

TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2019-07

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 February 16, 2020

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held on December 18, 2019, by the following vote:

Ayes: Ms. Aldean, Ms. Berkgigler, Mr. Bruce, Mr. Shute, Mr. Cashman, Ms. Novasel, Mr. Wlaschin for Mrs. Cegavske, Ms. Gustafson for Mr. Sevison, Mr. Lawrence, Mr. Yeates, Mr. Rice, Ms. Laine

Absent: Mr. Beyer, Ms. Faustinos



William Yeates, Chair
Tahoe Regional Planning Agency,
Governing Board

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.