

PROPOSED REGULATION OF THE STATE LAND REGISTRAR

LCB File No. R135-13

AUTHORIZATIONS FOR THE USE OF STATE SOVEREIGN LAND

Definitions. As used in NAC ____ to ____, inclusive, unless the context otherwise requires, the words and terms defined in NAC ____ to ____, inclusive have the meanings ascribed to them in those sections.

“Administrator” defined. (NRS 322) “Administrator” means the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources as ex officio State Land Registrar.

“Authorization” defined. (NRS 322) “Authorization” means a document issued by the Division allowing the use of state owned land. This document could be a permit, license, lease, easement, right of entry or other document issued at the Division’s discretion.

“Breakwater” defined. (NRS 322) “Breakwater” means a man-made barrier which diminishes the force of waves in order to protect a harbor, marina, beach, shoreline or riverbank. This structure is also referred to as a rock jetty, seawall, rock suppression or sheetpiling.

“Division” defined. (NRS 322) “Division” means the Division of State Lands of the State Department of Conservation and Natural Resources.

“Floating dock or platform” defined. (NRS 322) “Floating dock or platform” means a structure on the water anchored to another structure or independently to the bank, shore or bed of a navigable body of water.

“Littoral” defined. (NRS 322) “Littoral” means a parcel of land adjoining the bed of a navigable body of water.

“Multiple use” defined. (NRS 322) “Multiple use” means use of a facility owned or managed by more than one person for the exclusive benefit of the owners and their families and guests.

“Navigational structure” defined. (NRS 322) “Navigational structure” means a device which is maintained primarily for aiding navigation and is approved by the appropriate federal or state agency for that use.

“Ordinary High Water Mark” defined. (NRS 322) “Ordinary High Water Mark” means the line to which water ordinarily rises on a bank or shore in a season and is synonymous to the mean high water line.

“Person” defined. (NRS 322) Except as otherwise expressly provided in a particular statute or required by the context, “person” means a natural person, any form of business or social organization and any other legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization or governmental entity.

“Shoreline” defined. (NRS 322) “Shoreline” means the line marking the edge of body of water.

“Salvage” defined. (NRS 322) “Salvage” means removal of any goods or property from under the water of a navigable body of water.

“Water Intake Line” defined. (NRS 322) “Water Intake Line” means a pipe with appurtenances which conveys water from a river, lake, stream or other water body to an upland area for agricultural, commercial, industrial, municipal or residential use.

“State Sovereign Land” defined. (NRS 322) “Sovereign Land” means the bed and bank of bodies of water that are determined to be navigable at statehood including, without limitation, the following:

Carson River, Colorado River, Lake Tahoe, Truckee River, Virgin River, Walker Lake, Washoe Lake and Winnemucca Lake.

Purposes for which authorizations may be issued, types of authorizations. (NRS 322)

- 1. The Division may issue authorizations for the lawful uses and occupancy of state sovereign land.*
- 2. The Division may issue temporary authorizations allowing for construction and dredging activities to take place on state sovereign land. An authorization to occupy state sovereign land may be required once the temporary project is complete.*
- 3. The authorizations will include but not be limited to the following types: Agricultural use, Commercial use, Multiple use, Residential use and Dredging.*

Application review, permit duration. (NRS 322)

- 1. An application form which is not filled out properly will not be accepted.*
- 2. The Division will notify the applicant of any deficiency when it returns the application for compliance.*
- 3. A permit will be issued for not more than 20 years.*

Procedure upon receipt of application for all authorizations on state sovereign land. (NRS 322)

- 1. An application will be stamped with the date and time of filing with the Division.*
- 2. For applications for structures defined in NRS 322/NAC ___ that have never before been authorized by the Division:
 - (a) Within 14 days after receiving a complete application, the Division will send a request for comment notice of the application to:
 - (i) Owners of adjacent properties;***

(ii) Homeowners' associations and general or special improvement districts which may be affected;

(iii) Governmental bodies which the Division determines should be notified; and

(iii) Persons who have informed the Division of their desire to be so notified.

3. The Division will consider objections or comments concerning an application only if they are:

(a) In writing; and

(b) Received by the Division within the prescribed time frame in the review and comment notice. Upon request, the Division may grant an extension of not more than 15 days for submission of objections or comments.

4. At the discretion of the Division, applications requesting the renewal of a permit previously issued by the Division may not be subject to a review and comment period if:

(a) there have been no changes to the location of the structure(s); and

(b) there have been no changes in ownership of the adjacent littoral owners since the last permit was issued; and

(c) all permit conditions have been adhered to.

Procedure for public hearing (NRS 322)

1. Within 20 days after the period for considering objections or comments has expired, the Division may set a date and time for a public hearing. The date for the public hearing will be within 60 days after expiration of that period.

2. Within 30 days after the public hearing the Division will make a final decision on the application.

Factors considered in issuance or denial of an authorization. (NRS 322)

1. In determining whether to issue an authorization, the Division will consider, but the consideration will not be limited to, the following factors:

(a) the location and density of existing piers and other structures;

(b) the effect of granting the authorization upon the stability of the shoreline;

(c) the overall environmental integrity and recreational quality of the area in which the proposed structure or activity is to be located, including, but not limited to, factors such as noise, visual esthetics, recreational potential, impacts to water quality;

(d) the potential interference with navigability;

(e) the conformance with law, regulation and policy;

(f) the impacts to adjacent property owners;

(g) any environmental studies of the proposed use, if applicable;

(h) the location or availability of existing use corridors; and

(i) the private benefit to be obtained versus any loss of public benefit.

Authorization required to repair or alter a structure, emergency authorization (NRS 322)

1. An authorization is required for any repair, reconstruction or alteration of an existing pier, breakwater, water intake line or other structure which would increase the size or change the location of the structure.

2. If an unforeseen combination of circumstances calls for the Division's immediate action regarding construction or alteration, the Division will consider the matter on an emergency basis. Construction or alteration may be performed upon oral consent from the Division, to be followed by its written consent. The appropriate application and fee seeking written consent must be submitted to the Division within 30 days of the date of oral consent.

Cancellation of permit. (NRS 322)

- 1. The Division may cancel a permit for failure of the holder to comply with NAC ___ to ___, inclusive, or with any condition under which the permit was granted.*
- 2. The Division will not cancel a permit until 30 days after the holder has been informed by certified mail of the Division's intention to cancel the permit and the reason for the intended cancellation or until a hearing is held if a hearing has been requested in writing. If, within the 30 day period, the holder corrects all the violations which were grounds for the intended cancellation, their permit will not be cancelled. If the holder corrects those violations after the 30 day period, their permit may be reinstated.*

Transfer of permit. (NRS 322) A permit is not transferable.

Final Decision (NRS 322) The decision by the Division is the final administrative action on an application under NAC ___ to ___, inclusive.

LAKE TAHOE

Application for authorization at Lake Tahoe. (NRS 322)

- 1. Only a person who is the owner of a littoral parcel may apply for a permit to construct, install or modify a structure defined in NRS 322 or NAC ___.*
- 2. An owner of a non-littoral parcel may apply for a permit for a pier or breakwater if the structure occupied state sovereign land and was functional prior to October 30, 1979 and the structure has previously been permitted by the Division. No expansions or extensions of these structures will be authorized. These structures must be maintained in good repair.*

Placement of a pier, buoy or similar structure at Lake Tahoe (NRS 322)

- 1. Unless otherwise permitted by the Division, a pier or similar structure:
 - (a) Must be constructed as closely to a right angle to the shore as possible; and*
 - (b) Must be constructed so as not to interfere with existing structures.*
 - (c) A pier or similar structure may extend only to a length that will allow access to the water depth necessary for boats customarily in use during a normal period of low water. If extenuating circumstances exist, the Division may allow an increase in the length or size of a pier or similar structure.**

2. *A structure or facility for:*
 - (a) *Commercial use must not be located closer than 25 feet from each adjacent property projection line.*
 - (b) *Residential or multiple use must not be located closer than 10 feet from each adjacent property projection line.*
3. *A mooring buoy anchor must not be:*
 - (a) *Placed closer than 50 feet from another mooring buoy anchor.*
 - (b) *Placed in the water at a depth greater than that necessary for safe accommodation of boats normally in use on Lake Tahoe.*
 - (c) *Located closer than 20 feet from each adjacent property projection line.*
4. *Navigation buoy anchors may be placed closer than 50 feet from another navigation buoy anchor.*
5. *Property projection lines must normally be extended at a right angle to the shore from the low water elevation of 6,223.0 feet. The Division may, in its discretion, allow the modification of the property projection lines to better provide each littoral property owner with a reasonable distribution of the area.*
6. *Except as otherwise provided in Section 6, if the structure does not meet the required setback distance the Division must receive written consent from the owner of the affected adjacent property before the structure can be permitted.*
7. *The Administrator, in his or her discretion, may issue a permit for a pier without requiring the applicants to secure consent from an affected adjacent property owner if the pier does not meet the setback requirement. The pier must have been previously permitted by the Division or existed prior to October 30, 1979.*
8. *A structure or facility must be designed and installed so that it will not be damaged by anticipated natural forces.*

Hindrances to navigation at Lake Tahoe (NRS 322)

1. *A person shall not construct or place below the high water elevation of 6,229.1 feet, any swimming buoy, rope, fence or other barrier which hinders navigation unless the Division determines that a safety hazard exists or a substantial public benefit will accrue from its construction or placement.*

OTHER SOVEREIGN LANDS

Placement of a pier, buoy or similar structure on state sovereign land. (NRS 322)

1. *Unless otherwise permitted by the Division, a pier or similar structure:*
 - (a) *Must be constructed as closely to a right angle to the shore as possible; and*

- (b) Must be constructed so as not to interfere with existing structures.*
 - (c) A pier or similar structure may extend only to a length that will allow access to the water depth necessary for boats customarily in use during a normal period of low water. If extenuating circumstances exist, the Division may allow an increase in the length or size of a pier or similar structure.*
- 2. A structure or facility for:*
 - (a) Commercial use must not be located closer than 25 feet from each adjacent property projection line.*
 - (b) Residential or multiple use must not be located closer than 10 feet from each adjacent property projection line.*
- 3. A mooring buoy anchor must not be:*
 - (a) Placed closer than 50 feet from another mooring buoy anchor.*
 - (b) Placed in the water at a depth greater than that necessary for safe accommodation of boats normally in use.*
 - (c) Located closer than 20 feet from each adjacent property projection line.*
- 4. Navigation buoy anchors may be placed closer than 50 feet from another navigation buoy anchor.*
- 5. Property projection lines must normally be extended at a right angle to the shore from the ordinary high water mark. The Division may, in its discretion, allow the modification of the property projection lines to better provide each littoral property owner with a reasonable distribution of the area.*
- 6. Except as otherwise provided in Section 6, if the structure does not meet the required setback distance the Division must receive written consent from the owner of the affected adjacent property before the structure can be permitted.*
- 7. The Administrator, in his or her discretion, may issue a permit for a pier without requiring that applicants to secure consent from an affected adjacent property owner if the pier does not meet the setback requirements. The pier must have been previously permitted by the Division or existed prior to October 30, 1979.*
- 8. A structure or facility must be designed and installed so that it will not be damaged by anticipated natural forces.*

MISCELLANEOUS PROVISIONS

Authorization of uses including, but not limited to, bridges, utility crossings, diversion structures and bank modifications. (NRS 322)

- 1. Unless otherwise authorized by the Division, these uses must be:*
 - (a) placed in a manner so as not to conflict with existing uses;*

- (b) placed in conformance with existing state, local and federal regulations;*
- (c) placed in a manner so as not to interfere with the use of state sovereign land or the navigability of the water way.*

Identifying device, warning markers and hindrances to navigation on state sovereign land (NRS 322)

- 1. The Division will issue an identifying device which may be installed on each permitted mooring buoy.*
- 2. If it is determined that a structure or facility might not be readily seen or might be a navigational hazard, an authorization may be issued for the structure or facility with the condition that a warning marker, approved by the appropriate agency, is installed on the structure or facility.*