NOTICE IS HEREBY GIVEN that the Advisory Planning Commission of the Tahoe Regional Planning Agency will conduct its regular meeting at 9:30 a.m. on Wednesday, September 9, 2009 at the TRPA Offices, located at 128 Market Street, Stateline, NV. The agenda for the meeting is attached hereto and made a part of this notice.

September 2, 2009

Joanne S. Marchetta
Executive Director
All items on this agenda are action items unless otherwise noted.

AGENDA

I. CALL TO ORDER AND DETERMINATION OF QUORUM

II. APPROVAL OF AGENDA

III. PUBLIC INTEREST COMMENTS

Any member of the public wishing to address the Advisory Planning Commission on any item not listed on the agenda may do so at this time. Public comment on Public Hearing items will be taken at the time those agenda items are heard.

NOTE: THE ADVISORY PLANNING COMMISSION IS PROHIBITED BY LAW FROM TAKING IMMEDIATE ACTION ON, OR DISCUSSING ISSUES RAISED BY THE PUBLIC THAT ARE NOT LISTED ON THIS AGENDA.

IV. DISPOSITION OF MINUTES

V. PUBLIC HEARINGS

A. Recommendation on Amendment to Chapter 4, Project Review and Exempt Activities, Chapter 71, Tree Removal, and Related Chapters to Clarify Tree Removal Regulations for Trees under 14” Diameter at Breast Height (DBH)  

B. Recommendation on Shorezone Cleanup Amendments to Chapter 4, Project Review and Exempt Activities, and Chapter 54, Shorezone Project Findings and Development Standards  

VI. ADMINISTRATIVE MATTERS

A. Discussion of Governing Board and APC Meeting/Agenda Management Policy Changes  

VII. REPORTS

A. Executive Director

B. General Counsel

C. APC Members
VIII. ADJOURNMENT
REGULAR MEETING MINUTES

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Meeting called to order at 9:35 a.m.

Members Present: Mr. Donohue, Mr. Goldberg, Mr. Greene, Ms. Jamin, Ms. Kemper, Ms. Krause, Mr. Lefevre, Mr. Plemel, Mr. Maurer, Mr. McIntyre, Ms. McMahon, Mr. Merchant, Mr. Kuchnicki for Ms. Sertic, Mr. Riley, Mr. Thompson, Mr. Tolhurst, Ms. Garcia for Mr. Walker

Members Absent: Mr. Jepsen, Mr. Upton

II. APPROVAL OF AGENDA

Ms. Krause moved approval with amendments.
Motion carried unanimously.

III. PUBLIC INTEREST COMMENTS

Ms. Paulsen expressed concern about the proposed golf course for Washoe Meadow State Park. She suggested re-configuring the golf course within the current state recreation area boundaries.

Ms. Russell spoke on behalf of Washoe Meadow State Park. She commented she believed in restoring the upper Truckee River, but not at the expense of the State Park.

IV. DISPOSITION OF MINUTES

Mr. Riley moved approval with amendments.
Motion carried.
Ms. Kemper abstained.

V. PUBLIC HEARINGS

A. Recommendation on Environmental Improvement Program Update Including Legislative Affairs Briefing

Executive Director Ms. Marchetta presented the origin of the EIP program and the Tahoe Interagency Executive Steering Committee’s involvement in this process.

Staff members Julie Regan and Paul Nielsen presented the proposed Environmental Improvement Program Update.
Commission Comments & Questions:

Mr. McIntyre asked if the twenty-four percent from the private sector was represented on the Steering Committee. He commented that any further contributions from the private sector should be represented on the Steering Committee.

Ms. Kemper questioned if ten percent was an accurate estimate for the ten-year cost for operations and maintenance. She stated her concern was conflicting figures with local governments.

Mr. Riley suggested an inflation factor be taken into consideration.

Mr. Tolhurst commented that the EIP should stimulate more of a recreation economy.

Mr. Greene commented that sufficient information about recreational activities around the lake need to be provided. He asked about the $100 million unfunded by Nevada. He stated there was local funding that could be provided for the trail system. He asked if Kings Beach should be included in the accomplishments to-date listed for EIP projects.

Mr. Thompson asked how typical private project funds contribute to the EIP and who would approve contributions to a project.

Mr. Tolhurst clarified the EIP would run the counting process and buy-ins were being sought from the public and private sector.

Ms. Merchant requested clarification that operations and maintenance costs would include the water quality component and not other operation and maintenance components. She noted Placer County had concern about implementing some projects, especially water quality projects, due to the review time. The regional revenue source was also an area of concern for Placer County.

Public Comment:

Ms. Gearhart stated her concern was that projects would be made larger in order for the private sector to see some return on their contribution.

Ms. Threlfal requested a visual chart be provided that would outline thresholds that have been met.

Ms. Marceron, Forest Supervisor of Lake Tahoe Basin Management Unit and a member of the Tahoe Interagency Executive Committee, stated that a two-page resolution was provided which was an overview that supported the continued commitment that was continuing to be refined. She commented on the federal support and endorsement of the resolution.

Commission Comments & Questions:

Ms. Kemper requested a follow-up on EIP accomplishments.

Mr. Kuchnicki asked for an update on the EIP management system.
Ms. Kemper moved to recommend to the Governing Board adoption of the Resolution supporting the EIP program.

Mr. Greene questioned what was meant by “improving the economic health of the Lake Tahoe Basin”. Motion carried unanimously.

B. Recommendation on Amendments to Code Chapter 33 and Goals and Policies Chapter 7 Regarding the Carryover of Residential Allocations

Staff member Neil Crescenti presented the recommended amendments to Code Chapter 33 and Goals and Policies Chapter 7 regarding the carryover of Residential Allocations.

Commission Comments & Questions:

Ms. Merchant stated she was unclear as to what happens to the allocation when the Regional Plan was updated.

Mr. Donohue asked if the policy would continue until the new plan was in place and allocations were exhausted.

No Public Comment

Mr. Maurer moved to recommend to the Governing Board approval of the required findings. Motion carried unanimously.

Mr. Maurer moved to recommend to the Governing Board adoption of the proposed Ordinance and associated Exhibits. Motion carried unanimously.

C. Recommendation on Amendment of the Boundary Line of Kings Beach Community Plan and Plan Area Statement 028, Kings Beach Residential to Incorporate Placer County APNs 090-122-036 and 037 into the Community Plan Area and Amendment of Urban Design and Development Special Policies of the Land Use Element

Staff member Brenda Hunt presented the recommended amendment of the Boundary Line of the Kings Beach Community Plan and the other amendments.

Commission Comments & Questions:

Ms. Jamin requested clarification that the “permanently-deed restricting for affordable housing” was meant for low-income or included moderate-income.

Mr. Maurer asked if policy amendments were intended to make the policy more general.

Mr. Greene asked about residences in the area. He asked if deed-restricting would be for low-income housing and would be for both properties and, if the properties were not developed, would they remain deed-restricted.
Ms. Kemper suggested either discussing in staff summary or showing parcels on a map to help the TRPA Governing Board understand the potential impacts.

Public Comment:

Flavia Sordelat, League to Save Lake Tahoe, stated the League had no objection to environmentally-sensitive redevelopment projects in areas suitable for such re-development. The League was concerned about the proposed re-alignment and changes to the Kings Beach community plan, which would push the area further out into rural areas and the removal of specific requirements for open space, especially the buffer.

Ms. Kong, Domus Development and applicant, commented on the dilapidation of current apartments in the Kings Beach area and the need for affordable housing.

Mr. LeBue, Placer County Redevelopment, explained the proposed plan was to re-develop the already urbanized areas.

Commission Comments & Questions:

Mr. McIntyre commented that when suggestions were made to make the community plan boundary more economically and environmentally sound they should be approved.

Mr. Donohue asked if affordable housing could not be transferred in to other coverage. He commented that he agreed about adjusting the community plan area for an affordable housing project that the community needs.

Mr. Maurer asked for clarification about the removal of specific standards, as Ms. Sordelat mentioned in her comments.

Mr. Kemper noted language that should be stricken from the plan.

Mr. Maurer moved to recommend to the Governing Board approval of the required findings. Motion carried unanimously.

Moved to recommend to the Governing Board approval of the proposed Ordinance and associated Exhibits with language amendments to Policy 6.B to omit “where possible” and language in Policy 7 adding “be” between shall and located in the third sentence. Motion carried unanimously.

VI. ADMINISTRATIVE MATTERS

A. Election of Vice-Chair

Chair Mr. Tolhurst opened the nominations and personally nominated Mr. Donohue.

Ms. Kemper nominated Mr. Maurer.
Mr. Maurer declined the nomination.

Mr. Tolhurst moved approval of Mr. Donohue’s nomination. Motion carried unanimously.

VII. REPORTS

A. Executive Director

Executive Director Ms. Marchetta gave the Executive Director’s report.

B. General Counsel

General Counsel Ms. Rinke gave the Legal report.

Mr. Riley asked if it was typical for the court to appeal on the underlying issue in the private lawsuit for the increase on the rotation.

Mr. Tolhurst suggested implementation of third-party plan checks.

C. APC Members

Mr. Lefevre reported there was no further action on the release of the proposed plan for the Lake Tahoe Basin Management Unit because they were waiting to see if the U.S. Department of Agriculture would appeal.

Ms. Jamin expressed her appreciation for being allowed to serve on the APC and announced her replacement.

Ms. Kemper provided a review of her Board’s agenda.

VIII. ADJOURNMENT

Chair Mr. Tolhurst adjourned the meeting at 12:30 p.m.

Respectfully submitted,

Judy Nikkel
Clerk to the Commission

The above meeting was taped in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 589-5243. In addition, written documents submitted at the meeting are available for review at the TRPA Office, 128 Market Street, Stateline, Nevada.
MEMORANDUM

Date: September 2, 2009

To: TRPA Advisory Planning Commission

From: TRPA Staff

Subject: Recommendation on Amendment to Chapter 4, Project Review and Exempt Activities, Chapter 71, Tree Removal and Related Chapters to clarify Tree Removal Regulations for Trees under 14” Diameter at Breast Height (DBH)

Requested Action: Staff requests that the Advisory Planning Commission consider recommending the Governing Board (GB) make the proposed Code amendment to clarify the Chapter 4.2.A(13) and Chapter 71.3 Code changes made in November 2007. The proposed amendment would modify the current language to clarify the validity of previously agreed upon scenic screening requirements that may be affected by vegetative removal for defensible space. Properties with previously issued permits requiring vegetation retention for scenic screening may still remove vegetation deemed a fire hazard by a local fire protection district, fire department or vegetation deemed a hazard to life and property by the TRPA Forester, but must then contact TRPA to develop alternative, agreed upon, fire-safe scenic mitigation. This change will clarify the relationship between the Code amendment and previously issued permits and allow the attainment of scenic thresholds while still providing a streamlined process for defensible space.

Staff Recommendation: Staff recommends that the APC recommends that the Governing Board make the required findings and approve the proposed changes to the Code.

Required Motion(s): To recommend approval of the proposed action, the APC should make the following motions, based on this staff summary and the evidence in the record:

1) A motion to recommend approval by the Governing Board of the required findings (see Attachment A), including a finding of no significant effect; and 2) A motion to recommend approval by the Governing Board of the proposed ordinance. (See Attachment B).

Project Description/Background: In November 2007 the TRPA Governing Board amended the Code to require a tree removal permit for all trees over 14 inches DBH. The Code had previously required a tree removal permit for all trees greater than 6 inches DBH. This amendment generally made the removal of all trees 14 inches DBH or less exempt from the requirement for a TRPA Tree Removal Permit. The basis of the amendment was to streamline and expedite the removal of trees for defensible space. The Board also had concerns, however, regarding scenic impacts and, therefore, retained the 6 inch DBH limit for all trees between the house and the lake for shorezone parcels.
The following is from the Staff Summary presented to the Governing Board in November, 2007:

The TRPA Compact directs TRPA to regulate tree removal in the Tahoe Basin (See Compact Article VI (a)). The current Code regarding tree removal in the Basin requires a tree removal permit from TRPA, unless permit authority is delegated, for trees larger than 6 inches diameter at breast height (dbh). Many counties, cities and townships throughout California require tree removal permits for a multitude of reasons. Though many entities have set diameter limits from 6 to 9 inches dbh, TRPA knows of no scientific basis for these diameter limits. TRPA’s current 6 inch diameter limit is patterned for consistency on the rules of other jurisdictions. In general, the reason behind requiring a tree removal permit is so that professionals knowledgeable about tree health, forestry, or arboriculture make decisions on what trees should be removed in order to help maintain healthy forests and vegetation by removing diseased and hazard trees and trees deemed a fire hazard.

On October 5th 2007, TRPA met with the Tahoe Basin Fire Chiefs to discuss and develop recommendations for resolving wildfire hazard issues under consideration by the California-Nevada Tahoe Basin Fire Commission that had been raised by the Basin Fire Chiefs in the “nine-point letter” to TRPA dated September 18th, 2007. The first point in the letter asked TRPA to eliminate the need to issue a TRPA tree removal permit for trees larger than 6 inch diameter at breast height (dbh). During the meeting on October 5th, the Fire Chiefs provided data to TRPA indicating the tree sizes they typically mark for removal for defensible space. The FPD’s data shows that 85% of the trees they mark for defensible space are 14 inches dbh or less. TRPA is relying on this data as the basis for the proposed Ordinance change from 6 to 14 inches dbh. The diameter increase will facilitate less paper work for the Fire Protection District’s (FPD’s) and speed the implementation of defensible space treatments on private parcels.

Issues/Concerns: To date the amendment has been very successful and has accelerated defensible space assessments and compliance. It has come to our attention, however, that the amendment is creating confusion for certain property owners who, subject to a previously issued permit, are required to retain vegetation on their property for scenic screening. These individuals are relying on the amendment to remove all vegetation less than 14 inches dbh regardless of the previously agreed upon scenic screening requirements. Staff discussed this issue with the legal committee and received direction from the legal committee to clarify the validity of these previously agreed upon scenic screening requirements while still providing for a streamlined defensible space process for these properties. The proposed amendment meets both of these goals – it allows owners of these properties to remove trees less than 14 inches DBH without a TRPA Permit, but then requires these property owners to contact TRPA and to provide for alternative, agreed-upon, fire safe scenic mitigation.

Regional Plan Compliance: The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 6 of the TRPA Code of Ordinances (see attachment A for details).

If you have any questions please contact Mike Vollmer at (775) 589-5268 or via email at mvollmer@trpa.org.
Attachments/Exhibits:
  Required Findings and Rationale (Attachment A)
  Draft Ordinance (Attachment B)
  Proposed Language Amendments (Attachment B, Exhibit 1)
  Excerpts of Chapter 71, and 74 (Attachment C)
6.3 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.

6.3.A Findings Necessary To Approve Any Project: To approve any project, TRPA must find, in accordance with Sections 6.1 and 6.2, that:

1. 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.

   Rationale: The amendment to Chapter 4.2.A(13) Project Review and Exempt Activities and Chapter 71.3 Tree Removal, will not adversely affect implementation of the Regional Plan. Staff’s proposed amendment is consistent with the Regional Plan and TRPA plans and programs. The proposed amendment will promote heath and safety concerns with regard to fire safety and defensible space while maintaining scenic quality. This amendment will exempt from review removal of trees 14 inches dbh or less unless otherwise stipulated as a condition to a permit.

2. The project will not cause the environmental threshold carrying capacities (thresholds) to be exceeded; and

   Rationale: This Code change will allow private homeowners and property owners to remove trees 14 inches dbh or less without a permit or review from TRPA or the fire protection districts. Where these private properties have scenic considerations, additional, mitigation shall be required to prevent adverse effects.

   The amendment will clarify the requirement that lakeshore and other scenic corridor properties with vegetative screening as part of permit requirements are required to provide alternative scenic mitigations if vegetation removal relied upon for scenic mitigation is required for defensible space. This change will promote the attainment of scenic thresholds. Chapter 30.15.D (3) Design Standards, prohibits vegetation screening that is inconsistent with local fire protection standards.

3. 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.
Rationale: Any project that may come forth due to this provision will be required to meet air and water quality standards as set forth in the TRPA Compact.

6.5 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 6.3, and in accordance with Sections 6.1 and 6.2, 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.

Rationale: See Findings and Rationale listed above. The amendment is consistent with the Compact and with attainment or maintenance of the thresholds. Although the amendment will result in trees 14 inches dbh and less to be removed without a permit, scenic considerations are addressed in the new Code language.

Environmental Documentation: Staff has completed an Initial Environmental Checklist for the proposed Code of Ordinance changes. Staff will recommend that a Finding of No Significant Effect (FONSE) be made for the Code Amendment based on the IEC, Chapter 6 and 13 findings and information contained in this Staff Summary.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2009 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE CODE OF ORDINANCES OF THE TAHOE REGIONAL PLANNING AGENCY; CHAPTER 4.2.A(13) PROJECT REVIEW AND EXEMPT ACTIVITIES AND CHAPTER 71.3 TREE REMOVAL, AMENDING THE REQUIREMENT FOR A TREE REMOVAL PERMIT FOR TREES GREATER THAN 6 INCHES DIAMETER AT BREAST HEIGHT BY INCREASING THE DIAMETER OF TREES REQUIRING A TREE REMOVAL PERMIT TO TREES GREATER THAN 14 INCHES DIAMETER AT BREAST HEIGHT, AND PROVIDING FOR OTHER MATTERS PROPERLY REALATING THERETO.

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending Chapter 4.2.A(13) Project Review and Exempt Activities and Chapter 71.3 Tree Removal, to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.

1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.

1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.

1.40 The Governing Board finds that, prior to the adoption of this ordinance, the Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact, and the findings required by Section 2.40 of Ordinance 87-8. As to the Ordinance 87-8 findings, the Board finds that those findings were supported by a preponderance of the evidence in the record.

1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental
Amendment to Chapter 4.2.A(13) and Chapter 71.3

threshold carrying capacities as required by Article V(c) of the Compact.

1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00 Chapter 4.2.A(13) Project Review and Exempt Activities and Chapter 71.3 Tree Removal, of the TRPA Code of Ordinances and Rules of Procedures

2.10 Subsection 6.60 of Ordinance No. 87-9, as amended, is hereby further amended by amending Chapter 4.2.A(13) and Chapter 71.3 as set forth in Exhibit 1, dated September 2, 2009 which attachment is appended hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Code of Ordinances adopted hereby shall be liberally construed to affect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Code of Ordinances shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Code of Ordinances are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending Chapter 4.2.A(13) Project Review and Exempt Activities and Chapter 71.3 Tree Removal, of the TRPA Code of Ordinances is authorized by the Compact to become effective immediately, but in the exercise of its discretion, the Governing Board defers the effective date of the ordinance and the amendments until 60 days after adoption in order to produce education and outreach materials for the public.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held September 23, 2009 by the following vote:

Ayes:

Nays:

Abstentions:

Absent

Allen Biaggi, Chair
Tahoe Regional Planning Agency
Governing Board

AGENDA ITEM V.A.
Proposed Language Amendments to Chapter 4.2.A(13) Project Review and Exempt Activities and Chapter 71.3 Tree Removal

Proposed language is underlined in blue and deleted language is struck-through in red.

Chapter 4
PROJECT REVIEW AND EXEMPT ACTIVITIES

4.2 List Of Exempt Activities: The following activities are not subject to review and approval by TRPA provided they do not result in the creation of additional land coverage or relocation of land coverage, comply with Sections 30.6, 30.9 and 30.10 and meet all restrictions set forth below.§

4.2.A General Activities: The following general activities are exempt:

(13)§ Removal of trees 14 inches d.b.h or less are exempt except as provided in Section 71.3 and Subparagraph 74.2.A (3). Cutting, moving, removing, killing or materially damaging up to 100 live trees greater than fourteen inches d.b.h. and 30 inches d.b.h. in westside forest types and 24 inches d.b.h. in eastside forest types, per year within a project area provided all live trees to be removed are marked and a tree removal permit is issued pursuant to a memorandum of understanding between a qualified agency and TRPA, and the tree removal does not constitute substantial tree removal as defined in Subsection 71.4.I. The memorandum of understanding shall be consistent with the standards in Chapter 71.§§

Chapter 71
TREE REMOVAL

71.3 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. The removal of trees 14 inches d.b.h. or less is exempt from TRPA approval under subsection 4.2.A(13) and requirements of this chapter. A TRPA permit is required for the removal of trees 6 inches d.b.h. and greater on lakefront properties where the trees to be removed provide vegetative screening of existing structures, as viewed from Lake Tahoe. Except as provided in subsections 71.5.B, and 71.5.J§§, removal of trees greater than fourteen inches d.b.h. shall require

§ Amended 11/20/02
§ Amended 7/28/04
§§ Amended 5/23/01
§§ Amended 1/28/04; Amended 7/28/04
approval by TRPA. If vegetative screening is part of a permit requirement, and vegetation removal is required for defensible space, alternative scenic mitigation shall thereafter be approved 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.

§§§ Amended 7/22/98
Chapter 71
TREE REMOVAL

71.3 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. The removal of trees 14 inches d.b.h. or less is exempt from TRPA approval under subsection 4.2.A (13) and requirements of this chapter. A TRPA permit is required for the removal of trees 6” d.b.h. and greater on lakefront properties where the trees to be removed provide vegetative screening of existing structures, as viewed from Lake Tahoe. Except as provided in subsections 71.5.B, and 71.5.J, removal of trees greater than fourteen inches d.b.h. 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.

71.3.A 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, state, or other qualified agency through a memorandum of understanding.

71.3.B Harvest Or Tree Removal Plan: In cases of substantial tree removal, as set forth in subsection 71.4.I, the applicant shall submit a harvest plan or tree removal plan, prepared by a qualified forester. The plan shall set forth prescriptions for tree removal, water quality protection, vegetation protection, residual stocking levels, reforestation, slash disposal, fire protection, and other appropriate considerations. The plan, as approved by TRPA, shall become a part of the project and prescriptions contained in the plan shall be conditions of approval.

71.5.B Dead, Dying, Or Diseased Tree Removal: To enhance forest health, trees reported by a qualified forester to be dead, dying or diseased may be removed upon approval by TRPA. Dead trees may be removed without TRPA approval. Green stumps shall be treated, and insect-infested wood shall be disposed of, or treated as appropriate, as specified by a qualified forester.

71.5.J§ Tree Removal During Emergency Fire Suppression Activities: Trees may be removed when an emergency fire suppression need exists as determined by the local, state or federal fire suppression agency involved in a fire suppression activity.
Chapter 74
VEGETATION PROTECTION AND MANAGEMENT

74.2 Protection of Stream Environment Zones: No project or activity shall be undertaken in an SEZ (land capability 1b) which converts SEZ vegetation to a non-native or artificial state, or which negatively impacts SEZ vegetation through action including, but not limited to, reducing biomass, removing vegetation, or altering vegetation composition.

74.2.A Exceptions: The following are exceptions:

(1) Manipulation or management of SEZ vegetation may be permitted in accordance with the Code of Ordinances for purposes of SEZ vegetation health or wildlife or fish habitat improvements, and after approval of a vegetation management plan pursuant to Subsection 74.4.B., or as provided in Subsections 20.4, 20.5.C., or 79.2, or Chapters 71 or 72.

(2) Maintenance of landscaping that was installed prior to the creation of TRPA, or installed for the purpose of scenic quality pursuant to Chapter 30, Design Standards, or pursuant to a TRPA permit§, or under a TRPA exemption prior to August 1, 1997, provided that fertilizer use is restricted in accordance with the BMP Handbook and described in Subsection 81.7.A§§, unless a remedial action pursuant to Section 74.3 has been taken by TRPA.

(3) Removal of vegetation may be permitted pursuant to Subsections 4.2.A(5), 4.3.A(6), or 65.2, or 54.3, Chapter 73, or under defensible-space guidelines approved by TRPA.§§§
MEMORANDUM

Date:                September 2, 2009
From:               TRPA Staff
To:                 Advisory Planning Commission
Subject:            Adoption of Code Cleanup Amendments for the Shorezone Program

Requested Action:   Staff requests that the APC recommends to the Governing Board adoption of the attached Code Cleanup Amendments to the Shorezone Program.

Staff Recommendation: Staff requests that the APC recommends to the Governing Board adoption of the required findings and adopt the implementing ordinance (Attachment B)

Required Motions for Adoption of Shorezone Technical Cleanup Amendments: To recommend adoption of the Code Cleanup Amendments, the APC must make the following two motions, based on this staff summary and the complete administrative record:

I. A motion to recommend the Governing Board make the Chapter 6 and Ordinance 87-8 findings, and to make a Finding of No Significant Effect.

II. A motion to recommend the Governing Board adopt the attached ordinance (Attachment B) adopting the Code of Ordinance, amendments in Exhibit 1.

General Background: At the October 22, 2008 Governing Board meeting, the Board adopted Resolution 2008-31 directing staff to identify technical cleanup amendments to the newly-adopted Shorezone Code and bring these cleanup amendments for the Board’s consideration at the March 2009 Governing Board meeting.

The APC and Governing Board reviewed a list of possible technical cleanup amendments and the Governing Board adopted them at the March and May 2009 Governing Board meetings. Those adopted amendments and the amendments currently proposed come from staff operational experience and from comments from interested parties at formal and informal meetings. Staff will bring forward additional cleanup items as they are discovered.

Proposed Amendments: The following is a list of the amendments under consideration. These amendments are generally Code clarifications and the requested Code improvements. Due to Staff workload and pending litigation related to the Shorezone Program, Staff is proposing adoption of the first group of amendments and will develop a process at a later date for consideration of the second group of improvements.

Clarifications of Code Language Consistent with EIS Project Description – The intent of these proposed amendments is to clarify and make the Code more
consistent with the EIS descriptions or adopted Code language. The intent is not to have policy or impacts outside of that addressed in the EIS. See Attachment B, Exhibit 1 for amendment language.

1. Clarify in Chapter 4, Appendix A that multi-use piers are now reviewed by staff:
Under the old shorezone ordinances the extent of deviation allowed from standards was based on the amount of multiple-use. This determination was done by the Governing Board. Under the new ordinances the extent of deviation is fixed and there is no need for a determination. Therefore, Governing Board review is no longer needed and is proposed to be deleted. The EIS did not address the level of review.

2. Clarify that existing structures can be repaired and maintained, but not modified, without meeting the conditions Subparagraph 54.8.A.(3): The intent is to clarify or when certain repairs and reconstructions are exempt under Chapter 53 and when they are subject to the non-exempt regulations under Chapter 54.

3. Clarify that moorings referred to Subsection 52.4.A are mooring buoys: The intent is to clarify that the requirement that moorings be authorized by a permit in order to be placed or maintained in the waters of the Lake Tahoe Region, applies only to mooring buoys. The generic term of moorings could be misunderstood to refer to boat lifts, slips, boat houses etc., which would conflict with numerous other provisions of the Code related to repair and maintenance.

**Review of the EIS for Amendment Consistency:** The EIS for the Lake Tahoe Shorezone Ordinance Amendments consists of the following documents. All documents have been provided to the APC and Governing Board and are available on the TRPA Web Site: [www.trpa.org](http://www.trpa.org).

- 2004 Lake Tahoe Shorezone Ordinance Amendments Draft EIS
- 2005 Supplemental Alternative 6 Draft EIS
- 2006 Lake Tahoe Shorezone Ordinance Amendments Final EIS, Volumes I through III
- 2008 Volume IV Addendum to the 2008 Final EIS (Enclosure)

1. Updated Executive Summary
2. Updated Proposed Alternative Description
3. Updated Environmental Analysis
4. Updated Response to EIS and Amendments Comments
5. Updated Appendix

Please refer to the Preferred Alternative Description in Volume IV, EIS Addendum, for a summary of the EIS and required mitigation. As noted in the summary, all identified impacts for the Preferred Alternative are mitigated to a less than significant level. It is staff's conclusion that these cleanup amendments do not change that finding.

TRPA Staff will begin this item with a presentation. If you have any questions concerning this item, please contact Gordon Barrett at (775) 589-5219 or gbarrett@trpa.org or Judy Nikkel at (775) 589-5243 or jnikkel@trpa.org.

**Attachments**

A. Required Findings for EIS & Ordinance
B. Adopting Ordinance with Exhibit 1  
   Exhibit 1 Clarifications of Code Consistent with EIS Project Description or  
   Adopted Code Language  
C. 2008 EIS Excerpts
Required Findings for the Ordinance Amendments

**Required Findings:** The following findings must be made in order to adopt the proposed Code of Ordinance Amendments:

**Chapter 6 Findings:** The following findings must be made prior to amending the Code of Ordinances which constitutes a Regional Plan Amendment.

1. **Finding:** 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.

   **Rationale:** The intent of these cleanup amendments is to make the recently adopted Shorezone Program more consistent with the findings and actions of the October 22, 2008 adoption, including EIS certification. TRPA has reviewed these amendments and found them to be consistent with the Shorezone Program Amendments recently adopted by the TRPA and the applicable elements of the Regional Plan. The intent of these amendments is to encourage/assist with implementation of the Regional Plan.

2. **Finding:** The project will not cause the environmental thresholds to be exceeded.

   **Rationale:** Under the recently adopted Shorezone Program, no threshold will be exceeded. These amendments result in no change to this finding.

3. **Finding:** Wherever federal, state and 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 Compact, the project meets or exceeds such standards.

   **Rationale:** Under the recently adopted Shorezone Program, no federal, state or local air or water quality standards applicable for the Region will be exceeded. These amendments result in no change to this finding.

4. **Finding:** 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.

   **Rationale:** See Findings 1 and 2 above.
Ordinance 87-8 Findings: Section 2.40 of Ordinance 87-8 requires a finding that each amendment proposed to the Code provides for an equal or better means of attainment or maintenance of the thresholds. The required findings and their rationales are:

1. **Finding:** The amendments are consistent with the Compact and with attainment or maintenance of the thresholds.

   **Rationale:** The Shorezone Program Amendments, as analyzed in the EIS, meet all environmental standards, including mitigating any potential impacts to a less than significant level and assisting in attainment of the thresholds. These amendments support and clarify the Shorezone Program Amendments.

2. **That the amendment provides for an equal or better means of attainment or maintenance of the thresholds.**

   **Rationale:** See 1 above.

3. **One of the following findings must be made in order to adopt the proposed amendments:**

   a. There is a demonstrated conflict between provisions of the Regional Plan package, and the conflict threatens to preclude attainment or maintenance of thresholds; or

   b. The provision to be amended has been shown through experience to be counter-productive or ineffective and the amendment is designed to correct the demonstrated problem and is an equal or better means of implementing the Regional Plan package and complying with the Compact; or

   c. Legal constraints, such as court orders, decisions or Compact amendments, require amendment of the Goals and Policies or Code; or

   d. Technical or scientific information demonstrates the need for modification of a provision of the Goals and Policies or Code; or

   e. The provision to be amended has been shown, through experience and time, to be counter-productive to or ineffective in attainment or maintenance of the thresholds; or

   f. Implementation of the provision sought to be amended has been demonstrated to be impracticable or impossible because of one or more of the following reasons:

      (1) The cost of implementation outweighs the environmental gain to be achieved;

      (2) Implementation will result in unacceptable impacts on public health and safety; or
(3) Fiscal support for implementation is insufficient and such insufficiency is expected to be a long-term problem.

Finding d is the most applicable:

**Rationale:** These are technical clean up amendments.

**Chapter 5 Required Findings:** Based on finding of consistency with the EIS for the Lake Tahoe Shorezone Ordinance Amendments (certified 10/22/08) and the above analysis, changes or alterations have been required in or incorporated into such amendments which avoid or reduce the significant adverse environmental effects to a less than significant level.
TAHOE REGIONAL PLANNING AGENCY
ORDINANCE 2009 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING
THE CODE OF ORDINANCES, CHAPTERS 52 AND 54 TO IMPLEMENT THE
SHOREZONE CLEANUP AMENDMENTS AND PROVIDING FOR OTHER MATTERS
PROPERLY RELATING THERETO.

The Governing Board of the Tahoe Regional Planning Agency does ordain as
follows:

Section 1.00 Findings

1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as
amended, which ordinance relates to the Regional Plan of the Tahoe
Regional Planning Agency (TRPA), by amending Chapter 52 and 54
of the TRPA Code of Ordinances. Such amendments are necessary to
further implement the Regional Plan pursuant to Article VI(a) and other
applicable provisions of the Tahoe Regional Planning Compact.

1.20 These clarifying cleanup amendments are amendments to the Shorezone
Program for which an Environmental Impact Statement (EIS), was
processed, reviewed, and certified by TRPA in accordance with
substantive and procedural provisions of Article VII of the Compact,
Chapter 5 of the Code, and Article VI of the Rules of Procedures.

1.30 The Advisory Planning Commission (APC) has conducted a public
hearing on the amendments and recommended adoption. The Governing
Board has also conducted a noticed public hearing on the amendments.
At those hearings and workshops, oral testimony and documentary
evidence were received and considered.

1.40 Prior to the adoption of this ordinance, the Governing Board made the
findings required by Chapter 6 of the Code and Article V(g) of the
Compact.

1.50 The Governing Board finds that the amendments adopted here will
continue to implement the Regional Plan, as amended, in a manner that
achieves and maintains the adopted environmental threshold carrying
capacities as required by Article V(c) of the Compact.

1.60 Each of the foregoing findings is supported by substantial evidence in the
record.

gb
Section 2.00 Amendment of the Code of Ordinances, Chapters 52 and 54.

Subsection 6.60 of Ordinance No. 87-9, as amended, is hereby further amended as set forth in Exhibit 1, dated August 28, 2009, which exhibit is appended hereto.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Code of Ordinances adopted shall be liberally construed to effect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Code of Ordinances shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Code of Ordinances are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending the Code of Ordinances shall be effective immediately after adoption of this ordinance.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held September 23, 2008 by the following vote:

Ayes:

Nays:

Abstentions:

Absent:

______________________________
Allen Biaggi, Chair
Tahoe Regional Planning Agency
Governing Board
Shorezone Code Clean Up Amendments

Clarifications of Code Consistent with EIS Project Description or Adopted Code Language

1. Clarify in Chapter 4, Appendix A that multi-use piers are now reviewed by staff

VI. SHOREZONE PROJECTS INVOLVING Governing Board
1. Tour boat operations (new or expansion)
2. Waterborne transit (new or expansion)
3. Seaplane operation (new or expansion)
4. Marinas (new or expansion)
5. Boat launching facilities (new or expansion)
6. Recognition of multiple-use facilities (Chapter 54)

2. Clarify that existing structures can be repaired and maintained, but not modified, without meeting the conditions Subparagraph 54.8.A.(3)

54.8 Non-Exempt Repairs, Reconstructions, Modifications or Expansions of Other Shorezone Structures: The following standards shall apply to the non-exempt repair, reconstruction, modification or expansion of shorezone structures other than piers. As used herein, reference to conformance with “location and design standards” shall not include Sections 54.5.A.(1)(d) and (f).

54.8.A Non-Exempt Repairs, Reconstructions and Modifications of Other Structures:

1. Unserserviceable Structures: No repairs, reconstructions or modifications shall be made to structures which have been unserviceable for the last three years or more unless the structure is brought into full compliance with the development standards in this Chapter.

2. Structures That Conform to Location and Design Standards: Existing structures that conform to location and design standards may be repaired, reconstructed or modified to the extent allowed by those standards if the non-exempt repair or replacement results in a material net environmental benefit.

3. Structures That do not Conform to Location and Design Standards: Existing structures that do not conform to location and design standards may be repaired, reconstructed or modified if the modification:
(a) results in a material net environmental benefit;
(b) brings the structure into greater compliance with location and design standards,
(c) does not increase the degree of nonconformance with any standard; and,
(d) in the case of a structure interfering with littoral processes, materially reduces such adverse effects.

3. Clarify that moorings referred to Subsection 52.4.A are mooring buoys:

52.4.A Permit requirement: No mooring buoy may be placed or maintained in the waters of the Lake Tahoe Region unless it is authorized by a permit from TRPA. All mooring buoys shall display a TRPA Buoy Identification Tag at all times.
2008 Shorezone EIS Excerpts

Staff has researched Section 2 of the 2008 Shorezone EIS and has found the following sections relevant to Maintenance, Repair, and Replacement.

Pier Maintenance, Repair, and Replacement
The Preferred Alternative includes revised provisions for the review of maintenance, repair, and reconstruction of piers and other shorezone structures (proposed Code Sections 53.4, 53.5 54.7 and 54.8):

(a) In general, the maintenance, repair, or reconstruction of a structure that is limited to its existing dimensions and footprint, with no disturbance to the backshore, lake substrate, or Tahoe yellow cress habitat, would be exempt from TRPA review (proposed Code Section 53.4).

(b) Repair or reconstruction of a structure that includes work in the backshore or with disturbance to lake substrate, TYC habitat, such as piling replacement, would be Qualified Exempt as described in proposed Code section 53.5.A.

Pier Modification and Expansion
Proposed Code Sections 54.7.B and 54.7.C describe the permitting and review requirements for, and distinctions between, pier modification and expansion. Modification of an existing pier structure involves a change in dimension, footprint, or substrate disturbance that would be accomplished within the confines of the pier’s existing visible mass. The modification would be required to result in a net benefit to any Environmental Threshold (excluding Recreation) and have no detrimental effect on any other Threshold. The necessary improvements would vary based on the circumstances of the property but could include visual compatibility with the surrounding environment, removal of barriers to littoral transport, and improvements to fish spawning habitat. Modification of an existing nonconforming structure would require improvement of the structure’s conformity with development standards. Existing nonconforming structures would be eligible for modification but not expansion unless such expansion improves conformity with development standards...
MEMORANDUM

Date: September 2, 2009

To: TRPA Advisory Planning Commission (APC)

From: TRPA Staff

Subject: Discussion of Governing Board and APC Meeting/Agenda Management Policy Changes

Requested Action: No action is required. The Advisory Planning Commission is requested to provide comment on items 2, 3 (including Attachment A), 4, 5 and 6 of the proposed Governing Board and APC meeting and agenda management policy changes (see Issues/Concerns list below).

Staff Recommendation: Staff recommends that the APC review and discuss items 2, 3 (including Attachment A), 4, 5 and 6 of the proposed meeting management policy changes and provide feedback to the Governing Board.

Background: The Governing Board held a retreat on July 23, 2009 to discuss ways in which the Governing Board agendas could be better managed and meeting protocol improved. The Board discussed a number of potential time management and procedural changes that could improve the current situation.

The Governing Board, at its August 26, 2009 meeting, directed staff to implement items 1 and 7 (see list below); to provide more detail on items 2 and 3 (including Attachment A) and bring back for additional discussion and Board action at the September Board meeting; to consult with the APC on item 4 and bring back for Board action on the required rule change in October; to form a working group of Board and APC members to prepare a more specific proposal for items 5 and 6; and agreed to implement item 8. The APC is therefore being asked to review and provide feedback on items 2, 3, 4, 5 and 6.

Issues/Concerns: Following is a brief overview of some of the pros and cons relative to each of the proposed policy changes:

1. **Return EIS scoping to Advisory Planning Commission (APC)**

   Pros – Frees up the Board to focus more on priority policy issues of regional scope rather than keeping a project-level focus; staff briefings to the Board on the status of major projects in place of the often lengthy and more technical scoping hearings would be used to keep the Board informed of major pending projects.
**Cons** – Board members interested in submitting comments for the record on the EIS scope may, because of timing, either have to attend the APC scoping hearing or provide written comments directly to TRPA staff. Comments received from the Board during project briefings could, however, be treated as scoping comments.

2. **Delegate certification of EISs and project consistency findings to the APC with or without the right of appeal to the Board**

**Pros** – Eliminates lengthy Board hearings on project EISs; allows Board to focus more on priority issues of regional scope; strengthens relationships among Board, APC and staff by showing a vote of confidence in the staff and APC’s abilities to determine the technical adequacy of these environmental documents; currently oral public comments on EISs are oftentimes held back and presented only to the Board, whereas this delegation would require oral comments, particularly those regarding technical adequacy, to be made to the APC; the Board could decide not to make EIS certifications by the APC appealable to the Board, however, the APC’s action could be challenged through the judicial review process.

**Cons** – APC decisions, if appealed to the Board, would require a second hearing by the Board, however, it may be possible to limit the Board appeal hearing to the issue(s) raised at the APC hearing; individual Board members interested in commenting on the Draft and Final EISs may, because of timing, either have to attend the APC public hearings or provide written comments directly to TRPA staff. Comments relevant to an EIS received from the Board during project briefings could, however, be treated as comments on the DEIS.

3. **Delegate review of projects and planning matters identified in Chapter 4, Appendix A of the Code (see Attachment A) to the APC with or without the right of appeal to the Board**

**Pros** – Reduces the number of projects and planning matters that are currently subject to Board review; allows the Board to focus on higher priority policy issues; strengthens relationships among Board, APC and staff by showing a vote of confidence in the staff and APC’s abilities to determine project compliance with the Compact and Regional Plan; the Board could elect not to make certain projects or matters reviewed by the APC appealable to the Board, however, the APC’s action could be challenged through the judicial review process.

**Cons** – APC decisions, if appealed to the Board, would require a second hearing by the Board, however, it may be possible to limit the Board appeal hearing to the issue(s) raised at the APC hearing; individual Board members interested in commenting on the project may, because of timing, either have to attend the APC public hearing or provide written comments directly to TRPA staff. For more important projects on which the Board would be briefed, comments relevant to the project received from the Board during a project briefing could be treated as comment on the project for the record.

4. **Schedule matters to be heard by both APC and Governing Board at least 1 month apart and change the APC meeting to the first Wednesday of each month**

AGENDA ITEM NO. VI.A.
Pros – Allows the Board to receive the APC minutes in advance of the Board action on matters heard by the APC; allows staff more time to incorporate the information resulting from the APC hearing into the staff summary for the Governing Board and to resolve any issues prior to the Board hearing; allows the applicants and the general public more time to review and understand the issues raised at the APC and more time to prepare for the Governing Board hearing.

Cons – Extends the applicant’s timeline for receiving final Agency action which could result in missing the limited building season.

5. Require technical reports related to APC or Board action items to be submitted well in advance of the hearings and submitted to APC first for items to be heard by both APC and Board

Pros – Allows staff, APC and Governing Board members more time to review and comprehend technical information which could have a bearing on the decision-making process, as opposed to receiving such information only days before or on the day of the hearing.

Cons – Need to make clear what constitutes a “technical report”; failure to submit timely technical reports to the APC and/or Board could cause a delay in taking action on the project or result in the report not being considered; would require staff summaries to be prepared and made available to the public well in advance of the APC and/or Governing Board packet being mailed to allow time for the public to review and submit any technical reports for inclusion in the packets.

6. Establish additional independent technical expertise to complement staff and APC on certain technical issues

Pros – Provides increased Agency technical expertise and credibility in those areas where staff or APC members may not have the necessary expertise.

Cons – The Agency’s existing budget cannot generally support paying for additional technical review outside APC. Any costs associated with hiring consultant expertise would have to be borne by the project applicants; potentially raises redundancy or lack of respect issues between the Board, APC and staff members.

7. Provide bullet list to Board members of Compact requirements relative to Board actions on Regional Plan amendments and projects

Pros – Allows Board members easy reference to the Compact requirements when making decisions.

Cons – None.

8. Streamline Governing Board meeting protocol
Pros – Provides the opportunity for the Board to focus its limited available time on the highest priority policy issues and particularly those of regional scope; allows for more efficient use of Board, staff and the general public’s time and improves the overall meeting experience.

Cons – None.

Contact Information: If you have any questions, please contact Jerry Wells, Deputy Executive Director, at jwells@trpa.org or (775) 589-5303.

Attachments:

Attachment A  Code Chapter 4, Appendix A, Projects and Matters to be Approved by Governing Board or Hearings Officer
Chapter 4  
APPENDIX A

PROJECTS AND MATTERS TO BE APPROVED BY GOVERNING BOARD OR HEARINGS OFFICER

Note: Gray tone indicates proposed delegation to APC and underlined text indicates added language

I. GENERAL

Governing Board Review

1. EIS certification (Chapter 5)²
2. Projects for which an EIS has, or will be prepared, when requested by the Governing Board during scoping of the Draft EIS, or during subsequent public hearings for the EIS, or at the discretion of the Executive Director²
3. Plan amendments, ordinances and resolutions
4. Community Plans, including preliminary plan or work program, redevelopment, master or special plans
5. Problem assessments and remedial action plans, excluding voluntary problem assessments and remedial action plans (Chapter 9)
6. Increases in supply of land coverage (Chapter 20)¹
7. Delegation Memoranda of Understanding (except for those executed pursuant to Subsection 71.1.A)²
8. Substantial harvest or tree removal plans (71.4.I) except for fuels management projects (71.5.C)²
9. Mitigation fund expenditures and projects (Chapter 82 and 93)
10. Permit revocations (Chapter 8)¹
11. Designated historic resource determinations (Chapter 29)
12. Projects resulting in a significant increase in traffic when the project causes level of service (LOS) to worsen by one letter grade at an intersection, or results in any additional delay at an intersection already rated at LOS “F” (Chapter 93)²
13. Allocation systems (Chapter 33)
14. Establishing the level defining the top ranked parcels pursuant to Subsection 37.8.B, lowering the line defining the top ranked parcels pursuant to Subsection 37.8.C and determining allowable base land coverage pursuant to Subsection 37.11.A.
15. Findings of the demonstration of commitment for affordable housing pursuant to Subsection 43.4.F.¹

² Amended 06/22/2005  
¹ Amended 07/28/2004
16. Special project allocations (Subsection 33.3.D (3))

**Hearings officer**

1. Special uses, including changes, expansions or intensifications of existing uses (Chapter 18)
2. Additional height for eligible structures, in special heights districts for adopted community and redevelopment plan areas (Subsection 22.4.D)\(^1\)
3. Additions, reconstruction, or demolition of eligible or designated historic resources (Chapter 29)\(^2\)
4. Modification to SEZs, excluding modifications for residential projects in accordance with Subsection 20.4.B(1) and involving erosion control and other environmentally oriented projects and facilities in accordance with Subsection 20.4.B(4)
5. Land capability challenges and man-modified challenges, except land capability challenges pursuant to Subsection 20.2.D submitted under the special provisions for designated land banks (Chapter 20 and 50)\(^2\)
6. Additional coverage in excess of 1,000 square feet in land capability districts 1-3
7. Projects resulting in a significant increase in traffic that do not require Governing Board review (Chapter 93)\(^2\)

**II. RESIDENTIAL PROJECTS INVOLVING**

**Governing Board Review**

1. Allocation of ten or more residential bonus units to affordable or moderate-income housing.\(^2\)
2. Mobile home developments involving the creation or elimination of ten or more mobile homes, including conversions to other uses.\(^2\)

**Hearings Officer**

1. Multi-residential and employee housing greater than four units\(^2\)
2. Special use projects (except those identified for Governing Board review) involving changes, expansions or intensification of existing uses
3. Allocation of more than two, but less than ten, residential bonus units to affordable or moderate-income housing\(^2\)

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\(^1\) Amended 06/22/2005
\(^2\) Amended 03/25/2009
III. COMMERCIAL PROJECTS INVOLVING

Governing Board
1. Allocations or transfer of floor area of 3,000 or more square feet

Hearings Officer
1. Allocations or transfer of floor area less than 3,000 square feet

IV. PUBLIC SERVICE PROJECTS INVOLVING

Governing Board
1. New facilities or additions involving over 3,000 square feet of floor area or 3,500 square feet of new land coverage
2. Airport Expansion

V. RECREATION PROJECTS INVOLVING:

Governing Board
1. New facilities or additions involving more than 3,000 square feet of building floor area or 3,500 square feet of land coverage (except recreational trails, which may be allowed greater land coverage)
2. New recreational trails (hiking and/or bicycle) exceeding one mile in length, or shorter trails that create new land coverage on low capability land or pass through sensitive wildlife habitat
3. Projects requiring an allocation of less than 100 PAOTs from the overnight pool of 1,000 PAOTs

Hearings Officer
1. New recreational trails (hiking and/or biking) that are between 1,000 feet and one mile in length, provided the new land coverage is all on high capability land and the trails do not pass through sensitive wildlife habitat

VI. SHOREZONE PROJECTS INVOLVING

Governing Board
1. Tour boat operations (new or expansion)
2. Waterborne transit (new or expansion)
3. Seaplane operation (new or expansion)
4. Marinas (new or expansions consistent with adopted master plan)
5. Boat launching facilities (new or expansion)
6. Recognition of multiple-use facilities (Chapter 54)

1 Amended 06/22/2005
7. Expansion requiring a deviation of development standards, except low level boatlift additions and reconfigurations of existing structures to increase conformance

Hearings Officer
1. Special use projects (except those identified for Governing Board review) involving changes, expansions or intensifications of existing uses
2. New structures (except those identified for Governing Board review)