

**MEMORANDUM OF UNDERSTANDING
BETWEEN the TAHOE REGIONAL PLANNING AGENCY and
CITY OF SOUTH LAKE TAHOE**

This Memorandum of Understanding (MOU) is entered between the Tahoe Regional Planning Agency (TRPA) and City of South Lake Tahoe, herein referred to as "Public Entity." TRPA's authority to enter into this MOU with the Public Entity rests in Article VI (m) of the TRPA Compact (Public Law 96-551) and Sections 2.5 and 13.7 of the TRPA Code of Ordinances ("Code"). The Public Entity is authorized to enter into this MOU through its City Council. This MOU shall become part of the TRPA Code under Sections 2.5 and 2.6 upon signing by TRPA and the Public Entity.

PART 1 – GENERAL PROVISIONS

COMMON OBJECTIVES

TRPA and the Public Entity (the "Parties) have a common objective to conserve the resources of the Lake Tahoe Region, achieve and maintain the environmental threshold carrying capacities and enhance the effectiveness of government through the efficient implementation of the TRPA Regional Plan and Area Plans.

TERM OF AGREEMENT

This MOU is effective upon the signing of Attachment "A" by the Parties and incorporated into TRPA's Code of Ordinances and shall remain in effect until terminated without cause by either party following a 60-day notice in writing. The Public Entity and TRPA will prepare procedural guidelines to implement this MOU.

DEFINITION OF TERMS

Terms in this MOU shall have the same meaning as they do in the TRPA Code.

**INTERPRETATION
AND SEVERABILITY**

The provisions of this MOU are subject to the interpretation and severability provisions of Section 1.6 of the TRPA Code.

DISTRIBUTION OF FUNCTIONS

Activities authorized by TRPA under this MOU are described in Attachment B (Table of Delegated Activities within Area Plans) and Attachment C (Table of Delegated Activities Citywide). Attachments B and C specify the extent to which activities are delegated. All delegated activities shall be reviewed and approved in accordance with the TRPA Regional Plan and Code of Ordinances. The Public Entity will not be

delegated review and approval of those activities set forth in Attachments B until training has occurred and the Public Entity liaison has indicated in writing the specific date the Public Entity will be responsible for reviewing and approving the delegated activities in accordance with the TRPA Regional Plan and Code of Ordinances.

In accordance with Section 13.8 of the TRPA Code of Ordinances, TRPA shall annually select and review a sample of development permits issued under Attachment B of this MOU within each Area Plan area in order to certify that the permits are being issued in conformance with the Area Plan.

DELEGATED ACTIVITIES

Attachments B and C of this MOU will supersede and replace the following existing delegation MOUs currently under the responsibility of the Public Entity:

- Temporary Activities (1988)
- Transfers of Existing Development (1988)
- Single and Multi-Family Residential Structures (Appendix L, 1995)
- Commercial, Multi-Family, Tourist, et al. (Appendix KK, 1999)
- Signage (Appendix CC, 2000)

Permitting authority described in Attachment B shall not be in effect until the specific date that Public Entity has taken responsibility for Attachment B as described in "Distribution of Functions" above. However, delegated permitting authority described in Attachment C shall be in effect immediately. The following existing exempt activity MOUs will not be affected by this new MOU:

- Public Works (Appendix MM, 1991)
- Defensible Space Tree Removal (2013)

COMMUNICATION

The Parties shall each designate a liaison for direct communication of matters related to this MOU. The Public Entity liaison and the TRPA MOU Coordinator shall meet at least quarterly to review this MOU and to establish policy directives, training needs, and renew communications.

TRAINING

TRPA shall provide initial and ongoing training to the Public Entity regarding the provisions of this MOU.

Training shall be provided for matters affecting this MOU, as determined by MOU liaisons, which may include but is not limited to: changes to the TRPA Code, Area Plans, and Regional Plan; policy or procedural changes; and training needed for corrective actions or to clarify MOU provisions. TRPA and Public Entity are dedicated to providing mutual support in all matters related to activities described in this MOU, and shall respond to requests for support in a timely manner.

In order to ensure consistent application of TRPA Code basin-wide, TRPA shall provide to Public Entity records of all Code Interpretations made by TRPA staff or Executive Director.

EXAMINATION OF RECORDS

Every record of activity under this MOU shall be open for examination in accordance with Article VI (o) of the TRPA Compact.

PROCEDURES FOR RESOLVING DISPUTES

In the event of a dispute or difference of interpretation regarding the terms or conditions of this MOU, resolution shall first be pursued by the MOU liaisons, and if the liaisons are unable to resolve the dispute then by the executive officers of the Parties. If the executive officers are unable to resolve a dispute, the TRPA Executive Director or City Manager may terminate the MOU or recommend that the matter be heard by the TRPA Governing Board and/or City Council.

EMERGENCIES

The TRPA Rules of Procedure allows the TRPA Executive Director to issue an emergency permit for a situation or circumstance which poses immediate danger to life, property or the environment and demands immediate action in order to comply with the Compact, Regional Plan, Code and/or Rules of Procedure. This MOU does not change the process for issuing an emergency permit.

AMENDMENT

This MOU may be amended from time to time by mutual agreement of the Parties in writing subject to Governing Board and City Council approval. Proposed amendments shall be presented to the liaisons (for approval by their respective agencies) as soon as possible to facilitate timely consideration of proposed amendments.

ASSIGNMENT

None of the authorities, duties or responsibilities set forth in this MOU shall be assigned, transferred or subcontracted to a party other than that named in Attachment A, without written consent by TRPA.

TRPA may maintain a list of pre-qualified consultants that have been authorized to review projects on contract for TRPA. The Public Entity may choose to use consultants on the current list to undertake responsibilities set forth in this MOU on behalf of the Public Entity without further authorization from TRPA.

EXISTING MOU

This MOU supersedes existing MOUs between the Public Entity and TRPA as identified in "Delegated Activities" above.

Part 2 – PERFORMANCE STANDARDS

The following standards shall apply to activities authorized under this MOU. All activities shall be reviewed and approved in accordance with the TRPA Regional Plan, Code of Ordinances and Rules of Procedure. The Parties shall consult with each other regarding any uncertainties about these standards.

ENVIRONMENTAL DOCUMENTATION

Exempt and Qualified Exempt classes of projects are not required to complete a TRPA Initial Environmental Checklist for the activity pursuant to Section 3.3 of the TRPA Code. All other classes of projects shall be reviewed in accordance with the Environmental Documentation requirements of Chapter 3 of the TRPA Code and applicable sections of the Rules of Procedure. Environmental Documents prepared by the Public Entity shall be made available for comment by TRPA upon request.

SPECIAL CONDITIONS

The Public Entity shall administer all standards of the TRPA Regional Plan and Code as applicable to the activities authorized by this MOU in accordance with the provisions of this agreement. The Public Entity shall include special conditions of approval, as needed, to ensure approved projects are consistent with the Compact, Goals and Policies, Code, Rules of Procedure, Community Plans, and Area Plans. Nothing in this MOU shall be deemed to limit the land use regulatory powers of either the Public Entity or TRPA.

FEES AND SECURITIES

Public Entity shall be authorized to collect application and mitigation fees, security deposits, and other designated fees in accordance with fee schedules to be provided to Public Entity by TRPA. Such fee schedules shall be sufficient in detail to provide specific information concerning fee calculation to assist Public Entity in performing fee collection activities. Furthermore, Public Entity shall be authorized to retain a percentage of all application fees collected to offset Public Entity's costs of administering the provisions of this MOU. Such percentage shall be mutually agreed upon in writing by TRPA and Public Entity, and may be amended from time to time by mutual agreement of the Executive Director and the City Manager.

Public Entity shall transmit TRPA fees collected by the Public Entity to TRPA, as identified above, on a quarterly basis (within 30 days of the end of the quarter).

FINDINGS

The Public Entity agrees to make all findings required by the Compact, Regional Plan, Area Plan and Code for project, approval, and inclusions of special conditions not inconsistent with the Area Plan. The Public Entity shall keep, as part of their permanent permit files records, all written findings required in the Compact, Regional Plan, Area Plan and Code for the activities approved under this MOU.

MONITORING

On a quarterly basis, the Public Entity shall send to TRPA copies of all building permits issued. Such building permits shall be in a format approved by TRPA and shall contain and make clear the necessary development information TRPA needs to measure compliance with the terms of the Regional Plan, such as additional land coverage, commercial floor area, residential units, or tourist accommodation units (TAUs). In maintaining permit files, Public Entity shall utilize hard copy and/or electronic tracking forms provided by TRPA to record all inspections, verifications, land coverage and commodity information and other project review activities. The MOU Procedural Guidelines developed under Part 1, shall include a permit monitoring schedule and permit information reporting requirements.

RECORD KEEPING AND REPORTING

As further described in the MOU Procedural Guidelines, a data report outlining permit activities, including transfers of development, shall include the type of permits issued as well as the location of BMPs implemented through permits. The data report shall be made available to the public. Public Entity shall participate in the annual accounting and reporting of Environmental Improvement Program (EIP) Performance Measures resulting from City efforts to implement the EIP. Public Entity shall also transmit a copy of the NPDES Annual Report (including Pollutant Load Reduction Report) each year when submitted to the Lahontan Water Quality Control Board.

The Public Entity shall adhere to all provisions contained within TRPA Code Chapter 6, relating to account file data (TRPA Code Sections 6.5, 6.6 and 6.7), including coverage, allocations, and any other applicable procedures as described in the MOU Procedural

Guidelines. All project accounting shall be completed by Public Entity and transmitted to TRPA to be included in its permanent accounting and tracking records. Public Entity shall submit completed tracking forms to TRPA on a quarterly basis.

SITE INSPECTIONS

Public Entity shall perform site inspections to ensure that the projects and activities permitted under this MOU are constructed in accordance with the approved project, including installation of BMP's. The Public Entity shall have authority and responsibility to take any and all administrative steps to enforce the standards of the TRPA Code as authorized by this MOU, including the processing of Code violations involving unpermitted activities. TRPA will enforce BMPs associated with permits issued by TRPA and for BMP retrofits not associated with an adopted TMDL Pollutant Load Reduction Plan and Public Entity will enforce BMPs associated with TRPA permits issued by the Public Entity and for properties identified in their adopted TMDL Pollutant Load Reduction Plan(s).

VIOLATIONS

Upon final inspection, if the project has been constructed in accordance with the permit, Public Entity shall be authorized to release the security deposit to the project applicant.

Upon discovery of a TRPA Code violation associated with a permit issued by TRPA, Public Entity shall immediately notify the designated TRPA Code Administration staff in writing. TRPA may also perform inspections and determine if a violation exists. Settlements of TRPA Code violations involving civil penalties must be approved by TRPA.

Upon discovery of a TRPA Code violation associated with a permit issued by Public Entity, the Public Entity shall have authority and responsibility to take any and all administrative steps to enforce the standards of the TRPA Code as authorized by this MOU, including the processing of Code violations involving unpermitted activities. If a TRPA Code violation cannot be resolved by the Public Entity on-site, the Public Entity shall contact TRPA to institute TRPA's compliance procedures.

APPEAL ALLOWED

Final decisions on projects delegated to a Public Entity may be appealed to the TRPA. An appeal may only be filed by an aggrieved person as defined in Article VI(j)(3)

of the Compact. Decisions by the Public Entity under independent local, state, or federal law are not the subject of this appeal process. Appeals shall meet the requirements of 13.9 (Appeals) of the Code of Ordinances.

NOTICE

The Public Entity shall give notice to TRPA of all projects delegated to the Public Entity that require notice to affected property owners pursuant to Article 12 of the TRPA Rules of Procedure, and shall give notice to TRPA of all applications to amend a policy or ordinance that is part of an Area Plan. The notice shall be sent pursuant to Public Entity notification procedures; however, in all cases the notice shall be sent no less than 10 days prior to the hearing or action in order to provide TRPA with adequate time to review and comment, if desired, on the project.

INCORPORATION OF REGIONAL PLAN AMENDMENTS INTO AREA PLAN

If TRPA approves an amendment to the Regional Plan that would also require amendment of an Area Plan to maintain conformity, the Public Entity has one year to amend the Area Plan to demonstrate conformity with the TRPA amendment. If the Governing Board finds that the Public Entity failed to demonstrate conformity with the TRPA amendment following the one-year deadline, then the Board will identify the policies and/or zoning provisions in the Area Plan that are inconsistent and assume lead agency authority under the Regional Plan to amend those policies and provisions. In the event this occurs the amendments would only be in effect as part of the Regional Plan and not Public Entity regulation.

ATTACHMENT A

**AREA PLAN
MEMORANDUM OF UNDERSTANDING
BETWEEN THE TAHOE REGIONAL PLANNING AGENCY AND
CITY OF SOUTH LAKE TAHOE**

TRPA's authority to enter into this Memorandum of Understanding (MOU) with local entities rests in Article VI (m) of the TRPA Compact (Public Law 96-551) and Sections 2.5 and 2.6 of the TRPA Code of Ordinances. The authority of the Public Entity to enter into this MOU rests in the City Council.

This MOU shall become effective when signed by the parties listed below.

TAHOE REGIONAL PLANNING AGENCY

Date: 12.18.14

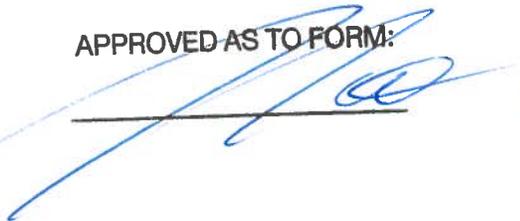

By: Joanne Marchetta
Executive Director

CITY OF SOUTH LAKE TAHOE

Date: 4/13/15

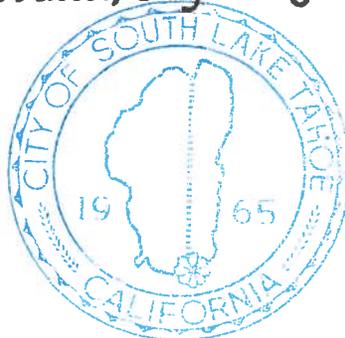

By: Nancy Kerry
City Manager

APPROVED AS TO FORM:



ATTEST:


Susan Alessi, City Clerk



ATTACHMENT B

TABLE OF DELEGATED PERMITTING AUTHORITY WITHIN AREA PLANS

Note: The activities described in this table are delegated to the Public Entity within Area Plans and shall be reviewed and approved in accordance with the TRPA Regional Plan and the Code. The activities do not require TRPA review and approval except as required by this Memorandum of Understanding.

Line No.	Activity Level	Activity
1		Residential Development within a Regional Center which is less than 100,000 square feet (of new floor area)
2		Residential Development within a Town Center which is less than 50,000 square feet (of new floor area)
3		Residential Development outside of a Town or Regional Center which is less than 25,000 square feet (of new floor area)
4		Commercial, Tourist Accommodation, Public Service, and Recreation Development within a Regional Center which is less than 80,000 square feet (of new floor area)
5		Commercial, Tourist Accommodation, Public Service, and Recreation Development within a Town Center which is less than 40,000 square feet (of new floor area)
6		Commercial, Tourist Accommodation, Public Service, and Recreation Development outside of a Town or Regional Center which is less than 12,500 square feet (of new floor area)

- This MOU does not delegate authority for pre-project applications such as unit of use verifications, land capability verifications, land coverage verifications, land capability challenges, etc.
- Projects and matters that meet one of the following criteria and that are also identified in Section 2.2.2 of the Code as requiring approval by the Governing Board or Hearings Officer shall be reviewed by TRPA:
 - A. All development within the Shorezone of Lake Tahoe;
 - B. All development within the Conservation District;
 - C. All development within the Backcountry District;
 - D. All development within the Resort Recreation designation; and
 - E. All development meeting the criteria in the following table:

	Regional Center	Town Center	Not in Center
Residential	≥ 100,000 sq. ft.	≥ 50,000 sq. ft.	≥ 25,000 sq. ft.
Other	≥ 80,000 sq. ft.	≥ 40,000 sq. ft.	≥ 12,500 sq. ft.

(All measurements are new building floor area.)

ATTACHMENT C

TABLE OF DELEGATED PERMITTING AUTHORITY CITYWIDE

Note: The activities described in this table are delegated to the Public Entity and shall be reviewed and approved in accordance with the TRPA Regional Plan and the Code. The activities do not require TRPA review and approval except as required by this Memorandum of Understanding.

Line No.	Activity Level	Activity
1		Temporary Activities
2		New/Additions/Modifications to Residential Development qualifying for a CEQA categorical exemption and not requiring Governing Board approval ¹
3		Commercial Development where new floor area does not exceed 2,500 square feet ²
4		Minor Additions/Modifications to Tourist Accommodation Uses ²
5		Temporary Uses ²
6		Temporary Structures ²
7		Commercial Changes in Operation ²
8		Signs

1. As long as the applicable TRPA regulations are being complied with and enforced, new/additions/modifications to single family residential and multi-family residential less than four units shall be deemed a qualified exempt activity under TRPA regulations.
 2. Review of these projects shall be limited to those projects identified in Chapter 2 of the TRPA Code, as amended, as staff or Hearings Officer level. Where the review level is identified as Hearings Officer, all procedures identified in the Hearings Officer Procedural Guidelines shall be used. Where feasible joint TRPA Hearings Officer/City Zoning administrator or City Planning Commission public hearings shall be held.
- This MOU does not delegate authority for pre-project applications such as unit of use verifications, land capability verifications, land coverage verifications, land capability challenges, etc.