

Chapter 51

PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE

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51.0 Purpose: This chapter sets forth the allowable uses and accessory structures in the shorezone and lakezone. The concept of "use" includes any activity within the Region, whether related to land, water, air or other resources of the Region. The primary uses are classified as "allowed," "special," and "nonconforming." The applicability of such classification to a parcel is determined by reference to the applicable plan area statement and map, community plan, redevelopment plan, and specific or master plan. Generic primary uses for the shorezone and lakezone are set forth in Section 51.2 and accessory structures for the nearshore and foreshore are set forth in Section 51.3. Provisions applicable to continuing existing uses in the shorezone and lakezone are set forth in Section 51.5.

51.1 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 51.2.C, are considered an established primary use on littoral parcels. Regulation of projects and activities pursuant to primary uses shall be as follows:

51.1.A Allowed Uses: Uses listed in applicable plan area statements, community plans, redevelopment plans, specific or master plans or Subsection 51.2.A as "allowed" ("A") are appropriate uses for the specified area, and projects and activities pursuant to such uses may be permitted. Allowed uses are assumed to be compatible with the direction of the Regional Plan and surrounding uses.

51.1.B Special Uses: Uses listed in applicable plan area statements, community plans, redevelopment plans, specific or master plans or Subsection 51.2.A 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:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

51.1.C 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 51.5. Existing development in a special use category for which the findings in Subsection 51.1.B have not been or can not be made shall be non conforming uses.

51.1.D Prohibited Uses: Proposed uses not listed in applicable plan area statements, community plans, redevelopment plans, specific or master plans or Subsection 51.2.A are prohibited. Proposed special uses for which the findings in Subsection 51.1.B can not be made shall be prohibited uses.

51.2 Permissible Uses: This section identifies the permissible uses in the shorezone and lakezone. Each permissible use is defined in Section 51.4. Any use not listed in Section 51.2 is prohibited. Plan area statements, and community, specific, master, and redevelopment plans establish whether uses are allowed (A) or special (S) in all areas except the lakezone. Subsection 51.2.A establishes whether uses are allowed (A) or special (S) in the lakezone.

51.2.A Permissible Uses In The Lakezone: The following list identifies the permissible uses in the lakezone;

- (1) Safety and navigational facilities (A).
- (2) Salvage operations (S).

- (3) Seaplane operations (S).
- (4) Tour boat operations (S).
- (5) Water borne transit (A).
- (6) Water intake lines (A).

51.2.B Permissible Uses In The Shorezone: The following list identifies the permissible uses in the shorezone:

- (1) Beach recreation.
- (2) Boat launching facilities.
- (3) Construction equipment storage.
- (4) Marinas.
- (5) Safety and navigational facilities.
- (6) Salvage operations.
- (7) Seaplane operations.
- (8) Tour boat operation.
- (9) Water borne transit.
- (10) Water-oriented outdoor recreation concessions.

51.2.C Permissible Uses In The Shorezone And Lakezone: Dispersed water-oriented outdoor recreational uses which do not require developed facilities and which occur in the shorezone or on lakes, such as recreational boating, windsurfing, ballooning, swimming, skin diving, snorkeling, sunbathing, and fishing are allowed uses in the shorezone and lakezone. Rental of equipment and services related to such uses are included in water oriented outdoor recreation concessions. Commercial boating, parasailing, fish habitat restoration and scientific study projects are special uses in the shorezone and lakezone. Uses resulting from construction of the following structures or facilities are allowed uses in the shorezone:

- (1) Shoreline protective structures and other erosion control and environmentally oriented projects and facilities in accordance with Subsection 55.4.C.
- (2) Public service facilities in accordance with Subsection 55.4.B.
- (3) Public outdoor recreation facilities in accordance with Subsection 55.4.A.
- (4) Access to the foreshore in accordance with Subsection 55.4.D.

51.3 Accessory Structures: Accessory structures shall be regulated pursuant to the regulations applicable to the primary use upon which they are dependent in accordance with Chapter 18. The following structures may be permitted in the shorezone as an allowed (A) or special (S) use only if they are accessory to an existing, allowed use located on the same or adjoining littoral parcel. Structures not listed in this section are prohibited. Shoreline protective structures and water intake lines may be permitted independently of a primary use on the littoral parcel:

- (1) Boat ramps.
- (2) Breakwaters or jetties.
- (3) Buoys.
- (4) Fences.
- (5) Floating docks and platforms.
- (6) Piers.
- (7) Shoreline protective structures.
- (8) Water intake lines.

51.4 Use Definitions: The following uses are defined as set forth below:

Beach Recreation: Recreational use of a beach, supported by developed facilities such as sanitation facilities, parking, picnic sites, piers, boat ramps, floating docks and platforms and mooring buoys.

Boat Launching Facilities: Recreational establishments which provide boat launching, parking and short term trailer storage for the general public. Long term storage, mooring and maintenance of boats is included under "marinas."

Commercial Boating: Commercial use of pleasure craft or other vessel on a body of water.

Construction Equipment Operation: The operation of equipment, such as barges, pile drivers and amphibious vehicles, for the purpose of repairing or constructing structures located in the shorezone.

Construction Equipment Storage: The storage of equipment, such as barges, pile drivers and amphibious vehicles, used for the repair or construction of structures located in the shorezone. Construction equipment storage does not include stock piling of materials.

Marinas: Establishments providing water-oriented services, such as yachting and rowing clubs; boat rentals; storage and launching facilities; sport fishing activities; excursion boat and sight seeing facilities; and other marina-related activities, including, but not limited to, fuel sales and boat and engine repair.

Recreational Boating: Noncommercial use of pleasure craft on a body of water, including regattas and speedboat races.

Safety and Navigation Facilities: Structures in the shorezone or lakezone whose purpose is the protection of the public health, safety, and general welfare, such as navigational buoys, lighthouses, scientific monitoring devices, and radio communication devices.

Salvage Operations: The act of bringing a vessel, or its cargo to the water's surface.

Seaplane Operations: Use of a permanent facility for the landing and take-off of aircraft on a body of water. Includes the fueling, maintenance, and storage of such aircraft.

Tour Boat Operation: Commercial use of a vessel rated by the U.S. Coast Guard for more than 30 passengers, where such passengers board and unboard at a single site.

Water Borne Transit: Commercial use of a vessel rated by the U.S. Coast Guard for more than 30 passengers, where such passengers board and unboard at different sites.

Water-Intake Lines: Pipelines and accessory structures, located within a body of water, whose purpose is to draw in and transport water to the backshore or beyond.

Water-Oriented Outdoor Recreation Concessions: Water-oriented outdoor recreation uses, such as food and beverage facilities at public beaches; fishing guide services; parasailing; recreation equipment rental (e.g., boats, wind surfing and beach equipment); but not including, boat slips, boat and engine repair or the sale of fuel.

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

51.5.A 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 51.5.A(1) and 51.5.A(2). 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 other wise.

- (1) 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.
- (2) Uses Subject To A Specific Program Requiring Discontinuance Or Modification Of The Uses: A use subject to a specific program requiring discontinuance or modification of the use shall be discontinued or modified in accordance with the requirements of

such program. Such specific programs shall be further defined and adopted by ordinance. Such specific programs shall be further defined and adopted by ordinance.

51.5.B 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 4. Modifications, expansions and other changes to structures are governed by other provisions of the Code and also are subject to the requirements of Chapter 4.

- (1) Allowed Uses: Uses identified as allowed uses may be changed, expanded or intensified in conformance with this Code. Any change, expansion or intensification, resulting in a special use, shall be subject to the special use requirements.
- (2) Special Uses: Uses identified as special uses and for which the required findings pursuant to Subsection 51.1.B have been made by TRPA, may be changed, expanded or intensified subject to Subsection 51.1.B.
- (3) 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.