirty-one (31) inches or greater in circumference or ten (10) inches or greater in diameter at breast height (dbh). All tree measurements shall be taken

at breast height, defined as four (4) feet, six (6) inches above natural grade as measured on the uphill side of the tree. Any permit application filed with town officials proposing the felling of a total of nine (9) or more qualifying trees from a single legal parcel within a twelve (12) consecutive month period shall contain a written explanation by a tree expert under penalty of perjury that the qualifying tree or trees must be felled based on circumstances for felling and/or removal under Section 8.12.090 of this chapter. No person shall fell or remove a qualifying tree from real property prior to permit approval.

B. A permit fee for the felling of any qualifying tree shall be established by the town council. The permit fee and any cost charged for evaluation by a tree expert shall be the responsibility of the property owner.

C. Except as provided in Section 8.12.090 of this chapter, tree felling permit applications shall be subject to review, approval or denial as follows:

1. Tree felling permit applications proposing to fell a total of nine (9) or more qualifying trees from a single legal parcel within a twelve (12) consecutive month period shall be subject to approval or denial by the planning commission or by the planning director based on which one has the approval authority for a related planning and/or land use entitlement application pursuant to town subdivision and zoning regulations.

2. Tree felling permit applications proposing the felling of nine (9) or more qualifying trees from a single legal parcel within a twelve (12) consecutive month period shall be subject to approval or denial by the planning director or the planning commission upon referral by the planning director, whenever the application is not related to a planning or land use entitlement.

3. Tree felling permit applications proposing the felling of eight (8) or fewer qualifying trees from a single legal parcel within a twelve (12) consecutive month period or the felling of any number of qualifying trees relating to a single-family residential land use shall be acted upon by the town manager, or his/her designee and may in the judgment of the town manager require an evaluation by a tree expert.

4. For purposes of creating a fire-safe environment for new single-family land uses, qualifying trees located within thirty (30) feet of new building foundations may be felled subject to the issuance of a tree felling permit issued administratively by the town manager or his/her designee.

D. A tree felling permit shall be valid for a period of ninety (90) days after the date of issuance. An extension of an unexpired permit for up to an additional forty-five (45) days may be granted by the town manager, or his/her designee if acts of nature prevent the felling of trees due to unusual and extraordinary circumstances beyond the control of the permittee.

E. A minor modification to an approved, unexpired tree felling permit may be granted at the discretion of the town manager or his/her designee for up to three (3) additional, deleted or alternative qualifying trees, based upon a clear demonstration of the need for such a modification due to unforeseen circumstances. If any increase in the number of qualifying trees for an administratively approved tree felling permit results in a total of nine (9) or more qualifying trees proposed to be felled, a public hearing before the planning director or by the planning commission upon referral by the planning director shall be required (excepting single-family land uses).

F. In reviewing an application, the town council, planning commission, planning director or town manager may require a second opinion from a tree expert regarding the necessity to fell one or more qualifying trees. The cost for such a second opinion shall be at the sole expense of the permittee.

SECTION 3. Paradise Municipal Code section 8.12.050 is hereby amended to read as follows:

8.12.050 Permit applications. Permit applications shall include the following information:

- A. Name of legal landowner;
- B. Address of property where qualifying trees are to be felled and/or removed;
- C. Number, diameter or circumference (at dbh), trees species type and location of qualifying trees proposed for felling and/or removal;
- D. Expected date of commencement of felling and/or removal;
- E. The reason for the proposed tree felling and/or removal of each tree;
- F. History of past tree felling permits of affected property, if applicable; and
- G. A plot plan map if eight (8) trees or less; and a plot plan map drawn to scale if nine (9) trees or more.

SECTION 4. Paradise Municipal Code section 8.12.090 is hereby amended to read as follows:

8.12.090 Felling of trees.

A. The following activities shall be exempt from the provisions of this chapter and shall not require the application and issuance of a tree felling permit:

TOWN OF PARADISE
ORDINANCE NO. 565

1. Felling of trees that are less than thirty-one (31) inches in circumference or less than ten (10) inches in diameter measured at breast height (dbh).

2. Felling of any tree that is dead (a dead tree is defined as one in which one hundred (100) percent of the foliage-bearing crown is dead or fading in color from a normal green to yellow, sorrel or brown, excluding normal autumn coloration changes).

3. Felling of any tree that is diseased (a diseased tree is defined as one that, based upon certification by a tree expert or other substantial evidence, has a strong likelihood of dying within one year and infecting other trees in the area with pathogens or invasive insects).

4. Felling of any fruit or nut tree (fruit or nut trees are those tree species that are commonly grown in orchards for the production of food products and do not include trees indigenous to Paradise).

5. Felling of any tree that is directly causing visible damage to property improvements.

6. Felling of any tree by a public utility for the purpose of repairing, maintaining or installing service lines.

7. Tree(s) that must be felled to accommodate street maintenance activities or the establishment of a town-funded capital improvement project.

B. A tree felling permit shall be issued only if one or more of the circumstances listed in this subsection exist, based on substantial evidence.

Circumstances:

1. The tree(s) are hazardous.

2. The tree(s) to be harvested are in an area zoned by the town for commercial timber harvesting as defined in Section 17.04.500 of the Paradise Municipal Code.

3. The tree(s) must be felled in order to maintain long-term forest stability; through a thinning plan or timber stand management plan prepared by a tree expert as defined in this chapter with consideration of the following:

a. The tree(s) are infested or infected by insects, pathogens or parasites that immediately threaten the viability of those trees or have the capacity of spreading to surrounding trees.

b. The tree(s) are not indigenous to the area and are considered noxious to indigenous plants.

4. The tree(s) must be felled for fire hazard reduction purposes based upon the following:

a. At least fifty (50) percent of the larger diameter trees within a given stand (overstory) shall remain.

b. Completion of fire hazard measures as required by the State Forest Practices Rules under Title 14 of the California Code of Regulations.

5. The tree(s) must be felled to reasonably accommodate the following activities:

a. The tree interferes with the construction and establishment of a town authorized structure or structure addition.

b. The tree interferes with the construction of a town authorized driveway, parking lot or area, walkway, patio, swimming pool or deck.

c. The tree is located within an area to be graded or filled as approved by the town.

d. The tree interferes with the repair or installation of a town authorized wastewater treatment and disposal system.

e. The tree interferes with the construction of private or public access and/or drainage improvements.

f. The tree interferes with the repair, safe operation or an essential function of a town authorized land use.

g. The tree prevents or interferes with the establishment or expansion of a town permitted accessory land use.

h. The tree interferes with the installation, repair or the safe operation of a private utility service.

i. The tree must be felled for a reason or reasons similar to the forgoing.

C. Reasonable conditions may be imposed upon the issuance of a tree felling permit.

D. The tree felling application requirement may be waived by the town manager or his/her designee upon notification and verification by a tree expert or the submittal of other substantial evidence that the qualifying tree(s) create an emergency/dangerous situation or create a significant risk of spreading pathogens or insect infestations to surrounding trees.

SECTION 5. Paradise Municipal Code section 8.12.120 is hereby amended to read as follows:

8.12.120 Tree replacement/tree replacement fee.

A. For each qualifying tree felled to maintain or develop commercial, industrial, multiple-family, community service, or community facilities land uses, one five gallon minimum size replacement tree of a tree species listed within subsection B of this section, except as provided within subsections 8.12.120 C, D, E and F, shall be planted by the permittee within twelve (12) months thereafter or within one year of occupancy, whichever occurs first. Replacement trees shall be planted on the site where the tree or trees were felled. Any exceptions to the aforementioned tree planting requirement involving tree felling permits shall be submitted in writing to the planning commission, the planning director or to the town manager, as applicable, at or before the time that the tree felling permit application is acted upon. For development projects requiring a town-approved landscape plan that includes a significant percentage of replacement trees required by this section, the planning director, based upon a written review provided by a tree expert or a licensed landscape architect, may grant an exception to the number of replacement trees. Property owners shall receive tree planting in lieu credit for evidence protected natural saplings with a diameter between one (1) inch to three (3) inches and growing on the site for no more than fifty (50) percent of the total number of qualifying trees authorized to be felled.

B. The following is a list of suggested restocking species:

1. Conifer Species.
 - a. Ponderosa Pine, *Pinus ponderosa*
 - b. Sugar Pine, *Pinus lambertiana*
 - c. Douglas Fir, *Psuedosuga menziesii*
 - d. White Fir, *Abies concolor*
 - e. Incense Cedar, *Calocedrus decurrens*
 - f. Coast Redwood, *Sequoia sempervirens*
 - g. Sierra Redwood, *Sequoiadendron giganteum*
2. Hardwood Species.
 - a. Black Oak, *Quercus kelloggii*

- b. Canyon Live Oak, *Quercus chrysolepis*
- c. Blue Oak, *Quercus douglasii*
- d. California Valley Oak, *Quercus lobata*
- e. Scrub Oak, *Quercus dumosa*
- f. Big Leaf Maple, *Acer macrophyllum*
- g. Western Dogwood, *Cornus nuttallii*

C. There shall be established a tree replacement fund for the purpose of financing the replacement of felled trees.

D. Whenever a tree felling permit is issued for the felling of trees on property that cannot accommodate the planting of replacement trees, the permittee shall pay an in-lieu fee identified in the town Master Fee Schedule Resolution for each qualifying tree to be felled.

E. All fees collected pursuant to subsection D shall be deposited in the tree replacement fund and shall be used exclusively to plant and maintain trees on town- and/or publicly-owned property, or for the town to purchase, lease or otherwise acquire land or recorded rights for the planting and maintenance of trees.

F. Tree felling activities associated with the maintenance and development of single-family residential land uses or conducted pursuant to Section 8.12.090, B, 4, shall be exempt from the requirements of this section relating to tree replacement requirements and the payment of an in-lieu fee.

SECTION 6. Paradise Municipal Code section 8.12.150 is hereby amended to read as follows:

8.12.150 Appeal.

A. Except as provided within subsection 8.12.150 B, appeals shall be allowed solely for felling permits of nine (9) trees or more and shall be limited to: (1) the permit applicant, or (2) an owner of real property that is located within three hundred (300) lineal feet of a legal parcel for which a tree felling permit has been approved authorizing the felling of fifty (50) percent or more of the qualifying trees on the parcel, or (3) any citizen of the town when a tree felling permit has been approved authorizing the felling of twenty (20) or more qualifying trees equaling fifty (50) percent or more of the qualifying trees on a single legal parcel. Any aforementioned eligible party may appeal a decision rendered under this chapter to the town council. The appeal to the town council must be filed within seven (7) calendar days of the decision date. All appeals shall be filed in writing with the town clerk along with the required

appeal fee. The appeal shall state the reasons for the requested reversal or modification of the decision.

B. Tree felling permits authorizing the felling of any number of qualifying trees relating to a single family residential land use shall not be subject to appeal.

C. Public hearings concerning such appeals shall be conducted within forty-five (45) days after the receipt of a written appeal.

SECTION 7. Paradise Municipal Code section 8.12.160 is hereby amended to read as follows:

8.12.160 Definitions.

"Appeals board" shall be the town council for the purpose of hearing appeals concerning decisions rendered under this chapter on behalf of the town pursuant to the provisions of this chapter.

"Bark beetle brood material" is any residue less than six (6) inches in diameter resulting from pine species removal.

"Building footprint" means the cumulative area within the outside walls of any building or structure authorized for construction by town issuance of a building permit.

"Damage" means any intentional action or gross negligence which causes injury, death or disfigurement of a tree.

"Dead tree" means a tree in which one hundred (100) percent of the foliage-bearing crown is dead or fading in color from a normal green to yellow, sorrel or brown, excluding normal autumn coloration changes.

"Dbh" means diameter at breast height, specifically four (4) feet, six (6) inches above natural grade as measured on the uphill side.

"Diseased tree" shall mean a tree that, based upon certification by a tree expert or other substantial evidence, has a strong likelihood of dying within one year and infecting other trees in the area with pathogens or invasive insects and/or becoming a hazard as a result of the disease.

"Drip line" means the outermost line of the tree's canopy projected straight downward to the ground surface. As depicted in plain view, the drip line appears as an irregularly shaped circle.

"Face cut" means the initial cut while felling a tree that removes a wedge-shaped piece of wood and determines the direction of fall. Also known as an undercut.

"Girdle" means to encircle the stem of a living tree with cuts that completely sever all bark layers to kill the tree by preventing the passage of carbohydrates to the roots.

"Hazardous" means presenting an imminent danger to people, existing structures or fenced animals.

"Landmark tree" means a tree that has been designated by resolution of the town council to be of high value because of its species, size, age, appearance, historical significance, or other professional criteria.

"Legal parcel" means an independent, lawfully created property that meets the minimum subdivision and zoning standards at the time the parcel was established.

"Overstory" means that portion of a stand of trees forming the upper canopy or uppermost layer of leaves.

"Permittee" means a property owner who has been issued a tree felling permit by the town.

"Qualifying tree" means any living woody perennial plant characterized by having one or more main stems or trunks, one stem or trunk of which measures either thirty-one (31) inches or more in circumference or ten (10) inches or more in diameter at breast height (dbh). Trees shall be measured at a level that is located four (4) feet six (6) inches above natural grade as measured on the uphill side of the tree.

"Town council" means the governing, legislative body of the town.

"Town manager" means the town manager of the town, or his/her designee.

"Tree expert" means a California registered professional forester; or an arborist certified by the Western Chapter of the International Society of Arboriculture; or a state licensed contractor, with seven (7) years or more local tree service experience.

"Tree felling permit" means a permit issued by the town authorizing a person to fell, top the crown, destroy or remove a tree pursuant to the authority of this chapter.

"Tree maintenance activities" means physical actions performed by a person that are intended to sustain a tree. Such activities shall include, but are not limited to: tree felling and removal, tree transplanting, pruning and application of pesticides upon trees.

"Tree advisory committee" The tree advisory committee is composed of up to five (5) individuals appointed by the town council. The committee is charged with duties designated

TOWN OF PARADISE
ORDINANCE NO. 565

and delegated by the town council on matters pertaining to the management of tree resources within the town.

SECTION 8. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), the proposed ordinance is exempt from environmental review because there is no possibility that its adoption will have a significant effect on the environment.

SECTION 9. This ordinance shall take effect thirty (30) days after the date of its passage. Before the expiration of fifteen (15) days after its passage, this ordinance or a summary thereof shall be published in a newspaper of general circulation published and circulated within the Town of Paradise along with the names of the members of the Town Council of Paradise voting for and against same.

PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this 13th day of December, by the following vote:

AYES: Greg Bolin, Jody Jones, Melissa Schuster, Mike Zuccolillo and Scott Lotter, Mayor.

NOES: None

ABSENT: None

NOT VOTING: None



SCOTT LOTTER, Mayor

ATTEST: *December 20, 2016*



DINA VOLENSKI, Town Clerk

APPROVED AS TO FORM:



DWIGHT L. MOORE, Town Attorney