CALIFORNIA TAHOE CONSERVANCY

URBAN LAND MANAGEMENT PROGRAM

Special Use Guidelines

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State of California – The Resources Agency
CALIFORNIA TAHOE CONSERVANCY

www.tahoe.ca.gov

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Special Use Guidelines

1. ULM PROGRAM PURPOSE AND BACKGROUND

California Tahoe Conservancy Mission

The California Tahoe Conservancy (Conservancy) is a California State agency with a mission to preserve, protect, restore, enhance, and sustain the unique and significant natural resources and recreational opportunities of the Lake Tahoe Basin. Established by State law in 1984, the Conservancy's 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 five 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 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.

Superseded Prior Guidelines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, and July 15, 2010. These Special Use Guidelines supersede and replace all prior guidelines.

2. OVERVIEW OF SPECIAL USE REQUESTS

"Special uses" involve the grant of a lease, license, or easement on Conservancy land to a public or private entity for a variety of uses. Such uses often include: access

across Conservancy land to a neighboring property; temporary storage of materials on Conservancy land; testing of groundwater, soil composition, or other organic matter; installation of monitoring wells and related equipment; snow storage; and installation of water or utility lines. Special uses are distinct from uses connected to the implementation of Conservancy projects or projects for which the Conservancy has given a grant. Special uses are not connected to projects in which the Conservancy is closely involved. The Conservancy permits special uses on its lands consistent with these guidelines through the execution by both parties of one of three documents: a license, a lease, or an easement.

The Conservancy has classified its special use requests into four distinct types of uses. These uses are outlined below:

1. **Temporary Uses:**
   - Use of Conservancy land is for a duration of five days or less
   - Use is granted pursuant to a lease or license agreement

2. **Short Term Uses:**
   - Use of Conservancy land is for a duration of more than five days but less than six months
   - Use is granted pursuant to a lease or license agreement

3. **Long Term Uses:**
   - Use of Conservancy land is for a duration of six months or more, but is not of a permanent nature
   - Use is granted pursuant to a lease or license agreement

4. **Permanent Uses**
   - Use of Conservancy land is permanent
   - Use is granted pursuant to an easement

The type of use will determine: (1) the application procedure for special use requestors (see below), and (2) the nature of the legal document granting the right to use Conservancy property. That is, each type of use carries with it distinct requirements pertaining to use, insurance, indemnification, impairment, waivers, attorneys fees, notices, etc.

3. CONSERVANCY REVIEW OF SPECIAL USE REQUESTS

The Special Use Request Application Process

In order to receive a special use lease, license or easement from the Conservancy, applicants must complete a Special Use Request Application. Applications are accepted at any time. Applications are available at the Conservancy office and on the Conservancy website: www.tahoe.ca.gov.

All public and private entities including Federal, State, Tribal, and 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 by Conservancy staff, 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;
- Use complies with all environmental regulations;
- Use is consistent with applicable regulatory requirements; and
- Use complies with, and applicant has acquired, all necessary permits.

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:

- Consistency with program objectives;
- Consistency with existing uses of Conservancy land;
- Existence of reasonable and feasible alternatives; and
- Application completeness

These evaluation criteria are more fully described below.

Consistency with Program Objectives. The nature of the requested use must further: (1) the purposes for which the Conservancy land was acquired, and (2) one or more of the following Conservancy Urban Land Management Program 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 Uses of Conservancy Land. The requested use must be consistent with all other existing uses of the requested Conservancy land, including, but not limited to: existing leases, licenses, and easements; past, current, or known future projects; and any encumbrances.

Existence of Reasonable and Feasible Alternatives. 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 were explored and rejected.

Application Completeness. The applicant must complete the required Special Use Request Application.

Legal Documents for Special Use Requests

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

- Use will be granted using a Conservancy drafted lease, license or easement.
- Evidence of insurance listing the State of California as additional insured will be provided by the applicant except in the following circumstances: (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.
- A license, lease, easement, or "in-lieu" fee will be paid by the applicant (see Section 4below).
- Applicant will pay any possessory interest tax, if applicable.
- Applicant shall provide and prepare 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:

1. All uses requiring that the Board make environmental findings pursuant to the California Environmental Quality Act (CEQA). These are uses of Conservancy land which are not categorically or statutorily exempt under CEQA but instead involve the adoption of a negative declaration or an environmental impact report;
2. All permanent uses. These are uses of Conservancy land granted under an easement;
3. All uses exceeding three years in duration. These are uses of Conservancy land granted under a lease or license; and
4. All uses that are precedent setting or involve unusual circumstances.

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

1. The use qualifies for a statutory or categorical exemption under CEQA;

2. The use is consistent with past practices and past Board authorizations; and
3. The use is less than or equal to three 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 which 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 which would be directly affected by such action by mail or posting 10 days prior to the grant of such lease or license.

Interested persons will have 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.

Those uses which are not within the Conservancy staff's delegated authority will be brought before the 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 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 REQUEST FEES

The Conservancy may fix and collect fees for any services rendered by it. The amount of any fee may not exceed the reasonable costs of providing the services rendered by the Conservancy Government Code § 66908.1). The Conservancy generally does not charge fees for 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.

The following fee structure 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 resources. 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, and (4) preparation of materials for Board review.

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.

- **Temporary Uses**
  - Individual access to adjoining Conservancy property: $25.
  - Commercial filming and photography: No location fee; $100 License processing fee will be charged. If extraordinary staff monitoring is deemed necessary, the licensee will pay an hourly rate for all staff time exceeding four hours.
  - All other commercial uses: A minimum fee of $100. The total fee will be the greater of either: 1) the minimum fee; or 2) 5% of gross event entry receipts (pro-rated for the approximate percentage of Conservancy land used).
- **Short Term Uses**
  - Individual access to adjoining or neighboring Conservancy property: $100/month.
  - Commercial filming and photography: No location fee; $100 License processing fee will be charged. If extraordinary staff monitoring is deemed necessary, the licensee will pay an hourly rate for all staff time exceeding four hours.
  - Commercial uses and projects not in furtherance of the Conservancy's mission and programs: the greater of $1,500/month or 50% of gross receipts.
  - Snow Storage: $500 per winter season; may be reduced if suitable in-lieu services can also be provided.
- **Long Term Uses**
  - Individual access to adjoining or neighboring Conservancy property: $100/month
  - Commercial Uses and projects not in furtherance of the Conservancy's mission and programs: the greater of $1,500/month or 50% of gross receipts.
  - Snow Storage: $500 per winter season; may be reduced if suitable in-lieu services can also be provided.
  - Groundwater contamination monitoring/cleanup: $1,000/year

The following special uses 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 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).