

STAFF REPORT

Date: October 16, 2019

To: TRPA Regional Plan Implementation Committee

From: TRPA Staff

Subject: Proposed amendments to the TRPA Code of Ordinances to incorporate technical corrections for clarity and consistency.

Summary and Staff Recommendation:

Staff recommends that the Regional Plan Implementation Committee recommend Governing Board approval of the proposed technical amendments to the Code of Ordinances. The proposed amendments constitute technical corrections and clarifications. No substantive policy modifications are proposed. The amendments affect Chapters 2, 21, 30, 37, 50, 51, 53, and 84.

Required Motions:

In order to recommend adoption of the ordinance amendments, the Regional Plan Implementation Committee must make the following motion(s), based on the staff summary:

- 1) A motion to recommend approval of the Required Findings, as described in Attachment C, including a Finding of No Significant Effect, for adoption of the Code of Ordinance amendments as described in the staff summary; and
- 2) A motion to recommend adoption of Ordinance 2019-__, amending Ordinance 87-9, as previously amended, to amend the Code of Ordinances as shown in Attachment A.

In order for the motions to pass, an affirmative vote of a majority of the quorum in attendance is required.

Advisory Planning Commission Recommendation/Discussion:

The APC considered the proposed amendments at its October 9, 2019 meeting and unanimously recommended approval of staff's proposal with no changes.

Background:

The Code of Ordinances sets forth the regulations that implement the Regional Plan. TRPA staff recommends technical amendments of the Code of Ordinances from time to time in order to ensure that language is clear and correct. Making these routine corrections helps to ensure that TRPA can effectively administer the Code of Ordinances, and the public can understand its provisions.

Project Description:

The project involves making 11 amendments to eight chapters of the Code of Ordinances. The individual

amendments and rationale are shown in Attachment B. The proposed code amendments constitute technical corrections and clarifications. No substantive policy changes are proposed. The amendments fall into four categories:

- **References to Area Plans** – These amendments clarify that certain sections apply within Area Plans where references to the Area Plans were inadvertently omitted. The amendments proposed are all in relation to the transfer of development rights. They are consistent with the 2012 Regional Plan Update, which seeks to replace Community Plans and Plan Area Statements with Area Plans and to focus commercial development in existing Town Centers.
- **Considerations for Achievable Housing** – These amendments clarify that certain sections apply to achievable housing, where such references were inadvertently omitted. They are consistent with the 2018 Development Rights initiative, which established the new affordability classification of “achievable” and applied the same ordinance provisions as used for the “moderate” and “affordable” classifications.
- **Other Clarifications** – These amendments represent miscellaneous opportunities for clarification identified by TRPA staff. The four amendments in this category include:
 - Clarifying that the provisions for accessory residential living space in Subsection 21.3.6 apply only to parcels that are otherwise ineligible for a secondary dwelling.
 - Clarifying that building height calculations can be performed either on the whole building or on individual building segments, consistent with other provisions.
 - Clarifying how the boundaries of a buoy field are determined, which affects how buoy capacity is calculated.
- **Editorial Changes** – These amendments are necessary to correct errors and to consistently apply the established numbering scheme for tables and figures.

Attachment B contains the recommended amendments and discusses the rationale and effect of each amendment.

Environmental Review:

The proposed Code amendments have been reviewed in 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 found that the proposed amendments would not result in significant effects on the environment (see Attachment D).

Regional Plan Compliance:

The proposed amendments to the Code of Ordinances are consistent the goals and policies of the Regional Plan.

Contact Information:

For questions regarding this item, please contact Michael Conger, AICP, Senior Planner, at (775) 589-5221 or mconger@trpa.org.

Attachments:

- A. Adopting Ordinance
 - Exhibit 1 Code Amendments
- B. Amendments and Rationale
- C. Required Findings
- D. Initial Environmental Checklist (IEC)

Attachment A
Adopting Ordinance

TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2019-

AN AMENDMENT TO ORDINANCE NO. 87-9, AS PREVIOUSLY AMENDED, TO AMEND THE TRPA CODE OF ORDINANCES, CHAPTERS 2, 21, 30, 37, 50, 51, 53, AND 84 TO (1) INCORPORATE REFERENCES TO AREA PLANS; (2) CLARIFY PROVISIONS RELATED TO ACHIEVABLE HOUSING; (3) PROVIDE ADDITIONAL REVISIONS FOR CLARITY AND CONSISTENCY; AND (4) CORRECT ERRORS IN WORDING AND NUMBERING; AND OTHER MATTERS PROPERLY RELATED THERETO

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00 Findings

- 1.10 It is desirable to amend TRPA Ordinance 87-9 by amending the TRPA Code of Ordinances to further implement the Regional Plan pursuant to Article VI (a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 The TRPA Code of Ordinances amendments were the subject of an Initial Environmental Checklist (IEC), which was processed in accordance with Chapter 3: *Environmental Documentation* of the TRPA Code of Ordinances and Article VI of the Rules of Procedure. The TRPA Code of Ordinances amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirement of an Environmental Impact Statement (EIS) pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) and the Governing Board have each conducted a noticed public hearing on the proposed TRPA Code of Ordinances amendments. The APC has recommended Governing Board adoption of the necessary findings and adopting ordinance. At these hearings, oral testimony and documentary evidence were received and considered.
- 1.40 The Governing Board finds that the TRPA Code of Ordinances amendments adopted hereby will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.50 Prior to the adoption of this ordinance, the Governing Board made the findings required by Section 4.5 of the TRPA Code of Ordinances, and Article V(g) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 TRPA Code of Ordinances Amendments

Ordinance 87-9, as previously amended, is hereby amended by amending the TRPA Code of Ordinances, as set forth in Exhibit 1.

Section 3.00 Interpretation and Severability

The provisions of this ordinance amending the TRPA Code of Ordinances adopted hereby shall be liberally construed to affect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Regional Plan Package shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Regional Plan Package are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending the TRPA Code of Ordinances shall become effective on _____

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held on _____, 2019, by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

William Yeates, Chair
Tahoe Regional Planning Agency,
Governing Board

Exhibit 1 to Attachment A

Exhibit 1 Code Amendments

EXHIBIT 1: CODE AMENDMENTS

Language to be added is shown in blue with an underline. Language to be removed is ~~shown in red with a strikeout~~.

1. Amend Subsection 2.2.2, Paragraph B

Revise Paragraph B of Subsection 2.2.2 as follows:

CHAPTER 2: APPLICABILITY OF THE CODE OF ORDINANCES

2.2. PROJECT REVIEW

2.2.2. Projects and Matters to be Approved by the Governing Board or Hearings Officer

Categories of projects and matters listed in this subsection 2.2.2 or as otherwise required by law shall require Governing Board or Hearings Officer approval, as indicated.

B. Residential Projects

1. Governing Board Review

Residential projects involving the following require review and approval by the Governing Board:

- a. Allocation of ten or more residential bonus units for ~~to-affordable-or moderate-income-restricted~~ housing; and
- b. Mobile home developments involving the creation or elimination of ten or more mobile homes, including conversions to other uses.

2. Hearings Officer

Residential projects involving the following require review and approval by the Hearings Officer:

- a. Multi-residential and employee housing greater than four units;
- b. Projects that require special use findings (except those identified for Governing Board review) involving changes, expansions or intensification of existing uses; and
- c. Allocation of more than two, but less than ten, residential bonus units for ~~to-affordable-or moderate-income-restricted~~ housing.

2. Amend Subsection 2.3.2, Paragraph D

Revise Paragraph D of Subsection 2.3.2 as follows:

CHAPTER 2: APPLICABILITY OF THE CODE OF ORDINANCES

2.3. EXEMPT ACTIVITIES

2.3.2. General Activities

The following general activities are exempt.

D. Excavation, Filling, or Backfilling

Excavation, filling, or backfilling for a volume not in excess of three cubic yards, provided the activity is completed within a 48-hour period and the excavation site is stabilized to prevent erosion. ~~Theis following exemptions~~ shall not be construed to exempt a series of excavations, filling, or backfilling that collectively would constitute a project.

3. Amend Subsection 21.3.2, Subparagraph B.3

Revise Paragraph Subparagraph B.3 of Subsection 21.3.2 as follows:

CHAPTER 21: PERMISSIBLE USES

21.3. ACCESSORY USES

21.3.2. Secondary Residence

A. Residential Secondary Unit Parcel Size

A secondary residence may be permitted as accessory to a single-family house if:

1. The parcel on which the residence is located is greater in size than one acre; or
2. The parcel on which the secondary residence would be located is within a jurisdiction certified by TRPA to possess an adequate local government housing program and the secondary unit is restricted to affordable, moderate, or achievable housing.

B. TRPA-Certified Local Government Housing Program

TRPA may certify by resolution a local government housing program upon a finding that it adequately addresses, at a minimum, subparagraphs 1 through 3 below.

1. A local government-adopted housing element that addresses the housing needs and issues of the jurisdiction pursuant to state standards;

2. Special ordinance standards for development of secondary residences, including but not limited to:
 - a. Minimum parcel size;
 - b. Maximum unit floor area for the secondary unit;
 - c. Parking standards; and
 - d. Building setback standards; and
3. An adequately funded and staffed compliance and monitoring program. This program shall through deed restriction limit the project area to the approved use and restrict both rental rates and occupants' household income to affordable, moderate, or achievable housing limits. Secondary units approved under this program shall be made available for long-term occupancy and shall be occupied for at least ten months in each calendar year. Failure to comply for more than six months with use, rental rates/household income levels, or occupancy requirements shall require removal of the unit or modification of the use to bring the project area into compliance with otherwise applicable development standards.

The local government shall document and enforce the special standards through an MOU with TRPA. The MOU shall include objective compliance standards to ensure adequate funding, staff resources, permitting, compliance, and monitoring consistent with the local government housing program.

4. Amend Subsection 21.3.6

Revise Subsection 21.3.6 as follows:

CHAPTER 21: PERMISSIBLE USES

21.3. ACCESSORY USES

21.3.6. Living Area Associated with Residential Accessory Structures

Living area associated with a permissible residential accessory structure ~~under subparagraph A~~ may be permitted for parcels otherwise ineligible for a secondary residence under Subsection 21.3.2 or an Area Plan adopted under Chapter 13 provided that such living area does not constitute a secondary residence. Residential accessory structures, other than an authorized secondary residence, shall not contain any of the following:

- A. Any item listed under "cooking facilities" as defined in Chapter 90: Definitions, or areas for the insertion of these items;
- B. Both a bathing facility and a wet bar (either a bathing facility or a wet bar may be permitted);

- C. More than one toilet or more than one bathing facility; or
- D. Living area greater than 50 percent of the living area of the primary residence, or greater than 640 square feet, whichever area is less.

5. Amend Subsection 30.4.3, Subparagraph A.2.b and Table 30.4.4-1

Within Subsection 30.4.3, Subparagraph A.2.b, renumber Table 30.4.4-1 as Table 30.4.3-1 and update the internal reference as follows:

CHAPTER 30: LAND COVERAGE

30.4. LAND COVERAGE LIMITATIONS

30.4.3. Method of Transferring Land Coverage

A. Land Coverage Transfer Ratios

2. Uses Within Approved Community Plans or Centers

b. Transfers from Non-Sensitive Lands

From non-sensitive lands, land coverage shall be transferred at a ratio of 1:1 up to 50 percent, and shall be transferred at the ratio set forth in Table 30.4.3-1 for projects with coverage in excess of 50 percent until the total land coverage reaches the maximum allowed except as provided in subparagraph c. below:

Maximum Percent of Final Coverage	Transfer Ratio
>50 – 51	1.05:1
> 51 – 52	1.1:1
...	
> 67 – 68	1.95:1
> 68 – 70	2:1

6. Amend Subsection 37.3.1

Revise Subsection 37.3.1 as follows:

CHAPTER 37: HEIGHT

37.3. DEFINITIONS

37.3.1. Height

The height of a building, [or building segment pursuant to Subparagraph 37.4.2.A](#), is the difference between the point of lowest natural ground elevation along an exterior wall of the building, [or building segment pursuant to Subparagraph 37.4.2.A](#), and the elevation of the coping of the highest flat roof, the highest point of a mansard roof or the ridge of the highest hip, gable, gambrel, shed or other pitched roof, whichever is highest (see Figure 37.3.1-A below). The maximum height of a structure other than a building is the difference between the point of lowest natural ground elevation along the exterior foundation of the structure and the elevation of the highest point of the structure. Maximum height for buildings in Special Projects within adopted Ski Area Master Plans shall be measured as provided in subsection 37.5.9.

7. Amend Subsection 50.8.4, Subparagraph C

Revise Subparagraph C of Subsection 50.8.4 as follows:

CHAPTER 50: ALLOCATION OF DEVELOPMENT

50.8. REGULATION OF ADDITIONAL PUBLIC SERVICE FACILITIES

50.8.4. Transfer or Relocation Onsite of Commercial Floor Area Related to a Public Service Use

Transfer or relocation of commercial floor area from an existing commercial use may be permitted when a public service use is approved that displaces commercial floor area. The transfer shall be subject to the standards of Chapter 51, and the following standards:

- A. The owner of sending project area shall comply with subparagraphs A through D of subsection 50.8.3 above;
- B. The public service use displacing the commercial use is one of the following: Local Public Health and Safety Facilities, Regional Public Health and Safety Facilities, Collection Stations, Cultural Facilities, Day Care Centers/Pre-Schools, Government Offices, Local Post Offices, Social Service Organizations, or Transit Stations and Terminals;
- C. The commercial floor area displaced is transferred to a site in a designated community plan area [or Town Center](#);
- D. In order for a receiving project area to qualify for transferred commercial floor area, the receiving project area shall meet the criteria applicable to allocations under the

applicable adopted community plan allocation system. If the community plan area does not have an adopted allocation system, the applicable local jurisdiction shall be required to adopt a system pursuant to the requirements of subparagraph 50.6.4.C before the transfer may occur; and

- E. TRPA determines that, when combined with all other public service-commercial transfers since January 1, 1998, the additional public service floor area associated with the transfer is within the 60,000 square feet of additional public service floor area estimated to be created by such transfers.

8. Renumber Figures 51.2 and 51.4 as Figure 51.2-A and Figure 51.4-A.

Within Chapter 51, renumber Figures 51.2 and 51.4 (“Existing Reference”) as Figures 51.2-A and Figure 51.4-A (“Proposed Reference”), respectively, as indicated in the following table:

TABLE 1: REVISED FIGURE NUMBERS – CHAPTER 51

Section	Existing Reference	Title	Proposed Reference
51.2	Figure 51.2	Development Rights	Figure 51.2-A
51.4	Figure 51.4	Convertible Development Rights	Figure 51.4-A

9. Amend Subsection 51.5.1, Subparagraph C.1

Revise Subparagraph C.1 of Subsection 51.5.1 as follows:

CHAPTER 51: BANKING, CONVERSION, AND TRANSFER OF DEVELOPMENT

51.5. TRANSFER OF DEVELOPMENT RIGHTS

51.5.1. Transfer of Potential Residential Unit of Use

C. Receiving Area

1. Parcels Eligible to Receive One or More Potential Residential Units of Use

Parcels located in a plan area, ~~or~~ adopted community plan, or [subdistrict within an adopted area plan](#) designated as a receiving area for multi-residential units shall be eligible to receive one or more potential residential units of use; or

10. Renumber the tables and graph in Section 53.10 and correct internal references within Chapter 53.

Revise the numbering (“Existing Reference”) for the tables and graph in Section 53.10 to comply with the Code of Ordinances numbering convention (“Proposed Reference”), as indicated in the following table:

TABLE 2: REVISED TABLE AND GRAPH NUMBERS – CHAPTER 53

Subsection	Existing Reference	Title	Proposed Reference
53.10.2	Table 53.11.2-1	Runoff Potential	Table 53.10.2-1
53.10.3	Table 53.11.3-1	Upsloping Parcels without Existing Access	Table 53.10.3-1
	Table 53.11.3-2	Factors for Gradient of Ground above Cut Slope	Table 53.10.3-2
	Table 53.11.3-3	Downsloping Parcels without Access	Table 53.10.3-3

Subsection	Existing Reference	Title	Proposed Reference
	Table 53.11.3-4	Factors for Gradient and Ground below Fill Slope	Table 53.10.3-4
	Table 53.11.3-5	Parcels with Existing Access	Table 53.10.3-5
	Table 53.11.3-6	Disturbance in Stream Environment Zone (SEZ) for Access	Table 53.10.3-6
53.10.4	Table 53.11.4-1	Extent of Disturbance in SEZ	Table 53.10.4-1
53.10.5	Table 53.11.5-1	Condition of Watershed	Table 53.10.5-1
53.10.6	Table 53.11.6-1	Vegetative Groups	Table 53.10.6-1
	Graph 53.11.6-1	Aspect and Gradient of Parcel	Graph 53.10.6-1
	Table 53.11.6-2	Elevation of Parcel	Table 53.10.6-2
53.10.7	Table 53.11.7-1	Needed Water Quality Improvements	Table 53.10.7-1
53.10.10	Table 53.11.10-1	Per Unit Cost	Table 53.10.10-1

Update the references to the tables and graph from Section 53.10 (“Existing Reference”) in Sections 53.6, 53.7, and 53.10 to comply with the revised table and graph numbers identified above (Table 1, “Proposed Reference”), as indicated in the following table:

TABLE 3: REVISED TABLE AND GRAPH REFERENCES – CHAPTER 53

Subsection	Subparagraph	Existing Reference	Proposed Reference
53.6.1	--	Table 53.11.7-1	Table 53.10.7-1
53.7.2	--	Table 53.11.2-1*	Table 53.10.2-1
53.7.3	A.1	Table 53.11.3-1*	Table 53.10.3-1
	A.2	Table 53.11.3-2	Table 53.10.3-2
	B.1	Table 53.11.3-3*	Table 53.10.3-3
	B.2	Table 53.11.3-4	Table 53.10.3-4
	C	Table 53.11.3-5*	Table 53.10.3-5
	C.1	Table 53.11.3-5	Table 53.10.3-5
	C.2	Table 53.11.3-5	Table 53.10.3-5
	D	Table 53.11.3-6	Table 53.10.3-6
	D.1	Table 53.11.3-6	Table 53.10.3-6
53.7.4	--	Table 53.11.4-1	Table 53.10.4-1
	A	Table 53.11.4-1	Table 53.10.4-1
	B	Table 53.11.4-1	Table 53.10.4-1
53.7.5	--	Table 53.11.5-1	Table 53.10.5-1
53.7.6	A	Table 53.11.6-1*	Table 53.10.6-1
	B.1	Graph 53.11.6-1	Graph 53.10.6-1
	B.2	Table 53.11.6-2*	Table 53.10.6-2
53.7.7	A	Table 53.11.7-1*	Table 53.10.7-1
53.10.10	A.2	Table 53.11.10-1	Table 53.10.10-1

* - Reference appears twice.

11. Amend Subsection 84.3.3, Subparagraph E.1.c

Revise Subparagraph E.1.c of Subsection 84.3.3 as follows:

CHAPTER 84: DEVELOPMENT STANDARDS LAKEWARD OF HIGH WATER IN THE SHOREZONE AND LAKEZONE

84.3. MOORING STRUCTURES

84.3.3. Mooring Buoys

E. Buoy Fields.

1. Eligibility.

- c. The total number of buoys allowed within a buoy field shall not exceed the buoy field capacity. The maximum buoy field area, for the purposes of determining capacity, is the length of the littoral property's lake frontage multiplied by a width of ~~within the area defined by the lake frontage, not including setbacks from parcel boundary projection lines, multiplied by~~ 300 feet (Figure 84.3.3-2). The capacity within the calculated buoy field area shall be limited by a 50-foot grid spacing pattern.

Attachment B

Amendments and Rationale

AMENDMENTS AND RATIONALE

11 amendments are proposed to 8 chapters of the Code of Ordinances. The amendments are listed in sequential order and are numbered for quick reference (“Ref #”). The amendments fall into four categories that are described below. Language to be added is shown in blue with an underline. Language to be removed is ~~shown in red with a strikethrough~~.

CHAPTERS AND SECTIONS BEING AMENDED

Ref #	Chapter	Action	Page	Category
1	2	Amend Subsection 2.2.2, Paragraph B	3	B
2		Amend Subsection 2.3.2, Paragraph D	5	D
3	21	Amend Subsection 21.3.2, Subparagraph B.3	6	B
4		Amend Subsection 21.3.6	8	C
5	30	Amend Subsection 30.4.3, Subparagraph A.2.b and Table 30.4.4-1	9	D
6	37	Amend Subsection 37.3.1	10	C
7	50	Amend Subsection 50.8.4, Subparagraph C	11	A
8	51	Renumber Figures 51.2 and 51.4 as Figure 51.2-A and Figure 51.4-A.	13	D
9		Amend Subsection 51.5.1, Subparagraph C.1	14	A
10	53	Renumber the tables and graph in Section 53.10 and correct internal references within Chapter 53.	15	D
11	84	Amend Subsection 84.3.3, Subparagraph E.1.c	17	C

AMENDMENT CATEGORIES

A. References to Area Plans (2)

As part of the 2012 Regional Plan Update, the concept of Area Plans was introduced. Area Plans are intended to replace the former planning documents, Community Plans and Plan Area Statements. Due to an oversight, some sections were not updated to include Area Plans when referencing local planning documents. The proposed amendments are necessary to clarify that (1) commercial floor area may be transferred into Town Centers, not just Community Plans, when a public service use displaces a commercial use; and (2) residential units of use may be transferred into subdistricts of an approved Area Plan that have been designated to receive transferred multi-residential units, in addition to Plan Areas and Community Plans with this designation.

B. Considerations for Achievable Housing (2)

In October 2018, the Governing Board adopted revisions to the development rights system. These revisions allowed residential bonus units to be used towards a new affordability classification,

“achievable” housing. Due to an oversight, some sections were not updated to reflect this new classification level. The proposed amendments would correct this oversight.

C. Other Clarifications (4)

As part of administering the Code of Ordinances, staff and our agency partners identified additional opportunities for clarification. These include the following:

- Clarifying that the provisions for accessory residential living space in Subsection 21.3.6 apply to parcels that are otherwise ineligible for a secondary dwelling.
- Clarifying that building height calculations can be performed on the building itself or individual building segments.
- Clarifying that TMDL annual performance reports may be requested in October of each year but would not be provided until March of the following year.
- Clarifying the boundaries of a buoy field, based on which buoy capacity is calculated.

D. Editorial Changes (4)

Several editorial changes are proposed to correct errors in the text and ensure a consistent table and figure numbering scheme.

PROPOSED AMENDMENTS**1. Amend Subsection 2.2.2, Paragraph B****B**

<i>Description</i>	This amendment would identify when allocation of residential bonus units for achievable housing projects requires Hearings Officer or Governing Board approval. At present, the subsection only identifies the review authority for allocation of residential bonus units to affordable and moderate-income units.
<i>Purpose</i>	To recognize that residential bonus units may be allocated to achievable housing, in addition to moderate and affordable housing. In October 2018, the Governing Board adopted the Development Rights initiative, which expanded the use of residential bonus units to the new “achievable” housing classification. The sections discussing the review authority for allocation of bonus units were not, however, modified to include the new category. This amendment would correct that oversight.
<i>Result</i>	Allocation of residential bonus units for achievable housing would be reviewed and approved in the same manner as residential bonus unit allocations to affordable and moderate housing.

Revise Paragraph B of Subsection 2.2.2 as follows:

CHAPTER 2: APPLICABILITY OF THE CODE OF ORDINANCES**2.2. PROJECT REVIEW****2.2.2. Projects and Matters to be Approved by the Governing Board or Hearings Officer**

Categories of projects and matters listed in this subsection 2.2.2 or as otherwise required by law shall require Governing Board or Hearings Officer approval, as indicated.

B. Residential Projects**1. Governing Board Review**

Residential projects involving the following require review and approval by the Governing Board:

- a. Allocation of ten or more residential bonus units ~~for to-affordable-or moderate-income-restricted~~ housing; and
- b. Mobile home developments involving the creation or elimination of ten or more mobile homes, including conversions to other uses.

2. Hearings Officer

Residential projects involving the following require review and approval by the Hearings Officer:

- a. Multi-residential and employee housing greater than four units;
- b. Projects that require special use findings (except those identified for Governing Board review) involving changes, expansions or intensification of existing uses; and
- c. Allocation of more than two, but less than ten, residential bonus units ~~for to affordable or moderate~~ income ~~restricted~~ housing.

2. Amend Subsection 2.3.2, Paragraph D

D

<i>Description</i>	This amendment would correct an error in the exemption for excavation, filling, and backfilling.
<i>Purpose</i>	To correct an error in the wording of an exemption. Until 2012, the Code of Ordinances included a sentence stating that this exemption did not apply to serial projects working towards a common endeavor that cumulatively exceed the 48-hour threshold. Since 2012, the sentence was reworded to apply to “the following exemptions,” rather than the prior sentence. There are no exemptions following in Subparagraph D.
<i>Result</i>	The exemption would appropriately state that it cannot be applied to a series of projects. Additionally, the sentence would apply to serial filling and backfilling projects in addition to serial excavations.

Revise Paragraph D of Subsection 2.3.2 as follows:

CHAPTER 2: APPLICABILITY OF THE CODE OF ORDINANCES

2.3. EXEMPT ACTIVITIES

2.3.2. General Activities

The following general activities are exempt.

D. Excavation, Filling, or Backfilling

Excavation, filling, or backfilling for a volume not in excess of three cubic yards, provided the activity is completed within a 48-hour period and the excavation site is stabilized to prevent erosion. The ~~is following~~ exemptions shall not be construed to exempt a series of excavations, filling, or backfilling that collectively would constitute a project.

3. Amend Subsection 21.3.2, Subparagraph B.3

B

<i>Description</i>	This amendment would modify the provision that describes the components of a “TRPA-certified local housing program” to include deed-restricted moderate and achievable housing.
<i>Purpose</i>	To consistently recognize the multiple deed-restricted income levels that may be established under a certified local government housing program. In October 2018, the Governing Board adopted the Development Rights initiative, which expanded the use of residential bonus units to the new “achievable” housing classification. As set forth in Subparagraph A.2, secondary residences may be permitted if a local jurisdiction has adopted a TRPA-certified local housing program for affordable, moderate, or achievable housing. Subparagraph B.3, however, only references the affordable classification and omits the moderate- and achievable-income levels. This amendment would make Subparagraph B.3 consistent with Subparagraph A.2
<i>Result</i>	The criteria for the certified local government housing program will be consistently applied.

Revise Paragraph Subparagraph B.3 of Subsection 21.3.2 as follows:

CHAPTER 21: PERMISSIBLE USES

21.3. ACCESSORY USES

21.3.2. Secondary Residence

A. Residential Secondary Unit Parcel Size

A secondary residence may be permitted as accessory to a single-family house if:

1. The parcel on which the residence is located is greater in size than one acre; or
2. The parcel on which the secondary residence would be located is within a jurisdiction certified by TRPA to possess an adequate local government housing program and the secondary unit is restricted to affordable, moderate, or achievable housing.

B. TRPA-Certified Local Government Housing Program

TRPA may certify by resolution a local government housing program upon a finding that it adequately addresses, at a minimum, subparagraphs 1 through 3 below.

1. A local government-adopted housing element that addresses the housing needs and issues of the jurisdiction pursuant to state standards;

2. Special ordinance standards for development of secondary residences, including but not limited to:
 - a. Minimum parcel size;
 - b. Maximum unit floor area for the secondary unit;
 - c. Parking standards; and
 - d. Building setback standards; and
3. An adequately funded and staffed compliance and monitoring program. This program shall through deed restriction limit the project area to the approved use and restrict both rental rates and occupants' household income to affordable, moderate, or achievable housing limits. Secondary units approved under this program shall be made available for long-term occupancy and shall be occupied for at least ten months in each calendar year. Failure to comply for more than six months with use, rental rates/household income levels, or occupancy requirements shall require removal of the unit or modification of the use to bring the project area into compliance with otherwise applicable development standards.

The local government shall document and enforce the special standards through an MOU with TRPA. The MOU shall include objective compliance standards to ensure adequate funding, staff resources, permitting, compliance, and monitoring consistent with the local government housing program.

4. Amend Subsection 21.3.6

C

<i>Description</i>	This amendment would modify the language for residential accessory structures to apply only in circumstances when a parcel is otherwise ineligible for secondary residences.
<i>Purpose</i>	To clarify that Subsection 21.3.6 applies only to properties that are ineligible for secondary residences. The present language, which refers in error to Subparagraph A, appears to have been mistranslated during the comprehensive Code of Ordinances update in 2012. The proposed amendment restores the reference from earlier versions of the Code. Additionally, the revised language recognizes that Area Plans may allow secondary residences, in addition to the criteria in Subsection 21.3.2.
<i>Result</i>	The residential accessory structure living area limitations would clearly apply only to properties that are ineligible for a secondary residence, including where an Area Plan established alternative criteria for a secondary residences.

Revise Subsection 21.3.6 as follows:

CHAPTER 21: PERMISSIBLE USES

21.3. ACCESSORY USES

21.3.6. Living Area Associated with Residential Accessory Structures

Living area associated with a permissible residential accessory structure ~~under subparagraph A~~ may be permitted for parcels otherwise ineligible for a secondary residence under Subsection 21.3.2 or an Area Plan adopted under Chapter 13 provided that such living area does not constitute a secondary residence. Residential accessory structures, other than an authorized secondary residence, shall not contain any of the following:

- A. Any item listed under “cooking facilities” as defined in Chapter 90: Definitions, or areas for the insertion of these items;
- B. Both a bathing facility and a wet bar (either a bathing facility or a wet bar may be permitted);
- C. More than one toilet or more than one bathing facility; or
- D. Living area greater than 50 percent of the living area of the primary residence, or greater than 640 square feet, whichever area is less.

5. Amend Subsection 30.4.3, Subparagraph A.2.b and Table 30.4.4-1

D

<i>Description</i>	This amendment would revise a table number to match the subsection that it is a part of.
<i>Purpose</i>	To consistently apply the Code of Ordinance’s numbering convention. The table numbering convention is based upon the subsection. Table 30.4.4-1 is presently located in Subsection 30.4.3.
<i>Result</i>	Table 30.4.4-1 will be renumbered as Table 30.4.3-1 for consistency.

Within Subsection 30.4.3, Subparagraph A.2.b, renumber Table 30.4.4-1 as Table 30.4.3-1 and update the internal reference as follows:

CHAPTER 30: LAND COVERAGE

30.4. LAND COVERAGE LIMITATIONS

30.4.3. Method of Transferring Land Coverage

A. Land Coverage Transfer Ratios

2. Uses Within Approved Community Plans or Centers

b. Transfers from Non-Sensitive Lands

From non-sensitive lands, land coverage shall be transferred at a ratio of 1:1 up to 50 percent, and shall be transferred at the ratio set forth in Table 30.4.34-1 for projects with coverage in excess of 50 percent until the total land coverage reaches the maximum allowed except as provided in subparagraph c. below:

TABLE 30.4.43-1: TRANSFER RATIOS	
Maximum Percent of Final Coverage	Transfer Ratio
>50 – 51	1.05:1
> 51 – 52	1.1:1
...	
> 67 – 68	1.95:1
> 68 – 70	2:1

6. Amend Subsection 37.3.1

C

<i>Description</i>	This amendment would modify the description of how building height is calculated to recognize that the calculation can be performed on individual building segments, as authorized in Subparagraph 37.4.2.A.
<i>Purpose</i>	To ensure internal consistency. This modification would specify that procedures for establishing height calculations may be done on either a building (as a whole) or individual building segments. This is consistent with Subparagraph 37.4.2.A, which states that, for the purposes of determining compliance with the standards in Chapter 37, <i>Height</i> , a building may be divided into up to three segments.
<i>Result</i>	The procedures for calculating height will consistently recognize that height calculations can be done on individual building segments.

Revise Subsection 37.3.1 as follows:

CHAPTER 37: HEIGHT

37.3. DEFINITIONS

37.3.1. Height

The height of a building, or building segment pursuant to Subparagraph 37.4.2.A, is the difference between the point of lowest natural ground elevation along an exterior wall of the building, or building segment pursuant to Subparagraph 37.4.2.A, and the elevation of the coping of the highest flat roof, the highest point of a mansard roof or the ridge of the highest hip, gable, gambrel, shed or other pitched roof, whichever is highest (see Figure 37.3.1-A below). The maximum height of a structure other than a building is the difference between the point of lowest natural ground elevation along the exterior foundation of the structure and the elevation of the highest point of the structure. Maximum height for buildings in Special Projects within adopted Ski Area Master Plans shall be measured as provided in subsection 37.5.9.

7. Amend Subsection 50.8.4, Subparagraph C

A

<i>Description</i>	This amendment would specify that commercial floor area can be transferred from a commercial site that has been converted to a public service use into a Town Center, in addition to Community Plan Areas.
<i>Purpose</i>	To consistently apply transfer benefits to Town Centers, as Community Plans become replaced by Area Plans. Prior to the 2012 Regional Plan Update, several sections in the Code of Ordinances encouraged focused development in Community Plan areas. Under the Regional Plan Update, many of the Community Plans have already been replaced with Area Plans. The Regional Plan now focuses development towards designated Town Centers, rather than Community Plans. This amendment will correct an oversight from the 2012 Code of Ordinances update by allowing commercial floor area to be transferred into Town Centers, as well as Community Plan areas.
<i>Result</i>	As Area Plans replace Community Plans, commercial floor area can continue to be transferred into areas designated for focused development when a public service use displaces a former commercial use.

Revise Subparagraph C of Subsection 50.8.4 as follows:

CHAPTER 50: ALLOCATION OF DEVELOPMENT

50.8. REGULATION OF ADDITIONAL PUBLIC SERVICE FACILITIES

50.8.4. Transfer or Relocation Onsite of Commercial Floor Area Related to a Public Service Use

Transfer or relocation of commercial floor area from an existing commercial use may be permitted when a public service use is approved that displaces commercial floor area. The transfer shall be subject to the standards of Chapter 51, and the following standards:

- A. The owner of sending project area shall comply with subparagraphs A through D of subsection 50.8.3 above;
- B. The public service use displacing the commercial use is one of the following: Local Public Health and Safety Facilities, Regional Public Health and Safety Facilities, Collection Stations, Cultural Facilities, Day Care Centers/Pre-Schools, Government Offices, Local Post Offices, Social Service Organizations, or Transit Stations and Terminals;
- C. The commercial floor area displaced is transferred to a site in a designated community plan area [or Town Center](#);

- D.** In order for a receiving project area to qualify for transferred commercial floor area, the receiving project area shall meet the criteria applicable to allocations under the applicable adopted community plan allocation system. If the community plan area does not have an adopted allocation system, the applicable local jurisdiction shall be required to adopt a system pursuant to the requirements of subparagraph 50.6.4.C before the transfer may occur; and
- E.** TRPA determines that, when combined with all other public service-commercial transfers since January 1, 1998, the additional public service floor area associated with the transfer is within the 60,000 square feet of additional public service floor area estimated to be created by such transfers.

8. Renumber Figures 51.2 and 51.4 as Figure 51.2-A and Figure 51.4-A.

D

<i>Description</i>	This amendment would renumber figures in Chapter 51 to follow the established numbering convention.
<i>Purpose</i>	To consistently apply the Code of Ordinance's numbering convention.
<i>Result</i>	Figures 51.2 and 51.4 will be renumbered as Figures 51.2-A and 51.4-A, respectively, for consistency.

Within Chapter 51, renumber Figures 51.2 and 51.4 (“Existing Reference”) as Figures 51.2-A and Figure 51.4-A (“Proposed Reference”), respectively, as indicated in the following table:

TABLE 1: REVISED FIGURE NUMBERS – CHAPTER 51

Section	Existing Reference	Title	Proposed Reference
51.2	Figure 51.2	Development Rights	Figure 51.2-A
51.4	Figure 51.4	Convertible Development Rights	Figure 51.4-A

9. Amend Subsection 51.5.1, Subparagraph C.1

A

<i>Description</i>	This amendment would clarify that residential units of use can be transferred into areas that are designated as a receiving area for multi-residential units within an adopted Area Plan.
<i>Purpose</i>	To clarify that transfer of development rights procedures are also applicable within designated areas under an adopted Area Plan. Under the 2012 Regional Plan Update, Area Plans have begun to replace the former Plan Area Statements and Community Plans. Similar to the former plans, Area Plans may designate certain subdistricts as receiving areas for multi-residential units.
<i>Result</i>	The amendment will clarify that parcels in areas designated to receive transfer of multi-residential units in an approved Area Plan are eligible to receive transferred residential units of use.

Revise Subparagraph C.1 of Subsection 51.5.1 as follows:

CHAPTER 51: BANKING, CONVERSION, AND TRANSFER OF DEVELOPMENT

51.5. TRANSFER OF DEVELOPMENT RIGHTS

51.5.1. Transfer of Potential Residential Unit of Use

C. Receiving Area

1. **Parcels Eligible to Receive One or More Potential Residential Units of Use**
Parcels located in a plan area, ~~or~~ adopted community plan, or [subdistrict within an adopted area plan](#) designated as a receiving area for multi-residential units shall be eligible to receive one or more potential residential units of use; or

10. Renumber the tables and graph in Section 53.10 and correct internal references within Chapter 53.

D

<i>Description</i>	This amendment would modify the table and graph numbers in Chapter 53 to match the Code of Ordinances' numbering convention. It would also update internal references to the tables and graph.
<i>Purpose</i>	To consistently apply the Code of Ordinance's numbering convention. Numbering is based upon subsection number. All tables beginning with "53.11" are actually within Section 53.10.
<i>Result</i>	The amendment will result in the renumbering of tables and graph in Chapter 53 in accordance with the established numbering convention.

Revise the numbering ("Existing Reference") for the tables and graph in Section 53.10 to comply with the Code of Ordinances numbering convention ("Proposed Reference"), as indicated in the following table:

TABLE 2: REVISED TABLE AND GRAPH NUMBERS – CHAPTER 53

Subsection	Existing Reference	Title	Proposed Reference
53.10.2	Table 53.11.2-1	Runoff Potential	Table 53.10.2-1
53.10.3	Table 53.11.3-1	Upsloping Parcels without Existing Access	Table 53.10.3-1
	Table 53.11.3-2	Factors for Gradient of Ground above Cut Slope	Table 53.10.3-2
	Table 53.11.3-3	Downsloping Parcels without Access	Table 53.10.3-3
	Table 53.11.3-4	Factors for Gradient and Ground below Fill Slope	Table 53.10.3-4
	Table 53.11.3-5	Parcels with Existing Access	Table 53.10.3-5
	Table 53.11.3-6	Disturbance in Stream Environment Zone (SEZ) for Access	Table 53.10.3-6
53.10.4	Table 53.11.4-1	Extent of Disturbance in SEZ	Table 53.10.4-1
53.10.5	Table 53.11.5-1	Condition of Watershed	Table 53.10.5-1
53.10.6	Table 53.11.6-1	Vegetative Groups	Table 53.10.6-1
	Graph 53.11.6-1	Aspect and Gradient of Parcel	Graph 53.10.6-1
	Table 53.11.6-2	Elevation of Parcel	Table 53.10.6-2
53.10.7	Table 53.11.7-1	Needed Water Quality Improvements	Table 53.10.7-1
53.10.10	Table 53.11.10-1	Per Unit Cost	Table 53.10.10-1

Update the references to the tables and graph from Section 53.10 (“Existing Reference”) in Sections 53.6, 53.7, and 53.10 to comply with the revised table and graph numbers identified above (Table 1, “Proposed Reference”), as indicated in the following table:

TABLE 3: REVISED TABLE AND GRAPH REFERENCES – CHAPTER 53

Subsection	Subparagraph	Existing Reference	Proposed Reference
53.6.1	--	Table 53.11.7-1	Table 53.10.7-1
53.7.2	--	Table 53.11.2-1*	Table 53.10.2-1
53.7.3	A.1	Table 53.11.3-1*	Table 53.10.3-1
	A.2	Table 53.11.3-2	Table 53.10.3-2
	B.1	Table 53.11.3-3*	Table 53.10.3-3
	B.2	Table 53.11.3-4	Table 53.10.3-4
	C	Table 53.11.3-5*	Table 53.10.3-5
	C.1	Table 53.11.3-5	Table 53.10.3-5
	C.2	Table 53.11.3-5	Table 53.10.3-5
	D	Table 53.11.3-6	Table 53.10.3-6
	D.1	Table 53.11.3-6	Table 53.10.3-6
53.7.4	--	Table 53.11.4-1	Table 53.10.4-1
	A	Table 53.11.4-1	Table 53.10.4-1
	B	Table 53.11.4-1	Table 53.10.4-1
53.7.5	--	Table 53.11.5-1	Table 53.10.5-1
53.7.6	A	Table 53.11.6-1*	Table 53.10.6-1
	B.1	Graph 53.11.6-1	Graph 53.10.6-1
	B.2	Table 53.11.6-2*	Table 53.10.6-2
53.7.7	A	Table 53.11.7-1*	Table 53.10.7-1
53.10.10	A.2	Table 53.11.10-1	Table 53.10.10-1

* - Reference appears twice.

11. Amend Subsection 84.3.3, Subparagraph E.1.c

C

<i>Description</i>	This amendment would clarify how the area within a buoy field is established. This delineation determines buoy capacity.
<i>Purpose</i>	To clarify awkwardly worded language. In October 2018, the Governing Board adopted a comprehensive set of shorezone regulations which included Chapter 84. These regulations are now being implemented, with registration of existing moorings occurring this year and permitting of new moorings beginning next year. The shorezone steering committee has recommended that the language in this subparagraph be revised for clarity, as the existing language is open to interpretation.
<i>Result</i>	The language will clearly delineate the boundaries of the buoy field area in order to allow for consistent calculation of the maximum buoy field capacity.

Revise Subparagraph E.1.c of Subsection 84.3.3 as follows:

CHAPTER 84: DEVELOPMENT STANDARDS LAKEWARD OF HIGH WATER IN THE SHOREZONE AND LAKEZONE

84.3. MOORING STRUCTURES

84.3.3. Mooring Buoys

E. Buoy Fields.

1. Eligibility.

- c. The total number of buoys allowed within a buoy field shall not exceed the buoy field capacity. The maximum buoy field area, for the purposes of determining capacity, is the length of the littoral property's lake frontage multiplied by a width of ~~within the area defined by the lake frontage, not including setbacks from parcel boundary projection lines, multiplied by~~ 300 feet (Figure 84.3.3-2). The capacity within the calculated buoy field area shall be limited by a 50-foot grid spacing pattern.

Attachment C

Required Findings

REQUIRED FINDINGS / RATIONALE

TRPA Code of Ordinances Section 3. 3 – Determination of Need to Prepare an Environmental Impact Statement

Finding: TRPA finds that the proposed Code amendment will not have a significant effect on the environment if certain mitigation measures are incorporated into and made a part of the project.

Rationale: An Initial Environmental Checklist (IEC) has been prepared to evaluate the effects of the proposed amendments to the Code of Ordinances (see Attachment C). The IEC found that the proposed Code amendments would not have a significant effect on the environment.

The proposed amendments are consistent with and will implement the 2012 Regional Plan, the 2018 Development Rights Initiative, and the 2018 Shoreline Plan. The technical corrections proposed will clarify existing Code provisions without changing substantive requirements or policies. The proposed amendments are consistent with the assumptions and analysis supporting the 2012 Regional Plan Update EIS and threshold findings, the 2018 Development Rights Initiative IEC, and the 2018 Lake Tahoe Shoreline Plan EIS. As demonstrated in the findings for the Regional Plan EIS, Development Rights Initiative, and the Shoreline Plan EIS, implementation of the policies of the Regional Plan, Development Rights Initiative, and Shoreline Plan will not result in an unmitigated significant impact on the environment or cause the environmental threshold carrying capacities to be exceeded.

TRPA Code of Ordinances Section 4. 4 – Threshold-Related Findings

1. Finding: The project (amendment to the Code of Ordinances) is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, plan area statements and maps, the Code, and other TRPA plans and programs;

Rationale: The proposed amendments to the Code correct and clarify existing language in the Code of Ordinances. The technical corrections proposed do not change the substantive provisions of the Code. The Code amendments will improve understanding of the Code and increase the efficiency of Code administration and compliance. These changes will improve implementation of the Regional plan and support the achievement and maintenance of thresholds. The Code amendments are consistent with the Regional Plan goals and policies and all implementing elements of the Regional Plan.

2. Finding: The project will not cause the environmental threshold carrying capacities to be exceeded; and

Rationale: The proposed amendments are consistent with the threshold attainment strategies in the Regional Plan. As demonstrated in the EIS and findings for adoption of the 2012 Regional Plan, the 2018 Development Rights Initiative, and the 2018 Shoreline Plan, implementation of the Regional Plan, Development Rights Initiative, and Shoreline plan will not cause environmental threshold carrying capacities to be exceeded. The proposed amendments to the Code of Ordinances are intended to more effectively facilitate Regional Plan, Development Rights, and Shoreline Plan implementation.

3. Finding: Wherever federal, state, or local air and water quality standards apply for the region, the strictest standards shall be attained, maintained, or exceeded pursuant to Article V(d) of the Tahoe Regional Planning Compact.

Rationale: The proposed amendments would not adversely affect any state, federal, or local standards. As described above, the amendments correct and clarify existing Code provisions, which were designed to maintain adopted threshold standards as well as state and federal standards.

TRPA Code of Ordinances Section 4. 6 – Findings Necessary to Amend or Adopt TRPA Ordinances, Rules, or Other TRPA Plans and Programs.

Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules, and other TRPA plans and programs, as amended, achieves and maintains thresholds.

Rationale: As demonstrated in the findings for Sections 4.5 and 4.6 in the Regional Plan Update (Attachment E.2 of the December 12, 2012 Governing Board packet), the amended Regional Plan will achieve and maintain thresholds. The proposed amendments to the Code of Ordinances will implement the Regional Plan. Specifically, the Code provisions will improve implementation of threshold attainment strategies by improving the efficiency of administering the Code and reducing the staff and public resources being expended as a result of errors or omissions in the currently adopted Code.

Therefore, the Code of Ordinances, as amended by the proposed amendments, and in combination with other regulatory and implementation programs, will attain and maintain thresholds.

Attachment D

Initial Environmental Checklist (IEC)