

**CALIFORNIA TAHOE CONSERVANCY**  
**URBAN LAND MANAGEMENT PROGRAM**  
**Special Use Guidelines**



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**State of California – Natural Resources Agency  
CALIFORNIA TAHOE CONSERVANCY**

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**TABLE OF CONTENTS**

**1. ULM PROGRAM PURPOSE AND BACKGROUND .....2**  
California Tahoe Conservancy Mission  
Urban Land Management Program Overview  
Superseded Prior Guidelines

**2. OVERVIEW OF SPECIAL USE REQUESTS .....3**

**3. CONSERVANCY REVIEW OF SPECIAL USE REQUESTS .....4**  
The Special Use Request Application Process  
Minimum Requirements for Special Use Requests  
Evaluation Criteria for Special Use Requests  
Legal Documents for Special Use Requests  
Delegation of Authority to Staff  
Notice Requirements

**4. SPECIAL USE FEES .....8**  
Non-refundable Application Fee Schedule  
Special Use Fee Schedule

# **Special Use Guidelines**

## **1. ULM PROGRAM PURPOSE AND BACKGROUND**

### **California Tahoe Conservancy Mission**

The mission of the California Tahoe Conservancy (Conservancy) is to lead California's efforts to restore and enhance the extraordinary natural and recreational resources of the Lake Tahoe Basin. The Conservancy was established in 1984 as a State agency whose jurisdiction extends throughout the California side of the Lake Tahoe Region, as defined in California Government Code Section 66905. The Conservancy develops and implements projects to improve water quality, preserve Lake Tahoe's scenic beauty, provide recreational opportunities and public access, preserve wildlife habitat areas, and manage and restore lands to protect the natural environment.

### **Urban Land Management Program Overview**

The Conservancy manages its lands consistent with the following six (6) objectives:

- To manage property in a manner consistent with the purpose(s) for which it is acquired
- To restore and enhance on-site resources
- To resolve potential use conflicts
- To coordinate the management of lands with other public agencies and private entities in order to facilitate more responsive, cost-effective, and/or comprehensive management arrangements
- To provide opportunities for recreation and public access
- To continue to develop the Conservancy's administrative and fiscal capability to manage all types of acquired properties

The Conservancy receives funding annually through the State Budget Process to support its program activities. The Conservancy annually allocates funding from its operating budget for property management and maintenance and from its capital outlay budget for property restoration and enhancement.

Due to the nature of the property and/or the original intent of the property acquisition, not all Conservancy-owned lands are eligible for Special Use.

### **Superseded Prior Leasing and Special Use Guidelines**

The Conservancy approved its first Leasing Guidelines on February 19, 1988. These Leasing Guidelines were subsequently revised on July 17, 1992, July 24, 1998, July 15, 2010, and January 21, 2011. These Special Use Guidelines supersede and replace all prior Leasing and Special Use Guidelines.

## **2. OVERVIEW OF SPECIAL USE REQUESTS**

“Special Use” involves the grant of a license, lease, or easement on Conservancy land to a public or private entity for a variety of uses. Such use often includes:

- Access across Conservancy land to a neighboring property
- Temporary storage of equipment and/or materials on Conservancy land
- Testing of groundwater, soil composition, or other organic matter, and installation of monitoring wells and related equipment
- Public water quality improvement and related features, and installation of water or utility lines
- Recreational and public access activities and facilities

Submittal of Special Use requests pursuant to these guidelines is required when the requested use is outside the scope of projects directly implemented or funded by the Conservancy, or unrelated to concessions or operating agreements.

Special Use authorizations may be requested for activities or events that exceed the intended site use by the general public for other allowable activities. For example, while a trail across Conservancy lands may provide for public recreation, authorization to use that same trail for an organized event (public or private), such as a mountain bike race or a guided hike, requires special permission. The Conservancy evaluates each proposal on a case-by-case basis, considering all the site factors that could be impacted by the proposal. A proposed use that may be approved on one date may be inappropriate at another time of year, such as during 1) the high use season for a public recreation facility, 2) unfavorable ground conditions, or 3) sensitive nesting periods for resident wildlife species. Not all Special Use requests are approved.

If approved consistent with these guidelines, Special Use authorizations generally take the form of a license, lease, or easement executed between the Conservancy and the applicant. Issuance of an authorization assures that the applicant assumes an appropriate share of the cost and liability associated with the activity. The Conservancy establishes and assesses equitable fees during the Special Use evaluation process to ensure a fair return to the State of California for commercial, recreational, and other uses of the public lands administered by the agency.

The Conservancy has classified its Special Use requests into four (4) distinct types of uses.

The uses are outlined below:

### **1. Temporary Use:**

- Use of Conservancy land lasts five (5) days or less.
- Use is granted pursuant to a license or lease agreement.
- Use may require California Environmental Quality Act (CEQA) analysis and Conservancy Board authorization.

## **2. Short Term Use:**

- Use of Conservancy land lasts more than five (5) days but less than three (3) years.
- Use is granted pursuant to a license or lease agreement.
- Use may require CEQA analysis and Conservancy Board authorization.

## **3. Long Term Use:**

- Use of Conservancy land lasts three (3) years or more, but is not permanent.
- Use is granted pursuant to a license, lease, or easement agreement.
- Use requires prior CEQA analysis and Conservancy Board authorization.

## **4. Permanent Use:**

- Use of Conservancy land is permanent.
- Use is granted pursuant to an easement.
- Use may require sale if land is rendered unusable by use or improvement.
- Use requires prior CEQA analysis and Conservancy Board authorization.

The type of use will determine: (1) the application procedure for Special Use requests (see below), and (2) the nature of the legal document granting the right to use Conservancy property. That is, each type of use has distinct requirements pertaining to, but not limited to, use, CEQA analysis and environmental studies, insurance, indemnification, impairment, waivers, attorneys fees, notices, Board approval, etc.

### **3. CONSERVANCY REVIEW OF SPECIAL USE REQUESTS**

#### **The Special Use Request Application Process**

In order to receive a Special Use license, lease, or easement from the Conservancy, all applicants must complete a Special Use Request Application. Applications are accepted at any time. Special Uses are granted on a first come, first served basis and may be requested up to one (1) year in advance. The Conservancy may take up to thirty (30) days to review the application for completeness and up to ninety (90) days for processing from the date of receipt of a complete application and Non-refundable Application Fee. Special Use requests pending Board authorization may require longer to process in order to prepare the required documents and to accommodate the Board meeting schedule. The Conservancy Board generally meets quarterly in March, June, September, and December. Applications are available at the Conservancy office and on the Conservancy website:

<http://tahoe.ca.gov/specialuse.aspx>

All public and private entities including, but not limited to, federal, state, tribal, local governments and entities, special districts, academic institutions, non-profit or for-profit corporations and partnerships, public or private utilities, and individuals are eligible to submit Special Use Request Applications.

Conservancy staff reviews completed applications and upon initial review, applicants may be required to provide additional information.

## **Minimum Requirements for Special Use Requests**

Special Use requests must meet the following requirements in order to be determined eligible requests:

- Use does not adversely affect the long term value and beneficial uses of the parcel(s)
- Use does not unduly impact the environment (including soil, wildlife, stream environment zone, and/or native vegetation) or Conservancy facilities
- Use complies with all environmental regulations
- Use is consistent with applicable regulatory requirements
- Use does not affect general public use during peak periods
- Use complies with, and applicant will acquire, all necessary permits

Additional permits from other governmental agencies such as city, county, State Fire Marshal, California Highway Patrol, California Department of Transportation, Lahontan Regional Water Quality Control Board, and Tahoe Regional Planning Agency may be required for certain Special Use requests and are the sole responsibility of the applicant.

Special Use requests may be restricted during high use or peak periods. Requests are granted at Conservancy discretion.

The granting of a Special Use does not guarantee parking space availability unless specified by the permit terms and conditions. All vehicles shall be lawfully parked with no fire lane exemption, and no vehicles shall obstruct emergency vehicle access to any area.

## **Evaluation Criteria for Special Use Requests**

The Conservancy evaluates and grants Special Use requests based upon information provided by applicants and according to the following evaluation criteria:

- Void of compromise or conflict with Conservancy objectives
- Consistency with existing uses of Conservancy land
- Exhaustion of reasonable and feasible alternatives
- Completeness of application

These evaluation criteria are more fully described below.

**Void of compromise or conflict with Conservancy objectives:** The nature of the requested use must further: (1) the purpose(s) for which the Conservancy land is acquired, and (2) one or more of the following Conservancy Land Management objectives:

- Restoration and enhancement of on-site resources
- Resolution of potential use conflicts
- Coordination and management of Conservancy lands with other public agencies and private entities in order to facilitate more responsive, cost-effective, and/or comprehensive management arrangements
- Development of the Conservancy's administrative and fiscal capability to manage its properties

**Consistency with existing use of Conservancy land:** The requested use must be consistent with all other existing use of the requested Conservancy land, including, but not limited to:

- The purpose for which a site was developed, such as the developed capacity of a recreation site or facility and whether legitimate public use would be displaced
- Existing licenses, leases, and easements
- Past, existing, or known future environmental and/or infrastructure resource values
- Any other encumbrances

**Exhaustion of reasonable and feasible alternatives:** When appropriate, the applicant must demonstrate to the Conservancy's satisfaction that all other reasonable and/or feasible alternatives to the proposed use on Conservancy land have been exhausted. An applicant may be required to provide information demonstrating that alternatives on other land are not available, capable, or suitable.

**Completeness of Application:** The applicant must complete the required Special Use Request Application and submit the appropriate Non-refundable Application Fee (see Section 4). All project details, including, but not limited to, maps, list of needed permits, and reasonable or feasible alternative justification must be submitted with the application.

Special Use requests are granted on a first come, first serve basis. Applications may be submitted up to one (1) year in advance of the use date, however fees are not due until six (6) months prior to the date of the event. Requests submitted six (6) months or less prior to use date must include all applicable fees with their application, including the Non-refundable Application Fee (see Section 4) and full Special Use Fee. Special Use reservations are not guaranteed until signed compliance documents and full payment of all fees are received. Special Use applications submitted less than six (6) months prior to requested use date must include Non-refundable Application Fee and full Special Use Fee. Applications may not be considered if submitted less than fourteen (14) business days from date of event (additional terms and fees may apply).

## **Legal Documents for Special Use Requests**

Special Use requests will be granted based on the following terms with respect to license, lease, and easement documents:

- Use will be granted using a Conservancy-drafted license, lease, or easement.
- Evidence of insurance listing the State of California, California Tahoe Conservancy, as additional insured will be provided by the applicant except in the following limited circumstances as determined by the Conservancy: (1) Use is a temporary use (see Section 2 above) and not of a hazardous nature; and (2) Use is requested by an adjoining property owner.
- Applicant will indemnify the State of California, California Tahoe Conservancy.
- A license, lease, easement, or "in-lieu" fee and Non-refundable Application Fee will be paid by the applicant (see Section 4 below).
- Applicant will pay any possessory interest tax, if applicable.

- Applicant shall provide, prepare, and fund all necessary plans, permits, materials, monitoring, and oversight required for drafting the legal document.

### **Delegation of Authority to Staff**

Special Use requests are subject to Conservancy Board approval unless the use request is of a nature which is specifically delegated to staff.

Those requests requiring Board approval include, but may not be limited to:

1. All use requiring the Board make environmental findings pursuant to CEQA: This is use of Conservancy land which is not categorically or statutorily exempt under CEQA, but instead involves the adoption of a negative declaration or an environmental impact report.
2. All permanent uses: This is use of Conservancy land granted under an easement.
3. All uses three (3) years or more in duration: These are uses of Conservancy land granted under a lease or license.
4. All use that is precedent-setting or involves unusual circumstances

All associated CEQA and environmental review costs and fees shall be paid by the applicant.

Those requests which are delegated to staff must meet the following two-pronged test:

1. The use qualifies for a statutory or categorical exemption under CEQA.
2. The use is less than three (3) years in duration.

Staff is required to report to the Board all Special Uses granted by staff. Such notification is required at the Board meeting and in the board book immediately following the grant of the Special Use request.

### **Notice Requirements**

If staff proposes to authorize a use under its delegated authority that has the potential to affect the safety, habitability, or usability of neighboring properties or residences, staff will provide notice to the owner(s) of record and occupant(s) of the parcels that would be directly affected by such action by mail or posting ten (10) days prior to the grant of such lease or license.

Interested persons will have ten (10) days to comment on or object to the proposed Special Use, and staff will consider all comments and objections prior to making a final determination as to whether or not the proposed Special Use will be granted. The notice provided by the Conservancy will specify that any interested person commenting on or objecting to the proposed Special Use may request further notification of staff's final determination.

Any use not within the Conservancy staff's delegated authority will be brought before the Conservancy Board for review. In addition to the standard procedures for circulation of the Conservancy Board meeting agenda, staff will provide notice to the owner(s) of record and occupant(s) of neighboring parcels by mail or posting ten (10) days prior to the grant of such lease, license, or easement. Any member of the public will have the opportunity to comment

or object to the proposed Special Use during the Conservancy Board meeting.

#### **4. SPECIAL USE FEES**

The Conservancy may fix and collect fees for any services. The amount of any fee may not exceed the reasonable costs of providing the services rendered by the Conservancy (Government Code § 66908.1). There are two (2) fees associated with the granting of a Special Use request:

- Non-refundable Application Fee
- Special Use Fee

Non-refundable Application and Special Use fees may be adjusted from time to time to reflect changes in costs and to ensure fair return for the use of public lands. Minimum fees are reviewed yearly and may be adjusted based on the Consumer Price Index.

##### **Non-refundable Application Fee**

A Non-refundable Application Fee shall be paid by the applicant in addition to the Special Use Fee. The Non-refundable Application Fee is based on the estimated staff time necessary to prepare and process Special Use requests. The Non-refundable Application Fee varies depending on the estimated hours of Conservancy staff time required to process the application and issue the lease, license, or easement. In most cases, minimal impact activities require payment of Category 1 fees. These fees are generally paid with the application after coordination with the Conservancy Special Use contact. All applications submitted to the Conservancy shall include a minimum \$100 application fee. The Conservancy reserves the right to request additional application fees based on hours incurred processing the application.

The following categories may be exempt from the Non-refundable Application Fee. These categories may be required to pay the minimum Special Use Fee or provide an “in lieu” Special Use Fee at the discretion of the Conservancy (see Special Use Fees below):

1. Applications requiring one (1) hour or less for the agency to process
2. Applications for qualified educational institutions
3. Applications for activities determined to be in the furtherance of the Conservancy’s intended use of the individual property
4. Applications from licensees to extend current licenses

The fees are based on the following schedule:

**Non-refundable Application Fee Schedule**

<b><u>Category</u></b>	<b><u>Estimated Staff Hours</u></b>	<b><u>Application Fee</u></b> (effective March 21, 2013)
<b>1</b> Minimal Impact	Up to 8	\$100
<b>2</b>	8 up to 24	\$250
<b>3</b>	24 up to 40	\$500
<b>4</b>	40 up to 56	\$1,000
<b>5</b>	56 or more	Full and reasonable costs
<b>6</b> Master Agreements	Varies	As specified in the Agreement

**Special Use Fees**

At the Conservancy’s discretion, the Conservancy may not charge fees for Special Use requests from project partners or for projects which further the Conservancy’s mission and programs. Occasionally, the Conservancy will allow a fee to be paid in the form of “in lieu” services from the Special Use applicant. The in-lieu requirement will be agreed to in writing before the Special Use of Conservancy property is approved. Late fees equal to the appropriate Special Use Fee plus interest shall be assessed on all in-lieu fees not received in the time period agreed to within the permit.

The following Special Use will be handled as transfers of permanent or long term interests in real property in exchange for monetary consideration. The Conservancy may seek the assistance of the California Department of General Services, Real Estate Services Division, to review an appraisal for either of the following:

- Long term licenses for installation of public utilities: compensation will be required based upon the transfer of the interests in property (a market estimate for the fair market value of the long term interest) All easements: compensation will be required based upon the transfer of the interests in property (a market estimate for the fair market value of the long-term interest).

Applicant will be responsible for all fees and costs associated with any appraisal, title, escrow documents, and subsequent reviews required for approval.

In certain circumstances, where Conservancy staff determines that a Special Use request is unusual and particularly time-consuming, a deposit will be required of the applicant and retained by the Conservancy. Conservancy staff time will be billed against this deposit.

The following fee schedule (page 11) sets forth the standard fees for Special Uses of Conservancy land. These fees may be subject to change if the Conservancy finds that the

Special Use request will unusually impact or burden Conservancy staff time and/or may require staff monitoring. Staff time includes: (1) time spent reviewing, analyzing, and researching the Special Use Request Application, (2) CEQA review, (3) preparation of the appropriate legal document(s), and (4) preparation of materials for Board review.

<b><u>Special Use Fee Schedule</u></b>	
<b>Temporary Use</b> – Use is for five (5) days or less	
• Individual access to adjoining Conservancy property	\$25
• Commercial filming and photography	
1-10 person(s) on site	\$100
11-30 persons on site	\$275
31-60 persons on site	\$600
Over 60 persons on site	\$1,000
An hourly rate will apply for staff monitoring time exceeding four (4) hours	
• All other commercial use**	\$100 minimum or
The total fee will be the greater of the \$100 minimum fee or 12% of gross event entry receipts (prorated for the approximate percentage of Conservancy land used).	12% of gross event entry receipts
<b>Short-term Use</b> – Use is for more than five (5) days and less than three (3) years	
• Individual access to adjoining Conservancy property	\$100/month
• Commercial filming and photography	
1-10 person(s) on site	\$100
11-30 persons on site	\$275
31-60 persons on site	\$600
Over 60 persons on site	\$1,000
An hourly rate will apply for staff monitoring time exceeding four (4) hours	
• All other commercial use** and projects not Conservancy-related	\$1,500/month or
The total fee will be the greater of the \$1,500/month fee or the 12% of gross event entry receipts (prorated for the approximate percentage of Conservancy land used).	12% of gross event entry receipts
• Snow Storage	\$500/season + additional costs based on square footage of use
<b>Long-term Use</b> – Use is for more than three (3) years and not permanent in nature	
• Individual access to adjoining Conservancy property	\$100/month
• All other commercial use** and projects not Conservancy-related	\$1,500/month or
The total fee will be the greater of the \$1,500/month fee or the 12% of gross event entry receipts (prorated for the approximate percentage of Conservancy land used).	12% of gross event entry receipts
• Snow Storage	\$500/season + additional costs based on square footage of use
• Groundwater contamination monitoring/cleanup	\$1,000/year
**Commercial use is considered revenue-generating for the Applicant	