

Chapter 8

COMPLIANCE

Chapter Contents

- 8.0 Purpose
- 8.1 Applicability
- 8.2 Project Inspections
- 8.3 Noncompliance
- 8.4 Permit Suspension
- 8.5 Penalties
- 8.6 Reserved
- 8.7 Reserved
- 8.8 Securities
- 8.9 Judicial Relief
- 8.10 Correct Information/Names and Originals Required

8.0 Purpose: This chapter provides enforcement mechanisms concerning project applications, project approvals, conditions of approval, provisions of the Compact, Goals and Policies, and the Code of Ordinances.

8.1 Applicability: This chapter applies to all projects and activities. As used in this chapter, the term "provisions of law" means provisions of the Compact, Goals and Policies, and Code.

8.2 Project Inspections: Projects approved by TRPA shall be subject to inspections by TRPA at any reasonable time. The permittee shall be responsible for making the project area accessible for inspection purposes. TRPA shall not be liable for any expense incurred by the permittee as a result of TRPA inspections.

8.2.A Required Inspections: TRPA shall conduct the following inspections, as appropriate:

- (1) For projects which require grading, TRPA shall conduct a pregrading inspection to determine if the permittee has satisfied pregrading conditions of approval, including installation of temporary erosion control and vegetation protection, and construction site boundary fencing. Other than actions to satisfy pregrading conditions of approval, no grading or construction shall be undertaken in the project area by the permittee until TRPA has notified the permittee that, based on the pregrading inspection, TRPA has verified that the pregrading conditions of approval have been satisfied.
- (2) For all projects, TRPA may conduct inspections as necessary to assure that the permittee has complied with the project approval and provisions of law.

- (3) Prior to issuance of a local certificate of occupancy, the scheduled date of project completion, or project completion, whichever is earliest, TRPA shall conduct a final project inspection to ensure that all conditions of project approval shall be satisfied. Section 8.8 sets forth provisions regarding release of securities at the time of final project inspection. With the cooperation of local jurisdictions, a certificate of occupancy may be withheld until applicable conditions are satisfied.
- 8.2.B Other Inspections: In addition to the above inspections, TRPA may require, or make, other inspections of any project or activity to determine compliance with provisions of law or conditions of approval. If a grading and construction schedule is required (see Chapter 62), TRPA shall conduct the inspections set forth in the approved schedule.
- 8.2.C Permittee Inspection Requests: The permittee shall notify TRPA, by telephone, in person, or in writing, when the project is ready for required inspections. TRPA shall conduct these inspections expeditiously. Notification of readiness for inspection should be given at least two days in advance of the desired date for inspection. Inspections may be delayed by TRPA when the project area is covered with snow and if such conditions prevent proper inspection. The permittee shall be responsible for providing access to, and the means for, conducting the inspection.
- 8.2.D Inspection Records: TRPA shall maintain a record of all inspections made. The record shall include the date, time, place, and scope and results of the inspection, the reason for the inspection, and the name of the person who conducted the inspection.
- 8.2.E Inspection Card: TRPA may post an inspection card within the construction site boundary and require the permittee to maintain the card until the final inspection. The inspection card shall state the date and comment on any inspection made, and be initialed by the TRPA employee making the inspection.
- 8.3 Noncompliance: In the event a person fails to comply with provisions of law or conditions of project approval, TRPA may take either or both of the following actions:
- 8.3.A Correction Notice: TRPA may issue a correction notice for any project or activity in violation of provisions of law or the conditions of project approval. The correction notice shall describe the action which shall be taken to effect compliance. Notice pursuant to TRPA's Rules of Procedure shall be given. The correction notice shall require compliance with its term by a date certain and state that failure to comply shall result in issuance of a cease and desist order, revocation of the permit, if applicable, or other enforcement action.

- 8.3.B Cease And Desist Orders: TRPA may issue a cease and desist order for any project or activity in violation of provisions of law or conditions of project approval. The cease and desist order shall describe the action which shall be taken before the cease and desist order will be withdrawn. Notice pursuant to TRPA's Rules of Procedure shall be given. The order shall require compliance with its terms by a date certain and state that failure to comply shall result in revocation of the permit, if applicable, or other enforcement action.
- 8.4 Permit Suspension And Revocation: In the event that the permittee fails to comply with the terms of a correction notice or cease and desist order, TRPA may proceed to suspend or revoke the permit. TRPA shall provide notice and a opportunity to be heard on the suspension or revocation to the permittee pursuant to its Rules of Procedure. Upon revocation of a permit, the permittee shall have no further rights under the permit. Upon suspension of a permit, the matter shall be scheduled for the next Governing Board meeting for which notice can be given pursuant to the Rules of Procedure.
- 8.5 Penalties: TRPA may establish a monetary penalty for the resolution of a compliance matter. TRPA also may adopt, by resolution, a schedule of such monetary penalties.
- 8.6 (Reserved)
- 8.7 (Reserved)
- 8.8 Securities: As a condition of approval, permittees may be required to post a security with TRPA to ensure compliance with certain conditions of approval. The approval shall state which conditions are the subject of the security.
- 8.8.A Types Of Securities: Acceptable types of securities are:
- (1) Cash;
 - (2) Assignment of a personal savings account;
 - (3) Letter of credit;
 - (4) Hold on a personal savings account or certificate of deposit;
 - (5) Certificate of deposit; or
 - (6) Faithful performance bond.
- 8.8.B Calculation of Security: Securities shall be calculated as follows:
- (1) Except as provided in this chapter, a security shall be posted in an amount equal to 110 percent of the cost of the approved BMPs and other erosion control and water quality improvements required as a condition of approval, pursuant to a schedule established by resolution of the TRPA.

- (2) TRPA may require other project conditions of approval to be secured by the posting of a security in an amount to be determined by TRPA.

8.8.C Security Exemptions: The following projects shall be exempt from posting securities required in Subparagraph 8.8.B(1):

- (1) Projects in the TRPA Water Quality Capital Improvements Program;
- (2) Projects in the TRPA Stream Restoration Program;
- (3) Projects in the TRPA Regional Transportation Plan for the Lake Tahoe Basin;
- (4) BMP retrofitting of the project area outside the construction site boundary which is to be accomplished following the completion of the project pursuant to Subsection 25.2.B;
- (5) Projects which do not require or include BMPs or other erosion control and water quality improvements; or
- (6) Performance of the conditions of approval required to be secured is assured through an equivalent alternative mechanism

8.8.D Forfeiture Of Security: Securities may be forfeited in either of the following ways:

- (1) Non-compliance: TRPA shall monitor compliance with secured conditions of approval pursuant to Section 8.2. A security, or portion thereof, shall be forfeited if TRPA finds that a secured condition of approval has not been timely complied with, and that the security, or a portion thereof, is necessary to achieve compliance. After notice and an opportunity to be heard is given to the permittee pursuant to the Rules of Procedure, TRPA may use the security to accomplish the condition of approval which was found to be not in compliance. Any portion of the security not used by TRPA shall remain posted until release pursuant to Subsection 8.8.E.
- (2) Abandonment of Cash Securities: Securities posted in cash may be forfeited after TRPA has mailed a check for the security amount, or sent the appropriate IRS form to allow the release of a check, to the person who posted the cash security (of a completed project), and received one of the following responses: a) the check or IRS form was returned with no forwarding address, b) the person who posted the cash security did not respond to the request to complete and return the IRS form necessary to release the check; c) the person who posted the cash security did not cash the check within one year of receipt, or; d) the person who posted the cash security refused to claim the security. Prior to forfeiture of a cash security, TRPA shall publish a notice of forfeiture, which notice shall name the person who posted the security. The notice shall be published one time in a

newspaper of general circulation in the Tahoe Region. If the person who posted the cash security does not claim the security within one year after the publication of the notice, the cash security shall be deemed abandoned and forfeited to a fund designated by the Governing Board.

- 8.8.E Release Of Security: A security shall be released to the permittee by TRPA after a final inspection, provided that all conditions of approval have been satisfied. Where revegetation is a condition of approval, a portion of the security shall be retained until the vegetation is established.
- 8.9 Judicial Relief: Nothing in this chapter shall be construed to prevent TRPA from filing a legal action in an appropriate court and pursuing judicial relief, including, but not limited to, injunctive relief, declaratory relief, or civil penalties as provided for in Article VI(I).
- 8.10 Correct Information/Names and Originals Required: All applications, authorizations, and other documents filed with TRPA by applicants or their agents, shall be truthful and accurate. No applicant or agent shall sign a false or incorrect name, or shall forge another's name. No applicant or agent shall knowingly, intentionally, or recklessly provide any untrue information on an application, authorization, or other document. Each false, untrue name or forged name on any application, authorization or other document filed with TRPA shall be a separate violation of this Code. Each piece of false information provided knowingly, intentionally, or recklessly on an application, authorization or other document filed with TRPA shall be a separate violation of this Code.

All applications, authorizations and other documents filed with TRPA by applicants or their agents shall be originals. However, photocopies or facsimiles of such applications, authorizations, or other documents may be submitted (along with the requisite filing fee) as long as the originals are received by TRPA within fourteen (14) days of filing such photocopies or facsimiles. If the originals are not received within fourteen (14) days of filing the photocopies or facsimiles, the application, authorization, or other document shall be deemed incomplete and shall not be processed until the original is received.

