

Chapter 41

PERMISSIBLE SUBDIVISIONS

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41.0 Purpose: In accordance with Goal #2, Policy 7 of the Land Use Subelement, Land Use Element of the Goals and Policies, this chapter establishes limitations on new subdivisions.

41.1 Applicability: This chapter applies to new subdivisions and modifications to existing subdivisions or parcels.

41.2 Definitions: The following terms are defined as follows:

41.2.A Community Apartment: A community apartment is an undivided interest in land coupled with the right of exclusive occupancy of a unit.

41.2.B Condominium: A condominium is an interest in real property, or combination of such interests, recognized under applicable state law as a condominium.

41.2.C Condominium Development: Condominium development is the division of real property into, or use of real property for, condominiums, including all structures relating to such division or use.

41.2.D New Development Potential: New development potential is the regional potential for additional residential, commercial, tourist accommodation, public service, recreation and related growth, as limited by the number of existing development rights currently remaining, and the Bailey coefficients for land coverage. The number of existing development rights is the number of development rights created on July 1, 1987 pursuant to Chapter 21, as amended, minus development rights which have been extinguished. New development potential for piers is limited by subparagraph 54.4.A(1) of the Code.

41.2.E Parcel Consolidation: Parcel consolidation is the merging of two or more contiguous parcels into one parcel.

41.2.F Moderate Income Housing[§]: For purposes of the subdivision ordinances only (Chapters 40-49, inclusive), moderate income housing are residential units which are sold or rented at prices and rates affordable to households or tenants that earn not more than 120 percent of the

[§] Amended 4/28/04

applicable county median income. Moderate-income housing shall not include units with a rental rate that exceeds 30% of the tenant's monthly gross income.[§] Subdivision projects shall be reviewed by TRPA Certified Local Jurisdiction Moderate-Income Housing Programs, for purposes of determining appropriate income and sales price limitations for the sales rate of moderate-income housing. In the absence of a certified local program, project proponents shall use the 4.2 multiplier, to be multiplied by 120% of median family income, to determine a maximum sales price for housing. Moderate-income units are subject to deed restriction, for long-term occupancy, at least 10 months in each calendar year, in accordance with Subsection 35.2.G.(3). The multiplier is subject to periodic amendment, to adjust for changes to median family income resulting in a numerical increase in the multiplier. ^{§§}

- 41.2.G Parcel Line Adjustments: A parcel line adjustment is a change in the legal boundary or boundaries of a parcel.
- 41.2.H Public Entity: A public entity is a public service or quasi-public entity which is responsible for public transportation, linear public facilities, utility services, public health and safety, public education, environmental protection, or public open space.
- 41.2.I Stock Cooperative: A stock cooperative is a form of subdivision in which the buyers hold their right to occupancy through ownership of stock or membership in a cooperative corporation.
- 41.2.J Subdivision: Subdivision is defined in Chapter 2.
- 41.3 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:
 - 41.3.A Conveyance to Public Entity: Subdivisions of land for the purpose of conveying the newly created parcel to a government agency, or public entity as defined above, provided the subdivision is in compliance with the following standards:
 - (1) Acquisition Program Conveyances: The standards for conveyances to the United States, the California Tahoe Conservancy, or the Nevada Division of State Lands, pursuant to a program established by statute for the purposes of acquiring lands for open space, water quality, or recreational uses, are:
 - (a) If the original parcel had an existing residential development right, the conveyance shall specify which parcel is assigned the residential development right. Like wise, the approval shall specify the coverage assigned to all parcels and shall specify that the maximum coverage on the existing and the newly created parcels shall not exceed the amount which

[§] Amended 7/24/02
^{§§} Amended 11/16/05

would have been permitted prior to the subdivision.

- (b) The TRPA subdivision approval shall only take effect upon the transfer of the sub divided parcel to either the United States, the California Tahoe Conservancy, or the Nevada Division of State Lands.

(2) General Conveyances: The standards for other conveyances are:

- (a) If the original parcel had an existing residential development right, a deed restriction, or other covenant running with the land shall be recorded establishing which parcel shall be assigned the residential development right.
- (b) The parcel conveyed to the government agency or public entity shall be permanently restricted by deed restriction or other covenant running with the land to the public service, public recreation, public resource management use, or open space.
- (c) If the original parcel contains existing land coverage, deed restrictions, or other covenants running with the land, a deed restriction or other covenant running with the land shall be recorded against the original and newly created parcels ensuring that the allowable and maximum coverages on the parcels shall not exceed the amount which would have been permitted prior to the subdivision. In the case where existing land coverage exceeds the Bailey coefficients, the restriction shall ensure that future land coverage calculations shall be made as if the parcels had not been subdivided.

41.3.B Cemetery Lots: Divisions of land for the purpose of creating cemetery lots.

41.3.C Litigation: Division of land ordered by a federal or state court of competent jurisdiction as a result of bona fide, adversary legal proceedings to which TRPA is a party or is otherwise legally bound. Any such division of land or approval of any other project or action resulting from such legal proceedings, shall be pursuant to an evaluation of the effect of such division or approval upon the Regional Plan, the environmental thresholds, and other requirements of the Compact. Based on the above evaluation, TRPA shall make appropriate adjustments to the regional plan.

41.3.D Modifications to Existing Parcels and Subdivisions: Modifications to existing subdivisions or parcels, including parcel consolidations, which do not have adverse impacts upon the health, safety, general welfare, or environment of the Region. Modifications shall be reviewed in accordance with the applicable provisions of Chapter 42 of this Code. Modifications to an existing subdivision or parcel shall not create a greater number of parcels than that which currently exists.

41.3.E Conversions of Pre-1987 Structures: Conversion of an existing structure, as defined in Chapter 2, and which was approved prior to the

effective date of the 1987 Regional Plan (July 1, 1987), to a stock cooperative, community apartment, condominium, or any other form of divided interest; which does not have an adverse impact upon the health, safety, general welfare or environment of the Region. Conversions of eligible existing structures shall be reviewed in accordance with the applicable provisions of Chapter 43 of this Code.

- 41.3.F Resubdivision: Resubdivision, adjustment, or consolidation, or parcels within an existing urban area, as part of a TRPA-approved redevelopment plan. Such projects shall be reviewed in accordance with the applicable provisions of Chapter 43.
- 41.3.G Subdivision of Post-1987 Projects: Subdivision through condominiums, community apartments, or stock cooperatives, within an existing urban area, in conjunction with the approval of a project associated with an approved transfer of development, or otherwise in accordance with the provisions of the Regional Plan and Code. In order to subdivide a project under this subsection, the project shall be new development approved pursuant to the 1987 Regional Plan, as amended, prior to the approval of the subdivision. The subdivision shall not result in a greater amount, a different location, or a greater rate of development than otherwise permitted by the Regional Plan and Code. Subdivisions under this subsection shall be reviewed and approved in accordance with the applicable provisions of Chapter 43 of this Code.