
MASTER FINDINGS GUIDE FOR PROJECT APPLICATIONS AND FORMS

One of Four Documents necessary to file a complete TRPA Project Application.

Other Documents that should be referenced:

Project Review Application Form
Project Information Packet and Checklist
Master Checklist/Design Criteria and Guidelines

These documents may be found on TRPA's Website: www.trpa.org

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INTRODUCTION

The Tahoe Regional Planning Compact requires TRPA to make findings before taking certain actions, including approval of projects. In addition, the Regional Plan package, including the Goals and Policies, Code of Ordinances and Plan Area Statements, sets forth other findings that must be made. This document describes how TRPA shall make the findings required and will assist the project applicant with providing rationale for each applicable finding relative to their individual project application. (Community Plans, Master Plans, Redevelopment Plans and Specific Plans are also part of the Regional Plan package, but findings from these documents are not included in this document. If an applicant has a project affected by one of these other plan documents, they should also submit these findings with their application). Many findings in this document will not be applicable to every project. Review the findings table in the appropriate application information packet and checklist for the required findings.

Purpose of This Document: This document, when used in conjunction with an application Finding Table included in the TRPA Project Application Information Packet and Checklist, will assist the applicant in making findings required for a project proposal. The process of making findings at the application stage of a project proposal will streamline review of project proposals by triggering the need for and collection of relevant project information prior to submittal of a project application. Provide the necessary information to review and take action on a project proposal to TRPA thereby reducing TRPA review time. In addition, the process of making relevant project findings is required by law. Provide written findings to constitute a record of compliance with the law.

How to Use This Document: This document lists the majority of TRPA findings and corresponds with the individual Findings Tables included in each of the TRPA Project Information Packets. The majority of findings required are found in the TRPA Code of Ordinances. These are organized below by Code Chapter and subsection. Additional findings found in other TRPA Regional Plan documents are similarly organized. The applicant is required to review the application Finding Table, refer to this document, and for each applicable finding write a response and rationale for making the finding.

All such findings shall be made in accordance with Chapter 4 of the TRPA Code of Ordinances.

Errors and Omissions: While this document strives to cover all required findings found in TRPA's Code of Ordinances, errors and omissions may exist as a result of the adoption of new findings, revision of existing findings, incomplete document updates, or original omission at the time of document preparation. TRPA may require additional findings beyond those identified in a project application to lawfully approve a project proposal.

Procedure for Findings: Findings shall be made as follows:

Written Findings: All required findings shall be in writing and shall be supported by substantial evidence in the record of review.

Statement: Accompany required findings with a brief statement of the facts and rationales upon which they are based.

An example of an acceptable finding rationale is provided below.

Example Finding:

22.7 Public Service Facilities: Land Coverage and disturbance for public service

facilities may be permitted in Land Capability Districts 1a, 1c, 2 and 3 if TRPA finds that:

- (a) The project is necessary for public health, safety or environmental protection;
- (b) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2 and 3; and
- (c) The impacts of the coverage and disturbance are fully mitigated in the manner prescribed by Subparagraph 22.7.1(D).

Acceptable Finding Rationale:

- (a) The project is to allow this water company to continue to provide safe water service to an existing residential area. The existing water lines are old and allow dirt and other debris to enter the water lines. Replacement of the existing water lines will provide safe drinking water to the service area.
- (b) The project is to replace existing water lines in the same location. The existing water lines are currently located in Land Capability District 1c. It is not feasible to move the water line to higher capability land without modifying the entire water system for the area. Relocation of the waterlines will require greater disturbance than that proposed for this project as well as be financially unfeasible.
- (c) Subparagraph 22.7 reads:
- (d) The impacts of the coverage and disturbance are fully mitigated through means including, but not limited to, the following:
 - (i) Application of best management practices; and
 - (ii) Restoration, in accordance with Section 22.7.3, of land in Land Capability Districts 1a, 1c, 2 and 3 in the amount of 1.5 times the area of land in such districts covered or disturbed for the project beyond that permitted by the coefficients in Subsection 30.4.

Temporary Best Management Practices (BMPs) will be implemented during construction including sediment barriers and vegetation protection fencing. Permanent BMPs will include revegetation over the entire area disturbed by the project. The project is not adding coverage or new disturbance to the area. Therefore it is not required to provide 1.5 times the amount of restoration needed. This project will be restoring the proposed disturbed area on a 1 to 1 basis.

Chapter 2
PROJECT REVIEW AND EXEMPT ACTIVITIES

2.3.8 Loss Of Exemption: An exempt activity shall be considered a project if TRPA finds that the activity may have a substantial effect on the land, air, water, space, or any other natural resources in the Region.

2.2.3 Special Provisions: *The following special provisions apply to certain projects:*

2.2.3.B Structures That Do Not Comply With Development Provisions: Repair or remodeling, and reconstruction, modification or expansion, of structures that do not comply with site development provisions (Chapters 30-40), may be approved provided TRPA finds that:

- (1) The structure is not subject to a specific program of removal or modification pursuant to the site development provisions or other implementing programs of TRPA, or that the structure shall comply with the requirements of the applicable programs;
- (2) The repair or remodeling, reconstruction, modification, or expansion does not increase the extent to which the structure does not comply with the site development provisions; and
- (3) Any expansion complies with all applicable site development provisions.

2.2.3.C Buildings Damaged or Destroyed By Fire Or Similar Calamity:

- (2) Findings: TRPA may approve such projects provided TRPA finds that:
 - (a) The repair or reconstruction does not increase the extent to which the structure does not comply with the site development provisions; and
 - (b) There is no increase in height, floor area, land coverage, or volume of the structure.

2.2.4.D Single Family Homes: Construction of new single family homes shall be completed within two years from the date of the TRPA pre-grading inspection. The two year period may be extended once for up to one year provided the request is made in writing prior to the expiration of the two year period, a security is posted to ensure completion or abatement of the project and TRPA makes either of the following findings:

- (1) The project was diligently pursued, as defined in subparagraph 2.2.3.C.2, during each building season (May 1 - October 15) since commencement of construction.
- (2) That events beyond the control of the permittee, which may include engineering problems, labor disputes, natural disasters or weather problems, have prevented diligent pursuit of the project.

2.2.4.E Other Projects: Construction of projects other than new single family homes

shall be complete by the date set forth in the conditions of approval. Extension of a completion schedule for a project other than a single family home may be granted provided the request is made in writing prior to the expiration of the completion schedule, a security is posted to ensure completion or abatement of the project and TRPA makes either of the following findings:

- (1) The project was diligently pursued, as defined in subparagraph 2.2.4.C, during each building season (May 1 - October 15) since commencement of construction.
- (2) That events beyond the control of the permittee, which may include engineering problems, labor disputes, natural disasters or weather problems, have prevented diligent pursuit of the project.

Chapter 3 ENVIRONMENTAL DOCUMENTATION

3.3 Determination Of Need To Prepare EIS: Except for planning matters, ordinary administrative and operational functions of TRPA, or exempt classes of projects, TRPA shall use either an initial environmental checklist or environmental assessment to determine whether an environmental impact statement shall be prepared for a project or other matter.

3.3.2 Findings: Based on the information submitted in the IEC, and other information known to TRPA, TRPA shall make one of the following findings and take the identified action:

- (a) The proposed project could not have a significant effect on the environment and a finding of no significant effect shall be prepared in accordance with TRPA's Rules of Procedure.
- (b) The proposed project could have a significant effect on the environment, but due to the listed mitigation measures which have been added to the project, could have no significant effect on the environment and a mitigated finding of no significant effect shall be prepared in accordance with TRPA's Rules of Procedure.
- (c) The proposed project may have a significant effect on the environment and an environmental impact statement shall be prepared in accordance with this Chapter and TRPA's Rules of Procedure.

3.4 Environmental Assessments: If TRPA determines the IEC will not provide sufficient information to make the findings in Subsection 3.3, TRPA shall require the preparation of an environmental assessment in lieu of an initial environmental checklist.

3.4.2 Findings: Based on the information contained in the environmental assessment, and other information known to TRPA, TRPA shall make one of the findings listed under Subsection 3.3.2 and take the action prescribed in the applicable finding.

3.5 Finding Of No Significant Effect: If TRPA finds that a project or matter will not have a significant effect, no further environmental documentation shall be required.

- 3.6 Mitigated Finding Of No Significant Effect: If TRPA finds a project or matter will not have a significant effect if certain mitigation measures are incorporated into and made a part of the project, the project description shall be correspondingly modified and no further environmental documentation shall be required.
- 3.7 Environmental Impact Statement: If TRPA finds a project or matter may have a significant effect on the environment, TRPA shall cause to be prepared an EIS in accordance with its Rules of Procedure, this Chapter and the Compact.
- 3.7.4 Required Findings: Prior to approving a project for which an EIS was prepared, TRPA shall make either of the following findings for each significant adverse effect identified in the EIS:
- (a) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or
 - (b) Specific considerations such as economic, social or technical, make infeasible the mitigation measure or project alternatives discussed in the environmental impact statement on the project.

Chapter 4 FINDINGS REQUIRED

- 4.1 Purpose: The Tahoe Regional Planning Compact requires TRPA to make findings before taking certain actions. In addition, the Regional Plan package, including the Code and plan area statements, sets forth other findings which must be made. This chapter sets forth procedures describing how TRPA shall make the findings required.
- 4.2 Applicability: Prior to approving any project or taking any other action specified herein, TRPA shall make the findings required by the provisions of the Regional Plan package, including the Goals and Policies, the Code, and specifically, this chapter and any other requirement of law. All such findings shall be made in accordance with this chapter.
- 4.3 Procedure For Findings: Findings shall be made as follows:
- 4.3.1 Written Findings: All required findings shall be in writing and shall be supported by substantial evidence in the record of review. The findings required by Section 6.3 shall be in writing prior to the approval of the proposed matter.
 - 4.3.2 Statement: Required findings shall be accompanied by a brief statement of the facts and rationales upon which they are based.
- 4.4 Threshold-Related Findings: The following specific findings shall be made, pursuant to Articles V(c), V(g) and VI(b) of the Compact in addition to any other findings required by law.
- 4.4.1 Findings Necessary To Approve Any Project: To approve any project, TRPA must find, in accordance with Sections 4.2 and 4.3, that:
 - (a) The project 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.

- (b) The project will not cause the environmental threshold carrying capacities thresholds to be exceeded; and
- (c) Wherever federal, state or local air and water quality standards applicable for the region, whichever are strictest, must be attained and maintained pursuant to Article V(d) of the Tahoe Regional Planning Compact, the project meets or exceeds such standards.

4.4.2 Making Specific Findings: As part of the findings required by Subparagraphs 4.4.1, TRPA shall:

- (a) Identify the nature, extent and timing or rate of effects of the project, using applicable measurement standards consistent with the available information, on all applicable:
 - (1) Compliance measures (Section 16.6);
 - (2) Indicators (Section 16.4);
 - (3) Additional factors (Subsection 16.4.5); and
 - (4) Supplemental compliance measures (Subsection 16.3.8).
- (b) Quantify any contribution of the project to any of the cumulative accounts for the items listed in Subsection 16.8.2 and record that contribution in the current cumulative account:
- (c) Confirm that any resource capacity utilized by the project is within the amount of the remaining capacity available, as that remaining capacity has been identified in any environmental documentation applicable to the project, including the environmental impact statement for the Regional Plan package.
- (d) Confirm that the project will not prevent attainment of any adopted target date (Subsection 16.5.1) or interim target (Subsection 16.5.2).
- (e) For project-specific mitigation measures, relied upon to confirm the matters in Subparagraphs 4.4, TRPA shall identify an adequate means including setting a baseline status by which the mitigation measure's effectiveness will be evaluated.
- (f) Other than recreation projects in the Environmental Improvement Program (EIP), for a project, for which an environmental assessment or an environmental impact statement is prepared, and which will use additional water supply, additional sewage capacity, or will create additional vehicle miles of travel greater than forecast in the environmental assessment for the 1996 Evaluation Report, TRPA shall confirm that sufficient capacity remains in each of the fore going capacities which are utilized by the project to permit development of recreation projects which are contained in the EIP.

- 4.5 Findings Necessary To Amend The Regional Plan, Including The Goals And Policies And Plan Area Statements And Maps: To approve any amendment to the Regional Plan, TRPA must find, in addition to the findings required pursuant to Subparagraphs 4.4.1.A and 4.4.1.B and Subsection 4.4.2, and in accordance with Sections 4.2 and 4.3, that the Regional Plan, as amended, achieves and maintains the thresholds.
- 4.6 Findings Necessary To Amend Or Adopt TRPA Ordinances, Rules Or Other TRPA Plans And Programs: To approve any amendment or adoption of the Code, Rules or other TRPA plans and programs which implement the Regional Plan, TRPA must find, in addition to the findings required pursuant to Section 4.4, and in accordance with Sections 4.2 and 4.3, that 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 the thresholds.

Chapter 11 PLAN AREA STATEMENTS AND PLAN AREA MAPS

11.8 Plan Area Statement (PAS) And Plan Area Map Amendment: *The amendment of a plan area statement or plan area map shall be in accordance with the following procedures:*

11.8.4 Findings For Plan Area Amendments: Prior to adopting any plan area amendment, TRPA must find.

- (a) The amendment is substantially consistent with the plan area designation criteria in Subsections 11.6.2 and 11.6.3; and
- (b) If the amendment is to expand an existing urban plan area boundary or to add residential, tourist accommodation, commercial, or public service as permissible uses to a non-urban plan area, it must be found that the amendment will make the plan area statement consistent with an adopted policy or standard of the Regional Plan, and that the amendment will satisfy one or more of the following criteria:
 - (1) The amendment is to correct an error which occurred at the time of adoption, including but not limited to a mapping error, an editing error, or an error based on erroneous information; or
 - (2) The amendment is to enable TRPA to make progress toward one or more environmental thresholds without degradation to other thresholds as measured by the Chapter 16 indicators; or
 - (3) The amendment is needed to protect public health and safety and there is no reasonable alternative.

11.8.4.C.1 If the amendment is to add multiple-family as a permissible use to a plan area or for one or more parcels, except as provided for in (5) below, the plan area or affected parcel must be found suitable for transit-oriented development (TOD). TRPA shall find that the following factors, or a functional equivalent as provided for in (4) below, are satisfied when determining TOD suitability:

- (a) The area must have access to operational transit within a 10 minute walk; and

- (b) Neighborhood services within a 10 minute walk, (e.g., grocery/drug stores, medical services, retail stores, and laundry facilities); and
- (c) Good pedestrian and bike connections; and
- (d) Adequate public facilities, (e.g., public schools, urban or developed recreation sites, government services, and post offices).

11.8.4.C.2 In order for TRPA to find a proposal is the functional equivalent of one of the factors listed in 11.8.C.1, or 11.8.C.3, the proposal must be found to facilitate TOD in a manner that is equal or superior to that feature.

11.8.4.C.3 If the amendment is to add multiple-family dwellings as a permissible use to a plan area or for one or more parcels, and would result in deed restricted affordable housing units, the plan area or affected parcel must be found suitable for transit-oriented development (TOD). TRPA shall find that the following factors are satisfied when determining TOD suitability:

- (a) access to operational transit within a 10 minute walk, or a functional equivalent as provided for in (4) above; and
- (b) neighborhood services; or
- (c) public facilities.

Chapter 12 COMMUNITY PLANS

12.4 **Eligible Areas:** Areas eligible for community plans are designated on the map referred to in the Goals and Policies, Land Use Sub element, Land Use Element Goal #2, Policy 6.1. Preliminary boundaries for those areas are shown on plan area maps. The preliminary boundaries may be adjusted as part of the community plan process. A community plan area may consist of more than one part, provided each part, distinctly enclosed within its own boundary, complies with the requirements of this section. Any adjustment of boundaries, including the establishment of parts, shall be subject to TRPA making the following findings at the time of adoption:

12.4.3.A **Use Considerations:** The area within the boundaries is an area where commercial, tourist, and related uses are concentrated or where commercial, tourist, or affordable residential uses should be concentrated; is served or easily served by transit systems; which has adequate highway access; which has or can have housing in the vicinity available for employees working in the area; and which otherwise qualifies as an area suitable for continued or increased levels of commercial activity. In areas where existing and proposed development patterns are found to support affordable housing, the community plan shall limit the applicable community plan incentives to uses classified as deed restricted affordable housing or employee housing with the employment base nexus identified within close proximity to the proposed employee housing.

12.4.3.B **Traffic Considerations:** The nature and intensity of uses proposed for the area within the boundaries is demonstrably consistent with the achievement of VMT reduction policies and level of service goals for street and highway traffic

established for the plan area.

12.4.3.C Concentration: The area within the boundaries will encourage concentration of commercial development, discourage the maintenance or exacerbation of strip commercial development and shall not allow isolated areas of commercial or tourist accommodations unrelated to the central commercial area.

12.4.3.D Size: The area within the boundaries is a size consistent with the needs for additional commercial development established by the needs assessment which evaluated the entire area of the community plan, taking into account the needs and opportunities of the Region taken altogether.

12.7 Community Plan Process: In consultation with local governments and the community, TRPA shall set priorities for development of community plans. Community plans shall be prepared and adopted as follows:

12.7.3 Community Plan Preparation: Upon approval of the preliminary plan and work program or approval of an alternative process pursuant to Subsection 12.7, the planning team or staff shall carry out its work as follows:

(e) Develop a draft plan which addresses the following:

(7) Appropriate findings, in addition to those in Chapter 21, that would be required for approving special uses.

12.7.5 Alternate Process: If TRPA finds that an alternate process to Subsections 12.7.1 and 12.7.2 would better facilitate the planning process while still meeting the objectives of this chapter, a modified process may be approved provided community input is included as a component of the modified process.

Chapter 13 REDEVELOPMENT PLANS

13.5 Eligibility: Plan Areas not designated as eligible for redevelopment plans may be so designated if the Governing Board makes the following findings prior to amending the plan area statement to make it eligible for redevelopment plans:

13.5.1 Goals and Policies: A redevelopment plan in the plan area would be consistent with the Goals and Policies.

13.5.2 Community Plan Designation: An adopted community plan designates a predominantly urbanized and blighted area within the plan area for redevelopment.

13.5.3 Elimination of Blight: Redevelopment is the most effective way to eliminate blight in the designated area and has been demonstrated by professionally prepared economic studies to be financially feasible.

13.5.4 Conditions of Dislocation and Maladjustment: Redevelopment will relieve conditions of economic, social, or environmental dislocation or maladjustment and should not create new unmitigatable economic, social, or environmental impacts.

13.9 Redevelopment Plan Standards: All projects within a redevelopment plan area shall be subject to the standards of this chapter and to the standards of the Code applicable to projects within an adopted community plan except as follows:

13.9.4 Projects In A Redevelopment Project Area: A tourist accommodation project may elect to use the provisions of Subsection 13.12.4 provided TRPA finds that the tourist accommodation project will result in a significant environmental improvement and an appropriate redirection of development, and the tourist accommodation project meets the following criteria:

- (a) the project consists of 100 or more split-use tourist accommodation units;
- (b) the 100 or more units will be created through a transfer or reconstruction of existing units of use;
- (c) the project is within both an adopted redevelopment plan and community plan; and
- (d) The project is deemed a redevelopment project under state and local laws.

13.11 Redevelopment Plan Process: Except as set forth in Section 13.11.1, public entities eligible to prepare redevelopment plans pursuant to applicable state law shall develop redevelopment plans in accordance with the following procedures:

13.11.6 Findings For Adoption: Prior to adopting a redevelopment plan and in addition to any other required findings, TRPA shall find:

- (a) The plan is consistent with the Goals and Policies;
- (b) The plan is consistent with the Code;
- (c) The plan is consistent with the applicable plan area statement and adopted community plan;
- (d) The plan is consistent with the adjacent Plan Area Statements (PASs) or any inconsistencies are identified and evaluated and measures specified to correct the inconsistencies.
- (e) The plan does not propose the development of residential units, tourist accommodation units, commercial floor area, recreational People at One Time (PAOTs) or other projects, in excess of applicable limits set forth in the Regional Plan;
- (f) The plan is substantially more likely to result in progress toward the attainment and maintenance of environmental threshold carrying capacities than the adopted community plan;
- (g) Affordable housing is provided as part of a redevelopment plan to the extent required by applicable state law and to meet the needs identified in Subparagraph 13.11.4.G;
- (h) The redevelopment plan shall not result in a net increase in the amount of land coverage existing within the redevelopment plan area prior to

adoption of the redevelopment plan;

- (i) The redevelopment plan includes the programs and schedules required by Subsection 13.11.4 and the redevelopment plan demonstrates attainment of the targets and requirements of Subsection 13.11.4;
- (j) The provisions of Subsection 13.11.7 have been met in regards to Subparagraph 13.11.4.E; and
- (k) The redevelopment plan in conjunction with other adopted plans and programs of TRPA shall attain and maintain thresholds.

13.12 South Lake Tahoe Demonstration Redevelopment Plan: As a demonstration redevelopment plan, TRPA may, prior to the adoption of a community plan, adopt a redevelopment plan for the Stateline to Ski Run areas of South Lake Tahoe. Redevelopment projects within this demonstration plan area relying on the provisions of this chapter, but not relying on community plan incentives, may be approved prior to adoption of the community plan for the affected area provided TRPA makes the following findings.

13.12.1 Eligible Areas For Demonstration Redevelopment Plan And Necessary Findings: TRPA may approve demonstration redevelopment for those areas of Plan Areas 089B (California South Stateline Resort Area), 091 (Ski Run) and 092 (Pioneer/Ski Run) which are eligible pursuant to Section 13.5 and 12.4 as shown on the preliminary redevelopment plan map approved by the South Lake Tahoe Redevelopment Agency on June 28, 1988. Prior to adoption of the South Lake Tahoe Demonstration Redevelopment Plan and prior to approval of additional building height pursuant to Subsection 13.2, TRPA shall make the following findings:

- (a) That a 2000 linear foot park and bikeway is provided as part of the plan.
- (b) That the Stateline site project is on the landward side of Highway 50, adjacent to a cluster of high rise buildings where there is a high floor area ratio (approximately 1.0), provides a transition in height from high rise to low rise, and is 50 percent lower in height than the adjacent high rise building.
- (c) That public open space in the demonstration redevelopment plan area is being provided by redevelopment projects consolidating development in the same jurisdiction through design and room retirement of which 80 percent is occurring within the redevelopment plan area.
- (d) That additional public access to Lake Tahoe and 10,000 square feet or more of additional public beach are being provided by redevelopment projects.
- (e) That additional public access to Lake Tahoe through marina facilities is being provided by redevelopment projects.
- (f) That additional open views of Lake Tahoe from Highway 50 of at least 150 feet of width of view corridor, exclusive of existing public rights-of way are being provided by redevelopment projects.
- (g) That at least four acres of additional wetlands or SEZ restoration are

being provided by redevelopment projects.

- (h) That a project is located next to a major water/land transportation interface and both hotel projects are in close proximity to a major ski area.

13.12.2 Special Process: The City of South Lake Tahoe Redevelopment Agency may elect to process the demonstration redevelopment plan as otherwise set forth in this chapter or as follows:

- (c) Final Plan Approval: The final demonstration redevelopment plan shall be reviewed and approved in accordance with Subsections 13.11.5, 13.11.6, and 13.11.7. Prior to adopting the demonstration redevelopment plan, the Governing Board shall make the findings in Subparagraph 13.12.2.D.

- (d) Findings For Adoption: Prior to adopting the final redevelopment demonstration plan, TRPA shall find:

- (1) The plan is consistent with the Goals and Policies;
- (2) The plan is consistent with the Code;
- (3) The plan is consistent with the applicable plan area statement and any other plans and programs of TRPA;
- (4) The plan is consistent with the adjacent PASs, or any inconsistencies are identified and evaluated and measures specified to correct the inconsistencies.
- (5) The plan does not propose the development of residential units, tourist accommodation units, commercial floor area, recreational PAOTs or other projects, in excess of applicable limits set forth in the Regional Plan;
- (6) Affordable housing is provided as part of a redevelopment plan to the extent required by applicable state law and to meet the needs identified in Subparagraph 13.11.4.G;
- (7) The redevelopment plan shall not result in a net increase in the amount of land coverage existing within the redevelopment plan area prior to adoption of the redevelopment plan;
- (8) The redevelopment plan is consistent with 13.11.4 (A) through (K), except that the requirements of Subsection 12.7.3 (A) o through (G) need not be met;
- (9) The provisions of Subsection 13.11.7 have been met in regards to Subparagraph 13.11.4 (D) and (E); and
- (10) The redevelopment plan in conjunction with other adopted plans and programs of TRPA shall attain and maintain thresholds.

13.12.5 Additional Height For The South Lake Tahoe Demonstration Project: In addition to the heights permitted in Chapter 37, the TRPA may approve additional height within the South Lake Tahoe Demonstration Project Area for no more

than two projects, as follows:

- (a) Areas Eligible for Additional Height: Eligible areas for additional height are the Ski Run Site (the portion of Bijou Park Subdivision containing lots 14 through 85) and the Stateline Site (property designated "State of California, Book 986, Page 195" and "Parcel 3" shown on that certain Record of Survey recorded at File Number 155400 Official Records of Douglas County, Nevada).
- (b) Additional Height for Tourist Accommodation: TRPA may approve additional building height above the base height limit of 24 feet, notwithstanding the height limitations of Sections 37.1, 37.2, 37.3, 37.6.2 and 37.7 for a building whose primary use is tourist accommodation, if the building is located in an eligible area pursuant to (1) above; findings (1), (3), and (7) in Section 33.7 are made by TRPA; the building is of natural hues, utilizing textured materials and is compatible with the traditional rustic resort style of the Lake Tahoe Region; the additional height is based upon the demonstration project providing sufficient benefits in accordance with Subparagraph (3) below, and substantial contributions shall have been made by the project proponents to achieve those benefits.
 - (1) Addition of Benefits: The additional height permissible under this subsection shall be calculated by identifying the benefits provided by the demonstration project and then totaling the number of feet attributable to the benefits. The additional height shall be added to the base height of 24 feet and assigned to the affected building(s).
 - (2) Maximum Height Limits: The maximum height of a tourist accommodation building shall not exceed 75 feet for the Ski Run Site and not exceed 95 feet for the Stateline Site.
 - (3) Timing: Any benefit for which additional height is claimed by any project pursuant to this subsection shall be included in the list of required measures pursuant to Subparagraph 13.11.4.E and compliance with provisions of Subsection 13.11.7 shall be required.
- (c) Benefit List for Additional Height: The following list of benefits shall be used to calculate additional height for tourist accommodation buildings pursuant to Subparagraph (2) above.
 - (1) Additional Height For Stream Environment Zone Restoration Or Creation Of Artificial Wetland: For restoration or creation of two acres of previously disturbed stream environment zone or artificial wetland, TRPA may approve an additional forty feet of building height provided:
 - (a) The artificial wetland is capable of water quality treatment functionally equivalent to a stream environment zone of a similar size;
 - (b) The restored stream environment zone or artificial wetland is within a watershed partially within the boundaries of the redevelopment plan;

- (c) TRPA conditions of approval ensure permanent maintenance of the required stream environment zone restoration or artificial wetland prior to construction of the building; and
 - (d) The credit shall not be given for SEZ restoration otherwise required by Subsection 30.5.2.
- (2) Additional Height For View Corridors: For providing a minimum 150 foot wide open space corridor addition, excluding existing road right-of-way, that provides views of Lake Tahoe from a scenic quality threshold travel route unit, TRPA may approve an additional ten feet of building height. If the additional view corridor is in excess of 150 feet, TRPA may approve one foot of additional height, not to exceed ten feet total, for each additional 15 feet of road way length on Highway 50 adjacent to the project from which Lake Tahoe is visible. The maximum additional height permissible under this paragraph is 20 feet.
- (3) Additional Height For Setbacks: For each minimum 100 feet of building setback along the entire lake front of the redevelopment project area, TRPA may approve an additional ten feet of building height. The setback shall be measured from the high water line and the setback shall be clear of buildings. In the case where the setback is a 100 feet plus a portion of a 100 feet, e.g. 150 feet, the bonus height shall be proportional to the ten foot bonus, e.g. 15 feet. The maximum additional height permissible under this paragraph is 30 feet.
- (4) Additional Height for Public Access to Lake Tahoe: For each 50 foot wide (average, not less than 30 feet, measured landward from the high water line) by 200 foot long area of additional public beach provided by a project proponent, TRPA may approve an additional 30 feet of building height. In allowing a height increase pursuant to this provision, TRPA shall require placement of improvements such as public restrooms, picnic tables, litter collection devices, and signs directing the public to the beach. The maximum permissible height under this paragraph is 30 feet.
- (5) Additional Height for Roof Design: If the building has 40 percent or more of all facades in sloping roofs, TRPA may approve an additional five feet of building height for that building.

Chapter 14 FINDING FOR APPROVAL

14.8 Specific And Master Plan Process: Specific or master plans shall be prepared, processed and adopted as follows:

14.8.5.B Alternative Process: The process set forth in subsections 14.8.1 and 14.8.2 may be modified by TRPA as follows:

- (a) Minor Plans Or Minor Modifications Of Existing Plans: If TRPA finds that a

specific or master plan, or modification thereof, does not propose any significant expansion of development and does not require an EIS, TRPA may delete the steering committee.

- (b) Alternate Process: If TRPA finds that an alternate process to subsections 14.8.1 and 14.8.2 would better facilitate the planning process while still meeting the objectives of this chapter, a modified process may be approved. Modification of the process shall not alter the requirements of any other section of the Code applicable to specific or master plans.

14.10 Findings For Approval: Before approving or amending a specific or master plan, the Governing Board shall find:

- (a) The plan is consistent with the Goals and Policies;
- (b) The plan is consistent with the Code;
- (c) The plan is consistent with the adopted plan area statement or community plan applicable to the area;
- (d) The plan does not propose development of residential units, tourist accommodation units, commercial floor area, recreational PAOTs, or other limitations in excess of the limits set forth in the Regional Plan for the plan area.
- (e) The plan is consistent with the attainment and maintenance of environmental threshold carrying capacities.

14.10.2 Exception: When portions of the area subject to a specific or master plan are outside the Region, the foregoing findings shall apply only to the area within the Region. When the project and activities proposed within the Region, in combination with other projects and activities proposed in the specific or master plan outside the Region, would prevent the attainment or maintenance of environmental thresholds, the finding set forth in 14.10.1.E shall not be made and the proposed specific or master plan shall not be approved.

Chapter 15 ENVIRONMENTAL IMPROVEMENT PROGRAM (EIP)

15.4 Development And Administration Of The EIP: TRPA will maintain a master list of threshold-related projects, programs, and studies from which priorities can be derived, and implementation plans prepared. TRPA will also develop a finance plan to implement and guide the EIP.

15.4.1 Preparation Of The EIP List: TRPA, in consultation with all appropriate public and private implementation entities, shall prepare a priority list of all projects, studies, and programs which are anticipated or needed to be completed for progressive threshold attainment. At a minimum, TRPA shall update the list annually.

- (a) Eligibility For Inclusion On The EIP List: Projects, programs, and studies shall be placed on the list if TRPA determines that:

- (1) The project, program, or study meets the findings adopted pursuant

to Article V(g) of the Compact as set forth in Chapter 4 in regards to consistency with threshold attainment.

- (c) Amendment Of The EIP or Priority Lists: After adoption of the initial lists by TRPA's Governing Board, the lists of projects, programs, and studies may be amended by TRPA's Executive Director provided that:
 - (1) The findings in Subparagraph 15.4.1.A are met for additions and for substitutes; and
 - (2) The project, program, or study is of equal or superior value to the one it is replacing.

15.6 Linked Project Status: The Governing Board may, upon making the findings in 15.6.1.A below, and after holding a public hearing, designate a project application within a special category: "Linked Project Status." Designation allows the applicant and TRPA to engage in negotiations for approval of a development project that encompasses, or is linked to, a parcel beyond the proposed project area, and accomplishment of one or more EIP improvement projects.

15.6.1 Designation Parameters: Upon designation of a project to this special category, the applicant and TRPA staff shall have a maximum of two years to obtain TRPA approval. Failure to meet this deadline shall void the designation of the project's "linked project status" unless an extension of time is approved by the Board.

- (a) Criteria: A development project may be designated as a candidate for linked project status if:
 - (1) The development project is linked to accomplishment of one or more EIP projects, but is not an EIP project itself; and
 - (2) Participation in creating environmental improvements goes beyond that otherwise required on site for the non-EIP project; and
 - (3) There is more than one stakeholder required to accomplish the EIP improvements; and
 - (4) Accomplishment of the EIP project(s) may require an agreement between TRPA and implementation partners; and
 - (5) A combination of public and private funds may be required to accomplish the affected EIP projects; and
 - (6) Status designation is justified as the best approach to EIP implementation.

15.6.3 Findings for Linked Project Status Designation: TRPA shall make the following findings prior to acceptance of a pre-development agreement:

- (a) That the applicant has acknowledged in writing that there is no guarantee a non-EIP project will be approved as a result of linked project status, and has agreed to follow all TRPA rules and regulations if the application is approved by the TRPA Governing Board; and

- (b) That the project confers public benefit or use, and results in threshold improvement beyond that which would be required to mitigate the threshold impacts of the non-EIP project; and
- (c) That the applicant has submitted appropriate fees related to review and identified mitigation, consistent with current fee schedules for a completed project, and agrees to pay all added necessary fees for the negotiated project; and
- (d) That at a minimum, the project shall contribute to the construction of at least one EIP project larger than that required on the subject parcel; and
- (e) That the project will need a combination of private and public funding support, and demonstrates the necessity of a partnership approach in order to accomplish an EIP project with substantial threshold improvement.

Chapter 16 REGIONAL PLAN AND THRESHOLD REVIEW

- 16.2 Applicability: The provisions of this chapter implement and monitor the Regional Plan package, including, but not limited to, the Goals and Policies, Plan Area Statements, and this Code. This chapter also applies to the findings required for approval of any project, or to amend the Regional Plan, as set forth in Chapter 4 of this Code.
- 16.5 Threshold Attainment Schedules: TRPA shall identify the attainment status of each threshold and standard, and applicable target dates, taking into account compliance measures and expected development and supported by adequate evidence in the record, according to the following provisions:
- 16.5.1 Listing of Attainment Status and Target Dates: Within 120 days of the effective date of the Regional Plan, TRPA shall list each threshold and standard which is then in attainment status. At the same time, TRPA shall establish a target date to achieve attainment of all other thresholds and standards. Thereafter, if TRPA finds that any threshold or standard is not in attainment, and without a target date for attainment, TRPA shall promptly establish a target date for that threshold or standard.

Chapter 21 PERMISSIBLE USES

- 21.2 Applicability: All parcels have one or more primary uses as defined in this chapter except for parcels which are undeveloped or unimproved and have no established use. Those shall be considered vacant parcels. Vacant parcels are entitled to apply for a use pursuant to the provisions of the Code. Regulation of projects and activities pursuant to primary uses shall be as follows.
- 21.2.2 Special Uses: Uses listed in applicable plan area statements, community plans, redevelopment plans, or specific or master plans as "special" ("S") may be determined to be appropriate uses for the specified area, and projects and activities pursuant to such uses found to be appropriate may be permitted. To allow a special use, TRPA shall conduct a public hearing according to the procedures in the TRPA Rules of Procedure. Before issuing an approval, TRPA

shall, make the following findings:

- (a) The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.
- (b) The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water and air resources of both the applicant's property and that of surrounding property owners.
- (c) The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable planning area statement, community plan and specific or master plan, as the case may be.

21.2.3 Nonconforming Uses: Uses legally commenced prior to the effective date of the Regional Plan, July 1, 1987, which would be prohibited if new, are nonconforming uses and may be continued, subject to the provisions of Section 21.5. Existing development in a special use category for which the findings in subsection 21.2.2 have not been or cannot be made shall be non-conforming uses.

21.2.4 Prohibited Uses: Proposed uses not listed in applicable plan area statements, community plans, redevelopment plans, and specific or master plans are prohibited. Also proposed special uses for which the findings in subsection 21.2.2 cannot be made shall be prohibited uses.

21.3.5 Determination Of Accessory Use: Accessory uses not listed as accessory by example above may be considered accessory upon a finding by TRPA that the use is accessory based on the criteria in Subsection 21.3.1 above.

21.3.7 Threshold Related Research Facilities: Facilities may be designated "Threshold Related Research Facilities" if they meet the following criteria:

- (c) "Threshold Related Research Facilities" shall be located in community plan areas unless TRPA finds that there is a demonstrated need to locate them outside a Community Plan (CP) area, the use is designated a special use by the applicable plan area statement, and that the project area for which the threshold related research facility is proposed contains existing development.

21.5 Existing Uses: The following rules apply to existing uses:

21.5.2 Changes, Expansions Or Intensifications Of Existing Uses: Expansions and intensifications of existing uses, or changes in uses, to the extent permitted by this chapter, are subject to the requirements for a permit set forth in Chapter 4. Modifications, expansions and other changes to structures are governed by other provisions of this Code and also are subject to the requirements of Chapter 4.

- (b) Special Uses: Uses identified as special uses and for which the required

findings pursuant to subsection 21.2.2 have been made by TRPA, may be changed, expanded or intensified subject to Subsection 21.2.2. Special uses for which the required findings have not been made may not be changed, expanded or intensified except in accordance with subparagraph 21.5.2.C.

- (c) Nonconforming Uses: Uses identified as non-conforming shall not be expanded or intensified beyond the use existing on the effective date of the Regional Plan. A nonconforming use may not be changed unless the new use conforms to the use regulations set forth in the Code. Expansions of structures containing a nonconforming use shall not be permitted. Modifications may be permitted only when TRPA finds that the modifications do not increase the extent of nonconformity.

Chapter 22 TEMPORARY USES, STRUCTURES, AND ACTIVITIES

22.7 Standards For Temporary Activities: Except as otherwise provided in Section 22.6, temporary activities shall comply with the following standards:

22.7.5 Noise: Temporary activities shall be exempt from the noise limitations set forth in Chapter 23. Notwithstanding the foregoing, prior to approving a temporary activity which may exceed such limitations, TRPA shall provide notice and an opportunity to be heard TRPA may approve such temporary activities provided it finds that:

- (a) The activity is not injurious or disturbing to the health, safety and general welfare of persons or property in the neighborhood, and the general welfare of the Region, and that the applicant will take reasonable steps to protect against such injury, and
- (b) That the activity is in a plan area designated commercial, public service or tourist, is limited to no more than ten hours duration and is between the hours of 8:00 a.m. to 10:00 p.m., or that the activity is a race or exhibition, is limited to no more than six hours' duration and is conducted during daylight hours.

Chapter 30 LAND COVERAGE STANDARDS

30.3 Land Capability System: The land coverage limitations set forth in this chapter are based on the land capability system established in the report entitled, Land Capability Classifications of the Lake Tahoe Basin, Bailey, R. G., 1974.

30.3.4 Land Capability Challenge: In the event TRPA or the owner of a parcel is of the opinion it is not properly classified pursuant to Subsection 30.3.2, either may initiate a land capability challenge with respect to such parcel. The person or entity initiating the challenge shall bear the cost thereof. For parcels one acre or less in size, the cost to be charged an owner initiating the challenge shall not exceed an amount prescribed by resolution of the Governing Board.

- (c) Review And Approval Of Report: The Executive Director shall review the

land capability report and, if it recommends no change in land capability, may deny the land capability challenge, subject to an appeal to the Governing Board. If the report recommends a change in land capability, the change shall be approved or denied by the Governing Board. The challenge may be approved if the Governing Board finds that the pertinent land, due to natural characteristics specifically identified, properly belongs in a land capability district other than that in which it is presently classified.

30.3.5 Amendment Of Land Capability Overlays By Amendment Of The Regional Plan: The TRPA Land Capability Overlays may be amended through an amendment of the Regional Plan in the manner set forth in this Subsection. The amendment may be initiated by TRPA.

(d) Amendment: An amendment of the Regional Plan pursuant to this Subsection shall be processed, both procedurally and substantively, in the manner of amendment to the Regional Plan generally. The amendment may be approved if TRPA finds that the pertinent land, due to natural characteristics specifically identified, properly belongs in a land capability district other than that in which it is presently classified.

30.3.6 Amendment Of Land Capability Overlays For Man-Modified Areas: The TRPA Land Capability Overlays may be amended for man-modified areas through an amendment of the Regional Plan in the manner set forth in this Subsection. The amendment may be initiated by TRPA or the owner of the pertinent land, provided there is sufficient information demonstrating a reasonable possibility the requirements of this Subsection can be met.

(c) Action on Amendment: An amendment of the Regional Plan pursuant to this Subsection shall be processed, both procedurally and substantively, in the manner of amendments to the Regional Plan generally. The amendment may be approved if TRPA finds that:

- (1) The land was modified prior to February 10, 1972;
- (2) Further development will not exacerbate the problems resulting from the modification of the land and will not adversely impact sensitive lands adjacent to or nearby the man-modified area;
- (3) The land no longer exhibits the characteristics of land bearing the same, original land capability classification;
- (4) Restoration of the land is infeasible because of factors such as the cost thereof, a more positive cost-benefit ratio would be achieved by offsite restoration, onsite restoration would cause environmental harm, restoration onsite would interfere with an existing legal use, and the land is not identified for restoration by any TRPA program;
- (5) Further development can be mitigated offsite; and
- (6) Mitigation to offset the losses caused by modification of the land and pertinent land capability district, shall be as follows:
 - (a) Onsite and offsite mitigation;

- (b) Pursuant to a maintenance program, including schedule of maintenance, proposed by the owner and approved by TRPA; and
- (c) Collection of a security, if deemed necessary by TRPA, to guarantee mitigation.

30.4 Land Coverage Limitations: No person shall create land coverage in excess of the limitations set forth in this chapter. The means to determine base land coverage, the manner to transfer land coverage and prohibitions of certain land coverage are set forth in this Section.

30.4.2 Transferred Land Coverage Requirements: In addition to the base coverage prescribed by Subsection 30.4.1, land coverage may be transferred to a parcel pursuant to Subsection 30.4.4. Parcels and uses eligible for transfer of land coverage are set forth in this Subsection. The aggregate of base coverage and coverage transferred shall not exceed the limits set forth below:

- (a) Residential Facilities (1 to 4 Units): The maximum land coverage (base coverage plus transferred coverage) allowed on a parcel for residential facilities of four units or less is the coverage allowed pursuant to the coefficients in Subsection 30.4.1, or as follows, whichever is greater:
 - (4) Driveways: The maximum limits in Subparagraph 30.4.2-1 may be increased by a transfer of land coverage for a driveway built in accordance with the standards in Chapter 34, which is to be created in connection with the construction of a single family house on an existing parcel, provided TRPA finds that:
 - (a) The construction will not result in a residential structure with land coverage greater than that permitted in Subparagraph 30.4.2-1 minus 400 square feet; and
 - (b) The single family house, as a direct result of the increased land coverage, will be located on the parcel at the site found by TRPA to cause the least harm to the natural environment through minimization of land alterations, grading, removal of vegetation and preservation of trees and other flora.
- (d) Linear Public Facilities And Public Health And Safety Facilities: The maximum land coverage (base coverage plus transferred coverage) for linear public facilities and public health and safety facilities is limited to the minimum amount needed to achieve their public purpose. Such transfer may be permitted, provided TRPA makes the following findings:
 - (1) The project is on the list of additional public service facilities if required pursuant to Section 50.7;
 - (2) There is no feasible alternative that would reduce land coverage;
 - (3) The project, because of its unusual configuration or service requirement, requires special consideration; and

- (4) The facility primarily serves the needs of persons other than those who are, or will be, residents of the lands in question, or the owners of the land in question.
- (e) Highways, Streets and Roads: Transfer of land coverage for highways, streets and roads may be permitted, provided TRPA, in addition to the findings in paragraph (4) above, makes the following findings:
 - (1) The highway, street, or road is required to provide access to property other than that owned by the applicant; and
 - (2) The highway, street, or road will be constructed or maintained by a public agency, or is required to be so constructed or maintained by the terms and in accordance with the boundaries of a lawfully created easement recorded prior to February 10, 1972, or is required or approved by TRPA for a project approved after the effective date of the Regional Plan.
- (f) Other Public Service Facilities Outside Community Plans: The maximum land coverage (base coverage plus transferred coverage) for other public service facilities located outside of an approved community plan is 50 percent of the project area. Transfer of land coverage for public service facilities located outside a community plan is limited to projects for which TRPA has made the following findings:
 - (1) The project is on the list of additional public service facilities if required pursuant to Section 50.7;
 - (2) There is no feasible alternative that would reduce land coverage; and
 - (3) There is a demonstrated need and requirement to locate the facility outside a community plan.

30.4.4 Method Of Transferring Land Coverage: Land coverage may be transferred to eligible parcels for eligible uses, in accordance with the percentage limitations, as set forth in Subsection 30.4.2, and the requirements of this subsection. A transfer of land coverage shall be from one parcel or project area to another and shall only be transferred in conjunction with a project approved by TRPA. Land coverage banks may be designated by TRPA pursuant to Section 6.9, to provide land coverage for transfer purposes.

- (f) Inadequate Supply Of Land Coverage: If TRPA, after conducting a review of the cost of land coverage available at the land bank, finds there is an inadequate supply of hard land coverage for commercial or tourist accommodation uses at a reasonable cost within a given hydrologically related area, TRPA may authorize an increase in the supply of land coverage for transfer in the order of priority set forth below. In determining "reasonable cost," TRPA shall consider: whether there is no market for the coverage due to its cost, limited supply or simple absence of transactions actions; and other pertinent factors. Prior to authorizing an increase in supply of land coverage, TRPA also shall consider the effect of the increase on the inventory in the land bank and the value of investments made by the bank in hard or soft land coverage. If TRPA

authorizes an increase in the supply of land coverage, it shall do so in the following order of priority:

- (1) Existing soft coverage as described in the definition of "land coverage."
- (2) Unused base coverage, referred to in the Goals and Policies as "potential coverage."
- (3) Through redefinition of the boundaries of the hydrologically related area to increase the supply of coverage.

30.5 Prohibition Of Additional Land Coverage In Land Capability Districts 1a, 1c, 2 And 3 And 1b (Stream Environment Zones): No additional land coverage or other permanent land disturbance shall be permitted in Land Capability Districts 1a, 1c, 2, and 3 and Land Capability District 1b (stream environment zones) except as follows:

30.5.1 Exceptions For Land Capability Districts 1a, 1c, 2 And 3 Prohibition: The following exceptions apply to the prohibition of land coverage and disturbance in Land Capability Districts 1a, 1c, 2 and 3:

- (b) Public Outdoor Recreation Facilities: Land coverage and disturbance for public outdoor recreation facilities, which includes public recreation projects on public lands, private recreation projects through use of public lands, and private recreational projects on private lands that are depicted or provided for on a public agency's recreational plan, may be permitted in Land Capability Districts 1a, 1c, 2 and 3 if TRPA finds that:
 - (1) The project is a necessary part of a public agency's long-range plans for public outdoor recreation;
 - (2) The project is consistent with the Recreation Element of the Regional Plan;
 - (3) The project, by its very nature, must be sited in Land Capability Districts 1a, 1c, 2 or 3, such as a ski run or hiking trail; in accordance with the Guidelines Regarding Public Outdoor Recreation Facilities and Activities Which Create Additional Land Coverage or Permanent Disturbance and Which By Their Very Nature Need Not Be Sited in Sensitive Lands (1a, 1b, 1c, 2, 3, or SEZs), Water Quality Management Plan for the Lake Tahoe Region, Volume I, Table 16, dated November, 1988.
 - (4) There is no feasible alternative which avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2 and 3; and
 - (5) The impacts of the coverage and disturbance are fully mitigated through means including, but not limited to, the following:
 - (a) Application of best management practices; and
 - (b) Restoration, in accordance with Section 30.5.3, of land in Land Capability Districts 1a, 1c, 2 and 3 in the amount of 1.5 times the area of land in such districts covered or disturbed for the

project beyond that permitted by the coefficients in Table 30.4.1-1.

- (c) Public Service Facilities: Land coverage and disturbance for public service facilities may be permitted in Land Capability Districts 1a, 1c, 2 and 3 if TRPA finds that:
 - (1) The project is necessary for public health, safety or environmental protection;
 - (2) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2 and 3; and
 - (3) The impacts of the coverage and disturbance are fully mitigated in the manner prescribed by Subparagraph 30.5.1.B.5.

- (d) Water Quality Control Facilities: Land coverage and disturbance may be permitted in Land Capability Districts 1a, 1c, 2 and 3 for erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects, and similar projects, programs and facilities if TRPA finds that:
 - (1) The project, program or facility is necessary for environmental protection; and
 - (2) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2 and 3.
 - (3) Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to 30.4.4.B.5 are met.

30.5.2 Exceptions For Land Capability District 1b (Stream Environment Zone): The following exceptions apply to the prohibition of land coverage and disturbance in land capability district 1b (stream environment zone):

- (a) Stream Crossings: Land coverage and disturbance for projects to effect access across stream environment zones to otherwise buildable sites, if such projects otherwise comply with applicable development standards in Chapter 32, may be permitted in Land Capability District 1b (stream environment zones) if TRPA finds that:
 - (1) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the stream environment zone, or that encroachment is necessary to reach the building site recommended by Individual Parcel Evaluation Score (IPES); and
 - (2) The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in Subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such Subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey

coefficients.

- (b) Public Outdoor Recreation: Land coverage and disturbance for public outdoor recreation facilities may be permitted in Land Capability District 1b (stream environment zones) if TRPA finds that:
- (1) The project is a necessary part of a public agency's long range plans for public outdoor recreation;
 - (2) The project is consistent with the Recreation Element of the Regional Plan;
 - (3) The project, by its very nature must be sited in a stream environment zone, such as bridges, stream crossings, ski run crossings, fishing trails, and boat launching facilities; in accordance with the Guidelines Regarding Public Outdoor Recreation Facilities and Activities Which Create Additional Land Coverage or Permanent Disturbance and Which By Their Very Nature Need Not Be Sited in Sensitive Lands (1a, 1b, 1c, 2, 3 or SEZs), Water Quality Management Plan for the Lake Tahoe Region, Volume I, Table 16, dated November, 1988.
 - (4) There is no feasible alternative which would avoid or reduce the extent of encroachment in the stream environment zone; and
 - (5) The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in Subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such Subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.
- (c) Public Service: Land coverage and disturbance for public service facilities may be permitted in Land Capability District 1b (stream environment zones) if TRPA finds that:
- (1) The project is necessary for public health, safety or environmental protection;
 - (2) There is no reasonable alternative, including a bridge span or relocation, which avoids or reduces the extent of encroachment in the stream environment zone; and
 - (3) The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in Subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such Subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.
- (d) Water Quality Control Facilities: Land coverage and disturbance may be permitted in Land Capability District 1b (stream environment zones) for erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects and similar

projects, programs and facilities if TRPA finds that:

- (1) The project, program, or facility is necessary for environmental protection;
- (2) There is no reasonable alternative, including relocation, which avoids or reduces the extent of encroachment in the stream environment zone; and
- (3) Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to 30.4.4.B.5 are met.

30.6 Excess Land Coverage Mitigation Program: This Section applies to projects where the amount of land coverage existing prior to the project in the project area exceeds the base land coverage for the project area prescribed by Subsection 30.4.1. Land coverage in excess of the base land coverage shall be mitigated by the transfer of land coverage pursuant to Subsection 30.4.3 or the land coverage mitigation program set forth in this Section.

30.6.1 Implementation Of Program: Except as otherwise provided by Subsection 20.5.B, all projects on parcels, or other applicable project areas, with unmitigated excess land coverage, shall be subject to the land coverage mitigation program set forth in this section. Projects subject to the program shall reduce land coverage by the amounts specified in Subparagraph 30.6.1.A and B.

(b) Excess Land Coverage Mitigation Program Options: In the event land coverage reduction is required, the applicant may choose any of the following options, or combinations thereof, to comply with the requirements of this Section:

(5) Projects Within Community Plans: Projects which are located within an adopted community plan may rely on the community plan to mitigate excess land coverage provided TRPA makes findings (i) and (ii), below. In lieu of findings (i) and (ii) being made, the TRPA may determine that a project complies with the requirements of this subparagraph by making finding (iii), below:

(a) The project is located within an area for which a community plan, as originally adopted or subsequently amended, includes a program to mitigate the excess land coverage within the area. Such a program shall ensure that coverage mitigation, when measured for individual parcels affected by the program, meets the standards set forth in Section 20.5 (A) (1), (2), and (3). The options available for mitigating excess land coverage under any such program shall be any combination of those options set forth in subparagraphs (a), (b), (c) and (d) of this subsection.

(b) There is an irrevocable commitment for the funding necessary to implement the program for mitigating excess land coverage. For purposes of this subparagraph, irrevocable commitment shall mean the following:

- (i) The public entity funding the measure or, when necessary, the electorate has made all discretionary decisions required for the issuance of the bonded indebtedness under applicable state law and that only ministerial acts necessary to the issuance of any such bonded indebtedness and the receipt of funds therefrom remain to be completed. Any such funds shall be finally committed to, and available for, expenditure;
 - (ii) The application for state and federal grant monies has received approval, and such grant monies are included in a duly enacted state budget or a legislative appropriation or federal authorization and appropriation. Any such funds shall be finally committed to, and available for, expenditure for the excess land coverage mitigation program in accordance with the approved community plan;
 - (iii) Where the funding of the program is the responsibility of a person or persons, TRPA shall ensure that the public entity has received sufficient funds or an acceptable security to fully fund the program;
 - (iv) The public entity funding the program has received a funded commitment from another public entity as described in (i) or (iii) above; or
 - (v) Any combination of (i) through (iv) above.
- (c) As a condition of approval, the permittee for the project shall post a security with TRPA, in accordance with Section 5.9, in an amount equal to the excess coverage mitigation fee otherwise required under Section 30.6. If a program to mitigate excess land coverage within the community plan has not been adopted by TRPA and an irrevocable commitment made by the time of final inspection of the project by TRPA, or 3 years after commencement of construction, whichever is sooner, the security shall be forfeited to TRPA. Securities forfeited to TRPA under this subparagraph shall be forwarded to a land bank to provide land coverage reduction.

30.6.1.C Relocation of Existing Land Coverage: Existing land coverage may be relocated on the same parcel or project area if TRPA finds that:

- (1) The relocation is to an equal or superior portion of the parcel or project area, as determined by reference to the following factors:
 - (a) Whether the area of relocation already has been disturbed;
 - (b) The slope of and natural vegetation on the area of relocation;
 - (c) The fragility of the soil on the area of relocation;
 - (d) Whether the area of relocation appropriately fits the scheme of use

of the property;

- (e) The relocation does not further encroach into a stream environment zone (SEZ), backshore, or the setbacks established in the Code for the protection of SEZs or backshore;
 - (f) The project otherwise complies with the land coverage mitigation program set forth in Section 30.6; and
- (2) The area from which the land coverage was removed for relocation is restored in accordance with Subsection 30.5.
 - (3) The relocation is not to Land Capability Districts 1a, 1b, 1c, 2 or 3, from any higher numbered land capability district.
 - (4) If the relocation is from one portion of a SEZ to another portion, there is a net environmental benefit to the SEZ. Net environmental benefit to a SEZ is defined as an improvement in the functioning of the SEZ and includes, but is not limited to:
 - (a) Relocation of coverage from a less disturbed area to a more disturbed area or to an area further away from the stream channel;
 - (b) Retirement of land coverage in the affected SEZ in the amount of 1.5:1 of the amount of land coverage being relocated within a SEZ; or
 - (c) For projects involving the relocation of more than 1000 square feet of land coverage within a SEZ, a finding, based on a report prepared by a qualified professional, that the relocation will improve the functioning of the SEZ and will not negatively affect the quality of existing habitats.

Chapter 31 DENSITY

31.3.2-1 Table of Maximum Densities: Except where a plan area statement, community plan, master plan, redevelopment plan, or specific plan sets a more restrictive standard, no person shall create a density that exceeds the limits set forth in the following table, or as provided in Subsection 31.4

Use	Maximum Density
<u>Residential Uses</u>	
A. Single-family dwelling (parcels less than 1 acre)	1 unit per parcel
B. Single-family dwelling (parcels 1 acre or larger)	2 units per parcel, provided one unit is an authorized secondary residence
C. Summer home	1 unit per parcel or lease site
D. Multiple-family dwelling	15 units per acre
E. Mobile-home dwelling	8 units per acre
F. Multi-person dwelling, nursing and personal care, and residential care	25 persons per acre
<u>Tourist Accommodations</u>	
A. Bed and Breakfast	10 units per acre
B. All other	
1. if less than 10% of the units have kitchens	40 units per acre
2. if 10% or more of the units have kitchens	15 units per acre
<u>Recreational Uses</u>	
A. Developed Campgrounds	8 sites per acre
B. Recreation vehicle parks	10 sites per acre
C. Group facilities	25 persons per acre

31.4.1 Affordable Housing: Affordable housing projects may be permitted to increase the density permitted in the table or the applicable plan area statement, community plan, master plan, redevelopment plan, or specific plan, whichever is less, by 25 percent, provided TRPA finds that: (1) the project, at the increased density, satisfies a demonstrated need for additional affordable housing; and (2) the additional density is consistent with the surrounding area.

31.4.2 Timeshare Uses (Residential Design): A timeshare use (residential design) in an adopted community plan area may increase the permitted density in the community plan by a factor of 2 or a timeshare use (residential design) in an adopted TRPA redevelopment plan area may increase the permitted density by a factor of 2.5, provided TRPA makes the following findings.

- (a) The special use findings in Subsection 21.2.2;
- (b) That the project provides transit service for its patrons directly or by contract with a transit provider;
- (c) That the project provides pedestrian and access amenities within the

project area or within adjacent rights-of-way, consistent with the community or redevelopment plan; and

- (d) If the project area contains excess land coverage: that the land coverage will be reduced to no more than 75 percent of the project area; or, if applicable, the land coverage will be reduced in accordance with Subsection 13.10.1.

31.4.3 Density In Special Height Districts: The maximum densities established in Section 31.3 may be exceeded for projects located in designated Special Height Districts as defined in Subsection 37.5.4. The amount of deviation from the density standards shall be established by a density analysis report, as defined in Sec. 90.2, approved by TRPA; however, the deviation shall not exceed the maximum densities established in Section 31.3 by a factor of three. To approve any project relying on the increase in density specified in the density analysis report, TRPA shall make the findings pursuant to subparagraphs 31.4.2.A through D.

Chapter 32 BASIC SERVICE REQUIREMENT

32.3 Paved Roads: All projects described in Section 32.2, and which require vehicular access, shall be served by a paved roadway. To be considered served, a right-of-way or easement shall abut the driveway serving the parcel and shall contain a paved roadway of adequate size and construction to accommodate the vehicular traffic resulting from the project.

32.3.1 Waiver: TRPA may permit a waiver of this requirement if it finds that:

- (a) The project is subject to a variance for historically significant structures and districts pursuant to Chapter 67;
- (b) The roadway is not designated to be paved by the surface water management plan. (Volume I of the 208 Water Quality Plan as amended);
- (c) The project is the expansion of a single family dwelling;
- (d) The permittee posts a security with TRPA in an amount equal to the permittee's fair share of the estimated cost of paving the road serving the parcel. TRPA shall apply the procedures established in law by the local jurisdiction to determine a fair share, or, in the absence of such procedures, shall adopt a procedure for determining a fair share. This waiver shall not apply to the construction or reconstruction of a commercial, tourist accommodation or multi-family residential project;
- (e) A program has been established which provides assurance the road will be paved within five years.

32.4 Water Service: All projects described in Section 32.2 shall have adequate water rights and water supply systems.

32.4.2 Water Supply: Additional development requiring water shall not be approved unless there is distribution and storage or pumping systems

to deliver an adequate quantity and quality of water to the development for domestic consumption and fire protection. A service connection to a water system or an approved well system shall be sufficient for domestic consumption.

- (b) Waiver: If the above minimum fire flow requirements cannot be met, TRPA may waive the requirements for I and II above, if TRPA finds that existing conditions are equal, or superior, to the following:
- (1) The fire department qualifies as a recognized fire department;
 - (2) Areas are within a five mile response (road) distance of the closest engine (pumper) company, and within an eight mile distance of the balance of any apparatus units required under (h)(ii) below;
 - (3) For more than one unit of apparatus, all assigned apparatus is radio equipped;
 - (4) For more than one unit of apparatus, there are not less than five persons responding on first alarm;
 - (5) There is additional staffing, as necessary, to meet the conditions of (g) and (h)(ii) below;
 - (6) At least one unit of apparatus is a pumper constructed and equipped in accordance with the intent of the Standard No. 19 of the National Fire Protective Association;
 - (7) The department demonstrates a capability to effectively develop and continuously apply water for not less than 20 minutes, at a rate of not less than 200 gpm, commencing with the initial evolutions of the first due company; and
 - (8) Apparatus:
 - (a) For areas adequately served by fire flows (available throughout the year) of not less than 200 gpm, a single pumper may suffice; or
 - (b) For all other areas, there are not less than two units and all units are suitable for the intended service.

Chapter 33.3 GRADING STANDARDS

33.3.1 Seasonal Limitations: The following seasonal limitations apply:

- B. Grading Season Exceptions: TRPA may approve grading after October 15 if TRPA finds either that an emergency exists and the grading is necessary for the protection of public health or safety, or that the grading is for erosion control

purposes or protection of water quality.

33.3.6 Excavation Limitations: The following excavation limitations apply:

A. Groundwater Interception: Groundwater interception or interference is prohibited except as set forth below:

(2) TRPA may approve exceptions to the prohibition of groundwater interception or interference if TRPA finds that:

- (a) Excavation is required by the Uniform Building Code (UBC) or local building code for minimum depth below natural ground for above ground structures;
- (b) Retaining walls are necessary to stabilize an existing unstable cut or fill slope;
- (c) Drainage structures are necessary to protect the structural integrity of an existing structure;
- (d) It is necessary for the public safety and health;
- (e) It is a necessary measure for the protection or improvement of water quality;
- (f) It is for a water well;
- (g) There are no feasible alternatives for locating mechanical equipment, and measures are included in the project to prevent groundwater from leaving the project area as surface flow and groundwater, if any is interfered with, is rerouted in the ground water flow to avoid adverse impacts to riparian vegetation, if any would be so affected;
- (h) It is necessary to provide two off street parking spaces, there is no less environmentally harmful alternative, and measures are taken to prevent groundwater from leaving the project area as surface flow; or
- (i) It is necessary to provide below grade parking for projects, qualifying for additional height under Subsection 37.5.4, to achieve environmental goals including scenic improvements, land coverage reduction, and area wide drainage systems; and measures are included in the project to prevent ground water from leaving the project area as surface flow and that groundwater, if any is interfered with, is rerouted into the groundwater flow to avoid adverse impacts to hydrologic conditions, SEZ vegetation, and mature trees.
- (j) It is necessary for a marina expansion approved pursuant to Chapter 14, and the environmental documentation demonstrates that there will be no adverse effect on water quality.

33.3.6.B Excavations: Excavations in excess of 5 feet in depth or where there exists a

reasonable possibility of interference or interception of a water table, shall be prohibited unless TRPA finds that:

- (1) A soils/hydrologic report prepared by a qualified professional, whose proposed content and methodology has been reviewed and approved in advance by TRPA, demonstrates that no interference or interception of groundwater will occur as a result of the excavation; and
- (2) The excavation is designed such that no damage occurs to mature trees, except where tree removal is allowed pursuant to Subsection 33.6.5, including root systems, and hydrologic conditions of the soil. To ensure the protection of vegetation necessary for screening, a special vegetation protection report shall be prepared by a qualified professional identifying measures necessary to ensure damage will not occur as a result of the excavation; and
- (3) Excavated material is disposed of pursuant to Section 33.3.4 and the project area's natural topography is maintained pursuant to Subparagraph 36.5.1.A; or if groundwater interception or interference will occur as demonstrated by a soils/hydrologic report prepared by a qualified professional, the excavation can be made as an exception pursuant to Subparagraph 33.3.6.A.2 and measures are included in the project to maintain groundwater flows to avoid adverse impacts to SEZ vegetation, if any would be affected, and to prevent any groundwater or subsurface water flow from leaving the project area as surface flow.

Chapter 34 DRIVEWAY AND PARKING STANDARDS

34.3 Driveways: To ensure organized and well-designed ingress and egress of vehicles from driveways, TRPA shall review the design of driveways according to the following standards and procedures:

34.3.1 Compliance Program: The standards set forth in Subsections 34.3.2 through 34.3.5, inclusive, shall be conditions of approval for projects with driveways, and for projects for which TRPA finds that the driveways are not in compliance with the standards set forth in Subsections 34.3.2 through 34.3.5, inclusive, and are causing significant adverse impacts on traffic, transportation, air quality, water quality, or safety. If TRPA finds that driveways associated with existing development are causing such impacts, TRPA may implement corrective measures pursuant to Chapter 5.12.

34.3.2 General Standards: Driveways shall comply with the following standards:

- (b) Shared Driveways: In the application of Sub sections 34.3.2.B through 34.3.2.F, inclusive, TRPA shall encourage shared driveways if TRPA finds that the effect is equal or superior to the effect of separate driveways.
- (e) Slope of Driveways: Slopes of driveways shall not exceed the standards of the county or city in whose jurisdiction the driveway is located. Driveways shall not exceed ten percent slope, unless TRPA finds that construction of a driveway with a ten percent or less slope would require

excessive excavation and that the runoff from a steeper driveway shall be infiltrated as required in Chapter 60. In no case shall the driveway exceed fifteen percent slope.

Chapter 35 NATURAL HAZARD STANDARDS

35.4 Flood Plains: To help prevent property damage and protect public health, TRPA shall review additional development in 100-year flood plains and regulate public utilities, transportation facilities, and other necessary public uses located in flood plains, according to the following standards and procedures:

35.4.2 Prohibition of Additional Development, Grading, and Filling of Lands Within the 100-Year Flood Plain: Additional development, grading, and filling of lands within the 100-year flood plain is prohibited, except as follows:

- (a) Public Outdoor Recreation Facilities: TRPA may permit additional public outdoor recreation facilities within the 100-year flood plain if TRPA finds that:
 - (1) The project is a necessary part of a public agency's long range plans for public outdoor recreation;
 - (2) The project is consistent with the Recreation Element of the Regional Plan;
 - (3) The project, by its very nature, must be sited in a flood plain and is in accordance with the Guidelines Regarding Public Outdoor Recreation Facilities and Activities Which Create Additional Land Coverage or Permanent Disturbance and Which By Their Very Nature Need Not Be Sited in Sensitive Lands (1a, 1b, 1c, 2, 3 or SEZs), Water Quality Management Plan for the Lake Tahoe Region, Volume I, Table 16, dated November, 1988;
 - (4) There is no feasible alternative which would reduce the extent of encroachment in a flood plain; and
 - (5) The impacts on the flood plain are minimized.
- (b) Public Service Facilities: TRPA may permit additional public service facilities within the 100-year flood plain if TRPA finds that:
 - (1) The project is necessary for public health, safety, or environmental protection;
 - (2) There is no reasonable alternative, including spans, which avoids or reduces the extent of encroachment in a flood plain; and
 - (3) The impacts on the flood plain are minimized.
- (c) Flood Plain Crossings: TRPA may permit projects to effect access across a 100-year flood plain to otherwise buildable sites if such projects comply with applicable development standards in Chapter 32 and if TRPA finds

that:

- (1) There is no reasonable alternative which avoids or reduces the extent of encroachment in the flood plain; and
 - (2) The impacts on the flood plain are minimized.
- (d) Water Quality Control Facilities: TRPA may permit erosion control projects, habitat restoration project, wetland rehabilitation projects, stream environment zone restoration projects, and similar projects, programs, and facilities within a 100 - year flood plain if TRPA finds that:
- (1) The project, program, or facility is necessary for environmental protection;
 - (2) There is no reasonable alternative which reduces the extent of encroachment in the flood plain; and
 - (3) Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to 30.4 are met.

Chapter 36 DESIGN STANDARDS

36.2.2 Substitution Of Standards And Guidelines: Equal or superior standards and guidelines may be substituted as set forth below:

36.2.2.A-D Guidelines: Local governments may adopt guidelines consistent with the TRPA Design Review Guidelines and Scenic Quality Improvement Program. TRPA, upon finding the local guidelines are equal or superior to the TRPA guidelines and program, may adopt the local guidelines for application in that jurisdiction

36.5 Site Design Standards: In accordance with section 36.2, the following site design standards shall apply:

36.5.4 Setback Standards: The setback standards are:

- (a.1-2) For parcels abutting roadways rated in the TRPA's Scenic Resources Inventory, the minimum building setback from the right-of-way of such roadways shall be 20 feet. Decks (except decks for off street parking), stairs, canopies, building, or roof overhangs shall not intrude into the 20 foot setback established in this subparagraph. TRPA may approve building setbacks less than 20 feet if the reduced setback is approved by the appropriate local jurisdiction and TRPA finds that the project will not cause a decrease in the numerical ratings assigned to the roadway unit, including the scenic quality rating of the individual resources within each unit, as recorded in the 1982 Scenic Resources Inventory and shown in Tables 13-3 and 13-8 of the Study Report for the Establishment of Environmental Threshold Carrying Capacities, October 1982. The criteria for rating scenic quality as identified in the study report cited herein shall be used to determine if a project will cause a decrease in the numerical rating.

Chapter 37 HEIGHT STANDARDS

37.3 Definitions: The following terms are defined as set forth:

37.5.4.D.3 View Enhancement: View enhancement is the creation of a new view, or the addition to an existing view, of a view of the natural landscape, a view of Lake Tahoe, or a view of a major visual feature which is visible from a scenic threshold roadway travel route as identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. To qualify as a view enhancement for the purposes of gaining additional building height under Table 37.3.1-1, TRPA shall find that the view enhancement is of a mapped resource of one of the types identified above, that the view enhancement is provided in the same threshold roadway travel route as the project in which the building using the additional height is located, and, for views of the natural landscape and views of major visual features, that no building or structure greater than five feet in height is closer than one hundred feet from the viewpoint to the resource. For view enhancements of views of Lake Tahoe, no building or structure shall exist between the viewpoint and Lake Tahoe.

For the purposes of creating a view enhancement, TRPA shall find, in addition to the criteria set forth above, that the created view is available for a continuous distance of at least two hundred feet as seen from the threshold roadway travel route. For the purposes of enhancing an existing view, TRPA shall find in addition to the criteria set forth above, that the enhanced view is provided in the same general location as the existing view, is of the same resource as the existing view, and adds at least thirty percent to the existing view. TRPA shall specify the method used to evaluate view enhancements.

37.3.3 Percent Cross Slope Retained Across Building Site: The percent cross slope shall be the gradient, in percent, of the terrain measured perpendicular to the contours through the middle of the building site. The building site shall include all that area counted as land coverage associated with each detached building. The cross slope shall be considered retained across the building site only if TRPA finds that the building complies with the limitations on excavation set forth in Section 33.3.6. Percentages of cross slope shall be rounded to the nearest even percentage.

37.4 Height Standards For Buildings: Except as provided for in Section 37.5, no building shall have a maximum height greater than set forth in Table A. Chimneys, flues, vents, antennas, and similar appurtenances, may be erected to a height ten per cent greater than the otherwise permissible maximum height of a building, or a height of six feet, whichever is less. One flagpole per building may be permitted as an appurtenant structure, not to exceed 15 percent of the otherwise permissible maximum height, or 30 feet, whichever is less, provided that:

37.5.4.1 Required Findings: Building heights, up to the maximums set forth in Table 37.4.1-1, may be approved in accordance with Table 37.4.1-1 if the project is in compliance with the standards in Section 37.4 and TRPA makes the following findings as required for additional height:

37.7.1 Additional Height: Maximum building heights greater than 26 feet shall be considered additional height. Additional height, up to the maximums set forth in Table A for a roof pitch of 5:12, may be approved in accordance with Table A if TRPA makes finding (7) as set forth in Section 37.7. Maximum building heights greater than set forth in Table 37.4.1-1 for a roof pitch of 5:12 may be approved in accordance with Table 37.4.1-1 for residential buildings if TRPA makes findings (1), (2), and (8) as set forth in Section 37.7 and for other buildings if TRPA makes findings (1), (2), (3), and (8) as set forth in Section 37.7. If, in any case, the TRPA is unable to make the required findings, maximum building height shall be limited to that height for which the required findings can be made.

37.5 Additional Height For Certain Buildings: TRPA may approve building heights greater than those set forth in Section 37.5 in accordance with the following provisions and if TRPA makes the specified findings.

37.5.2 Additional Height For Public Service, Tourist Accommodation, and Certain Recreation Buildings: TRPA may approve building heights greater than those set forth in Section 37.4 for buildings whose primary use is public service, tourist accommodation, downhill ski facilities, cross country skiing facilities or whose primary recreation use is participant sports facilities, recreation centers, or sport assembly as follows:

(a) Additional Height With Required Findings: The maximum heights specified in Table A may be increased by up to four feet, but not to exceed a maximum height of 38 feet, if TRPA makes the following findings in Section 37.7: findings (1), (2), and (3) for tourist accommodation buildings; findings (1), (3), and (2) or (4) for public service buildings; and findings (1), (2), (3), (4), and (7) for the recreation uses identified in 37.5.

(b) Additional Height For Reduced Land Coverage: The maximum heights specified in Table 37.4.1-1 may be increased for reductions in the amount of land coverage otherwise permitted within a project area pursuant to Chapter 30 *Land Coverage*. The maximum heights may be increased by one foot for each onsite reduction in land coverage equal to five percent of the base allowable coverage, or existing land coverage, whichever is greater, up to a limit of four additional feet, but not to exceed a maximum height of 42 feet, if TRPA makes findings (1), (2), (3) and (5) as set forth in Section 37.7.

(c) Additional Height For Public Service and Certain Recreation Buildings Which Are Not Visible From Lake Tahoe and Which Are Not Located Within Or Are Not Visible From Designated Scenic Highway Corridors: The maximum heights specified in Table A may be increased by up to eight feet, but not to exceed a maximum of 42 feet, if the building will not be visible from Lake Tahoe and the building is not located within a TRPA designated Scenic Highway Corridor pursuant to Chapter 67, provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 37.7. An additional two feet, not to exceed a maximum of 42 feet, may be earned if the building meets the criteria and findings set forth above and

is not visible from a TRPA designated Scenic Highway Corridor pursuant to Chapter 36.

(d) Additional Height For Certain Recreation Buildings Within Adopted Ski Area Master Plans Which Are Not Visible From Lake Tahoe And Which Are Not Located Within Or Are Not Visible From Designated Scenic Highway Corridors: The maximum heights specified in Table A may be increased if the buildings are identified in an adopted ski area master plan and the buildings are not visible from Lake Tahoe and which are not located within or are not visible from designated scenic highway corridors and designated bikeways and recreation sites identified in the Lake Tahoe Scenic Resource Evaluation, and provided TRPA makes findings (1), (3), (4), (7), and (8) as set forth in Section 37.7. Additional height shall be calculated as follows:

(1) The maximum height in Table A may be increased by up to 14 feet, but not to exceed a total building height of 56 feet, provided that the project proponent demonstrates that expected snow depths in the area of the building site make the additional height necessary for the function of the building. The amount of additional height shall not exceed the 10-year average snow depth as reported by the National Resource Conservation Service (NRCS) for that area or as reported by the applicant using a similar method as the NRCS.

(2) An additional 10 feet, not to exceed a total building height of 56 feet, may be earned if the project proponent demonstrates additional height is needed to maintain roof pitch in excess of 4:12.

37.5.3 Additional Height For Tourist Accommodation Buildings Within Community Plan Areas: In addition to the provisions set forth in Subsection 37.5.2, TRPA may approve building heights greater than those set forth in Section 37.4 for buildings whose primary use is tourist accommodation, and which are located within an approved community plan as set forth in Chapter 12. The maximum heights specified in Table A may be increased up to a maximum height of 48 feet in accordance with the following provisions, if TRPA makes the findings required in Subparagraph (4) of this subsection.

Required Findings: Additional height may be approved under the provisions of Subparagraphs (1), (2), or (3) of this subsection, if TRPA makes findings (1), (2), (3), and (6) as set forth in Section 37.7.

37.5.6 Additional Height For Redevelopment Projects Within The City Of South Lake Tahoe: Additional height for redevelopment projects within the City of South Lake Tahoe is set forth in Chapter 13 *Redevelopment Plans*.

37.5.4.A Additional Height for Special Height Districts: TRPA may designate special height districts as specified below. These special height districts shall be limited to areas which are within both a TRPA adopted re development plan and a TRPA adopted community plan. The boundaries of the special height districts and special standards for the district shall be included in the applicable redevelopment plan.

37.7.11 Findings for Special Height Districts: Special height districts may be specified in

adopted re development plans if TRPA makes the following findings:

- (a) The area is within 2300 feet of the center point of three or more buildings exceeding the height of 150 feet.
- (b) The special height district provides a transition of height from the high-rise area to the surrounding area of lower permissible heights.
- (c) The projects within the special height district utilize transit/pedestrian oriented development principles including, but not limited to, major transit facilities, sidewalks, limited parking, mixed uses, high densities, use of alleys and pedestrian oriented commercial opportunities.
- (d) The special height district is consistent with the Policy 1.B, Goal 2, Community Design Sub element, Land Use Element, of the TRPA Goals and Policies Plan and the TRPA Scenic Quality Improvement Program.

37.7.12 Findings for Establishing Maximum Allowable Heights Within Special Height Districts: In order to establish maximum allowable heights within special height districts, TRPA shall make the following findings:

- (a) The maximum height within a special height district is limited to 73 feet or three-fourths of the maximum height of the tallest trees within the special height district, whichever is lower. TRPA shall determine the height of the tallest trees within a special height district.
- (b) Prior to approving additional height for a project within a special height district TRPA shall make Findings (1), (3), (5) (6) and (9) of Section 37.7.

37.5.4.D Qualification for Additional Height: Eligible buildings in special height districts may earn additional height greater than that permitted in Table A pursuant to the criteria listed below. The additional heights permissible below are additive within the limitations of this subsection. Additional height which is earned under this subsection may be applied to eligible uses throughout the project area. The additional height may be permissible if TRPA makes findings (1), (3), (5), (6) and (9) of Section 37.7.

- (1) Additional Height with Required Findings: The maximum heights specified in Table A may be increased by up to four feet, but not to exceed a maximum height of 38 feet, if TRPA makes the additional finding (7) in Section 37.7.

37.5.4.D.7 Additional Height for Tree Preservation: The maximum heights specified in Table A may be increased a maximum of ten additional feet for the preservation and protection of 30 existing trees or 90 percent of the existing trees, whichever is greater, within the project area. To qualify, the trees to be preserved must be twelve inches diameter at breast height (dbh) or greater, and must be found by TRPA to provide screening benefits to the building or buildings using the additional height.

- (e) Security for Improvements: Projects which utilize any of the additional

height provisions provided in subsection 37.7.10 shall ensure the public benefit(s) for which the additional height was earned is implemented consistent with the following provisions.

- (2) Project Funding: Prior to the commencement of construction of any project which relies on the use of an additional height provision provided in subsection 37.7.10, the project applicant shall demonstrate, and TRPA shall find, for each project, that irrevocable commitments to fund the public benefit for which the additional height was earned, have been obtained or secured.
- (3) Project Completion: For each irrevocable commitment, the project applicant shall demonstrate, and TRPA shall find, sufficient evidence of intent and ability to complete development of the public benefit for which the additional height was earned.

37.6.2 Additional Height For Certain Structures: The maximum height specified in Section 37.6.1 may be increased for communication towers, antennas, utility poles, special features of public safety facilities, ski lift towers, and other similar projects, excluding buildings and signs, up to the minimum height necessary to feasibly implement such projects. Additional height may be approved under the provisions of this section if TRPA makes findings (4) and (7) as set forth in Section 37.7.

37.7 List Of Findings: The findings required in this chapter are as follows:

- 37.7.1 When viewed from major arterials, scenic turnouts, public recreation areas or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline. For height greater than that set forth in Table A for a 5:12 pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in Subparagraph 66.3.7, Additional Visual Magnitude, or Appendix H, Visual Assessment Tool, of the Design Review Guidelines.
- 37.7.2 When outside a community plan, the additional height is consistent with the surrounding uses.
- 37.7.3 With respect to that portion of the building which is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.
- 37.7.4 The function of the structure requires a greater maximum height than otherwise provided for in this chapter.
- 37.7.5 That portion of the building which is permitted the additional height, is adequately screened, as seen from major arterials, the waters of lakes, and other public areas from which the building is frequently viewed. In determining the adequacy of screening, consideration shall be given to the degree to which a combination of the following features causes the building to blend or merge with the background.
 - (a) The horizontal distance from which the building is viewed;
 - (b) The extent of screening; and

- (c) Proposed exterior colors and building materials.
- 37.7.6 The building is located within an approved community plan, which identifies the project area as being suit able for the additional height being proposed.
- 37.7.7 The additional height is the minimum necessary to feasibly implement the project and there are no feasible alternatives requiring less additional height.
- 37.7.8 The maximum height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and point at which the corner of the same exterior wall meets the roof. This standard shall not apply to an architectural feature described as a prow.
- 37.7.9 When viewed from a TRPA scenic threshold travel route, the additional height granted a building or structure shall not result in the net loss of views to a scenic resource identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. TRPA shall specify the method used to evaluate potential view loss.
- 37.9 Additions to Existing Buildings: When an addition is proposed to an existing building which results in height greater than that permitted by Table A, the height of the addition may be calculated in accordance with Subsections 37.9.1 and 37.9.2, below. The height provisions of Section 37.9 may be utilized one-time only within a project area. A subsequent project in the same project area shall calculate height from the original low point. Projects using this Section are not eligible to apply under the Exempt or Qualified Exempt provisions of Chapter 2 of the Code.
 - 37.9.1 For Additions At Or Above the Low Point of An Existing Building, the height of the addition may be calculated as if the addition is a separate structure if findings (1) through (5) of Subsection 37.9.3.C. can be made. The height of the addition shall not exceed the maximum height permitted by Table A.
 - 37.9.2 For Additions Below The Low Point of An Existing Building, the height of the addition may be calculated as if the addition is a separate structure if findings (1) through (5) of Subsection 37.9.3.C can be made. The maximum height shall not exceed the maximum height permitted by Table A, less the difference between the existing and proposed low points of the structure.
 - 37.9.3 Findings: The following is a list of findings applicable to this Section:
 - (a) Findings (1), (2) and (8) as set forth in Subsection 37.7;
 - (b) The addition is not visible from a TRPA-designated scenic threshold travel route, the waters of Lake Tahoe, a public recreation area, or a bicycle trail contained in the 1993 Lake Tahoe Basin Scenic Resource Evaluation;
 - (c) The existing use is a permissible use in the plan area statement or community plan;
 - (d) The existing building was legally existing prior to May 26, 1996; and
 - (e) The addition is no more than one story.

Chapter 38

SIGNS

38.2.3 Substitution of Standards: Sign standards may be substituted as follows:

- A. Local Government Standards: Local governments may adopt equal or superior sign standards. TRPA, upon finding the local standards are equal or superior to the TRPA sign standards as they may affect attainment and maintenance of TRPA's scenic resources thresholds, may approve the local government sign standards and exempt signs approved in accordance with such local standards from TRPA review.

- B. Community Plan Standards: Community plans may establish equal or superior sign standards for use in a specific community plan area if finding (1) or (2) is made. Substitute standards adopted by TRPA are listed as an appendix to this chapter. If adopted by local government, these standards may also be a basis for exemptions as set forth in 38.2.3.A.
 - (1) TRPA, upon finding the community plan standards are equal or superior to the TRPA sign standards as they may affect the attainment and maintenance of TRPA's scenic resource thresholds, may adopt the community plan sign standards for use during TRPA review of signs in the specific community plan area, or
 - (2) TRPA, upon finding the community plan scenic quality improvement program which may include substitute sign standards, is equal or superior to the TRPA scenic quality improvement program for the same plan area as they may affect the attainment and maintenance of TRPA's scenic resource thresholds, may adopt the community plan scenic quality improvement program for use during TRPA review of projects in the specific community plan area.

- C. Findings Required for Substitute Standards: TRPA may adopt a substitute sign ordinance for use in a local jurisdiction or in a community plan area. In making the finding that the substitute standards are equal or superior to TRPA standards, TRPA shall consider the following:
 - (1) A scenic quality analysis using appropriate methods of visual simulation has been provided and indicates the substitute standards do not result in adverse impacts on applicable scenic resources and community design thresholds.
 - (2) The substitute ordinance, in combination with the applicable elements of TRPA's Scenic Resource Management Plan and adopted community plans, redevelopment plans or other TRPA-approved master plans, results in a threshold travel route rating for applicable threshold travel routes of at least 16 for roadway travel routes, or a shoreline travel route rating of at least 8, by July 1, 2007, and does not result in a decline of applicable roadway or shoreline scenic quality ratings.

38.8 Signs in Commercial and Public Service Plan Areas: The following standards shall apply to signs located in Commercial and Public Service plan areas, except for certain signs

within the Meyers Community Plan. The Meyers Community Plan substitute sign standards are listed below.

38.8.2 Freestanding Signs: Freestanding signs shall conform to the following standards:

- (f) Additional Height for Freestanding Signs: Up to two feet of additional height for freestanding signs may be approved when the freestanding sign is incorporated into a landscape planter, monument base, or pedestal. The additional height permitted will be the height of the landscape planter, monument base, or pedestal, up to a maximum of two feet. Examples of a landscape planter, monument base, and pedestal are found in the Design Review Guidelines.

38.9 Signs in Tourist Accommodation Plan Areas: The following standards shall apply to signs located in Tourist Accommodation plan areas:

38.12 Existing Signs: An existing sign is a sign that is legally existing or approved on November 27, 1989.

38.12.2 Removal of Nonconforming Signs: Nonconforming signs shall be brought into conformance with the applicable standards, if conformance is possible, including substitute standards which may be in effect unless otherwise specified by the substitute sign standards or removed as follows:

- (d) Exceptions to subparagraphs (1) through (8) of this subsection may be approved for existing signs provided the following findings can be made:
 - (1) The exception is in harmony with the purpose and intent of the sign ordinance;
 - (2) There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property that are not contemplated or provided for by this ordinance;
 - (3) The approval of the exception will not be materially detrimental to the public health, safety, and welfare;
 - (4) Alternative signage concepts that comply with the provision to which the exception is requested have been evaluated, and undue hardship would result if the strict adherence to the provision is required;
 - (5) A scenic quality analysis demonstrates that the exception, if approved, will be consistent with the threshold attainment findings listed in the Scenic Resources Management Package Final Environmental Impact Statement, 1989;
 - (6) The exception which is approved shall not increase the number, area, and height of the existing sign or signs for which the exception is requested; and
 - (7) The exception is the minimum departure from the standards.

Chapter 39.1 PERMISSIBLE SUBDIVISIONS

39.1.3 Limitations on New Subdivisions: New subdivisions shall not create new development potential in the Region. New subdivisions shall be reviewed in accordance with the applicable provisions of this Code. Only the following types of subdivisions may be approved provided TRPA finds they do not increase new development potential:

- A. Conveyance to Public Entity: (See Code Section in the TRPA Code of Ordinances)
- B. Cemetery Lots: (See Code Section in the TRPA Code of Ordinances)
- C. Litigation: (See Code Section in the TRPA Code of Ordinances)
- D. Modifications to Existing Parcels and Subdivisions: (See Code Section in the TRPA Code of Ordinances)
- E. Conversions of Pre-1987 Structures: (See Code Section in the TRPA Code of Ordinances)
- F. Resubdivision: (See Code Section in the TRPA Code of Ordinances)
- G. Subdivision of Post-1987 Projects: (See Code Section in the TRPA Code of Ordinances)

Chapter 39.2 SUBDIVISION STANDARDS

39.2.3 Subdivision of Existing Structures: Subdivision of eligible existing structures, as set forth in subsection 39.2.E, may be permitted subject to the following requirements:

- D. Density: Subdivision of existing structures which exceed the density standards in Chapter 31, or the applicable plan area statement, by more than ten percent shall not be permitted.
 - (1) Conversions of existing structures which exceed the density standards in Chapter 31 by no more than ten percent may be permitted provided TRPA finds that the resultant excess density is not inconsistent with the surrounding uses and the goals of the applicable plan area statement.

39.2.5 Subdivision of Post-1987 Projects: Subdivision of projects approved after July 1, 1987 pursuant to the 1987 Regional Plan, as it may be amended, may be permitted subject to the following requirements:

- F. Affordable Housing: Subdivisions of post-1987 residential projects in plan areas designated preferred affordable housing areas and subdivisions of affordable housing projects shall be subject to the following standards:
 - (1) Subdivision of Affordable Housing Projects: Subdivisions of affordable housing projects, where the units were exempt from the residential allocation system, may be permitted provided TRPA finds that the

resultant use qualifies as affordable housing and appropriate deed restrictions or other covenants running with the land are recorded to document the restriction of units to affordable housing.

- (2) Residential Subdivisions in Preferred Affordable Housing Areas: Approval of subdivisions after December 31, 1995 of post-1987 residential projects which do not qualify as affordable housing are prohibited until TRPA finds the city or county, with zoning jurisdiction, has demonstrated its commitment to assume its "fair share" responsibility to provide lower and very low income housing within existing urban areas pursuant to Goal #1 of the TRPA Housing Sub element of the Regional Plan Goals and Policies.

Chapter 50 ALLOCATION OF DEVELOPMENT

50.4 Allocation Of Additional Residential Units: TRPA shall allocate the development of additional residential units as follows:

50.4.2 Distribution And Administration Of Residential Allocations: Residential allocations shall be distributed and administered in accordance with the Goals and Policies, this Code, and the Rules of Procedure.

- (a) Distribution of Annual Allocations: Distribution of allocations for 1993 and beyond shall be by a method or system which permits the participation of parcels with scores below the numerical level defining the top rank in the applicable jurisdiction.

- (1) TRPA shall reserve ten percent of each jurisdiction's annual allocations for distribution to parcels below the IPES line. The reserved allocations shall be distributed by a method of random selection by TRPA. A county or city may elect to distribute the reserved allocations, or may be exempt from the set-aside requirement, provided TRPA finds the substitute system or the city/county distribution system, as the case may be, provides an equal or superior opportunity for participation of parcels below the IPES line.

50.5 Allocation Of Additional Commercial Floor Area: TRPA shall allocate the development of additional commercial floor area as follows:

50.5.1 Requirement Of Allocation: No person shall construct a project or commence a use, which creates additional commercial floor area, without first receiving an allocation approved by TRPA. In order to construct the project or commence the use, to which the allocation pertains, the recipient of the allocation shall comply with all other applicable provisions of this code.

- (a) Applicable Commercial Uses: The commercial uses set forth in Chapter 21 contain commercial floor area. The allocation of additional commercial floor area pursuant to this chapter also applies to commercial activities that are not primary commercial uses, except that accessory uses as to which TRPA makes the following findings shall be deemed not to contain additional commercial floor area:

- (1) The accessory use meets all criteria specified by Chapter 21 for an accessory use; and
- (2) The accessory use is designed to serve the noncommercial primary use, as determined by reference to the following criteria:
 - (a) There is no separate entrance for the accessory use;
 - (b) The accessory use is compatible with the size and patronage of the primary use;
 - (c) The accessory use does not rely on separate parking;
 - (d) The accessory use is not separately advertised;
 - (e) The use season of the accessory use corresponds to that of the primary use;
 - (f) The accessory use does not generate additional vehicle trips; and
 - (g) In applicable instances, the accessory use is principally for service or repair rather than sales. The following are examples of accessory uses of a commercial nature not subject to the allocation of additional commercial floor area: ski rental shops in ski areas; gift shops in airports; tackle shops used by patrons of marinas; newsstands in motels; pro shops at golf courses; and cafeterias in hospitals.

50.7 Regulation Of Additional Public Service Facilities: TRPA shall regulate the rate and distribution of additional public service development as follows:

50.7.1 Required Findings for Approval of Additional Public Service Facilities: Approval of additional public service facilities shall only be permitted for projects for which the sponsoring entity demonstrates, and TRPA finds that:

- (a) There is a need for the project;
- (b) The project complies with the Goals and Policies, applicable plan area statements, and Code;
- (c) The project is consistent with the TRPA Environmental Improvement Program;
- (d) The project meets the findings adopted pursuant to Article V(g) of the Compact as set forth in Chapter 6 as they are applicable to the project's service capacity;
- (e) If the proposed project is to be located within the boundaries of the community plan area, then, to the extent possible consistent with public health and safety, the project is compatible with the applicable community plan; and
- (f) Where a public service project is proposed for construction in a

community plan area before the community plan has been adopted by TRPA, the sponsoring entity shall demonstrate that the need for such a construction schedule outweighs the need for the prior completion of the community plan process.

50.8 Regulation Of Additional Recreation Facilities: TRPA shall regulate the rate and distribution of additional recreation as follows:

50.8.1 Required Findings for Approval of Additional Recreation Facilities: Approval of additional recreation facilities shall only be permitted for projects, for which the sponsoring entity demonstrates, and TRPA finds that:

- (a) There is a need for the project;
- (b) The project complies with the Goals and Policies, the applicable plan area statements, and Code;
- (c) The project is consistent with TRPA's 20-year targets for outdoor recreation, which are 6,114 people at one time ("PAOT") in overnight facilities, 6,761 PAOT in summer day-use facilities, and 12,400 PAOT in winter day-use facilities, as well as the allocations set forth in the plan area statements, or the pools of reserved PAOT capacity;
- (d) The project meets the findings adopted pursuant to Article V(g) of the Compact as set forth in Chapter 4 as they are applicable to the project's recreational service capacity; and
- (e) If the project requires PAOT allocations, it is consistent with the TRPA Environmental Improvement Program.

Chapter 51 TRANSFER OF DEVELOPMENT

51.5 Transfer Of Existing Development: Certain elements of existing development may be transferred from one parcel or project area to another, if the receiving parcel is in a plan area or adopted community plan area, designated as a receiving area for existing development. Existing residential development may be transferred to any plan area or adopted community plan where residential use is a permissible use. The transfer of existing development shall not be considered additional development and is exempt from the applicable allocation system.

51.5.2 Requirements: Transfers of existing development may be permitted subject to the following requirements:

- (d) The findings required for a special use in Chapter 21 shall have been made if the use transferred is a special use in the receiving area;

Chapter 52 BONUS UNIT INCENTIVE PROGRAM

52.3 Multi-Residential Incentive Program: Multi-residential bonus units may be approved for use only on parcels located in plan areas or community plans designated as eligible for the Multi-Residential Incentive Program.

- 52.3.1 Assignment Of Bonus Units: Pursuant to Chapter 11, a maximum of 1,400 multi-residential bonus units shall be available to plan areas with the special designation of multi-residential incentive program.
- 52.3.2 Criteria: All projects receiving multi-residential bonus units pursuant to this chapter shall comply with the following criteria:
- (b) Multiple family dwellings shall be designated in the plan area or community plan as an allowed use, or a special use for which the findings required in Section 21.2 have been made.
- 52.3.3 Determination Of The Number Of Multi-Residential Bonus Units: Applications for projects proposing the use of multi-residential bonus units shall include a list and description of all mitigation measures identified in Subsection 52.3.3.B that are proposed as part of the project. Based on review of the list and description of the mitigation measures proposed, TRPA shall determine a score for the project in accordance with Subsection 52.3.3.B. One residential bonus unit may be approved for each ten points received by a project. Bonus units, so determined, may be reserved for projects based on the proposals submitted prior to project approval to enable applicants to accumulate allocations. Bonus units shall be assigned to a parcel and may be reserved as credits, unused, for no more than five years. TRPA may reissue those credits to the same parcel for an additional five years, if TRPA finds that the bonus units are likely to be used during that period.
- 52.4 Tourist Accommodation Bonus Unit Program: Tourist accommodation bonus units may be approved by TRPA only on parcels located within an adopted community plan and only when at least one existing tourist accommodation unit is transferred in accordance with Chapter 51 for each tourist accommodation bonus unit approved.
- 52.4.2 Criteria: Projects receiving tourist accommodation bonus units pursuant to this chapter shall comply with the following criteria:
- (b) Tourist accommodation units shall be designated in the plan area or community plan as an allowed use, or a special use for which the findings required in Section 21.2 have been made.
- 52.4.3 Determination Of The Number Of Bonus Units: Applications for projects proposing the use of tourist accommodation bonus units shall include a list and description of all mitigation measures identified in Subsection 52.4.3-1 that are proposed as part of the project. Based on review of the list and description of the mitigation measures proposed, TRPA shall determine a score for the project in accordance with Subsection 52.4.3-1.
- (4) Bonus units shall be awarded at the time of project approval, including the portion of the project that includes the transfer of units. Bonus units shall be assigned to a parcel and may be reserved, as credits, if unused, for no more than five years. TRPA may reissue those credits for an additional five years, if TRPA finds that the bonus units are likely to be used during that period.

Chapter 53
INDIVIDUAL PARCEL EVALUATION SYSTEM (IPES)

53.7 Evaluation Criteria: IPES shall evaluate and assign a numerical score in accordance with the following criteria:

53.7.9 Additional Mitigation: A parcel's score may be increased by an amount not to exceed that permitted under Subparagraph (2) below, upon approval by TRPA of a water quality improvement project, submitted by the owner of the parcel. A project that qualifies a parcel for an increase in its point score shall be located on a parcel other than the parcel for which the score increase is proposed, and shall be improvements such as slope stabilization, energy dissipators, sediment ponds, and rock-lined channels. A parcel's score shall not be increased unless, as a condition of approval, TRPA requires the water quality improvement project to be completed prior to construction commencing on the parcel receiving the increase in score. Approvals for additional points shall not be granted under the provisions of this subsection until TRPA makes the following findings:

(a) Required Findings: The required findings are:

- (1) The water quality improvements proposed under the provisions of this subsection are consistent with TRPA's 208 Plan;
- (2) The increase in the IPES score for the applicant's parcel is in compliance with paragraph (2) below; and
- (3) The proposed water quality improvements would not otherwise be required of the owner to comply with the standards set forth in Chapter 60.

53.5 Ranking Of Parcels: Once all eligible parcels within a particular jurisdiction have received a numerical score, the parcels shall be ranked, by jurisdiction, from the most suitable (those parcels receiving the highest numerical score) to the least suitable (those parcels receiving the lowest numerical score).

53.5.1 Lowering Numerical Level Defining Top Ranked Parcels: Provided TRPA makes the findings required under Subparagraph (1) of this Subsection, the numerical level defining the top ranked parcels in any jurisdiction shall be lowered, on an annual basis commencing on January 1, 1990, to include in the top rank a number of parcels equal to the number of parcels in that jurisdiction that used allocations during the previous year in accordance with Chapter 50.

(a) Required Findings: The numerical level defining the top ranked parcels shall not be lowered unless TRPA makes the following findings with respect to the applicable local jurisdiction:

- (1) All parcels included in the top rank are otherwise eligible for development under the applicable state water quality management plan for the Lake Tahoe Basin (208 plans) and other legal limitations;
- (2) The monitoring program for that jurisdiction is in place pursuant to

Chapter 16 and the TRPA monitoring plan.

- (3) Demonstrable progress is being made on capital improvement programs for water quality within that jurisdiction;
- (4) The level of compliance with conditions of project approvals within any jurisdiction is satisfactory; and
- (5) For any jurisdiction, the number of parcels having scores below the level defining the top ranked parcels, divided by the number of parcels in that jurisdiction that were identified as sensitive by TRPA on January 1, 1986, does not exceed the following percentages;
 - (a) El Dorado County - 20 percent
 - (b) Placer County - 20 percent
 - (c) Douglas County - 33 percent
 - (d) Washoe County - 33 percent

53.10 Changes In IPES Score: IPES scores may be changed as follows:

53.10.2 Changes In Condition Of Watershed: If the TRPA finds that the estimated overall ability of a drainage basin to deliver nutrients and sediments to Lake Tahoe has changed, based on consideration of the three categories listed in Subsection 53.7.5, the point value given that watershed shall be changed to reflect the new condition and the score received by parcels located in that watershed shall be changed accordingly. Such changes in the condition of a watershed may cause the score received by a parcel to increase or decrease.

53.10.4 Appeal Procedure: The owner of a parcel who has received notification of the parcel's score under IPES may file an appeal with TRPA by submitting a complete written appeal application no later than 180 days from the date notification, in accordance with Subparagraph 53.3.4.B. Complete applications shall include, at a minimum, identification of the IPES criteria the parcel owner feels was improperly or incorrectly applied and any data, reports, or other information in support of the appeal.

- (b) Appeals to the Governing Board shall be processed in accordance with TRPA's Rules of Procedure. The Governing Board may change the score for a parcel only if it finds that the IPES criteria were not applied correctly and then the score shall be changed only to the degree resulting from proper application of the criteria.

53.8 Allowable Base Land Coverage: The allowable base land coverage for residential parcels evaluated under IPES shall be a function of the parcel's combined score under the IPES criteria for relative erosion hazard and runoff potential as correlated with the coverage coefficients and land capability districts of the Bailey Report. The allowable base land coverage under IPES shall be established in accordance with the following procedures and shall be considered for adoption by TRPA no later than January 1, 1989.

53.8.2 Application Of Allowable Base Land Coverage Percentages: The percentages of allowable base land coverage established in accordance with Section 53.8

shall be applied as follows to determine the total allowable base land coverage:

- (a) Parcels Of 1/3 Acre Or Less In Size: The percentage of allowable base land coverage shall be applied to the entire parcel area, except in cases where the parcel contains areas classified as SEZ or backshore. In such cases, the percentage of allowable base land coverage shall be applied to only that area outside the SEZ and backshore. The allowable base land coverage of one percent in the SEZ and backshore may be combined with the allowable base land coverage for the remainder of the parcel to establish a total allowable base land coverage for the parcel. A portion of the total allowable base land coverage for the parcel may be used to allow construction of access only through the SEZ, provided TRPA makes the findings required in Subparagraph 30.5.2.A, and through the backshore, provided TRPA makes the findings required in Section 55.4.

Chapter 60 BEST MANAGEMENT PRACTICE REQUIREMENTS

60.4.6 Standard BMP Requirements: Pursuant to section 60.4.3, standard conditions of approval for projects shall meet the following requirements:

- a. Runoff Water: Runoff water from impervious surfaces shall meet the discharge standards of Chapter 60.1.3 and shall be controlled as follows:
 - (1) Infiltration Requirements: Except as provided in section 60.4.8, infiltration facilities to discharge runoff to groundwater shall be required. Infiltration facilities shall be designed to accommodate the volume from a twenty year, one hour storm. An average intensity of 1 inch per hour can be used for this calculation. Infiltration facilities shall be designed utilizing the methodology set forth in the BMP Handbook. The bottom of infiltration trenches or dry wells shall be a minimum of one foot above the seasonal high water table. If TRPA finds that the runoff from impervious surfaces from a twenty year, one hour storm will infiltrate naturally on the parcel, TRPA may waive the requirement to install infiltration facilities.

Chapter 60.1 WATER QUALITY CONTROL

60.1.7 Pesticide Use: The use of insecticides, fungicides and herbicides shall be consistent with the Handbook of Best Management Practices. TRPA shall discourage pesticide use for pest management. Prior to applying any pesticide, potential users of pesticides shall consider integrated pest management practices including alternatives to chemical applications, management of forest resources in a manner less conducive to pests, reduced reliance on potentially hazardous chemicals, and additional environmentally sound pest management tactics.

- b. Criteria For Use: The following criteria for use apply:
 - (3) No detectable concentration of any pesticide shall be allowed to enter any stream environment zone unless TRPA finds that application of the pesticide is necessary to attain or maintain the environmental threshold standards.

Chapter 60.2 WATER QUALITY MITIGATION

60.2.3 Required Offsets: All projects and activities which result in the creation of additional impervious coverage shall completely offset the potential water quality impacts of the project through one, or a combination, of the following methods:

- a. Mitigation Projects: Implementation of offsite water quality control projects or stream environment zone restoration projects as a condition of project approval, and pursuant to TRPA guidance on identification, design, and effectiveness of offsite mitigation projects. Applicants who wish to exercise this option shall include plans for the offsite mitigation project with their application. TRPA shall approve the offsite mitigation plans in conjunction with the approval of the project. Before issuing an approval, TRPA shall find that the offsite mitigation proposal completely offsets the expected impacts of the project.

60.2.2.B Exemptions: The following projects and activities which create impervious coverage shall be exempt from water quality mitigation requirements:

- 60.2.2.B.3 Limited Exception For Additional or Transferred Development Within Adopted Community Plans: Additional or transferred development located within an adopted community plan, the water quality impacts of which were evaluated in the EIS for the community plan and mitigated by the provisions of the community plan, shall be exempt from the requirement of Section 60.2.3 provided TRPA finds that the implementation element of the community plan, as a whole, meets the standards of Section 60.2.3.

60.2.8 Use And Distribution Of Mitigation Funds: TRPA shall deposit water quality mitigation funds in a trust account. Interest accruing to the trust account shall remain in the account until used on water quality mitigation projects or water quality planning. TRPA shall keep track of the amount of funds collected for each local jurisdiction and shall disburse funds to the local jurisdictions, upon their request, for expenditure within the jurisdiction of origin, provided TRPA finds that the expenditure is consistent with TRPA's Water Quality Management Plan. Accrued interest may be used for water quality planning in the Region. TRPA shall encourage the local jurisdictions to use funds as expeditiously as possible.

Chapter 60.3 SOURCE WATER PROTECTION

60.3 Source Water Protection: To protect public health and to insure the availability of safe drinking water, TRPA shall review proposed projects identified as possible contaminating activities to source water which are located within a source water protection zone depicted on TRPA Source Water Assessment maps according to the following standards and procedures:

- d. Review of Proposed Possible Contaminating Activities located in Source Water Protection Zones: Proposed uses determined by TRPA to be projects that are identified as a Possible Contaminating Activity, with a project area located in a source water protection zone, shall not be approved unless TRPA finds that:

- (1) The project complies with the requirements to install BMPs as set forth in Section 60.4.3.

- (2) TRPA has solicited comments from the operator/owner of the source water, and the department of environmental health with jurisdiction over the source water, and all such comments received were considered by TRPA prior to action being taken on the proposed project.
- (3) A spill control plan is submitted to TRPA for review and approval. The plan shall contain the following elements:
 - (a) Disclosure element describing the types, quantities, and storage locations of contaminants commonly handled as part of the proposed project.
 - (b) Contaminant handling and spill prevention element.
 - (c) Spill reporting element, including a list of affected agencies to be contacted in the event of a spill.
 - (d) Spill recovery element.
 - (e) Spill clean-up element.
- (4) Submittal of a spill control plan may be waived provided a state or local agency with jurisdiction over the subject source water provides a written statement to TRPA that a plan containing the above elements remains on file with that agency, or TRPA staff determines, at its discretion, that requiring a spill control plan would not result in significant additional protection of the source water.

Chapter 61 TREE REMOVAL

61.1.4 Late Seral/Old Growth Enhancement and Protection: In addition to other code sections the following standards will govern forest management activities and projects.

- a. Standards for Conservation and Recreation Lands: Within lands classified by TRPA as conservation or recreation land use or Stream Environment Zones, any live, dead or dying tree greater than or equal to 30 inches diameter at breast height (dbh) in west side forest types shall not be cut, and any live, dead or dying tree greater than or equal to 24 inches diameter at breast height in eastside forest types shall not be cut. Except as follows:
 - (8) Large trees may be removed for large public utilities projects if TRPA finds there is no other reasonable alternative.
- c. Alternative Private Landowner Process: A private landowner may follow the regulations within Subsections 61.1.4.A or a private landowner may follow one of the following planning processes to achieve or maintain the late seral/old growth threshold, goals, and policies.
 - (1) A private landowner, in the development of a forest management plan, shall follow the planning process described in Chapter 14 of TRPA Code of Ordinances except as follows:

- (c) In relation to Section 14.9, the content of a forest master plan is described in the TRPA Forest Master Plan Guidelines. The content shall include enough information to make the required findings of Subsection 14.10; shall provide guidelines for salvage harvest, insect control and fire salvage. The document shall be organized by described and mapped planning units. As an example, a non-industrial timber management plan that contains enough information to make the required findings of Subsection 14.10 can be submitted provided it is developed with approval of the steering committee.

61.1.5 General Standards: The cutting, moving, removing, killing, or materially damaging of live trees, the removal of disease-infested and hazardous trees, and the attachment of appurtenances to trees, shall comply with this chapter. Except as provided in subsections 61.1.7.B, and 61.1.7.J, all cutting of trees 14 inches diameter at breast height (dbh) and larger shall require approval by TRPA. Permits shall be granted or denied in conformity with the provisions of this chapter. Such tree-related projects and activities also shall conform to the other provisions of the Code.

- b. Findings: Before tree-related projects and activities are approved by TRPA, TRPA shall find, based on a report from a qualified forester, that the project or activity is consistent with this chapter and the Code. TRPA may delegate permit issuance to a federal or state agency through a memorandum of understanding.

61.1.6 Minimum Standards For Tree Removal: The minimum standards for tree removal are:

- d. Logging Roads And Skid Trails: All logging roads and skid trails shall be constructed or otherwise created and maintained in accordance with the requirements of this chapter and the Handbook of Best Management Practices. New roads shall be approved only if TRPA finds that all alternatives have been explored. Existing roads shall be used where available. In accordance with subsection 60.1.3.B, existing roads and landings may be accessed in the winter to help prepare for over-snow tree removal. Such preparation shall be limited to packing snow over the roadways to obtain a firm snow base and allow movement of logs and equipment without disturbance of the soil. The following standards also shall apply:
 - (1) The requirements and standards for design, grade, tree felling in right-of-way, slash cleanup, width and maintenance, by road type as determined by TRPA, shall be as shown in Figures 61.1.5-1 and 61.1.5-2:

FIGURE 61.1.5-1

Road Type	Design	Maximum Grade
Permanent Administrative Roads	Plans and Specifications	10%
Limited Use	Plans and Specifications	10% with occasional 15%
Limited Use Roads Closed after Logging	Plans and Specifications	10% with occasional 15%
Temporary Roads	Flag Line	20%
Tractor Roads and Main Skid Trails	Flag Line	30%
Secondary Skid Trail	None	30%

FIGURE 61.1.5-2

Road Type	Right of Way Tree Falling	Minimum Slash Cleanup	Maximum Width	Maintenance
Permanent Administrative Roads	Prefall	Removal within 50 feet of road	30 feet*	As determined by TRPA
Limited Use Roads Remaining Open	Prefall	Removal within 50 feet of road	15 feet 2/turnouts*	Annual maintenance required**
Limited Use Roads Closed After Logging	Prefall	Lop and scatter	15 feet 2/turnouts*	Close to vehicle use and revegetate
Temporary Roads	Prefall	Lop and scatter	15 feet*	Close to vehicle use and revegetate
Tractor Roads and Main Skid Trails	Concurrent	Lop and Scatter	15 feet	Close to vehicle use and revegetate
Secondary Skid Trails	Concurrent	Lop and Scatter	15 feet	Close to vehicle use and revegetate

* Unless TRPA finds that greater width is necessary for feasible use or safety.

** "Annual Maintenance" includes activities such as restoring drainage features and making other road repairs as necessary.

61.1.7 Reasons For Tree Removal: Except for trees identified for retention section 61.1.4, Trees may be removed for the following reasons:

- g. Tree Removal For Solar Access: Removal of healthy trees to maximize

efficiency of solar energy systems may be permitted as follows:

- (1) TRPA may approve the removal of healthy trees provided TRPA finds that the trees unreasonably impede the operation of a solar energy system and that the solar energy system is properly located so as to minimize the need for tree removal.
- h. Tree Removal For Ski Areas And Rights-Of-Way: The following tree removal standards apply to ski areas and utility and public right-of-ways:
- (2) The removal of trees within utility and public right-of-ways may be allowed if TRPA finds that the removal is for public health and safety. When a tree-related emergency exists, the utility or public agency may remove the trees and advise TRPA of the action on the next business day. At that time TRPA may issue an emergency permit in accordance with its Rules of Procedure.
- b. Cutting And Cultivation Of Christmas Trees: Legally existing Christmas tree cultivation operations, when certified by a qualified forester to be utilizing native species and proper silvicultural methods, may continue upon approval by TRPA. New Christmas tree farm operations meeting the above conditions, may be permitted if TRPA finds them to be in compliance with the Code and the applicable plan area statements.

Chapter 61.2 PRESCRIBED BURNING

61.2.4 Performance Standards: The use of prescribed burning for vegetation management shall comply with the following standards:

- c. Timing Of Prescribed Burning: Prescribed burning shall be limited to time periods for which TRPA finds that atmospheric conditions normally will allow complete dispersion of the smoke from the prescribed burn during each day of the burn.

Chapter 63 FISH RESOURCES

63.3 Fish Habitat Protection: Fish habitat consists of a complex set of elements such as spawning and nursery or rearing areas, food supply, and escape cover. Areas of prime fish habitat are subject to verification by TRPA and are defined in Chapter 90.

63.3.2 Stream Habitat: Stream habitat shall be protected as follows:

- (a) Artificial modifications to stream channels, or other projects, activities or uses in stream environment zones that may physically alter the natural characteristics of the stream, shall not be permitted unless TRPA finds that such actions avoid significant adverse impacts to the fishery or are otherwise allowed under the Code.

Chapter 65.1 AIR QUALITY CONTROL

65.1.6 New Stationary Source Review: Emissions from new stationary sources in the Region shall be limited as follows:

- c. Offsets Permitted: TRPA may require emission offsets as a condition of project approval to bring emissions within acceptable limits if TRPA finds that the proposed source, with offset, meets the criteria specified in Subsection 65.1.6.B. To accomplish an emissions offset, existing emissions shall be permanently retired to offset the unacceptable emissions from the proposed source.

65.1.7 Modified Stationary Source Review: Emissions from modified stationary sources in the Region shall be limited as follows:

- c. Modifications Allowed: Modification of existing stationary sources which have been previously permitted to produce emissions beyond any of the limits in Table II, above, may be allowed if: there is no net increase in actual emissions for the peak 24-hour period; Best Available Retrofit Control Technology is applied; and TRPA finds that the modified stationary source would not have a significant adverse environmental impact determined pursuant to Subsection 65.1.7.A or B.
- d. Offsets Permitted: TRPA may require emission offsets as a condition of project approval to bring emissions within acceptable limits if TRPA finds that the proposed source, with offset, meets the criteria specified in Subsections 65.1.7.B or C. To accomplish an emissions offset, existing emissions shall be permanently retired to offset the unacceptable emissions from the proposed source.

Chapter 65.2 TRAFFIC AND AIR QUALITY MITIGATION PROGRAM

65.2.4 Standards For Additional or Transferred Development: Additional development or transferred development shall be subject to the following requirements:

- e. Limited Exception for Additional or Transferred Development Within Adopted Community Plans: Additional or transferred development located within an adopted community plan, the traffic and air quality impacts of which were evaluated in the EIS for the community plan and mitigated by the provisions of the community plan, shall be exempt from the requirements of Subsection 65.2.4.C, provided TRPA finds that the implementation element of the community plan as a whole meets the standards of Subsections 65.2.4.B and 65.2.4.C.

65.2.5 Standards for Changes in Operation: The following standards shall apply to changes in operation:

- e. Limited Exception For Approved Centers: TRPA shall evaluate multi-use commercial centers and the adjacent roadways, as to their size, parking, diversity of use, level of service, and ingress and egress. Where TRPA finds that limited changes in operation in a multi-use commercial center would cause

insignificant increases in new vehicle trips, the center shall be included on a list of approved centers. An approved center in an area with a monitored decrease in level of service of nearby streets or intersections may be removed from changes in operation shall be exempt from subsections 65.2.5.A through D, with the following exceptions:

- (1) Changes in operation where the previous or proposed use occupies more than 5,000 square feet of gross floor area,
- (2) Changes in operation where the previous or proposed use is identified for case by case review on the Trip Table, or
- (3) Changes in operation where the vehicle trip generation rate of the proposed use is identified on the Trip Table as being greater than 300 vehicle trips per 1,000 square feet of gross floor area.

65.2.6 Use And Distribution Of Mitigation Funds: TRPA shall deposit air quality mitigation funds in a trust account. Interest accruing to the trust account shall remain in the account until used on air quality mitigation projects. TRPA shall keep track of the amount of funds collected for each local jurisdiction, with interest, and shall disburse funds to the local jurisdiction, or to the Tahoe Transportation District, at their request, for expenditure within the jurisdiction of origin, provided TRPA finds that the expenditure is consistent with TRPA's Regional Transportation Plan or the 1992 Air Quality Plan. Pursuant to subparagraphs 65.2.4.C.2 and 65.2.5.C.2, certain funds may be identified for the construction of specific projects. By October 1 of each year, the recipient shall submit to TRPA an annual report of the funds expended as of June 30 each year.

Chapter 65.3 RENTAL CAR MITIGATION PROGRAM

65.3.6 Use of Mitigation Fees: TRPA shall deposit rental car mitigation fees in an interest-bearing trust account and accrued interest shall remain with the trust account. TRPA shall disburse funds to the Tahoe Transportation District (TTD), upon request, provided TRPA finds the expenditure is consistent with TRPA's Regional Transportation Plan - Air Quality Plan. By October 1 of each year, TTD shall submit an annual report to TRPA on the funds expended as of June 30 of that year.

Chapter 65.4 EMPLOYER-BASED TRIP REDUCTION PROGRAM

65.4.1 Purpose: This chapter implements the 1992 Regional Transportation Plan - Air Quality Plan, and Goal #4, Policy 2 of the Development and Implementation Priorities Sub element, Implementation Element of the Regional Plan Goals and Policies Plan. The Employer-Based Trip Reduction Program set forth in this chapter is intended to assist in the achievement and maintenance of environmental thresholds for transportation and air and water quality.

- a. Local Government Standards: Local governments may adopt equal or superior trip reduction programs. TRPA, upon finding the local program is equal or superior to the TRPA Employer-Based Trip Reduction Program as it may affect attainment and maintenance of the thresholds, may exempt employers subject to such a program from the provisions of this chapter.

65.4.2 Program Requirements: The requirements of the Employer-Based Trip Reduction Program are:

- b. All Employers And Employers Within Common Work Locations, With 100 Or More Employees, At A Single Project Area (Level 2): In addition to the requirements of Subsection 65.4.2.A, all employers and employers within Common Work Locations, with 100 or more employees, working at a single project area, shall provide additional encouragement for the use of alternative transportation modes through the provision of the incentives and resources listed below. Employers within a common work location with more than 100 employees, may be exempted from the Level 2 requirements if implementation is found to be impractical by TRPA.

65.4.3 Transportation Control Measures (TCM) Menu: The following is the list of Transportation Control Measures (TCMs). The optional Transportation Control Measures (TCMs) in Subsection 65.4.3.B are assigned a Trip Reduction Credit. Each Employer Transportation Plan shall include optional measures which, when the credits are added together, meet or exceed the required trip reduction credits in Subparagraph 65.4.2.B.2.iv. Mandatory TCMs do not have trip reduction credits assigned to them, since each plan will include them.

- a. Required Transportation Control Measures (TCMs): The following TCMs shall be included in an Employer Transportation Plan:
 - (5) Preferential Carpool/Vanpool Parking: Unless TRPA finds there are overriding considerations specific to the employment site or common work location, parking spaces for four percent of the employees shall be designated as carpool or vanpool parking and shall be, with the exception of handicapped and customer parking, the spaces with the most convenient access to employee entrances. The employer may issue carpool and vanpools tickers and shall be responsible for monitoring the spaces.

Chapter 66 SCENIC QUALITY

66.1.3 Scenic Quality Standards: All projects and activities shall comply with the following standards:

- 66.1.5 Public Recreation Areas and Bicycle Trails: The project shall not cause a decrease in any numerical sub component threshold rating or total threshold rating assigned to a scenic resource identified in the 1993 Lake Tahoe Basin Scenic Resource Evaluation. Prior to approving a project which may potentially affect an identified scenic resource, TRPA shall find that the project is consistent with applicable recommendations for preserving scenic quality of the affected recreation area or bicycle trail found in the 1993 Lake Tahoe Basin Scenic Resource Evaluation.

66.2 Establishment Of Scenic Highway Corridors: TRPA and other public agencies within the Tahoe Region shall maintain and enhance viewing opportunities, whenever feasible, by establishing scenic highway corridors. TRPA, through the project review process shall ensure that view sheds and view corridors along the scenic highway corridors are maintained and enhanced.

66.2.4 Scenic Highway Corridor Design Standards: All projects which are within the scenic highway corridors established in 66.2.2.A-C. shall meet the design standards listed in 66.2.4, in addition to other applicable design standards. All projects which are within the natural scenic highway corridor shall also meet the design standards listed in 66.2.4 in addition to other applicable design standards.

(a) Utilities:

- (1) All new electrical lines which operate at 32 kilovolts or less, including service connection lines, shall be placed underground. Exceptions to this requirement may be allowed, provided TRPA finds that undergrounding would produce a greater environmental impact than above ground installation. If new electrical lines are permitted to be installed above ground, the new lines, poles, and hardware shall be screened from views from scenic highways to the maximum extent possible.
- (2) All new communication lines including telephone lines, cable television lines, and service connection lines, shall be placed underground. Exceptions to this requirement may be allowed, provided TRPA finds that undergrounding would produce a greater environmental impact than above ground installation. If new communication lines are permitted to be installed above ground, the new lines, poles, and hardware shall be screened from views from scenic highways to the maximum extent possible.

66.3.7 Additional Visual Magnitude: TRPA may permit additional square footage of visual magnitude with visual breaks for a given contrast rating in Appendix F, Visual Assessment Tool, of the Design Review Guidelines as follows:

(a) Public Outdoor Recreation: For public outdoor recreation uses that are subject to Subsection 66.3.7.A, PAOT allocations, additional square footage of visual magnitude may be permitted if TRPA finds that:

- (1) The project is a necessary part of a long range plan for public outdoor recreation; and
- (2) The project is consistent with the Recreation Element of the Regional Plan; and,
- (3) There is no reasonable alternative which would avoid or reduce the extent of visual magnitude; and
- (4) The additional square footage is mitigated pursuant to subparagraph (6) below; or
- (5) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that results in a contrast score of 25 or demonstrate a percentage toward

attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

- (b) Public Service Facilities: For public service uses, additional square footage of visual magnitude may be permitted if TRPA finds that:
 - (1) The project is necessary for public health, safety or environmental protection; and
 - (2) There is no reasonable alternative, which would avoid or reduce the extent of visual magnitude; and,
 - (3) The additional square footage is mitigated pursuant to subparagraph (6) below; or
 - (4) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

- (c) Tourist Accommodation and Commercial Projects in Commercial and Public Service Plan Areas and Tourist Accommodation Plan Areas: Additional square footage of visual magnitude may be permitted for projects in Commercial and Public Service Plan Areas, if TRPA finds that:
 - (1) The additional square footage is necessary as the use customarily requires increased square footage of lakefront façade than that set forth in Levels 4 and 5; and
 - (2) There is no reasonable alternative, which would avoid or reduce the extent of visual magnitude; and,
 - (3) The additional square footage is mitigated pursuant to Subsection 66.3.8 below; or
 - (4) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

- (d) Residential Uses Other Than Single Family Dwelling: Additional square footage of visual magnitude may be permitted for projects, if TRPA finds that:

- (1) The additional square footage is necessary as the use customarily requires increased square footage of lakefront façade than that set forth in Levels 4 and 5; and
- (2) There is no reasonable alternative, which would avoid or reduce the extent of visual magnitude; and,
- (3) The additional square footage is mitigated pursuant to Subsection 66.3.8 below; or
- (4) If existing structures in the project area are in excess of that permitted by Option 2 in Levels 4 and Levels 5, the additional square footage permissible is a result of a reduction in the visual magnitude consistent with the following requirements. Existing non-complying projects shall implement improvements that result in a contrast score of 25 or demonstrate a percentage toward attainment determined by the cost of the project over the replacement cost of the structures not to exceed 50 percent, whichever is greater.

Chapter 67 HISTORIC RESOURCE PROTECTION

- 67.5 Designated Historic Resources: Designated historic resources shall be shown on the TRPA Historic Resource Map, except that locations of resources found by TRPA to be especially sensitive may be kept confidential in order to protect them from trespassers or vandalism. Such locations shall be recorded in confidential reports or maps of the TRPA. Resources shall be designated as historic according to the following procedure:
- 67.7 Projects Relating To Historic Resources: As part of the application for a project affecting designated historic resources, TRPA may require a report documenting compliance with the standards to this chapter. The report may be submitted to the applicable state's historic preservation office for review. Projects and activities affecting designated resources shall comply with the following standards:
- 67.7.3 Demolition: Historic resources shall not be demolished, disturbed, or removed, unless TRPA finds that:
- (a) The action will not be detrimental to the historic significance of the resource;
 - (b) The action is pursuant to a recovery plan approved by the applicable state historic preservation officer; or
 - (c) It is the only feasible alternative to protect the health and safety of the public.
- 67.8 Exceptions For Historical Structures And Districts: To encourage the protection, maintenance, or rebuilding of sites, structures, or districts, designated a historic resource, TRPA may grant exceptions to certain provisions of this Code to allow reconstruction or repairs.
- 67.8.1 Findings: Exceptions may be granted if TRPA finds that:

- (a) The site, structure, or district is designated as a historic resource; and
- (b) The reconstruction, modification, or repair is in the public interest.

**Chapter 80
REVIEW OF PROJECTS
IN THE SHOREZONE AND LAKEZONE**

80.4 Required Findings: A project in the shorezone or lakezone shall not be approved unless TRPA finds that:

80.4.1 Significant Harm: The project will not adversely impact:

- (a) Littoral processes;
- (b) Fish spawning;
- (c) Backshore stability; or
- (d) On-shore wildlife habitat, including waterfowl nesting areas;

80.4.2 Accessory Facilities: There are sufficient accessory facilities to accommodate the project;

80.4.3 Compatibility: The project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modifications of such existing uses or structures will be undertaken to assure compatibility;

80.4.4 Use: The use proposed in the foreshore or nearshore is water dependent;

80.4.5 Hazardous Materials: Measures will be taken to prevent spills or discharges of hazardous materials;

80.4.6 Construction: Construction and access techniques will be used to minimize disturbance to the ground and vegetation;

80.4.7 Navigation And Safety: The project will not adversely impact navigation or create a threat to public safety as determined by those agencies with jurisdiction over a lake's navigable waters; and

80.4.8 Other Agency Comments: TRPA has solicited comments from those public agencies having jurisdiction over the nearshore and foreshore and all such comments received were considered by TRPA prior to action being taken on the project.

**Chapter 81
PERMISSIBLE USES AND ACCESSORY STRUCTURES
IN THE SHOREZONE AND LAKEZONE**

81.2 Applicability: All existing and proposed uses within lagoons or the shorezone and lakezone shall be identified as one or more of the primary uses listed in this chapter, except for parcels that are undeveloped or unimproved. Such parcels shall be

considered vacant parcels. Vacant parcels are entitled to apply for a use pursuant to the provisions of this Code. Dispersed water-oriented outdoor recreational uses, as described in Subsection 81.3.3, are considered an established primary use on littoral parcels. Regulation of projects and activities pursuant to primary uses shall be as follows:

81.2.2 Special Uses: Uses listed in applicable plan area statements, community plans, redevelopment plans, specific or master plans or Subsection 81.3.1 as "special" ("S"), may be found to be appropriate uses for the specified area, and projects and activities pursuant to such uses may be permitted. To allow a special use, TRPA shall conduct a public hearing in according to the procedures in TRPA's Rules of Procedure. Before issuing an approval, TRPA shall make the following findings:

- (a) The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.
- (b) The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or in the region.
- (c) The applicant has taken reasonable steps to protect the land, water and air resources of both the applicant's property and that of surrounding property owners.
- (d) The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable plan area statement, community, redevelopment, specific, or master plan as the case may be.

81.2.3 Nonconforming Uses: Uses legally commenced prior to the effective date of the Regional Plan, July 1, 1987, which would be prohibited if new, are nonconforming uses and may be continued, subject to the provisions of Section 81.6. Existing development in a special use category for which the findings in Subsection 81.2.2 have not been or cannot be made shall be non-conforming uses.

81.2.4 Prohibited Uses: Proposed uses not listed in applicable plan area statements, community plans, redevelopment plans, specific or master plans or Subsection 81.3.1 are prohibited. Proposed special uses for which the findings in Subsection 81.2.2 cannot be made shall be prohibited uses.

81.6 Existing Uses: Existing uses in the shorezone or lakezone shall be regulated as follows:

81.6.1 Right To Continue Existing Uses: Uses legally commenced prior to the effective date of the Regional Plan, July 1, 1987, are recognized as existing uses and may be continued, except as otherwise set forth in Subparagraphs 81.6.1.A and 81.6.1.B. Continuation of an existing use includes a change in ownership, tenancy, or management, where the nature and character of the existing use remains substantially unchanged. Short-term or seasonal uses existing pursuant to legally issued TRPA permits may continue only for the duration of the permits authorizing them. Neither this section nor this chapter shall be construed as a limitation upon TRPA's authority to regulate all uses, present or

future, by permit, prohibition or otherwise.

- (a) Nonconforming Uses: If an existing nonconforming use is discontinued for a period of one year or more, any subsequent use shall comply with the use regulations set forth in the plan area statement. Discontinuance of use for periods found by TRPA to be beyond the applicant's control, such as weather caused calamity, governmental seasonal regulations and periods during which TRPA was prohibited by court order from accepting applications for repairs related to the use, shall not be counted in establishing discontinuance of use pursuant to this section.

81.6.2 Changes, Expansions Or Intensifications Of Existing Uses: Expansions and intensifications of existing uses, or changes in use to the extent permitted by this chapter, are subject to the requirements for a permit set forth in Chapter 2. Modifications, expansions and other changes to structures are governed by other provisions of the Code and also are subject to the requirements of Chapter 2.

- (b) Special Uses: Uses identified as special uses and for which the required findings pursuant to Subsection 81.2.2 have been made by TRPA, may be changed, expanded or intensified subject to Subsection 81.2.2.
- (c) Nonconforming Uses: Uses identified as nonconforming shall not be expanded or intensified. A nonconforming use shall not be changed unless the new use conforms to the use regulations set forth in this Code. Expansions of structures containing a nonconforming use shall not be permitted. Modifications may be permitted only when TRPA finds that the modifications do not increase the extent of nonconformity.

Chapter 82 EXISTING STRUCTURES

82.4 Existing Structures In The Nearshore Or Foreshore: Activities related to existing structures in the nearshore or foreshore shall be exempt from, or subject to, TRPA review as set forth below:

82.4.2 Loss Of Exemption: An exempt activity shall be considered a project if TRPA finds that, because of unusual circumstances, the activity may have a substantial effect on the land, air, space or any other natural resource in the Region.

82.4.4 Major Structural Repair And Expansion: Major structural repair to, and expansion of, existing structures in the nearshore or foreshore shall comply with the following standards:

- (a) Structures That Comply With All Development Standards: Major structural repair and expansions to existing structures that comply with all development standards may be allowed provided the TRPA finds that:
 - (1) The structure, including any expansion, remains in compliance with applicable development standards;
 - (2) The repair and any expansion conforms to the design standards in

Section 83.10;

- (3) The project complies with the requirements to install BMPs as set forth in Section 60.4.3.
- (b) Structures That Comply With Certain Development Standards: Major structural repair and expansions to existing structures that comply with the length standard for piers set forth in Subparagraph 85.5.1.D; the setback standard for piers set forth in Subparagraph 85.5.1.D; the 90 percent open foundation standard for piers set forth in Subparagraph 85.5.2.C; the location standards for jetties, breakwaters and fences set forth in Subsection 84.12.1; and the standards for openings in jetties, breakwaters and fences set forth in Subparagraphs 84.12.2.A(1), (2), (3), and (4); but do not comply with other applicable development standards, may be allowed if TRPA finds that:
- (1) The repair does not increase the extent to which the structure does not comply with the development standards;
 - (2) The expansion decreases the extent to which the structure does not comply with the development standards and/or improves the ability to attain or maintain the environmental thresholds;
 - (3) The project complies with the requirements to install BMPs as set forth in Chapter 60.4;
 - (4) The project complies with the design standards in Section 83.11; and
 - (5) The structure has not been unserviceable for more than five years.
- (c) Structures That Do Not Comply With Certain Development Standards: Major structural repairs and expansions to existing structures that do not comply with one or more of the standards set forth in Subparagraph 82.4.4.B above, may be approved if TRPA makes the following findings based on information contained in the initial environmental checklist (IEC) and other information known to TRPA; the finding in Subparagraph 3.3.2.A; that the structure is not an obstacle to navigation, is not causing significant shoreline erosion or interference with sediment transport, and is not contributing to noncompliance with a scenic threshold; and findings (a), (b), (c), and (d) in Subparagraph (2) of this subsection. In addition it shall be found by TRPA that the structure has not been unserviceable for more than three years. If TRPA determines the IEC provides insufficient information to make the findings cited above, major structural repairs and expansions may be approved by TRPA only in accordance the following provisions:
- (1) Preparation Of Environmental Assessment: (See Code Section in the TRPA Code of Ordinances)
 - (2) Repairs Less Than 50 Percent Of The Replacement Value: (See Code Section in the TRPA Code of Ordinances)
 - (3) Repairs More Than 50 Percent Of The Replacement Value Of The

Structure: (See Code Section in the TRPA Code of Ordinances)

(4) Expansion: (See Code Section in the TRPA Code of Ordinances)

82.4.5 Modification Or Removal Of Structures: Modification or removal of structures shall be pursuant to the following provisions:

- (a) Removal Or Modification Due To Navigation Problem Or Shoreline Impacts: By December 31, 1990, TRPA shall prepare an EA, in accordance with Subparagraph 82.4.4.C, for existing structures that do not comply with the development standards cited in Subparagraph 82.4.4.B and for which an assessment has not been prepared. TRPA shall determine, based on the EA, which existing structures are; (a) not causing a significant impact of a nature described in paragraph (a)(i) of Subparagraph 82.4.4.C; (b) causing a significant impact that can be reduced to a less than significant level by modifying the structure; (c) causing a significant impact that can only be reduced to a less than significant level by removing the structure. TRPA shall notify the owners of such structures, in accordance with TRPA's Rules of Procedure of the determinations made under this subsection no later than December 31, 1994. Structures requiring modifications or removal pursuant to this subsection shall be so modified or removed by December 31, 1999. Removal of such structures shall be required only if the Governing Board finds that removal is the only feasible method to mitigate the impacts to a less than significant level.
- (b) Removal Of Structures Based On Fish Habitat And Spawning Study: TRPA may require structures, including mooring buoys, to be removed or modified, pursuant to Chapter 5.12, if TRPA, based on the study required in Section 84.4 finds that such structures have a significant adverse impact on fish spawning. Removal of such structures shall be required only if the Governing Board finds that removal is the only feasible method to mitigate the impacts to a less than significant level. At least five years after notice by TRPA shall be allowed for any such modification or removal.

Chapter 83 SHOREZONE TOLERANCE DISTRICTS AND DEVELOPMENT STANDARDS

83.5 Shorezone Tolerance District Challenge: In the event TRPA or the owner of a littoral parcel is of the opinion the shorezone adjacent to the parcel is not properly classified pursuant to Section 83.3, either may initiate a shorezone tolerance district challenge with respect to such parcel. The person or entity initiating the challenge shall bear the cost thereof. For parcels one acre or less in size, the cost to be charged an owner initiating the challenge shall not exceed an amount prescribed by resolution of the Governing Board.

83.5.3 Review Of And Action On The Report: The Executive Director shall review the shorezone tolerance district report and, if it recommends no change in shorezone district, may deny the shorezone tolerance district challenge, subject to an appeal to the Governing Board. If the report recommends a change in shorezone tolerance district, the change shall be approved or denied

by the Governing Board. The challenge may be approved if the Governing Board finds that the pertinent shorezone, due to natural characteristics specifically identified, properly belongs in a shorezone tolerance district other than that in which it is presently classified.

83.6 Man-Modified Challenge: The Shorezone Tolerance District Overlay Maps may be amended for man-modified areas through an amendment of the Regional Plan in the manner set forth in this subsection. The amendment may be initiated by TRPA or the owner of the pertinent land, provided there is sufficient information demonstrating a reasonable possibility the requirements of this subsection can be met.

83.6.3 Criteria: An amendment to the shorezone tolerance district maps may be approved only if TRPA finds that:

- (a) Further development will not exacerbate the problems caused by development in shorezones that the original tolerance rating was meant to avoid;
- (b) The area no longer exhibits the characteristics of the original shorezone tolerance rating;
- (c) Restoration of the area is infeasible because of factors such as the cost thereof, a more positive cost-benefit ratio would be achieved by offsite restoration, onsite restoration would cause environmental harm, restoration onsite would interfere with an existing legal use, and the area is not identified for restoration by any TRPA program;
- (d) The impacts from further development will be mitigated offsite;
- (e) Mitigation to offset the losses caused by modification of the area and pertinent shorezone tolerance district shall be as follows:
 - (1) Onsite and offsite mitigation;
 - (2) Pursuant to a maintenance program, including a schedule of maintenance proposed by the owner and approved by TRPA; and
 - (3) Collection of a security, if deemed necessary by TRPA, to guarantee mitigation.
- (f) The area in question was modified to the extent being recognized prior to February 10, 1972.

83.8 Shorezone Tolerance Districts 2 And 3: Shorezone Tolerance Districts 2 and 3 are described and regulated as follows:

83.8.2 Development Standards: In addition to the standards set forth in Chapters 84 and 85, the following standards shall be applicable to Shorezone Tolerance Districts 2 and 3:

- (b) Projects shall not be permitted in the backshore unless TRPA finds that such project is unlikely to accelerate or initiate backshore erosion.

83.10 Shorezone Tolerance Districts 6, 7 And 8: Shorezone Tolerance Districts 6, 7 and 8 are

described and regulated as follows:

83.10.2 Development Standards: In addition to the standards set forth in Chapters 54 and 55, the standards set forth in Subsection 83.9.2 for Tolerance Districts 4 and 5 shall be applicable to Tolerance Districts 6, 7 and 8. The following standards also shall apply:

- (a) Vehicular access to the shoreline shall not be permitted except where TRPA finds that such access will not cause environmental harm.

Chapter 84 DEVELOPMENT STANDARDS LAKEWARD OF HIGH WATER

84.5 Piers: Where otherwise allowed pursuant to Chapters 81 and 82, the placement and design of piers shall conform to the following standards:

84.5.2 Design And Construction Standards: Design and construction standards are:

- (a) The width of piers shall be a maximum of 10 feet, which shall include all appurtenant structures except for a single low-level boat lift and a single catwalk. A catwalk below the level of the main deck, and not exceeding three feet in width by 45 feet in length, may be permitted. Additional width for a single catwalk may be permitted where TRPA finds it is necessary to facilitate barrier free access but at no time shall the entire width of the pier and catwalk exceed 13 feet. A low level boat lift with forks not exceeding 10 feet in width may be permitted.
- (b) Pier decks shall not extend above elevation 6232.0 feet, Lake Tahoe Datum. Boat lifts, pilings, and handrails and other similar safety devices, shall not extend more than four feet above the pier deck. Pier decks may extend up to elevation 6234.0 feet in limited situations where TRPA finds that the additional height is necessary for safety reasons or that local wave characteristics represent a real threat to the integrity of the structure.

84.12 Jetties, Breakwaters, Rock Cribs And Fences: Jetties, breakwaters, rock cribs and fences may be permitted as follows:

84.12.2 Design And Construction Standards: The design, construction and maintenance of jetties, breakwaters and fences shall comply with the following standards:

- (b) No jetty or breakwater shall be a solid or nearly solid structure unless TRPA finds that it will not interfere with littoral processes, cause shoreline erosion, or harm water quality or clarity and;

84.12.3 Report: In order to provide the information required for the findings for the structures described in Section 84.12 TRPA shall use the procedures set forth for environmental assessments in Chapter 5.

84.14 Shoreline Protective Structures: Shoreline protective structures may be permitted as follows:

84.14.1 Findings: Shoreline protective structures may be approved by TRPA to prevent erosion in the backshore if TRPA makes the following findings:

- (a) Structures in the backshore or environmental threshold values will be enhanced by the construction and maintenance of the protective structures;
- (b) The protection of structures in the backshore or the enhancement of environmental threshold values more than offset the adverse environmental effects of the construction and maintenance of the shore line protective structures;
- (c) Each protective structure has been designed to be sloping and permeable; provided, however, that this finding is not necessary if TRPA concurrently makes the findings required under Subparagraph 84.14.2.A; and
- (d) Each protective structure has been designed so that backshore erosion on adjacent properties will not be accelerated as a result of the erection of the protective structure.

84.14.2 Design And Construction Standards: Design and construction standards are:

- (a) Sloping permeable revetments are the preferred design for shoreline protective structures. Bulk heads, gabions and other vertical revetments shall not be permitted unless, in addition to the findings required under Subsection 84.14.1, TRPA finds that;
 - (1) A sloping permeable revetment is not feasible; and
 - (2) The alternative structure will not cause significant erosion or modification of the foreshore.

84.15 Filling And Dredging: Filling and dredging are permitted as follows:

84.15.2 Filling: There shall be no fill placed in the lakezone or shorezone, except as otherwise associated with approved bypass dredging, shoreline protective structures, or beach replenishment projects, or as otherwise found by TRPA to be beneficial to existing shorezone conditions or water quality and clarity.

84.15.3 Dredging: There shall be no removal or materials within the lakezone or shorezone, except at those locations where such removal or rearrangement is found by TRPA to be beneficial to existing shorezone conditions, and water quality and clarity. Maintenance dredging may be permitted where TRPA finds it is necessary to continue an existing use.

84.15.4 Temporary Structures in Lieu of Dredging: Where it is found that low lake levels prevent or significantly reduce access to open water recreation and that dredging cannot be permitted pursuant to Subsection 84.15.3., temporary structures that extend beyond lake bottom elevation 6219 feet or the pier headline may be permitted to facilitate lake access. Permits for the temporary use of structures shall be subject to the provisions outlined in Chapter 22, with the exception that the temporary use of a structure may be extended indefinitely provided that TRPA finds that lake levels remain at or below a level

that prevents or significantly reduces lake access. The use of temporary structures in conjunction with single use piers shall not be allowed.

Chapter 85 DEVELOPMENT STANDARDS IN THE BACKSHORE

85.5 Prohibition Of New Land Coverage: Additional land coverage or other permanent land disturbance shall not be permitted in the backshore, except as follows:

85.5.1 Public Outdoor Recreation: Land coverage and land disturbance may be permitted in the backshore for public outdoor recreation facilities if TRPA finds that:

- (a) The project is a necessary part of a public agency's long range plans for public outdoor recreation;
- (b) The project is consistent with the Recreation Element of the Goals and Policies;
- (c) The project, by its very nature, must be sited in the backshore;
- (d) There is no feasible alternative which avoids or reduces the amount of land coverage or disturbance proposed in the backshore; and
- (e) The impacts of the coverage and disturbance are mitigated to the extent feasible through means including, but not limited to, the following:
 - (1) Application of BMPs; and
 - (2) Restoration in accordance with Subsection 30.5.3 of land in the backshore or a stream environment zone in the amount of 1.5 times the area of land in the backshore covered or disturbed for the project beyond that permitted in Section 85.4.

85.5.2 Public Service: Land coverage and land disturbance may be permitted in the backshore for public service facilities if TRPA finds that:

- (a) The project is necessary for public health, safety or environmental protection;
- (b) There is no reasonable alternative which avoids or reduces the amount of land coverage or disturbance in the backshore; and
- (c) The impacts of coverage and disturbance are mitigated in the manner prescribed in Subparagraph 85.5.1.E.

85.5.3 Erosion Control And Similar Projects: Land coverage and land disturbance may be permitted in the backshore for erosion control projects, habitat restoration projects, forest management programs, wetland rehabilitation projects, stream environment zone restoration projects and similar projects, programs and facilities if TRPA finds that:

- (a) The project, program or facility is necessary for environmental protection;

and

- (b) There is no reasonable alternative, which avoids or reduces the extent of encroachment in the backshore.

85.5.4 Access To Structures Or Uses In The Nearshore Or Foreshore: Land coverage and land disturbance may be permitted in the backshore to provide access to an approved or legally existing structure or use located in the nearshore or foreshore, provided TRPA finds that the amount of land coverage proposed is the minimum necessary to provide access to the structure or use and the impacts of coverage and disturbance are mitigated in the manner prescribed in Subparagraph 85.5.1.E.

Chapter 90 DEFINITIONS

Findings: A written statement supported by substantial evidence in the record of the ultimate facts and the rationale supporting a conclusion that applicable Code or Compact requirements are met.