

Chapter 43

SUBDIVISION STANDARDS

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43.0 Purpose: The purpose of this chapter is to regulate the creation of new subdivisions to ensure attainment and maintenance of the environmental thresholds and the goals of the Regional Plan.

43.1 Applicability: This chapter applies to the review of permissible new subdivisions.

43.2 Subdivision of Existing Structures: Subdivision of eligible existing structures, as set forth in subsection 41.3.E, may be permitted subject to the following requirements:

43.2.A Permissible Use: Subdivisions of existing structures which result in a change of use shall comply with the requirements of Chapter 18. Subdivision of a structure shall be deemed an intensification of use and shall not be permitted if the new use is prohibited in the applicable plan area statement.

- (1) Election of conversion of use pursuant to Section 33.7 shall be made in conjunction with or prior to an application to subdivide an existing structure. If the election is made after a TRPA approval for subdivision, then the election shall void the prior approval if the election modifies the major use classification of the subdivision.

43.2.B[§] Moderate Income Housing: Existing residential units which are moderate income housing, as defined by 41.2.F, shall not be subdivided unless mitigation is provided on a unit for unit basis for the loss of moderate income housing. Mitigation shall be in the form of construction of an equal number of moderate income units, conversion of other structures to moderate income housing, restriction of subdivided units to moderate income housing units, or a combination of the above.

- (1) To determine whether a unit is moderate income housing, the applicant shall submit a rental/sale history for each unit for the previous five years. TRPA shall review the history and determine whether the unit has, on the whole, been available as moderate income housing. TRPA shall utilize the appropriate state and

[§] Amended 4/28/04

federal data on median income and rental rates and mortgages for moderate to very low income households in making the determination. If a rental/sale history is unavailable or incomplete, an appraisal of the structure prepared by a qualified appraiser shall be submitted by the applicant.

- (2) Restriction of subdivided units to moderate income housing shall include recordation of deed restrictions or other covenants running with the land, limiting the rental rates and sale price to those which are affordable to households or tenants that earn not more than 120 percent of the applicable county median.

43.2.C Land Coverage: Prior to approving a subdivision of an existing structure, TRPA shall require submittal of a site plan showing all existing land coverage.

- (1) Conversions of existing structures shall be subject to the excess coverage mitigation requirements in Section 20.5 to the extent the subdivision includes, or is approved in conjunction with, building modifications.

43.2.D Density: Subdivision of existing structures which exceed the density standards in Chapter 21, 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 21 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.
- (2) For purposes of this chapter, the density standard for single family residential units shall be the multi-family density standard in the applicable plan area statement.
- (3) If multi-family is not a permitted use, then the density standard for single family residential units in a subdivision or planned unit development shall be the density shown on the subdivision map provided the map depicts a specific density. If there is no subdivision map, or the subdivision map does not depict a specific density, then the density standard for single family residential units shall be four units per acre.

43.2.E Parking: Subdivisions of existing structures shall comply with the parking standards set forth in Chapters 24 and 30 and Ordinance 87-8, or the adopted community plan, as applicable.

43.2.F BMPs: Existing structures approved for subdivision shall be retrofitted with BMPs. Where the subdivision includes, or is done in conjunction with, reconstruction or relocation of the existing structure, the project area shall be retrofitted no later than the completion of the reconstruction or relocation. Where the subdivision does not include reconstruction or relocation, the project area shall be retrofitted no later than one year after the recordation of the map, or other similar legal instrument, documenting the subdivision. Performance of BMP retrofitting shall be secured in accordance with Chapter 8.

- 43.2.G Basic Services: Subdivisions of existing structures shall comply with the standards in Chapter 27, except that TRPA shall not waive the paved road requirement in Section 27.2.
- 43.2.H Signage: All signage associated with, or located within the subdivision shall conform to the standards for new signs in Chapter 26.
- 43.2.I Design Review Guidelines: Existing structures approved for subdivision shall be retrofitted to comply with the standards set forth in Chapter 91 for combustion appliances, including fireplaces. Subdivisions of existing structures shall conform to the following standards in Chapter 30:
- (1) Lighting (Section 30.8);
 - (2) Snow Storage (Subsection 30.5.C); and
 - (3) Landscaping (Section 30.7).
- 43.2.J Air Quality Mitigation Fees: If the subdivision of an existing structure effects a change in use (e.g., multi-family to single family), which results in an increase in daily vehicle trips, then an air quality mitigation fee shall be assessed pursuant to Subsection 93.3.D.
- 43.2.K Common Areas: If subdivision of an existing structure creates common area, then TRPA shall require covenants, conditions and restrictions (CC&Rs), as needed, to ensure compliance with the Code and conditions of approval.
- 43.2.L Shorezone Structures: Subdivision of an existing structure in the shorezone shall not be permitted except in accordance with an adopted marina master plan pursuant to Chapter 16.
- 43.2.M Substitution of Local Housing Plans: If a local jurisdiction adopts and implements a program which addresses the need for moderate income housing[§] within its jurisdiction, then TRPA may, by ordinance, exempt projects within that jurisdiction from the provisions of Subsection 43.2.B.
- 43.2.N General Standards: Except as otherwise expressly set forth in this section, subdivisions of existing structures shall conform to the standards set forth in the TRPA Code. TRPA shall not approve the subdivision of an existing structure which was not constructed in accordance with the applicable local, regional and state laws.
- (1) In conjunction with the subdivision of an existing structure, TRPA may also approve the reconstruction or relocation of the structure, within the same project area, as otherwise permitted in the Code.
 - (2) This section shall not be construed to permit the transfer of an existing structure to create a lot and block subdivision, planned unit development or similar division of land.
 - (3) A final map, or similar document, for an approved subdivision, shall contain a signature block for TRPA to document regional approval.

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- (4) TRPA shall require compliance with applicable pre-existing permit conditions and subdivision approvals through the recordation of deed restrictions or other covenants running with the land, as deemed necessary.

43.3 Resubdivisions: [Reserved]

43.4 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:

43.4.A Existing Urban Areas: Subdivisions may only be permitted in urban areas existing on December 31, 1994 or as amended pursuant to subsection 13.7.D.

43.4.B Permissible Use: Subdivisions which result in a change in use shall comply with the requirements of Chapter 18. Subdivision shall be deemed an intensification of use and, consistent with Subsection 18.5.B, shall not be permitted if the new use is prohibited in the applicable plan area statement.

43.4.C Multi-residential Bonus Units and Allocations: Multi-residential projects which received development rights ("bonus units") under Section 35.2 after January 1, 1993, or residential allocations under Subsection 33.2.A(4), or multi-residential allocations under Subsection 33.2.C, shall be permitted to subdivide provided the resulting units are deed restricted in accordance with the Chapter 2 definitions for moderate income or affordable housing.[§]

43.4.D Moderate Income Housing: Subdivision of moderate income housing projects, as defined in Subsection 41.2.F may be permitted provided TRPA finds that the resultant use qualifies as moderate income housing and appropriate deed restrictions or other covenants running with the land are recorded to document the restriction of units to moderate income housing.[§]

43.4.E Land Coverage: Projects which include transferred land coverage approved pursuant to subparagraph 20.3.B(3) shall not be permitted to subdivide if the resulting use is not eligible for transferred land coverage in the amount approved.

[§] Amended 4/28/04

- 43.4.F Affordable Housing: Subdivisions of post-1987 residential projects in plan areas designated 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 Subelement of the Regional Plan Goals and Policies.[§]
- 43.4.G Density: Subdivisions shall comply with the applicable density standard for the resulting use. For purposes of this chapter, the density standard for single family residential units shall be the multi-family density standard in the applicable plan area statement. If multi-family is not a permitted use, then the density standard for single family residential units shall be four units per acre.
- 43.4.H Basic Services: Subdivisions shall comply with the standards in Chapter 27, except that TRPA shall not waive the paved road or fireflow requirements.
- 43.4.I Parking: Subdivisions of post-1987 projects shall comply with the parking standards for the resultant use, as set forth in Chapters 24 and 30 and Ordinance 87-8, or the adopted community plan, as applicable.
- 43.4.J Signage: Subdivisions of post-1987 projects shall comply with the signage standards for the resultant use as set forth in Chapter 26 or the adopted community plan, as applicable.
- 43.4.K Air Quality Mitigation Fees: Subdivisions which result in a change of use which increases daily vehicle trips shall be assessed an air quality mitigation fee pursuant to subsection 93.3.D. Approval of a subdivision shall not be cause for a partial refund of mitigation fees assessed in connection with the underlying project approval.
- 43.4.L Secondary Residences: Secondary residences approved on or after July 1, 1987 shall not be subdivided.
- 43.4.M Covenants, Conditions and Restrictions: TRPA may require covenants, conditions and restrictions (CC&Rs), or deed restrictions, as appropriate, to ensure compliance with the Code and conditions of approval. The final subdivision map shall include a reference to any CC&Rs or deed restrictions, as appropriate.
- 43.4.N Shorezone Structures: Subdivision of shorezone structures shall not be permitted except in accordance with an adopted master plan pursuant to Chapter 16.
- 43.4.O General Standards: Except as otherwise expressly set forth in this section, subdivision of post-1987 projects shall conform to the standards set forth in the Code for the resulting use, including without limitation, signage, BMPs, design review, parking and drive ways.

[§] Amended 4/28/04

- (1) This section shall not be construed to permit the transfer or modification of an approved multi-residential project to a lot and block subdivision or similar division of land.
- (2) A final map, or similar document, for an approved subdivision shall contain a signature block for TRPA to document regional approval.
- (3) TRPA shall only approve subdivisions of post-1987 projects after approval of the underlying project. The subdivision approval shall expire if the underlying project approval expires or the project is not completed. TRPA shall require compliance with the project conditions of approval and the subdivision approval through recordation of deed restrictions, CC&Rs, or other covenants running with the land, as deemed necessary.