

CHAPTER 13: AREA PLANS

13.1. PURPOSE

- 13.1.1. In order to be responsive to the unique circumstances of communities of the region, the Agency finds that there is a mutually beneficial need to provide local, state, federal, and tribal governments with the option to prepare Area Plans, provided such Area Plans conform with and further the goals and policies of the Regional Plan.
- 13.1.2. This chapter defines the required content of Area Plans and establishes that Area Plans may be approved by TRPA if they contain policies and development ordinances that are consistent with and further the goals and policies of the Regional Plan. The development of Area Plans is intended to support the update and consolidation of planning documents in the region.
- 13.1.3. This chapter also establishes a conformity program that enables the Agency to transfer limited development permitting authority to local governments with Conforming Area Plans. Furthermore, this conformity process defines which development activities will not have a substantial effect on the natural resources in the region and may be delegated from TRPA review and approval, subject to appeal provisions. This program will enable TRPA to focus its resources on projects of regional concern, while still maintaining an active and effective oversight role in the implementation of all Area Plans to ensure that Area Plans and activities governed by Area Plans maintain conformity with the Regional Plan.

13.2. APPLICABILITY

All local governments in the region may prepare Area Plans pursuant to this chapter. This includes Carson City, Douglas, El Dorado, Placer, and Washoe counties, and the City of South Lake Tahoe. Any city located in the region that incorporates after the adoption of this Code may also prepare Area Plans pursuant to this chapter. TRPA and state, federal, and tribal governments in the region may prepare Area Plans pursuant to this chapter. Quasi-governmental entities, such as service or utility districts, may not prepare Area Plans pursuant to this chapter.

13.3. RELATIONSHIP TO EXISTING REGULATIONS

- 13.3.1. All plans, policies, and regulations in the Regional Plan and this Code shall remain in effect unless superseded by the provisions of an Area Plan. The extent and nature of the superseded requirements of the TRPA Code shall be identified in the Area Plan.
- 13.3.2. No Area Plan may limit TRPA's responsibility to enforce the Compact and to ensure that approved Area Plans are maintained in full compliance with the Regional Plan.
- 13.3.3. A Conforming Area Plan shall be considered a component of the Regional Plan.

13.4. DEVELOPMENT OF AREA PLANS

13.4.1. Development of Area Plan is Optional

A government may adopt an Area Plan with plans and development ordinances that supersede TRPA plans and ordinances if the Area Plan is found to be in conformance with the Regional Plan, in accordance with the requirements of this chapter. A government may adopt an Area Plan that applies to only a portion of the land area within its jurisdiction. Jurisdictions that do not adopt an Area Plan shall continue to be subject to all plans, policies, and regulations in the Regional Plan and this Code.

13.4.2. Initial Statements of Intent to Develop an Area Plan

All local, state, federal, and tribal governments in the region shall provide TRPA written statements indicating their intent to prepare Area Plans and their anticipated schedule for completion of Area Plans. For TRPA planning purposes, initial statements of intent shall be provided to TRPA no later than December 31, 2013. This shall not preclude the earlier or subsequent development of additional or modified Area Plans, pursuant to this chapter. The TRPA Governing Board shall review the initial statements of intent and develop an action plan for incorporation into the annual TRPA work program by April 30, 2014. The action plan may include the replacement of plan area statements, community plans, and other plans with TRPA-approved Area Plans for properties that other governments do not include in their Area Plans.

13.5. CONTENTS OF AREA PLANS

13.5.1. General

An Area Plan shall consist of applicable policies, maps, ordinances, and any other related materials identified by the lead agency, sufficient to demonstrate that these measures, together with TRPA ordinances that remain in effect, are consistent with and conform to TRPA's Goals and Policies and all other elements of the Regional Plan. In addition to this Section 13.5, additional specific requirements for the content of Area Plans are in subsection 13.6.5.A. The Memorandum of Understanding (MOU) that is associated with an approved Area Plan is a separate, but related, approval and is not part of the Area Plan.

13.5.2. Relationship to Other Sections of the Code

This section is intended to authorize development and design standards in Area Plans that are different than otherwise required under this Code. In the event of a conflict between the requirements in this section and requirements in other parts of the Code, the requirements in this section shall apply for the purposes of developing Area Plans.

13.5.3. Development and Community Design Standards for Area Plans

A. Minimum Development Standards

Area Plans shall have development standards that are consistent with those in the table below.

TABLE 13.5.3-1: MINIMUM DEVELOPMENT STANDARDS FOR AREA PLANS

Regional Land Use Districts	Wilderness	Backcountry	Conservation	Recreation	Resort Recreation	Residential	Mixed-Use	Tourist	Town Center Overlay	Regional Center Overlay	High-Density Tourist District Overlay	
Height [3]	N/A	Sec. 37.4							Up to 4 stories (56 ft) max. [1]	Up to 6 stories (95 ft) max. [1]	Up to 197' max. [2]	
Density SFD	Sec. 31.3											
Density MFD [3]	N/A	Sec. 31.3							With adoption of an Area Plan: - Residential: 25 units/acre (max.) - Tourist: 40 units/acre (max.)			
Land Coverage	Sec. 30.4 or Alternative Comprehensive Coverage Management System [See 13.5.3.B.1]											
Complete Streets	Sec. 36.5								[4]			
[1] With adoption of an Area Plan. To ensure compatibility with adjacent uses and viewshed protection, the findings in Sec. 37.7.16 shall apply. [2] Limited to replacement structures, provided, the structures to be demolished and replaced are an existing casino hotel, with existing structures of at least eight stories, or 85 feet of height as measured from the lowest point of natural grade. Such structures shall also comply with Sec. 37.7.17. [3] Areas of Community Plans outside of Centers shall not be eligible for the alternative height and density allowances authorized in Area Plans for Centers. [4] Plan for sidewalks, trails, and other pedestrian amenities providing safe and convenient non-motorized circulation within Centers, as applicable, and incorporating the Regional Bike and Pedestrian Plan.												

B. Alternative Development Standards and Guidelines Authorized in Area Plans

1. Alternative Comprehensive Coverage Management Systems

An Area Plan may propose a comprehensive coverage management system as an alternative to the parcel-level coverage requirements outlined in Sections 30.4.1 and 30.4.2, provided that the alternative system shall: 1) reduce the total coverage and not increase the cumulative base allowable coverage in the area covered by the comprehensive coverage management system; 2) reduce the total amount of coverage and not increase the cumulative base allowable coverage in Land Capability Districts 1 and 2; and 3) not increase the amount of coverage otherwise allowed within 300 feet of high water of Lake Tahoe (excluding those areas landward of Highways 28 and 89 in Kings Beach and Tahoe City Town Centers within that zone). For

purposes of this provision, "total" coverage is the greater of existing or allowed coverage.

Alternative Comprehensive Management System: Process for Establishing Maximum Coverage

Step 1 – Document coverage information for each parcel in the coverage management area.

- A. Document base allowable land coverage (Sec. 30.4.1).
- B. Document maximum allowable land coverage (Sec. 30.4.2).
- C. Document TRPA certified existing land coverage (Sec. 30.4).
- D. Document total allowable land coverage — greater of B or C.
- E. If a parcel contains Land Capability District Type 2, calculate A-D separately for each LCD.

Step 2 – Calculate base allowable coverage and total allowable coverage for the management area.

- A. Calculate base allowable land coverage for management area (total of answer 1A for all parcels).
- B. Calculate base allowable land coverage for Land Capability Districts 1 and 2 (total of answer 1A for districts 1 & 2).
- C. Calculate total allowable land coverage for management area (total of answer 1D for all parcels).
- D. Calculate total allowable land coverage for Land Capability Districts 1 and 2 (total of answer 1D for districts 1 & 2).

Step 3 – Demonstrate that coverage limitations for the management area are consistent with Code requirements (Sec. 13.5.1.1).

- A. Base allowable land coverage for the management area shall not exceed answer 2A.
- B. Base allowable land coverage for Land Capability Districts 1 and 2 shall not exceed answer 2B.
- C. Total allowable land coverage for the management area shall be less than answer 2C.
- D. Total allowable land coverage for Land Capability Districts 1 and 2 shall be less than answer 2D.
- E. Total allowable land coverage shall not exceed TRPA.
- F. Total allowable land coverage shall not increase the amount of coverage otherwise allowed within 200 feet of high water of Lake Tahoe (excluding those areas landward of Highway 20 and 29 in Kings Beach and Tehama City Town Centers within that zone).

Final Requirement: Coverage Management System shall comply with items A-F.

2. Alternative Parking Strategies

Shared or area-wide parking strategies are encouraged in Area Plans to reduce land coverage and make more efficient use of land for parking and pedestrian uses. Shared parking strategies may consider and include the following:

- a. Reduction or relaxation of minimum parking standards;
- b. Creation of maximum parking standards;
- c. Shared parking;
- d. In-lieu payment to meet parking requirements;

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- e. On-street parking;
- f. Parking along major regional travel routes;
- g. Creation of bicycle parking standards;
- h. Free or discounted transit;
- i. Deeply discounted transit passes for community residents; and
- j. Paid parking management.

3. Area-wide Water Quality Treatments and Funding Mechanisms

An Area Plan may propose to establish area-wide water quality treatments and funding mechanisms in lieu of certain site-specific BMPs, subject to the following requirements:

- a. Area-wide BMPs shall be shown to achieve equal or greater effectiveness and efficiency at achieving water quality benefits than certain site-specific BMPs. For registered catchments, the water quality benefits of area-wide BMPs shall comply with applicable TMDL requirements. BMPs for unregistered catchments shall be shown to infiltrate the 20 year one hour storm (or address requirements in Code Section 60.4.8 (Special Circumstances));
- b. Plans should be developed in coordination with TRPA and applicable state agencies, consistent with applicable TMDL requirements;
- c. Area-wide BMP project areas shall be identified in Area Plans and shall address both installation and ongoing maintenance;
- d. Strong consideration shall be given to areas connected to surface waters;
- e. Area-wide BMP plans shall consider area-wide and parcel-level BMP requirements as an integrated system; and
- f. Consideration shall be given to properties that have already installed and maintained parcel-level BMPs, and financing components of area-wide BMP plans shall reflect prior BMP installation in terms of the charges levied against projects that already complied with BMP requirements with systems that are in place and operational in accordance with applicable BMP standards.
- g. Area-wide BMP Plans shall require that BMPs be installed concurrent with development activities. Prior to construction of area-wide treatment facilities, development projects shall either install parcel-level BMPs or construct area-wide improvements that provide equal or greater water quality benefits than parcel level BMPs.

4. Alternative Transfer Ratios for Development Rights

Within a Stream Restoration Plan Area as depicted in Map 1 in the Regional Plan, an Area Plan may propose to establish alternative transfer ratios for development rights based on unique conditions in each jurisdiction, as long as the alternative transfer ratios are determined to generate equal or greater environmental gain compared

to the TRPA transfer ratios set forth in Chapter 51: *Transfer of Development*.

C. Development Standards and Guidelines Encouraged in Area Plans

1. Urban Bear Strategy

In Area Plans, lead agencies are encouraged to develop and enforce urban bear strategies to address the use of bear-resistant solid waste facilities and related matters.

2. Urban Forestry

In Area Plans, lead agencies are encouraged to develop and enforce urban forestry strategies that seeks to reestablish natural forest conditions in a manner that does not increase the risk of catastrophic wildfire.

3. Development on Resort Recreation Parcels

In addition to recreation uses, an Area Plan may allow the development and subdivision of tourist, commercial, and residential uses on the Resort Recreation District parcels depicted on Map 1 of the Regional Plan and subject to the following conditions:

- a. The parcels must become part of an approved Area Plan;
- b. Subdivisions shall be limited to "air space condominium" divisions with no lot and block subdivisions allowed;
- c. Development shall be transferred from outside the area designated as Resort Recreation; and
- d. Transfers shall result in the retirement of existing development.

D. Community Design Standards

To be found in conformance with the Regional Plan, Area Plans shall require that all projects comply with the design standards in this subsection. Area Plans may also include additional or substitute requirements not listed below that promote threshold attainment.

1. Site Design

a. Development in All Areas

All new development shall consider, at minimum, the following site design standards:

- (i) Existing natural features retained and incorporated into the site design;
- (ii) Building placement and design that are compatible with adjacent properties and designed in consideration of solar exposure, climate, noise, safety, fire protection, and privacy;
- (iii) Site planning that includes a drainage, infiltration, and grading plan meeting water quality standards; and
- (iv) Access, parking, and circulation that are logical, safe, and meet the requirements of the transportation element.

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b. Development in Regional Center or Town Center

In addition to the standards in 13.5.3.D.1.a, development in a Regional Center or Town Center shall address the following design standards:

- (i) Existing or planned pedestrian and bicycle facilities shall connect properties within Centers to transit stops and the Regional Bicycle and Pedestrian network.
- (ii) Area Plans shall encourage the protection of views of Lake Tahoe.
- (iii) Building height and density should be varied with some buildings smaller and less dense than others.
- (iv) Site and building designs within Centers shall promote pedestrian activity and provide enhanced design features along public roadways. Enhanced design features to be considered include increased setbacks, stepped heights, increased building articulation, and/or higher quality building materials along public roadways.
- (v) Area Plans shall include strategies for protecting undisturbed sensitive lands and, where feasible, establish park or open space corridors connecting undisturbed sensitive areas within Centers to undisturbed areas outside of Centers.

2. Building Height

- a. Area Plans may allow building heights up to the maximum limits in Table 13.5.3-1 above.
- b. Building height limits shall be established to ensure that buildings do not project above the forest canopy, ridge lines, or otherwise detract from the viewshed.
- c. Area Plans that allow buildings over two stories in height shall, where feasible, include provisions for transitional height limits or other buffer areas adjacent to areas not allowing buildings over two stories in height.

3. Building Design

Standards shall be adopted to ensure attractive and compatible development. The following shall be considered:

- a. Buffer requirements should be established for noise, snow removal, aesthetic, and environmental purposes.
- b. The scale of structures should be compatible with existing and planned land uses in the area.
- c. Viewsheds should be considered in all new construction. Emphasis should be placed on lake views from major transportation corridors.
- d. Area Plans shall include design standards for building design and form. Within Centers, building design and form standards shall promote pedestrian activity.

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4. Landscaping

The following should be considered with respect to this design component of a project:

- a. Native vegetation should be utilized whenever possible, consistent with Fire Defensible Space Requirements.
- b. Vegetation should be used to screen parking, alleviate long strips of parking space, and accommodate stormwater runoff where feasible.
- c. Vegetation should be used to give privacy, reduce glare and heat, deflect wind, muffle noise, prevent erosion, and soften the line of architecture where feasible.

5. Lighting

Lighting increases the operational efficiency of a site. In determining the lighting for a project, the following should be required:

- a. Exterior lighting should be minimized to protect dark sky views, yet adequate to provide for public safety, and should be consistent with the architectural design.
- b. Exterior lighting should utilize cutoff shields that extend below the lighting element to minimize light pollution and stray light.
- c. Overall levels should be compatible with the neighborhood light level. Emphasis should be placed on a few, well-placed, low-intensity lights.
- d. Lights should not blink, flash, or change intensity except for temporary public safety signs.

6. Signing

- a. Area Plans may include alternative sign standards. For Area Plans to be found in conformance with the Regional Plan, the Area Plan shall demonstrate that the sign standards will minimize and mitigate significant scenic impacts and move toward attainment or achieve the adopted scenic thresholds for the Lake Tahoe region.
- b. In the absence of a Conforming Area Plan that addresses sign standards, the following policies apply, along with implementing ordinances:
 - (i) Off-premise signs should generally be prohibited; way-finding and directional signage may be considered where scenic impacts are minimized and mitigated;
 - (ii) Signs should be incorporated into building design;
 - (iii) When possible, signs should be consolidated into clusters to avoid clutter;
 - (iv) Signage should be attached to buildings when possible; and
 - (v) Standards for number, size, height, lighting, square footage, and similar characteristics for on-premise signs shall be formulated

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and shall be consistent with the land uses permitted in each district.

E. Modification to Centers (Town Center, Regional Center and High Density Tourist District Boundary)

When Area Plans propose modifications to the boundaries of a Center, the modification shall comply with the following:

1. Boundaries of Centers shall be drawn to include only properties that are developed, unless undeveloped parcels proposed for inclusion have either at least three sides of their boundary adjacent to developed parcels (for four-sided parcels), or 75 percent of their boundary adjacent to developed parcels (for non-four-sided parcels). For purposes of this requirement, a parcel shall be considered developed if it includes any of the following: 30 percent or more of allowed coverage already existing on site or an approved but unbuilt project that proposes to meet this coverage standard.
2. Properties included in a Center shall be less than 1/4 mile from existing Commercial and Public Service uses.
3. Properties included in a Center shall encourage and facilitate the use of existing or planned transit stops and transit systems.

13.6. CONFORMITY REVIEW PROCEDURES FOR AREA PLANS

13.6.1. Initiation of Area Planning Process by Lead Agency

The development of an Area Plan shall be initiated by a designated lead agency. The lead agency may be TRPA or a local, state, federal, or tribal government. There may be only one lead agency for each Area Plan.

13.6.2. Initial Approval of Area Plan by Lead Agency

A. When TRPA is Not the Lead Agency

If the lead agency is not TRPA, then the Area Plan shall be approved by the lead agency prior to TRPA's review of the Area Plan for conformance with the Regional Plan under this section. In reviewing and approving an Area Plan, the lead agency shall follow its own review procedures for plan amendments. At a minimum, Area Plans shall be prepared in coordination with local residents, stakeholders, public agencies with jurisdictional authority within the proposed Area Plan boundaries, and TRPA staff.

B. When TRPA is the Lead Agency

If the lead agency is TRPA, the Area Plan shall require conformity approval under this section by TRPA only. No approval by any other government, such as a local government, shall be required.

13.6.3. Review by Advisory Planning Commission

The TRPA Advisory Planning Commission shall review the proposed Area Plan and make recommendations to the TRPA Governing Board. The commission shall obtain and consider the recommendations and comments of the local government(s) and other responsible public agencies, as applicable.

13.6.4. Approval of Area Plan by TRPA

For Area Plans initiated and approved by a lead agency other than TRPA, the Area Plan shall be submitted to and reviewed by the TRPA Governing Board at a public hearing. Public comment shall be limited to issues raised by the public before the Advisory Planning Commission and issues raised by the Governing Board. The TRPA Governing Board shall make a finding that the Area Plan, including all zoning and development Codes that are part of the Area Plan, is consistent with and furthers the goals and policies of the Regional Plan. This finding shall be referred to as a finding of conformance and shall be subject to the same voting requirements as approval of a Regional Plan amendment.

13.6.5. Findings of Conformance with the Regional Plan

In making the general finding of conformance, the TRPA Governing Board shall make the general findings applicable to all amendments to the Regional Plan and Code set forth in Sections 4.5 and 4.6, and also the following specific review standards:

A. General Review Standards for All Area Plans

The submitted Area Plan shall:

1. Identify all zoning designations, allowed land uses, and development standards throughout the plan area;
2. Be consistent with all applicable Regional Plan Policies, including but not limited to the regional growth management system, development allocations and coverage requirements;
3. Demonstrate how the Area Plan is consistent with the Conceptual Regional Land Use Map, including any amendments to the Conceptual Regional Land Use Map that are proposed to be part of the Area Plan in order to more effectively implement the Regional Plan Policies and provide Threshold gain;
4. Recognize and support planned, new, or enhanced Environmental Improvement Projects. Area Plans may also recommend enhancements to planned, new, or enhanced Environmental Improvement Projects as part of an integrated plan to comply with Regional Plan Policies and provide Threshold gain;
5. Promote environmentally beneficial redevelopment and revitalization within Centers;
6. Preserve the character of established residential areas outside of Centers, while seeking opportunities for environmental improvements within residential areas;
7. Protect and direct development away from Stream Environment Zones and other sensitive areas, while seeking opportunities for environmental improvements within sensitive areas. Development may be allowed in Disturbed Stream Environment zones within Centers only if allowed development reduces coverage and enhances natural systems within the Stream Environment Zone; and

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8. Identify facilities and implementation measures to enhance pedestrian, bicycling and transit opportunities along with other opportunities to reduce automobile dependency.

B. TRPA Utilization of Load Reduction Plans

TRPA shall utilize the load reduction plans for all registered catchments or TRPA default standards when there are no registered catchments, in the conformance review of Area Plans.

C. Additional Review Standards for Area Plans with Town Centers or Regional Center

In addition to the requirements of subparagraphs A and B above, submitted Area Plans that contain Town Centers or the Regional Center shall include policies, ordinances, and other implementation measures to:

1. Include building and site design standards that reflect the unique character of each area, respond to local design issues, and consider ridgeline and viewshed protection;
2. Promote walking, bicycling, transit use, and shared parking in Town Centers and the Regional Center, which at a minimum shall include continuous sidewalks or other pedestrian paths and bicycle facilities along both sides of all highways within Town Centers and the Regional Center, and to other major activity centers;
3. Use standards within Town Centers or the Regional Center addressing the form of development and requiring that projects promote pedestrian activity and transit use;
4. Ensure adequate capacity for redevelopment and transfers of development rights into Town Centers and the Regional Center;
5. Identify an integrated community strategy for coverage reduction and enhanced stormwater management; and
6. Demonstrate that all development activity within Town Centers and the Regional Center will provide for or not interfere with Threshold gain, including but not limited to measurable improvements in water quality.

D. Additional Review Standards for Area Plans within the High-Density Tourist District

In addition to the requirements of subparagraphs A, B, and C above, submitted Area Plans that contain the High-Density Tourist District shall include policies, ordinances, and other implementation measures to:

1. Include building and site design standards that substantially enhance the appearance of existing buildings in the High-Density Tourist District;
2. Provide pedestrian, bicycle and transit facilities connecting the High-Density Tourist District with other regional attractions; and
3. Demonstrate that all development activity within the High-Density Tourist District will provide for or not interfere with Threshold gain, including but not limited to measurable improvements in water quality.

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13.6.6 Conformity Review for Amendments to Area Plans

If necessary to achieve Threshold gain, off-site improvements may be additionally required.

13.6.6. Conformity Review for Amendments to Area Plans

Following approval of an Area Plan, any subsequent amendment to a plan or ordinance contained within the approved Area Plan shall be reviewed by the Advisory Planning Commission and Governing Board for conformity with the requirements of the Regional Plan. Public comment before the Governing Board shall be limited to consideration of issues raised before the Advisory Planning Commission and issues raised by the Governing Board. The Governing Board shall make the same findings as required for the conformity finding of the initial Area Plan, as provided in subsection 13.6.5; however, the scope of the APC and Governing Board's review shall be limited to determining the conformity of the specific amendment only. If the Governing Board finds that the amendment to the Area Plan does not conform to the Regional Plan, including after any changes made in response to TRPA comments, the amendment shall not become part of the approved Area Plan.

13.6.7. Conformity Review for Amendments Made by TRPA to the Regional Plan that Affect an Area Plan

- A. TRPA shall provide lead agencies with reasonable notice of pending amendments that may affect Area Plans. TRPA also shall provide lead agencies with notice of Area Plan topics that may require amendment following adopted Regional Plan amendments pursuant to this section.
- B. If TRPA approves an amendment to the Regional Plan that would also require amendment of an Area Plan to maintain conformity, the lead agency shall be given one year to amend the Area Plan to demonstrate conformity with the TRPA amendment. The Governing Board shall make the same findings as required for the conformity finding of the initial Area Plan, as provided in subsection 13.6.5; however, the scope of the Governing Board's review shall be limited to determining the conformity of only those amendments made by the lead agency to conform to the TRPA amendment. If the Governing Board finds that the other government fails to demonstrate conformity with the TRPA amendment following the one-year deadline, then the Board shall identify the policies and/or zoning provisions in the Area Plan that are inconsistent and assume lead agency authority to amend those policies and provisions.

13.6.8. Effect of Finding of Conformance of Area Plan

By finding that an Area Plan conforms with the Regional Plan pursuant to the requirements of this chapter and upon adoption of an MOU pursuant to Section 13.7, the Area Plan shall serve as the standards and procedures for implementation of the Regional Plan. The standards and procedures within each Area Plan shall be considered and approved individually and shall not set precedent for other Area Plans.

13.7. PROCEDURES FOR ADOPTION OF MEMORANDUM OF UNDERSTANDING

13.7.1. Memorandum of Understanding (MOU) Required

After TRPA finds that an Area Plan is in conformance with the Regional Plan, TRPA and the lead agency shall enter into a Memorandum of Understanding (MOU) that clearly specifies the extent to which the activities within the Area Plan are delegated or

exempt from TRPA review and approval, and describes all procedures and responsibilities to ensure effective implementation of the Area Plan. Concurrent review of the Area Plan and the MOU is encouraged.

13.7.2. Contents of MOU

An MOU for an Area Plan shall contain, at minimum, the following elements:

- A.** A comprehensive statement of the type and size of all activities within the Area Plan that are delegated or exempt from TRPA review and approval;
- B.** A clear statement defining the projects over which TRPA will retain development review responsibility;
- C.** An agreement to make all findings required by the Compact, Regional Plan, Area Plan and Code for project approval and inclusion of special conditions not inconsistent with the Area Plan;
- D.** Identification of the types of proposed activities for which TRPA will receive notification pursuant to subsection 13.8.1;
- E.** Identification of the type and extent of procedures the lead agency government will use to notify TRPA of proposed local development activities and include TRPA in development review proceedings;
- F.** A description of how the Area Plan will be modified to reflect amendments by TRPA to the Regional Plan, as well as assurances to enforce and maintain conformance with the Regional Plan amendments prior to amendment of the Area Plan;
- G.** Statement of how the MOU for the Area Plan will relate to any existing MOUs that the lead agency government has with TRPA; and
- H.** If necessary, additional clarification of any requirements of this chapter, provided that all such clarifications are consistent with the intent and substance of this chapter and the Regional Plan.

13.7.3. Activities Requiring TRPA Approval

- A.** Projects and matters that meet one of the following criteria and that are also identified in Section 2.2.2 as requiring approval by the Governing Board or Hearings Officer shall not be delegated by TRPA under this chapter:
 - 1.** All development within the High-Density Tourist District;
 - 2.** All development within the Shorezone of Lake Tahoe;
 - 3.** All development within the Conservation District;
 - 4.** All development within the Resort Recreation designation and
 - 5.** All development meeting the criteria in the following table:

TABLE 13.7.3 -1: THRESHOLDS FOR GOVERNING BOARD REVIEW OF PROJECTS IN CENTERS			
(All measurements are new building floor area.)			
	Regional Center	Town Center	Not in Center
Residential	≥ 100,000 sq. ft.	≥ 50,000 sq. ft.	≥ 25,000 sq. ft.
Non-residential	≥ 80,000 sq. ft.	≥ 40,000 sq. ft.	≥ 12,500 sq. ft.

- B. The limits on delegation in Table 13.7.3-1 may be increased or decreased by the TRPA Governing Board. The levels of delegation may be increased or decreased based on the lead agency's ongoing monitoring, reporting, and performance review, whether the lead agency's actions on projects are consistent with the Area Plan, and whether the Area Plan's terms and conditions are met.

13.7.4. Concurrent Review of Area Plan and MOU

By agreement between TRPA and the lead agency, the Area Plan and associated MOU may be reviewed concurrently at a single meeting, or sequentially at separate meetings. In all cases, the Area Plan and the MOU shall receive separate votes from the Governing Board based on the applicable criteria in this chapter. In all cases, the Area Plan shall be approved first, followed by approval of the MOU. Activities that are delegated or exempt from TRPA review shall be prescribed by ordinance immediately following MOU approval.

13.7.5. Deadline for MOU Approval and Suspension

TRPA shall work with the lead agency and make a good-faith effort to finalize the MOU in a timely manner. An MOU between TRPA and the lead agency shall be completed within six months of the Governing Board's finding of conformity of the Area Plan. Reasonable time extensions beyond six months may be approved by TRPA for good-faith cause. An approval of an Area Plan that does not receive MOU approval within the required six-month period, including any approved time extensions, shall be suspended and have no effect for purposes of this Code. Suspended Area Plans may be resubmitted for approval by administrative action if the Area Plan has not been amended since Governing Board approval.

13.8. MONITORING, CERTIFICATION, AND ENFORCEMENT OF AREA PLAN

13.8.1. Notification to TRPA of Proposed Activities Requiring Public Notification in Area Plans

Lead agencies with approved Area Plans shall send to TRPA notice of all proposed activities that require public notification as specified in the MOU, and all applications to amend a policy or ordinance that is part of the Area Plan. The notice shall be sent pursuant to local notification procedures; however, in all cases the notice shall be sent no less than 10 days prior to the hearing in order to provide TRPA with adequate time to review and comment, if desired, on the project.

13.8.2. Monitoring

On at least a quarterly basis, lead agencies with approved Area Plans shall send to TRPA copies of all building permits issued in the Area Plan. At minimum, such building

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13.8.3 Annual Review

permits shall contain and make clear the necessary development information that TRPA needs to measure compliance with the terms of the Area Plan, such as additional land coverage, commercial floor area, residential units, or tourist accommodation units (TAUs). In addition, TMDL regulatory agencies shall, through the TMDL adaptive management system, provide TRPA annual progress reports and analysis, copies of all MOAs and NPDES permits, and notifications of all breaches or violations of MOAs and NPDES permits.

13.8.3. Annual Review

TRPA shall annually select and review a sample of development permits issued within each Area Plan area in order to certify that the permits are issued in conformance with the Area Plan. The scope of this review is limited to determining the conformity of the sample developments to the Area Plan and shall not include a reconsideration of the conformity of the Area Plan to the Regional Plan. If TRPA determines that certain local development permits were issued in apparent conflict with the Area Plan, it shall notify the lead agency in writing of all specific discrepancies, including recommendations for remedying the discrepancies. The lead agency shall have thirty days to provide comments and suggest corrective actions, if necessary. After review of the comments, if any, from the lead agency, TRPA shall follow one of the procedures below.

13.8.4. Effect of Annual Review; Annual Report

A. Certification

If, based on its review of sample permits, including any responses and remedies already implemented by the lead agency, the Governing Board determines that development has been permitted in conformance with the Area Plan, then it shall certify that the permits are being issued in conformance with the Area Plan.

B. Certification Conditionally Granted

In response to TRPA comments in the annual review, the lead agency may identify corrective actions that are necessary to ensure that permits are being issued in conformance with the Area Plan. The lead agency shall have a maximum of six months to complete the identified corrective actions and provide a written response to TRPA. If TRPA determines that the lead agency has either failed to respond or has failed to respond adequately to the issues identified in the annual review, then TRPA shall take action pursuant to subparagraph C below.

C. Revocation of Part or All of MOU

If the Governing Board determines that development is not being permitted in conformance with an Area Plan, the Board shall revoke all or part of the implementation authority transferred to the lead agency government in the MOU and related ordinances. After this revocation, TRPA shall assume primary permitting responsibility for the activities related to the revoked items in the MOU.

13.8.5. Four-Year Recertification

As part of each four-year evaluation of the Regional Plan under Goals and Policies DP-2.1, TRPA shall review the conformance of each Area Plan with the load reduction plan

CHAPTER 13: AREA PLANS

13.9 Appeals

13.9.1 Purpose

for registered catchments, or TRPA default standards when there are no registered catchments. TRPA shall use catchment data and all reports to inform the four-year Area Plan recertification.

13.9. APPEALS

13.9.1. Purpose

The intent of the appeal process is to provide a mechanism for projects delegated to lead agencies to be brought before the TRPA Governing Board consistent with requirements of the Compact, eliminate frivolous appeals, deter appellants "laying in wait" by encouraging early and consistent engagement, increase procedural certainty and timeliness irrespective of outcomes, and to minimize project-by-project negotiation before the Governing Board.

13.9.2. Appeal Allowed

Final decisions on projects delegated to a lead agency may be appealed to the TRPA. An appeal may only be filed by an "aggrieved person" as defined in Article VI(j)(3) of the Compact. Decisions by the lead agency under independent local, state, or federal law are not the subject of this appeal process.

13.9.3. Basis of Appeal

The basis for an appeal under this section shall be limited to whether the decision by a lead agency is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.

13.9.4. Exhaustion Required

Appellants who are subject to the exhaustion provision in Compact Article VI (j) (3) shall exhaust all administrative remedies provided by the lead agency prior to appealing a decision to TRPA.

13.9.5. Deadline

An appellant shall file an appeal application to TRPA within 15 calendar days of the final lead agency decision.

13.9.6. Content of Appeal

An application for appeal shall contain the following:

- A. A clearly written statement explaining the grounds for appeal;
- B. Documentation to support the appeal claim; and
- C. Additional documentation may be provided by the applicant or lead agency to augment the record.

13.9.7. Fee

The appellant shall pay a fee of \$1,000 to TRPA for each appeal. A lead agency's fee for its internal appeals of delegated decisions shall not exceed the TRPA fee for appeals.

13.9.8. Stay of Lead Agency Decision

Once an appeal application is received by TRPA, the project approved by the lead agency shall be stayed pending the final outcome of the appeal.

13.9.9. Review of Appeal

A. Staff Recommendation and Hearing

Within 60 days after receipt of an appeal, TRPA staff shall make a recommendation to the Governing Board on the merits of the appeal, including whether the appeal is frivolous as defined in subsections 13.9.2 through 13.9.4. The Governing Board shall consider the recommendation concerning whether the appeal is frivolous in determining whether to proceed to consider the merits of an appeal and if it hears the merits it shall consider the recommendation concerning the merits. A hearing on the appeal shall be scheduled for the first Governing Board meeting after issuance of the staff recommendation.

B. Governing Board Action

1. The voting structure for the Governing Board for appeal decisions shall be the same as project votes before the Governing Board as defined in the Compact.
2. The Governing Board may take action the first time the appeal is presented to the Board or, after hearing the appeal, continue the action to the next Governing Board meeting.
3. If no action is taken by the Governing Board at the initial meeting at which the appeal is presented, the Governing Board shall take action at the next Governing Board meeting.

C. Standard of Review

Appeal review and action by the Governing Board shall be limited to whether the decision by a lead agency is in accordance with an approved Area Plan and its implementing ordinances consistent with the Regional Plan and Compact.

13.9.10. Effect of Decision

Appeals upheld by the Governing Board shall nullify the lead agency decision. If the project applicant desires to continue review of the application by the lead agency, they shall re-apply to the lead agency according to the same procedures required for the original application. The Governing Board may deny the appeal thereby affirming the lead agency's decision. The Governing Board may also modify a lead agency's decision on a project to make the decision consistent with the Area Plan. The Governing Board shall limit the use of its authority to modify lead agency decision's in order to minimize the filing of appeals to further negotiate permit conditions.