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STAFF REPORT

Date: May 25, 2022

To: TRPA Governing Board

From: TRPA Staff

Subject: TRPA Code of Ordinance shoreline amendments regarding buoy fields and new mooring buoys

Summary and Staff Recommendation:

Staff will present an overview of proposed amendments to the TRPA Code of Ordinances Chapter 2 and Chapter 84. An amendment to code section 84.3.3.E.3 would authorize existing non-littoral Home Owners' Association (HOA) buoy fields. An amendment to section 2.2.2.F.2.b allows for staff-level approval of new mooring buoys on eligible private, single-family littoral parcels. These amendments ensure that the Code reflects the existing condition of non-littoral HOA buoy fields and streamlines the approval process for eligible mooring buoys. The amendments were recommended with unanimous support from the Shoreline Steering Committee on January 21, 2022. On April 27, 2022, the Regional Plan Implementation Committee (RPIC) unanimously recommended the amendments for approval by the Governing Board and on May 11, 2022, the Advisory Planning Commission (APC) recommended the amendments with one abstention. Staff seeks Governing Board discussion and consideration of adoption for the proposed code amendments.

Required Motions:

In order to adopt the proposed amendments to the Code of Ordinances, the Board must make the following motions, based on the staff report:

- 1) A motion to approve the Required Findings, as described in Attachment B, including a Finding of No Significant Effect, for adoption of the Code of Ordinances amendments as described in the staff summary; and
- 2) A motion to adopt Ordinance 2022-__, amending Ordinance 87-9, to amend the Code of Ordinances as shown in Attachment A.

In order for motion(s) to pass, an affirmative vote of at least four Board members from each state is required.

Regional Plan Implementation Committee Recommendation/Discussion:

The Regional Plan Implementation Committee (RPIC) unanimously recommended approval of the proposed amendments on April 27, 2022. During RPIC's discussion, committee members recognized the importance of authorizing existing buoy fields and requested a minor clarifying adjustment to the

proposed amendment to section 84.3.3.E.3. TRPA staff included this clarifying language in the proposed amendment (Exhibit 1).

Advisory Planning Commission Recommendation/Discussion:

On May 11, 2022, the Advisory Planning Commission (APC) recommended approval of the proposed amendments with all affirmative votes and one abstention. During APC discussion, a commission member expressed concern that the authorization of existing non-littoral HOA buoy fields could limit a littoral parcel owner's ability to place buoys lakeward of their property if the buoy field counted toward the parcel's buoy limit. Following APC discussion, TRPA research determined that if development standards are met, the Code of Ordinances may authorize new buoys for a single-family parcel regardless of the number of existing buoys (84.3.3.D). Therefore, the authorization of non-littoral HOA buoy fields does not directly limit a littoral parcel's eligibility for new buoys.

Background:

1. Proposed Amendments to Code Section 84.3.3.E.3 (Existing Buoys)

The TRPA Governing Board approved the Shoreline Plan in October 2018. The plan supports boating, paddling, swimming, and other water-based recreation, while also ensuring effective natural resource management for continued attainment of environmental goals in the Lake Tahoe Region. The Shoreline Plan included implementation measures in the TRPA Code of Ordinances Chapter 84 including the authorization of preexisting buoy fields, prohibition on new buoy fields, and standards for private mooring buoys. The permit review process for shoreline projects is detailed in Chapter 2 of the Code.

While the 2018 Shoreline Plan explicitly prohibited new buoy fields, buoy fields existing legally prior to the amendment were allowed to remain. The 2018 code amendments include specific provisions to allow homeowner association's (HOA) to maintain buoy fields located offshore of littoral parcels that existed prior to 2018. However, the Code does not specifically address HOA buoy fields that service *non-littoral* parcels without an associated littoral parcel. TRPA staff have received seven applications to permit existing non-littoral HOA buoy fields, all of which are located in California.

The Shoreline Implementation Committee and TRPA staff view the omitted authorization of pre-existing non-littoral HOA buoy fields during the 2018 adoption of the TRPA Shoreline Plan and associated code amendments as an oversight requiring correction. The proposed amendment to section 84.3.3.E.3 will expressly allow littoral and non-littoral buoy fields for HOAs possessing a valid permit issued by a federal or state agency with appropriate jurisdiction prior to September 1, 2018. It does not affect the prohibition on new buoy fields (84.3.3.E.1) nor place further limits on a littoral property owner's ability to obtain TRPA approval for private mooring buoys (84.3.3.D).

Following the APC hearing, staff also identified the need for additional language prohibiting the expansion of non-littoral HOA buoy fields. Staff crafted language prohibiting these buoy fields from expanding beyond what was authorized in the permit. This language was not discussed at the RPIC and APC hearings, however, staff believe that it is necessary to enforce the Shoreline Plan's policies with respect to non-littoral buoy fields.

2. Proposed Amendments to Code Section 2.2.2.F.2.b (New Structures)

Amendments to Section 2.2.2.F.2.b address the review and approval process for eligible private, single-family buoys. Section 2.2.2.F.2 requires Hearings Officer review and approval for all new structures within the shorezone including the relatively routine approval of new mooring buoys for eligible private, single-family littoral parcels.

Unless otherwise stated, private, single-family littoral parcels are allowed two mooring buoys (84.3.2.A). The approval is largely administrative in nature, involving conformance review which the shoreline implementation committee and TRPA staff believe is compatible with staff-level review and approval. Staff also believe that the amendment will relieve an application backlog and unnecessary burden on the Hearings Officer which could otherwise be directed to more complex projects with greater potential impacts on TRPA's threshold standards. The proposed amendments will allow mooring buoys associated with eligible private, single-family littoral parcels to be permitted by TRPA staff with expertise in buoy regulation. The amendment will not change the conformance requirements for mooring buoys on private, single-family parcels and will not alter the review and approval requirements for any other buoy or parcel type. Decisions on buoy permits for private, single-family littoral parcels may be appealed to the Governing Board.

The proposed amendment to Section 84.3.3.E.3:

- Authorizes buoy fields for *non-littoral* HOAs possessing a valid permit issued by a federal or state agency with appropriate jurisdiction prior to September 1, 2018.
- Prohibits the further expansion of *non-littoral* HOA buoy fields beyond what was authorized in the permit.

The proposed amendment to Section 2.2.2.F.2.b:

- Allows mooring buoys associated with eligible private, single-family littoral parcels to be permitted at the staff-level with the option for appeal to the Governing Board.

On January 21, 2022, the Shoreline Steering Committee recommended amendments to Sections 84.3.3.E.3 and 2.2.2.F.2.b, as discussed in this staff packet. RPIC and APC recommended the proposed amendments on April 27 and May 11, 2022 respectively. These amendments are intended to support the implementation of the Shoreline Plan's policies concerning the authorization of all legally preexisting buoy fields and allowances for mooring buoys on private, single-family littoral parcels.

Environmental Review:

TRPA staff completed an Initial Environmental Checklist (IEC) pursuant to Chapter 3: Environmental Documentation of the TRPA Code of Ordinances and Article VI of the Rules of Procedure. The IEC finds that the proposed amendments would not result in significant effects on the environment (see Attachment C).

Public Comment:

The public was given an opportunity to comment on the proposed amendments at the RPIC and APC hearings. There was no public comment.

Regional Plan Compliance:

The proposed amendments to the Code of Ordinances are consistent with the Shorezone Sub-element, a component of the Regional Plan's Conservation Element, and with the Shoreline Plan.

Contact Information:

For questions regarding this agenda item, please contact Jacob Stock, Senior Planner, at (775) 589-5221 or jstock@trpa.gov.

Attachments:

- A. Ordinance 2022-__
 - Exhibit 1: Tracked Code Amendments
- B. Required Findings/Rationale
- C. Initial Environmental Checklist (IEC)
- D. Compliance Measures Checklist