

# Chapter 53

## SHOREZONE TOLERANCE DISTRICTS AND DEVELOPMENT STANDARDS

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53.0 Purpose: Policies 4, 5, 6 and 7, Goal 1 of the Shorezone Subelement, Conservation Element of the Goals and Policies establish management strategies and development restrictions with respect to the eight shorezone tolerance districts described in the 1973 Shorezone Plan for Lake Tahoe. Policy 9, Goal #1 of the Shorezone Subelement requires TRPA to regulate structures in the foreshore and nearshore to avoid interference with the attainment of scenic thresholds. Policy 15, Goal #1 of the Shorezone Subelement permits the designation of shorezones as man-modified and sets forth the findings necessary for designation. In accordance with these policies, this chapter sets forth development standards for the eight tolerance districts, standards for designating shorezones as man-modified, design standards and standards for other related matters.

53.1 Applicability: All projects and activities within the shorezone shall comply with the regulations and standards applicable within the shorezone tolerance district in which the project or activity is located.

53.2 Establishment And Effect: There are eight shorezone tolerance districts identified along the shorelines of Lake Tahoe, Fallen Leaf Lake and Cascade Lake. These districts are described in the 1973 Shorezone Plan for Lake Tahoe and are depicted on TRPA Shorezone Tolerance District and Land Capability Overlay Maps, pursuant to Chapter 12. The 1973 Shorezone Plan was used as a guideline in establishing the use and development standards and regulations as set forth in this chapter.

- 53.3 Precise Boundaries: The location of precise boundaries of shorezone tolerance districts shall reflect the physical and other considerations that led to the classifications of the lands in the districts that the boundary lines separate. Determinations of precise boundaries on a parcel may be made by TRPA as part of a project approval without amendment to the shorezone maps consistent with the procedures for field verification in Chapter 20. Such determinations may not result in a major adjustment of the boundaries (i.e., creation of new districts, elimination of districts, etc.) that would otherwise require an amendment pursuant to Section 53.4. Boundary line determinations shall be consistent with the criteria set forth in the report entitled *Toward a Shore-Zone Plan For Lake Tahoe, Orme, A.R., 1972*.
- 53.4 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 53.2, 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.
- 53.4.A Team Of Experts: A team of experts retained by TRPA shall evaluate the shorezone tolerance district challenge. Depending on the nature of the challenge, the team may include, as determined by TRPA, a geomorphologist, soil scientist, geologist, hydrologist, and fisheries biologist, selected by TRPA. Such persons shall be recognized as possessing special qualifications to evaluate soils, geomorphology, hydrology, fisheries, vegetation and other characteristics and related environmental factors pertinent to the subject shorezone area. TRPA shall consider data provided by experts retained by the owner, and TRPA's team of experts shall comment on the accuracy of the owner's data. No expert retained by the owner shall be a member of TRPA's team.
- 53.4.B Shorezone Tolerance District Report: TRPA's team of experts shall prepare a shorezone tolerance district report analyzing the shorezone tolerance district challenge. The report shall include:
- (1) A description of the parcel;
  - (2) Detailed information concerning topography; soil capabilities and limitations; compositional and geometric properties; surface and ground water conditions; geomorphology; vegetation characteristics and related environmental factors pertinent to the subject shorezone area.
  - (3) An analysis identifying limitations on use and disturbance in the shorezone due to: compositional and geometric properties; surface and subsurface hydrologic conditions; erosion hazard; littoral processes and lake bottom material composition; biological characteristics such as fish, wildlife and vegetation; and visual and aesthetic factors.

- (4) Identification by a qualified expert of the shorezone tolerance district generally exhibiting the characteristics of the section of shorezone analyzed in the report.
- (5) Additional information required by TRPA to properly assess the merits of the application.

53.4.C 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.

53.4.D Notification Procedure: An appeal of the Executive Director's denial of a shorezone tolerance district challenge and the action by the Governing Board upon a report recommending a change in shorezone tolerance shall be pursuant to notification to affected property owners in accordance with TRPA's Rules of Procedure.

53.4.E Procedure After Action On Shorezone Tolerance District Challenge: Once TRPA has completed its action on the shorezone tolerance district challenge, it shall:

- (1) Give written notification to the owners of all parcels affected by the action taken;
- (2) Include the information set forth in the report prepared pursuant to Subsection 53.4.B and the action pursuant to Subsection 53.4.C in TRPA's data base for purposes of Chapter 38;
- (3) Recognize the action pursuant to Subsection 53.4.C as superseding the TRPA Shorezone Tolerance District Overlays with respect to the pertinent parcel; and
- (4) Affix a symbol to the shorezone tolerance district overlays denoting the action pursuant to Subsection 53.4.C as applicable to all parcels affected by the action.

53.4.F Amendment Of Shorezone Tolerance District Overlay Maps: Amendments to the tolerance district overlay maps shall be processed as amendments to the Regional Plan.

- (1) Minimum Land Area: Amendments to the shorezone tolerance district overlay maps shall be limited to sections of shoreline that are 400 feet or greater in length.

- (2) Line Adjustments: Adjustments of existing shorezone tolerance district lines, other than minor adjustments which occur under Section 53.3 shall require amendment to the shorezone tolerance district maps. Such adjustments shall not create new or eliminate existing districts; however, the adjustment may substantially affect permitted uses and apply to more than one property.
- (3) New Shorezone Tolerance Districts: The creation of a new shorezone tolerance district shall require amendment to the shorezone tolerance district maps. New shorezone tolerance districts shall include all the adjoining land area which exhibits the characteristics of the new district.

53.5 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.

53.5.A Team Of Experts: A team of experts retained by TRPA shall evaluate the man-modified challenge in accordance with the requirements of Subsection 53.4.A.

53.5.B Man-Modified Report: TRPA's team of experts shall prepare a man-modified report in accordance with the requirements of Subsection 53.4.B. In addition to the foregoing information, the report shall contain information showing that the area in question was modified by man's placement of fill, dredging or grading, in so substantial a fashion as to generally exhibit the characteristics of a shorezone tolerance district other than the one depicted for said land on TRPA's Shorezone Tolerance District Overlay Maps. In the case where the shorezone has been so modified that it no longer exhibits characteristics similar to any of the established tolerance districts the report shall recommend the limitations, standards and regulations that should be applied within the new tolerance district.

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

- (1) Further development will not exacerbate the problems caused by development in shorezones that the original tolerance rating was meant to avoid;
- (2) The area no longer exhibits the characteristics of the original shorezone tolerance rating;
- (3) 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;

- (4) The impacts from further development will be mitigated offsite;
- (5) Mitigation to offset the losses caused by modification of the area and pertinent shorezone tolerance district, shall be as follows:
  - (a) Onsite and offsite mitigation;
  - (b) Pursuant to a maintenance program, including a 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.
- (6) The area in question was modified to the extent being recognized prior to February 10, 1972.

53.5.D Review And Action: The man-modified report shall be reviewed and acted upon in accordance with Subsection 53.4.C.

53.5.E Notification Procedure: Notification procedures shall be in accordance with Subsection 53.4.D.

53.5.F Procedure After Action On Man-Modified Challenge: After action is taken on a man-modified challenge, TRPA shall comply with the provisions of Subsection 53.4.E.

53.5.G Amendment Of Shorezone Tolerance District Overlay Maps: Amendment to the shorezone tolerance district overlay maps resulting from a man-modified challenge shall be in accordance with the provisions of Subsection 53.4.F.

53.6 Shorezone Tolerance District 1: Shorezone Tolerance District 1 is described and regulated as follows:

53.6.A Nature Of District: The beach that forms the shoreline in these districts is a low sandy barrier that separates the lake proper from marshes and wetlands. Generally, the shorezone is ecologically fragile and any substantial use or alteration can lead to excessive sedimentation, beach erosion, and water turbidity.

53.6.B Development Standards: In addition to the standards set forth in Chapters 54 and 55, the following standards shall be applicable to Shorezone Tolerance District 1:

- (1) Access to the shoreline shall be restricted to planned footpaths which minimize the impact to the backshore.
- (2) Vegetation shall not be manipulated or otherwise disturbed except when permitted under Chapter 55.
- (3) No drainage or modification of backshore wetlands shall be permitted.

- (4) New development in the backshore of a Shorezone Tolerance District 1 shall be regulated in accordance with the regulations in this Code for stream environment zones.
- (5) Replacement of existing land coverage in the backshore of a Shorezone Tolerance District 1 shall be in accordance with the regulations for replacing existing land coverage in stream environment zones.

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

53.7.A Nature Of The Districts: The natures of the districts are:

- (1) Tolerance District 2: Tolerance District 2 is typically volcanic and morainic debris shorezones with slopes thirty percent (30%) and over and alluvial soils at nine to thirty percent (9-30%) slopes. Potential for disturbance in the nearshore is high as is potential for erosion and cliff collapse in the backshore.
- (2) Tolerance District 3: Tolerance District 3 is armored granite shorezones with slopes exceeding thirty percent (30%). The erosion potential is high immediately above the shore, with moderate potential for disturbance in the steep nearshore zone. Removal of vegetation in the backshore may lead to mass movement and erosion.

53.7.B Development Standards: In addition to the standards set forth in Chapters 54 and 55, the following standards shall be applicable to Shorezone Tolerance Districts 2 and 3:

- (1) Permitted development or continued use may be conditioned upon installation and maintenance of vegetation to stabilize backshore areas and protect eroding areas from further destruction.
- (2) Projects shall not be permitted in the backshore unless TRPA finds that such project is unlikely to accelerate or initiate backshore erosion.
- (3) Access to the shoreline shall be restricted to stabilized access ways which minimize the impact to the backshore.

53.8 Shorezone Tolerance Districts 4 And 5: Shorezone Tolerance Districts 4 and 5 are described and regulated as follows:

53.8.A Nature Of Districts: The natures of the districts are:

- (1) Tolerance District 4: Tolerance District 4 exhibits volcanic rock shorelines with moderate potential for erosion. The potential increases where colluvium of volcanic debris is present and stoney, sandy loams lie on fifteen to thirty percent (15-30%) slopes; on morainic debris shorezones with high erosion potential above the shoreline; and alluvial shorezones where the shoreline is characterized by steep, crumbling cliffs with continuing erosion

problems.

- (2) Tolerance District 5: Tolerance District 5 exhibits armored granite shorezones with fifteen to thirty percent (15-30%) slopes with less erosion potential than similar lands in Shorezone Tolerance District 4.

53.8.B Development Standards: In addition to the standards set forth in Chapters 54 and 55, the following standards shall be applicable to Shorezone Tolerance Districts 4 and 5:

- (1) Permitted development or continued use maybe conditioned upon installation and maintenance of vegetation to stabilized backshore areas and protect existing cliffs from accelerated erosion.
- (2) Projects shall not be permitted in the backshore unless TRPA finds that such project is unlikely to require the cliff area to be mechanically stabilized or that the project will not accelerate cliff crumbling, beach loss or erosion.
- (3) Access to the shoreline shall be restricted to stabilized access ways which minimize the impact to the backshore.
- (4) Access to buoys shall be designed to cause the least possible environmental harm to the foreshore and backshore.
- (5) Access to piers, floating platforms and boat ramps shall be designed to cause the least possible alteration to the natural backshore.

53.9 Shorezone Tolerance Districts 6, 7 And 8: Shorezone Tolerance Districts 6, 7 and 8 are described and regulated as follows:

53.9.A Nature Of Districts: The natures of the districts are:

- (1) Tolerance District 6: Tolerance District 6 is underlain by weathered volcanic or morainic debris with slopes of five to fifteen percent (5-15%).
- (2) Tolerance District 7: Tolerance District 7 is comparatively level shorezone underlain by morainic and alluvial materials with slopes of zero to nine percent (0-9%).
- (3) Tolerance District 8: Tolerance District 8 is gently sloping, armored granite shorezone with high capability for development. Shorelines are in equilibrium and potential for erosion in foreshore and nearshore is low. Backshore possesses a moderate erosion potential in some cases.

53.9.B Development Standards: In addition to the standards set forth in Chapters 54 and 55, the standards set forth in Subsection 53.8.B for Tolerance Districts 4 and 5 shall be applicable to Tolerance Districts 6, 7 and 8. The following standards also shall apply:

- (1) Vehicular access to the shoreline shall not be permitted except where TRPA finds that such access will not cause environmental harm.
- (2) Boat launching facilities and marinas shall be located where the nearshore shelf is of sufficient width to enable construction and use without potential for significant shelf erosion.

53.10 Design Standards Within The Shorezone: Design standards within the shorezone are as follows:

53.10.A Color<sup>§</sup>: The color of structures, including fences, shall be compatible with its surroundings. Subdued colors in the earthtone and woodtone ranges shall be used for the primary color of the structure. Hues shall be within a range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish-brown, brown, tan, ochre, umber, sand and dark green. Colors shall be medium to dark and shall meet the Munsell<sup>®</sup> Color value as set forth in Appendix G, TRPA Approved Earthtone Colors, of the Design Review Guidelines or other color systems that are equivalent to the adopted hues, values and chromas of Appendix G<sup>§§</sup>. Structures in the shoreland that were constructed prior to January 1, 1950 may maintain their historic colors when doing exempt maintenance and repair.

53.10.B Roofs<sup>§</sup>: Roofs shall be composed of nonglare earthtone or wood tone materials that minimize reflectivity. Metal roofs shall be compatible with their surroundings and composed of non-glare earthtone colors. Metal roofs colors shall meet the Munsell<sup>®</sup> Color value as set forth in Appendix G, TRPA Approved Earthtone Colors, of the Design Review Guidelines that have a value and chroma of 0-4 or other color systems that are equivalent to the adopted hues, values and chromas of Appendix G.<sup>§§</sup>

53.10.C Fences: Wooden fences shall be used whenever possible. If cyclone fence must be used, it shall be coated with brown or dark green vinyl, including fence poles.

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<sup>§</sup> Amended 11/20/02

<sup>§§</sup> Amended 1/22/03