



# TRPA Code of Ordinances Update

## Code Reorganization and Reformat

### September 2011 Public Review Draft

The Tahoe Regional Planning Agency has prepared a Public Review Draft of a reorganized and reformatted TRPA Code of Ordinances for public review. This document is intended to provide an improved foundation for future substantive Code edits to implement the Regional Plan Update.

This cover memorandum describes the role of the Code of Ordinances in the overall project to update the Regional Plan, and also describes and summarizes the draft Code.

## PROJECT OVERVIEW

TRPA has initiated a project to rewrite the TRPA Code of Ordinances as part of the Regional Plan Update. The agency is working with a consulting team led by Denver-based Clarion Associates and locally-based Wells Barnett Associates in this effort. The code rewrite project is divided into two phases:

- **Phase 1 (Reorganization)** occurred mostly in 2010 and involved an extensive reorganization and reformatting of the Code of Ordinances to improve the flow of information, eliminate redundant and obsolete provisions, and improve the overall user-friendliness of the document. No substantive changes were made in Phase 1; rather, provisions were simply consolidated, reworded, or reformatted to improve clarity, efficiency, and understanding. Phase 1 resulted in an improved, internal working draft (not yet adopted) of the code that is being used as the basis for future substantive edits in Phase 2.
- **Phase 2 (Substantive Revisions)** of the project began in January 2011 and is scheduled to last through 2012. Using the Phase 1 reorganized working draft of the code as a base, Phase 2 involves making substantive code revisions that are necessary to implement the Regional Plan Update. Phase 2 initially is focused on opportunities to improve the procedural efficiency and predictability of the development review process. Thus far, the project team has received extensive input on process issues from a variety of stakeholders who use the TRPA Code on a regular basis and are very familiar with the current procedures, such as local, state and federal government staff, architects, planners, engineers, conservation group members, realtors, developers, and service providers. Later, once the Regional Plan Update process is further along, Phase 2 will focus on other substantive changes to implement the Regional Plan, such as new form-based zoning tools and updated natural resource protection standards.

This September 2011 Public Review Draft includes all Phase 1 reorganization and reformat edits mentioned above. In addition, along with the Phase 1 non-substantive edits, the agency is introducing a number of proposed minor substantive edits in this draft that are designed to improve procedural efficiency and predictability. The agency hopes to move forward in late 2011 with adoption of a Phase 1 draft that incorporates as many of these minor substantive amendments as possible. This draft has been prepared for public review and will be considered for adoption by the Governing Board.

The proposed effective date of this new Code (Phase 1 reorganization plus Phase 2 minor substantive amendments) would be several months after the adoption date to allow time for the community and staff to familiarize themselves with the new Code before it goes into effect.

## CONTENTS OF THIS COVER MEMORANDUM

This cover memorandum includes the following information:

- **Additional Documents.** A list of the documents prepared thus far in the Code of Ordinances update, and which are posted on the TRPA website for public review.
- **Stakeholder Input.** A general description of targeted stakeholder input received thus far in the early stages of the Code of Ordinances update.
- **Project Calendar.** A calendar of major steps in the process so far, and anticipated next steps in the review and consideration for adoption of the draft Code.
- **Attachment: Commentary and Technical Notes on the Draft Code.** By chapter of the draft Code, this attachment covers the following:
  - General descriptions of major Phase 1 cleanup and reorganization issues;
  - Descriptions of any proposed minor substantive amendments; and
  - Responses to stakeholder feedback, if applicable.

## ADDITIONAL DOCUMENTS

Along with this cover memorandum, the following documents are available for public review:

- **Draft Code of Ordinances.** There are two versions of the draft Code:
  - **Version 1: Tracked September 2011 Draft.** This is a **tracked** version showing the Phase 1 reorganization and reformatting edits as tracked changes, and also the Phase 2 preliminary procedural improvements as **highlighted** tracked changes.
  - **Version 2: Clean September 2011 Draft.** This is a **clean** version that accepts both sets of proposed changes.
  - Please note several key features of these draft documents:
    - All instances of internal reorganization that showed up as large blocks of cut-and-pasted text in prior working versions have been “accepted” in this draft, and the consultants have identified any discrete individual text changes within those blocks of text. Thus, while the text in these new drafts will not exactly match the organization of the current code, it is much easier to find specific proposed word changes in these new drafts.
    - All recent code amendments (post 2008) have been integrated in the text.
    - Clarifications have been made to the shorezone chapters and related materials following discussions with TRPA legal staff to determine exactly what sections were invalidated following the court’s decision on the shorezone lawsuit.

- All cross-references have been revised to update electronically as the document is modified.
  - The headers for all the files are generated electronically and show the chapter, section, and subsection that appear on each page. In some cases, the clean PDF file will show headers with empty cross-references. This is a function of the tracked-changes feature. The final draft for public draft will not include tracked changes and will have complete headers for all pages.
- **Disposition Report.** This document provides a “crosswalk” from the existing Code provisions to the draft reorganized and reformatted Code. The table describes the new location of all chapters and major sections in the new Code organization. The table includes references to recent code amendments.

## TARGETED STAKEHOLDER INPUT

The release of this public review draft marks the continuation of an ongoing review process. Initially, the development of the Phase 1 reorganized and reformatted Code was an internal effort and included only TRPA staff and the consulting team. Next, beginning in the summer of 2011, TRPA identified an initial group of stakeholders to provide early feedback on the initial working drafts of the document. As noted earlier in the project description, these stakeholders were selected because they are frequent users of the Code. The consultants and TRPA staff met with these stakeholders to get their input on the draft code in the fall and summer of 2011. Representatives from the following were included:

California Tahoe Conservancy	Midkiff and Associates
California Watershed Network	Nevada Division of State Lands
Camp Richardson	North Lake Tahoe Fire Protection District
City of South Lake Tahoe	North Tahoe Fire
Contractors Association of Truckee Tahoe	Placer County
Douglas County Community Development Department	Placer County Executive Office
Edgewood Companies	South Tahoe Public Utility District
El Dorado County	Sustainable Community Advocates
Feldman, McLaughlin & Thiel LLP	Tahoe Lakefront Owners' Association
Heavenly Mountain Resort	Tahoe Sierra Board of Realtors®, Inc.
Hill Planning	Tahoe Transportation District (TTD)
Incline Village General Improvement District	USFS-LTBMU
Lakeside Inn	Washoe County Community Development
League to Save Lake Tahoe	Washoe Tribe

Stakeholder input has been generally positive regarding the edits for both the Phase 1 changes and the Phase 2 minor substantive improvements. This September 2011 draft is a revised document that responds to major concerns and suggestions raised by stakeholders on earlier versions and improves the overall clarity of the document. Please see the attachment to this memo for notes on changes that were made between an earlier draft (August 2011) and this public review draft (September 2011). Written stakeholder comments were received from the following:

- Laurel Ames, Sierra Club
- Lewis Feldman, Feldman McLaughlin Thiel
- Suzanne Garcia, Washoe Tribe
- Nicole Gergans, League to Save Lake Tahoe
- Mary Huggins, Cal Fire

- Brandy McMahon, Douglas County Community Planning Department
- Gary Midkiff, Midkiff and Associates
- Mark Novak, Tahoe Douglas Fire Protection District
- Andrew Stain, Vice President of Planning and Governmental Affairs, Heavenly Resort

Clarion and Wells Barnett Associates met personally in August with each stakeholder group that requested a meeting to discuss their comments and questions about the draft code. Stakeholders who did not request a meeting were encouraged to submit written comments, as were the stakeholders who had meetings. All of the comments were carefully considered. As is common in responding to comments from multiple sources, some comments were incorporated into the document while others were considered but did not result in the requested changes. The draft code itself should be consulted for the full and official text of the edit.

## CALENDAR OF NEXT STEPS

A list of the anticipated next steps in the project is below. These dates will continue to be refined based on agency and Governing Board review and ongoing stakeholder feedback.

DATE	NEXT STEP
September 30	TRPA posts proposed Code document on the internet for public review
October 26 or 27	Joint APC/GB workshop to review draft Code of Ordinances (reorganized and reformatted Code with procedural improvements)
November 9	APC consideration of adoption of draft Code of Ordinances with a March 2012 effective date
November 16 or 17	GB consideration of adoption of draft Code of Ordinances with a March 2012 effective date
March 2012	Tentative effective date of updated code
April-December 2012	Additional substantive code edits to implement the Regional Plan Update

## ATTACHMENT: COMMENTARY AND TECHNICAL NOTES ON THE DRAFT CODE

By chapter of the draft Code, this section covers the following:

- General descriptions of major Phase 1 cleanup and reorganization issues;
- Descriptions of any proposed minor Phase 2 substantive amendments; and
- Responses to stakeholder feedback on earlier working drafts, if applicable.

Please note that this list is not a comprehensive description of each chapter in the Code of Ordinances. See the Disposition Report for a “crosswalk” of current chapter numbers to their corresponding chapters in the new document.

### CHAPTER 1: INTRODUCTION TO CODE OF ORDINANCES

#### Phase 1 Reorganization/Reformat Notes

- 1.3 (Overview of the Organization of the Code of Ordinances): This new section is intended to provide a simple, user-friendly overview of the overall organization of the Code of Ordinances. It illustrates how similar materials have been grouped together in more logical fashion than in the current Code.

### CHAPTER 2: APPLICABILITY OF THE CODE OF ORDINANCES

#### Phase 1 Reorganization/Reformat Notes

Most materials relating to the applicability of the Code of Ordinances are consolidated in this new chapter. (Such material is scattered throughout the current Code.) A substantial reorganization of the material is proposed to try and link applicability-related materials more closely and also to improve the overall flow of the document. The new Section 2.2 (Project Review) is based on the current Chapter 4.

- 2.2.2 (Projects and Matters to be Approved by the Governing Board or Hearings Officer): Integrates the current Chapter 4, Appendix A.
- 2.3.3 (Exempt Shorezone Activities) and 2.3.7.B (Qualified Exempt Shorezone Activities): Relocated from the current Shorezone chapters. These sections contain the pre-litigation shorezone exemptions and have replaced the litigated shorezone exemptions in the previous internal working drafts.
- 2.3.7.A.9.b (Timber Harvesting): The text “California Department of Forestry and Fire Protection” has been removed.
- 2.3.7.A.9.c (Timber Harvesting): Text added to clarify process to notify the appropriate state forest agency to do a per-operation field inspection.
- 2.3.7.B (Shorezone Activities): The text shown in earlier working drafts as new is actually relocated text from the shorezone material (unchanged except for formatting) and so the text has been modified to remove the track changes and to show it as plain text.
- 2.4.3.C (Prior Conditions of Approval): Obsolete provision deleted.
- Table 2.5-1 (Activities Reviewed by Local Government): Relocated from Ch. 4 in the current Code. The table is a reformatted version of existing text that was not changed. The table has been modified from previous working drafts to the remove track-change formatting and show it as plain text.
- Table 2.6-1 (Exempt Activities Under Memoranda of Understanding by Public and Quasi-Public Entities): Relocated from Ch. 4 in the current Code.

## **Phase 2 Near-term Substantive Edits**

- 2.3.2.J (Exempt Activities: New Residential Fences): Clarify that the existing phrase “public’s view of Lake Tahoe” shall be determined “from a Scenic Threshold Travel Route or from a Public Recreational Area and Bicycle Trail identified in the 1993 Lake Tahoe Basin Scenic Resource Evaluation....”
- 2.3.3.M (Exempt Activities: Removal of Live Trees): Delete all of section (existing 4.2.1(13) except first sentence because deleted material includes standards redundant with other text.
- 2.3.7 (Qualified Exempt Activities): Changed the text to provide for a consistent statement filing deadline (three working days before the activity commences) for all types of qualified exempt activities. There are inconsistent deadlines in the existing code of 1, 3, or 5 days, depending on type of project. Three days is proposed as a reasonable middle ground. Thus, the one working day deadline for signs and five working days for projects in the shorezone have been deleted and replaced with a three-working requirement for all projects. This is a procedural change only.
- 2.3.7 Qualified Exempt Activities: All references to Uniform Building Code (UBC) have been changed to International Building Code (IBC) in the draft code because communities throughout the country are phasing out the UBC and replacing it with the more modern, energy-efficient, and safer standards of the IBC.
- 2.3.7.A.6 (Qualified Exempt Activities: Demolition of Structures, Improvements, or Facilities 50 Years or Greater): Clarify that, for structures 50 years of age or greater, maintenance and repair shall be consistent with Chapter 68: Historic Resource Protection.

## **CHAPTER 3: ENVIRONMENTAL DOCUMENTATION**

### **Phase 1 Reorganization/Reformat Notes**

- 3.2.2 (Activities and Projects Exempt from Preparation of Environmental Impact Statement): This new section consolidates provisions that appear later in the current version of this chapter (Chapter 5). They have been moved to the front of the chapter because they deal with initial questions of applicability.

## **CHAPTER 5: COMPLIANCE**

At direction of legal counsel, the compliance chapter will remain unchanged in the current draft Code. Anticipated revisions to streamline the chapter and integrate enforcement-related provisions from the Rules of Procedure will occur later in the Regional Plan Update.

## **CHAPTER 10: TRPA REGIONAL PLAN MAPS**

### **Phase 1 Reorganization/Reformat Notes**

- 10.3.3.D (Pierhead Line Aerial Photography): Proposed new text is intended to clarify the purpose of the pierhead line aerial photographs. No other changes made.

## **CHAPTER 11: PLAN AREA STATEMENTS AND PLAN AREA MAPS**

### **Phase 2 Near-term Substantive Edits**

- 11.8.4.C (Addition of Multiple-Family as Permissible Use): The current code uses subjective, vague terms to determine whether a site facilitates transit-oriented development principles. The proposed new text replaces these terms with more objective language. For example, access to transit within a “ten-minute walk” is changed to “one-half mile.” (The “quarter-mile walk” in previous working drafts has been changed to a half mile in the latest draft to better reflect the actual distance travelled in 10 minutes. The rationale for the change is as follows: The current TOD criterion of a “10 minute walk” is vague and difficult

to enforce because it requires assumptions regarding the physical capability of the walker and the impact of topography. It is also a difficult criterion to represent on site plans because it is not a unit of distance and, thus, as a practical matter, has to be converted to a distance for compliance purposes. Furthermore, the recognized method used throughout the country to define the boundary of a TOD is distance. Consequently, the closest conversion for distance for a 10 minute walk is a half mile. This is based on a walking pace of 3 miles hour (average pace for walking with moderate effort), which equates to 10 minutes to walk a distance of a half mile. This calculation does not account for urban impediments to walking, such as street lights. For the sake of consistency, the text “10 minute walk” has been replaced with “one half mile” not only in this section but, where applicable, in all code sections that define TOD.

- 11.8.4.C.1.c Addition of Multi-family as Permissible Use: The term “**Good** pedestrian...” was replaced with “**Increased** pedestrian...” to make this TOD requirement more clear, objective, and enforceable. “Good” is merely a subjective judgment, while “increased” provides an objective standard of comparison.
- 11.8.4.C.1.e (Addition of Multi-family as Permissible Use): To clarify and make enforceable the meaning of the word “**Adequate** public facilities...,” text was added to state that the public facilities must be adequate to service the increased demand from the additional multi-family units.

## **CHAPTER 13: REDEVELOPMENT PLANS**

### **Note on Stakeholder Comments**

- 13.13 (South Lake Tahoe Demonstration Redevelopment Plan): The text for this section was shown previously as deleted because it was deemed obsolete given that the demonstration project is complete; however, now that TRPA intends to keep this section in case of some possible future applicability (e.g., redevelopment of demonstration of project), the section will be retained and not deleted.

## **CHAPTER 15: ENVIRONMENTAL IMPROVEMENT PROGRAM**

### **Notes on Stakeholder Comments**

- 15.6 (Linked Project Status): While the language “portions thereof” and “or for off-site mitigation purposes” have been added in several places regarding EIPs, this proposed language reflects current practice and so no change in impact is anticipated.

## **CHAPTER 20: FORM DISTRICTS**

### **Phase 1 Reorganization/Reformat Notes**

This chapter was added as a placeholder for any form-based regulations necessary to support potential new policies adopted as part of the Regional Plan update. It was added now to simplify future cross-references. The placeholder will be deleted if it is not necessary based on the adoption of the final RPU.

## **CHAPTER 21: PERMISSIBLE USES**

### **Phase 1 Reorganization/Reformat Notes**

- 21.2.5 (Dispersed Outdoor Recreation): The text shown as deleted for “dispersed outdoor recreation” was simply relocated into the table of use definitions in Table 21.4-A.

### **Phase 2 Near-term Substantive Edits**

- Table 21.4-A (List of Primary Uses and Use Definitions): In the “Wildlife and Fishes” category of uses, there are staff-proposed text changes to clarify the intent of the five use definitions.

- Table 21.4-A (List of Primary Uses and Use Definitions): Under “Prescribed Fire/ Burning Management,” in order to clarify the ecological goals of prescribed burning, and to fix a possible mistake, the current term “...**wildfire** habitat management goals” has been changed to “...**wildlife** habitat management goals.”

## **CHAPTER 22: TEMPORARY USES, STRUCTURES, AND ACTIVITIES**

### **Phase 1 Reorganization/Reformat Notes**

- 22.7.4 (Outdoor Advertising): Obsolete provision deleted.

## **CHAPTER 30: LAND COVERAGE**

### **Phase 1 Reorganization/Reformat Notes**

- 30.3.4 (Land Capability Challenge): The deleted provision regarding fees is proposed to be relocated to the filing fee schedule.
- 30.3.5.C (Land Capability Report): The proposed change clarifies current policy and practice that technical review of land capability reports shall be conducted by one or more reviewing experts.
- 30.3.5.F (Procedure After Amendment): The proposed change clarifies current policy.
- 30.4 (Land Coverage Limitations): We have proposed a new organization and new headings and subheadings throughout this section for organizational clarity.
- 30.4.1.C.2.b.ii (Land Not Included in Project Area): The term “bike path” was previously shown as added to land coverage associated with linear public facilities. However, because this issue requires further discussion the term “bike path” has been deleted as a change in the most current code draft. This issue can be revisited in a later part of Phase 2 if desired.
- 30.4.1.C.3 (Application of Percentage Coverage Figures to the Project Area): The proposed text edits throughout this section are intended to simplify the current language. No substantive changes are proposed.
- 30.4.2.G (Facilities for Public Safety and Access of the Disabled): Updated for ADA requirement.
- 30.4.4.B.2 (Soft Land Coverage): The proposed text edits are intended to simplify the current language. No substantive changes are proposed.

### **Phase 2 Near-term Substantive Edits**

- 30.2.2 (Individual Parcel Evaluation System): Proposed new text adds a cross-reference to the IPES materials in Chapter 53. Proposed single-family dwellings on vacant parcels, and parcels originally developed under IPES, must consult the IPES regulations, in addition to Chapter 30, to determine allowable land coverage.
- 30.3.3.F (Procedure after Verification): To clarify existing practice, the text “...except as determined by a land capability challenge or man-modified determination” was added to clarify limits on the application of the land capability verification.
- 30.3.4.A (Land Capability Challenge: Expert Review): Text changes clarify that the expert review required for a land capability challenge may be composed of one or more professionals trained in a relevant scientific discipline. These changes make the text consistent with administrative practice and need.
- 30.3.4.C (Review and Approval of Report): The proposed text changes the responsibility for reviewing the land capability report from the Executive Director to the Hearings Officer and approval of the report from the Governing Board to the Hearings Officer. The proposed changes are intended to reflect the fact that such reviews and approvals are often highly technical matters for which a Hearings Officer is the more efficient and technically prepared decision-maker. Regardless, any decision of the Hearings Officer would be appealable to the Governing Board if a higher level of review was needed. Due to the

significance of this proposed change, it has been recategorized as a near-term substantive edit and not a Phase 1 edit as shown in the August code draft.

- 30.3.6.B (Man-Modified Report): The following language that was previously shown as added, “or that an SEZ was dewatered due to human activity” has been deleted. The purpose of the proposed language was to recognize that some SEZ areas have been significantly impacted by previous human activities and could potentially be considered as another land capability district due to those impacts. However, current code language is retained to avoid any potential misuse of the suggested provision.
- 30.4.1.C.a.2.(iv) (Method of Calculating Base Allowable Land Coverage: Determination of the Project Area: Proposed Accessory Use): New text clarifies the meaning of the term “permanently consolidated.”
- 30.4.1.C.2.b.i(4) (Land Not included in Project Area): To avoid possible unintended consequences, the previously proposed term “**Public** easement” at the beginning of the sentence was returned to just “Easement,” so there is now no change proposed to the current text.
- 30.4.5.D.3 (Relocation of TRPA-Verified Existing Land Coverage): The existing text, “...affect the quality of existing habitats,” is vague. The new additional text, proposed by staff, provides examples of the types of natural features that should be considered in determining whether habitat quality is affected, such as (but not limited to) soil function, hydrologic function, vegetation, and wildlife habitat. Note this changes an earlier working draft: the previously proposed phrase “...**including** soil function, hydrologic function, vegetation, and wildlife habitat” has been replaced with “**such as** soil function, hydrologic function, vegetation, and wildlife habitat” to clarify the meaning of the provision.
- 30.5.1 (Exceptions to Prohibition in Land Capability Districts 1a, 1c, 2 and 3): Tyrolian Village. This section was previously shown as deleted because it appeared to be obsolete, as well as including reference to current Ch. 36, Interim Single Family Review System, which is obsolete and recommended for deletion in the proposed code. However, due to the possibility that this section may still be necessary for the review of future Tyrolian Village projects, the section was retained and the reference to Ch. 36 was changed to a general reference to the code.

#### **Notes on Stakeholder Comments**

- 30.6.1.C.2 Excess Land Coverage Mitigation Fee: Proposed deletion of the table of excess land coverage mitigation fees. The remaining text still authorizes the fee and provides for how the fee should be calculated. However, the table of fees is outdated; removing it from the Code will allow it to be updated on an annual basis, as called for by the text in this section. (Consider locating the table in the Rules of Procedure, or in supplemental materials outside the Code maintained by the Director.)

## **CHAPTER 31: DENSITY**

### **Phase 1 Reorganization/Reformat Notes**

- 31.3 (Maximum Density): The current text is redundant in how it references external plans that may impose additional density standards on a site. We have tried to eliminate redundancy by making the point about external plans once, versus numerous times as is done in the current text. Also, by making the point to external plans once, subsequent references to maximum density become much simpler and we can simply reference “the maximum density established in Section 31.3.”
- 31.5.2 (Mixed Uses): Various text edits are proposed for clarity.
- Table 31.5-2-1: This table is a reformatted version of the current table in Section 21.4.b(1). No changes (other than clarifications to use names) have been made to the table except that the note that now follows the table regarding Category F has now been moved up into the table introduction as requested by staff.

- 31.6.2 (below) (Nonconforming Density): The text pertaining to Development Rights shown as deleted was actually relocated to 50.3.

### **Phase 2 Near-term Substantive Edits**

- 31.3.3 (Conversion Factors): The equivalent number of persons per camp site has been retained at “four” persons instead of the previously proposed “six” persons. Six persons was proposed in order to make TRPA’s planning parameters consistent with those of the US Forest Service for camp sites, but the proposed change could lead to additional recreational density in camp site areas and should receive more detailed review if considered again in the future.

### **Additional Notes on Stakeholder Comments**

- 31.3.1.D Waiver: The proposed security amount of 110% represents current practice and is a standard figure used throughout the country for such purposes.
- 31.5.2 (Mixed Uses): The proposed use of the term “two-step process” in prior working drafts has been deleted to avoid confusion with the use of this same term in other portions of the code.
- 31.5.2 (Category E): Example Density Calculations: To address concern that the headings for the example Category E density calculations are misleading because they imply that vertical and horizontal projects get different densities, even though the examples show that the density calculations are the same for horizontal and vertical projects, a statement has been added at the bottom of the text box to emphasize that the maximum density is not affected by the configuration of the proposed mixed-use development.

## **CHAPTER 35: NATURAL HAZARD STANDARDS**

### **Phase 1 Reorganization/Reformat Notes**

- 35.4.1.D (100-Year Floodplain Defined): The phrase “...**as** determined by application...” has been changed to “...**shall be** determined by application...” to clarify current practice. (This is also a change from the August working draft that proposed the phrase “...**may be** determined by application....”)

## **CHAPTER 36: DESIGN STANDARDS**

### **Phase 1 Reorganization/Reformat Notes**

- 36.2.2 (Substitute Standards): Proposed new language regarding substitute standards reflects current language from 30.4.A, but is more general. There is no substantive change.
- 36.4 (Scenic Quality Improvement Program): The text shown as deleted regarding substitute standards was relocated to proposed subsection 36.2.2 and revised.

## **CHAPTER 37: HEIGHT**

### **Phase 1 Reorganization/Reformat Notes**

This chapter has been significantly reorganized by placing the basic rules for height at the beginning, followed by the general exceptions to those rules. **To improve the legibility of the track-changes version of this chapter, all text shown as deleted but relocated to other sections in prior working drafts has been fully deleted in this new draft.** No substantive changes are proposed except as noted below.

- 37.4.1 (Maximum Heights for Buildings): This is a renamed and reformatted version of current Table A in the back of the current Ch. 22. With the exception of adding the note at the bottom of the table regarding approval criteria for “additional height” and shading grey the cells subject to these additional criteria, no changes have been made. The table has also been relocated to this section to make it easier for the reader to understand (i.e.,

the general requirements appear before (not after) the exceptions that modify the requirements).

- 37.5 (Additional Height for Certain Buildings): All the current findings for additional height in this section have been consolidated here so that all additional height findings are located in one section to make them easier for the reader to find and compare.
- 37.5.4.C.3 (Limitations on Building Height Within the South Lake Tahoe Redevelopment Demonstration Plan Special Height District): This material had been proposed for deletion in earlier working drafts but is now retained for future projects that may occur in this area.
- 37.5.4.D.5.b(i)-(ii) (Special Height Districts on Lake Tahoe Side of U.S. 50): Added text is relocated from other sections in the current chapter; no substantive changes proposed.
- 37.7.11 (Finding 11: Specification for Special Height Districts): To clarify the heading, the words “in Adopted Redevelopment Plans” was added to now read “(Specification for Special Height Districts **in Adopted Redevelopment Plans**).”
- 37.7.15.D (Figure 37.7.15-A): The figure was mislabeled and now reads correctly as “Setback Measurement on State Route 28.”

### **Phase 2 Near-term Substantive Edits**

- 37.1 (Purpose): The word “attractive” in the phrase “... to ensure **attractive** and compatible development” is vague and unenforceable and has been revised to read “...to ensure **visually** compatible development.” The change replaces an unenforceable term with a clearer visual compatibility standard that has been upheld as enforceable by many courts. The additional term “high quality,” which was proposed in the August code draft, has also been deleted as unnecessary.
- 37.3.1 (Height): This subsection replaces the term “maximum height” with the term “height” because the text only defines the height of a building and does not provide the maximum height requirements for buildings as contained in 37.4 Height Standards for Buildings. Consistent with this change, the word “maximum” was deleted from the first sentence in the latest draft to address an oversight in the previous draft.
- 37.3.3 (Percent Cross Slope Retained Across Building Site): The referenced figure has been added.
- 37.5.4.C (Limitations on Building Height Within the South Lake Tahoe Redevelopment Demonstration Plan Special Height District): Clarify that 500-foot starting point is measured from the adjacent side of the street.
- 37.7.9 (Findings for Additional Building Height: Finding 9): Previously proposed text that allowed staff to use “additional” professionally accepted sources to evaluate potential view loss has been deleted and original text is retained.
- 37.7.10 (Findings for Additional Building Height: Finding 10): Clarify that the two stories restriction means two stories above grade.

## **CHAPTER 38: SIGNS**

### **Phase 1 Reorganization/Reformat Notes**

- 38.2.3.D.2 (Placer County): Text clarified to reflect actual boundaries of Placer County standards.
- 38.4.7 (Prohibited Devices): Deleted text below on Meyers plan relocated to later section in chapter.
- 38.4.13 (Portable Signs): Deleted text below on “temporary signs for winter” was removed as obsolete.
- 38.4.18 (Increase in Maximum Allowed Sign Area): Deleted text removed as obsolete.
- 38.6.1.C (below) (Signs at Other Publicly-Owned or Privately-Owned Recreation Areas): Deleted text below relocated to following page.

- 38.9.2 (below in tracked changes version) (Freestanding Signs): Staff direction to delete obsolete text below.
- 38.12.3.A.6 (below in tracked changes version) (Circumstances Requiring Removal): Obsolete deleted text below.

### **Phase 2 Near-term Substantive Edits**

- 38.2.3.D.6 (Applicability: Substitution of Standards: TRPA-Approved Substitutions): Add reference to approved substitute standards for Eldorado County. Note that numerous existing references to Meyers Community Plan are proposed for deletion because the new substitute standards apply.
- 38.6.1.B.1 (Recreation Area Identification Signs): Clarify last sentence regarding the height of the second sign being no greater than the first sign (assumes there is already a first sign). Make same edit for parallel sections for other plan areas.
- 38.12.3 (Existing Signs: Conformance or Removal of Nonconforming Signs): Remove two obsolete references to July 1, 2001, in A.6 and C.
- 38.12.3 (Existing Signs: Conformance or Removal of Nonconforming Signs: Exceptions to Conformance Requirements): Changed vague language in first criterion from “The exception is in harmony with the purpose and intent...” of the Code to “consistent with....”

## **CHAPTER 39: SUBDIVISION**

### **Phase 1 Reorganization/Reformat Notes**

- Definitions relocated to Ch. 90.

## **CHAPTER 50: ALLOCATION OF DEVELOPMENT**

### **Phase 1 Reorganization/Reformat Notes**

- 50.4.1.C (Additional Bonus Multi-Residential Units): Deleted obsolete text.
- 50.4.2: This section as currently written contains a substantial amount of obsolete information. For each substantive area reviewed by the PRC, the text proposes removing earlier information (generally prior to 2003) and just keeping what appears to be the current provision. Suggested numerous text edits for clarity.
- 50.4.2.E.5 (Transit Level of Service): New redline text merely integrates existing language from an existing section that appeared on the prior page and was deleted because it was mostly obsolete.

### **Notes on Stakeholder Comments**

- 50.5.2 (Commercial Floor Area): The current text that defines “commercial floor area” was relocated to Ch. 90 Definitions.

## **CHAPTER 52: BONUS UNIT INCENTIVE PROGRAM**

### **Phase 1 Reorganization/Reformat Notes**

- 52.3 (Multi-residential Incentive Program): The text shown as deleted in the introductory section pertains to a limitation on using multi-residential bonus units in community plans that appears already in current 35.2.A (and supplemented by 32.2.B) and so the deleted text is redundant and not necessary.
- 52.3.3.A (Determination of Project Score): This section was reorganized and rewritten for clarity; no substantive changes proposed.
- 52.4 (Tourist Accommodation Bonus Unit Program): The text shown as deleted in the introductory text is redundant with the requirements of criteria in current 35.3.B.

### **Phase 2 Near-term Substantive Edits**

- 52.3.6.A and B. (TRPA-Certified Local Government Moderate-Income Housing Program): This section was revised and reorganized to create more clear and enforceable TOD-related requirements (see above comments) and uniform and consistent standards for moderate-income housing because the current code is not entirely consistent in describing moderate-income housing. See also proposed definition for moderate-income housing in Ch. 90 that works in tandem with this subsection. The language added to subsection 52.3.6.B was relocated from the current definitions because some these contained development standards that more properly belong in the body of the code, not in the definitions.

## **CHAPTER 53: INDIVIDUAL PARCEL EVALUATION SYSTEM**

### **Phase 1 Reorganization/Reformat Notes**

- 53.3.3.C (Special Situations): Deleted obsolete text based on current practice.
- 53.4.2 (Parcels Greater than One-Third Acre): in the tracked-changes version, the missing sections after 53.4.2 have been relocated to either Ch. 90 Definitions or to other sections of Ch. 53, but have all been retained. The purpose of this relocation was to simplify the text by combining some of the requirements for parcels that are greater than one-third acre and five acres or greater.
- 53.5 (below) (Ranking of Parcels): The current provisions on “deadline for ranking” (1989) are obsolete and proposed for deletion.
- 53.8.2.C (Parcels of Five Acres or Greater in Size): Deleted – see note above.
- 53.9.1 (SEZ Identification): Added text from current 37.3.C.

### **Phase 2 Near-term Substantive Edits**

- 53.3.1 (Purpose of Parcel Evaluation): Clarify current policy by adding a purpose statement for parcel evaluation generally.
- 53.4.1.A (Area to be Evaluated): Clarify current policy that soil sample location should be representative of entire parcel to avoid selective (favorable) use of soil samples.

### **Notes on Stakeholder Comments**

- 53.3.3 (Special Situations): The text for “Right of Entry” and “Building Site Identification” are deleted because the former is obsolete and the latter is redundant with content in proposed 53.4.2.

## **CHAPTER 60: WATER QUALITY**

### **Phase 1 Reorganization/Reformat Notes**

- 60.1.8 (Fertilizer Management): Text for “Fertilizer Management Programs” (current 81.7.B) was previously shown as deleted because it was thought to be obsolete; however, upon further discussion text is now reinstated in the draft and not intended for deletion.
- 60.4.1 (Purpose [BMPs]): The proposed text “...and the pretreatment of runoff...” from prior internal working drafts has been deleted in this new draft. The original change was intended to clarify the provision but is not critical to proper implementation of this provision.
- 60.4.3.B (Permanent BMPs): Both of the provisions shown as deleted have been relocated to the subsections immediately above the deleted text. Text shown as deleted in prior working drafts has been fully deleted to improve the legibility of this tracked-changes version.

### **Phase 2 Near-term Substantive Edits**

- 60.2.3. (Required Offsets): This fee schedule has been relocated to the Rules of Procedure, as have all fee schedules in the code. However, it is important to note that, in each case,

the fee mitigation requirement itself, and the methodology for calculating the final fees, are retained in the code. Thus, the only provision proposed to be removed to the Rules of Procedure is the setting of the basic fee rate by the Board. The current code requires the Board to go through a full Regional Plan amendment simply to update a fee to, for example, keep up with inflation. This is very inefficient and a major deterrent to keeping mitigation fees current with actual mitigation costs, as well as inconsistent with best practices around the country. Consistent with this direction, one change from the August working draft has been to retain the language “A fee [water quality mitigation] shall be assessed for each square foot of additional land coverage created” because this is the base requirement that should be in the code and not in the Rules of Procedure. The remainder of that subsection (current subsection 82.3) has been relocated to the Rules of Procedure in Art. 9, 9.8.5.D.

- 60.4.4.D (Discharge Permits): Text was previously shown as deleted because it was thought to be obsolete but text will be retained primarily for enforcement purposes.
- 60.1.4 (Snow Disposal): Prohibit snow storage in the SEZ; clarification of current practice.
- 60.2.4 (Fee Required): Establish reference to the Rules of Procedure, where the actual fee schedule will be located.
- 60.3.3.A (Source Water Protection Standards): Update public agency names for California Department of Public Health and Nevada Bureau of Health Protection Services.

#### **Notes on Stakeholder Comments**

- 60.4.4 (BMP Retrofit Program): The text is deleted because this provision (current 25.3.A(4)) is redundant with current 25.3.B: Disclosure Requirements, which is being carried forward.

## **CHAPTER 61: VEGETATION AND FOREST HEALTH**

Generally, this draft chapter contains a variety of proposed text edits suggested by staff foresters intended to clarify current policy and practice.

### **Phase 1 Reorganization/Reformat Notes**

- 61.1.3 (Delegation of Project Review and Permit Determination): Section shown as deleted in prior working drafts was originally thought to be redundant with other provisions of code, but has now been retained as still necessary text.
- 61.1.3.A.6 (Ski Area Master Plans): The text has been modified from the August working draft to retain the requirement that trees may only be removed for “activities” when the removal is necessary for the activity.

### **Phase 2 Near-term Substantive Edits**

- 61.1.5.H through K (Restocking/Erosion Control/Historic Resource Protection/ Wildlife, Habitat, and Sensitive Plants): Additions were made to modernize and clarify forest management practices and to codify existing administrative practices. Text added that would allow slash burning within 50 feet of a stream channel “if there is scientific justification that no environmental harm will result” to provide an additional and perhaps necessary management tool to the agency.
- 61.1.6.C (Dead, Dying, or Diseased Tree Removal): The proposed revisions clarify and codify existing administrative practices and do not weaken current requirements or protections for dead or diseased trees.
- 61.1.7.B (Reasons for Tree Removal: Emergency Tree Removal): Added new provision clarifying current policy, which allows for immediate removal of trees that constitute a physical emergency.

## **CHAPTER 62: WILDLIFE RESOURCES**

### **Phase 1 Reorganization/Reformat Notes**

- 62.3.2 (Movement and Migration Corridors): The proposed relocated text, “that link islands of habitat,” has been restored to its original location to avoid confusion about the potential for a new or different meaning.
- Table 62.3.3.4-1 (Course Woody Debris Log Weights (tones) by Size): The introductory language is proposed for deletion because it is redundant both with text in proposed 62.3.4.C.1 and the content of the table.

## **CHAPTER 64: LIVESTOCK GRAZING**

### **Phase 1 Reorganization/Reformat Notes**

- 64.5.2 (Existing Livestock Confinement Facilities): The August working code draft showed this section as deleted based on the assumption that the provisions is obsolete because compliance was required by July 1, 1992. Nevertheless, the provision has been retained for possible enforcement purposes.

## **CHAPTER 65: AIR QUALITY CONTROL**

### **Phase 2 Near-term Substantive Edits**

- 65.2.4.D (Fee Schedule): Establishes reference to the Rules of Procedure, where the actual fee schedule will be located. Specifics on fee amount are proposed to be removed from the Code.
- 65.3.4 (Rental Car Mitigation Program: Mitigation Fee): Added note to clarify current practice that TRPA and/or the Tahoe Transportation District will notify rental car companies of adjustments to the mitigation fee.

## **CHAPTER 67: HISTORIC RESOURCE PROTECTION**

### **Phase 2 Near-term Substantive Edits**

- 67.3.2 (Ground Disturbing Activities): Text has been added to require consultation with the Washoe tribe on all site surveys, not just when the site survey indicates the existence of a Washoe site.
- 67.4 (The Discovery of Eligible Resources): Text has been added to require consultation with the Washoe Tribe if a Washoe site is being considered for historic designation.
- 67.5.1 (Nominations for Designations)/ 67.5.2 (Review and Approval): Text has been added to both subsections to explicitly include the Washoe Tribe in the designation and review process for historic sites.

## **CHAPTER 68: NOISE LIMITATIONS**

### **Notes on Stakeholder Comments**

- 68.3.1.A.4 All Aircraft Operation – Nighttime (8:00 p.m. to 8:00 a.m.): The text shown as deleted is redundant with existing language in proposed 68.3.1.A and 68.3.1.A.4 and is thus unnecessary.

## **CHAPTER 82: EXISTING STRUCTURES**

### **Phase 1 Reorganization/Reformat Notes**

- 82.4.1 (below) (Maintenance and Repair of Structures [Shorezone]) (Current 52.3.B List of Exempt Activities, and 52.3.C List of Qualified Exempt Activities): This material has been relocated to proposed 2.3.3 and 2.3.7.B.

## CHAPTER 90: DEFINITIONS

### Phase 1 Reorganization/Reformat Notes

- 90.1 (Rules of Interpretation and Construction): This is a proposed new section that codifies common rules of construction that are already applied and used in the administration and interpretation of the Code.

### Phase 2 Near-term Substantive Edits

- 90.2 (Other Terms Defined): BMP Retrofit Program. Proposed new definition has been revised to better reflect the operation and intent of the program.
- 90.2 (Other Terms Defined): Burn Prescription. Definition was merged with “prescribed fire.”
- 90.2 (Other Terms Defined): Correction Notice. Proposed new definition added.
- 90.2 (Other Terms Defined): Definitions: Density Analysis Report: New definition proposed for this term in previous draft has been deleted entirely as no definition for this term is necessary.
- 90.2 (Other Terms Defined): Forest Management Burning. Definition was merged with “prescribed fire.”
- 90.2 (Other Terms Defined): Open Burning. Definition limited to application in Nevada only because California has different term for similar activity (“residential / dooryard burning”) but each term is necessary for state regulatory purposes.
- 90.2 (Other Terms Defined): Prescribed Fire Management: Term has been deleted but its content consolidated under the new definition for “prescribed fire.” The new definition is intended to clarify and consolidate the various definitions related to prescribed burning in the current code.
- 90.2 (Other Terms Defined): Qualified Forester. Text clarified to state that a qualified forester is a “**California** Registered Professional Forester,” and text added to state a license from California is required to do forestry work in California.
- 90.2 (Other Terms Defined): Residential / Dooryard Burning. Definition added to clarify that this type of open burning applies to California only.
- 90.2 (Other Terms Defined): Timber Harvest Plan. Text clarified to state that a timber harvest plan will not be accepted by TRPA in lieu of a valid timber harvest plan approved by the California Department of Forestry and Fire Protection under the California Forest Practices Act.

### Notes on Stakeholder Comments

- 90.2 (Other Terms Defined): Environmental Assessment (EA) / Initial Environmental Check List / Environmental Impact Statement: Each of these definitions applies to “projects,” which includes by reference plans, programs, and policies (see definition of “projects” in 90.2).
- 90.2 (Other Terms Defined): Exempt: The definition for “exempt” does not include language regarding activities that do not create additional land coverage, etc., because such requirements are located in the body of the code. The definition provides a cross-reference to these requirements to guide the reader.
- 90.2 (Other Terms Defined): Limited-use Roads: The term “timber harvest” was changed to “forest management” to modernize the term and reflect the more holistic approach used by TRPA in managing current forest resources. The same rationale applies to changing the term “product harvest” to “management activities” in the definition for “Temporary Roads.”
- 90.2 (Other Terms Defined): Transit-oriented Development: Proposed new definition is consistent with other instances of TOD provisions in the proposed new code and is consistent with on nationally accepted criteria.