

ORDINANCE NO. 240

TAHOE CITY PUBLIC UTILITY DISTRICT

**ORDINANCE GOVERNING USE, MAINTENANCE, REPAIR,
RECONSTRUCTION AND LIABILITY
RELATING TO SIDEWALKS IN THE
TAHOE CITY AREA**

Adopted January 19, 2001

Be it enacted by the Board of Directors of the Tahoe City Public Utility District, TCPUD, the following Ordinance entitled "Ordinance Governing Use, Maintenance, Repair, Reconstruction and Liability Relating to Sidewalks in the Tahoe City Area" shall be effective on the date the Board of Directors accepts by official action a Bill of Sale to sidewalk improvements, but not earlier than thirty (30) days following adoption of this Ordinance. The Ordinance provides and requires as follows:

1.0 **Purpose of Ordinance:** The purpose of this ordinance is to enforce the agreement that exists between the TCPUD and commercial property owners, vacant property owners, or owners with other uses in the Tahoe City downtown area, which agreement led to the construction and installation of curbs, sidewalks, and associated improvements. The ordinance attempts to ensure the District has the authority to protect the community's substantial investment in the sidewalk improvements and to protect individual property owners from adjacent neighbors that may be delinquent with respect to their responsibilities regarding the sidewalks, by providing mechanisms to attempt to cause the sidewalks and associated improvements to be maintained to a predetermined standard. The ordinance prescribes measures to apportion liability for costs, defense costs, claims and damages connected or related to the sidewalk, to limit District's liability regarding maintenance of the sidewalk facility, and to provide for collection of costs incurred if abutting landowners do not repair and maintain the sidewalk.

2.0 **Definitions:** For purposes of this ordinance, unless otherwise apparent from the context, certain words and phrases used herein are defined as follows:

2.1 "Board" means the elected members of the Tahoe City Public Utility District's Board of Directors.

2.2 "Encroachment" means any structure or object of any kind or character placed, without authority of law or permit from TCPUD, either on, in, over or under any easement for sidewalk purposes owned by the TCPUD.

2.3 "General Manager" means the person appointed by the Tahoe City Public Utility District's Board responsible for all operations of the TCPUD. Within the ordinance, where the term General Manager is used, it also means the person(s) s/he designates to conduct a specific task.

2.4 "Sidewalk" means the areas overlying the District ownership of Real Property improved with sidewalks paved with concrete, asphaltic concrete, mortared stone, mortared rock, mortared brick, including a park or parking strip located in the area overlying the easement for sidewalk purposes of the TCPUD and between the easement line and the street line, and also including curbing located within the sidewalk area, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip (California Streets and Highways Code, Section 5600). For all purposes of this ordinance, the phrase "sidewalk" shall include "street furniture", unless a contrary specific statement is included in the provision. The concrete gutter, curb face and upper ledge forming the top of the curb are the property of CalTrans and will be maintained by CalTrans, and is not a part of the "sidewalk."

2.5 "Street Furniture" means all amenities placed on or in the sidewalk with written authority of District for public use and/or to enhance the beauty of the public space. These include: trees, landscaping, benches, bollards, light fixtures and posts, planters and trash receptacles.

2.6 "TCPUD" means the Tahoe City Public Utility District.

2.7 "Abutting property" or "abutting lands" means the lands adjacent to the sidewalk easement of TCPUD fronting on the sidewalk, which sidewalk lies between the street or road and the abutting lands, the extension of which property lines of the adjacent lands to the street delineates the portion of the sidewalk to which the abutting property or abutting lands have responsibility under this ordinance.

2.8 "Abutting landowner" or "abutting property owner" means the owner of the "abutting property" or "abutting lands".

3.0 **Permits for Use or Encroachment Upon Sidewalks:** All sales activities, commercial or other organized use of the sidewalks, including but not limited to sales, commercial storage, special events, community events, athletic events, entertainment activities, location of temporary or permanent encroachments, storage of materials, location of signs, displays, or other uses of the area of the sidewalk or its surface, are prohibited, unless the use is pursuant to a written permit issued by TCPUD in advance of the use and the use conforms to the terms of the Permit authorized by the General Manager for temporary encroachment upon and use of the sidewalk.

3.1 **Permit Authorization Process:** The TCPUD requires submission of a written application to receive a permit for temporary use of the sidewalk. Completed permit applications shall be submitted to the TCPUD no later than 45 days prior to the date of the proposed use of the sidewalks. A sample application with instructions is included in Appendix "A" adopted by Resolution of the District from time to time.

3.2 **Permit Decisions:** Permit decisions shall be made by the General Manager, and shall be appealable to the Board of Directors of TCPUD. A \$300.00 minimum non-refundable application fee deposit is required to be accompanied with the application. The complete deposit and fee shall be commensurate with the cost of administrative staff time necessary to process the permit, and the processing fee shall be paid whether or not the permit is granted or accepted by the applicant. TCPUD may charge a fee proportionate to the gross revenues generated by commercial activity allowed on the sidewalks. TCPUD may require an advance deposit as compensation for potential cleaning costs or security or other possible costs. The amount of the deposit fee shall reflect all relevant factors, including the length of time of the encroachment and the estimated disturbance or risks.

3.3 **Permit Appeal:** If a permit is not approved by the General Manager, the applicant can appeal the decision to the TCPUD Board. The applicant shall submit an appeal in writing. The Board shall review the appeal and decide if a permit will be approved. An applicant may only appeal a permit application decision one time. No right to require a special meeting of the TCPUD Board of Directors to consider an appeal shall exist. If an appeal cannot be heard at a regular Board meeting of TCPUD before the proposed event or use, the appeal shall be deemed denied without a hearing.

4.0 **Permit Revocation:** The General Manager may initiate proceedings to revoke any permit issued, in any case where it is determined that the permit was obtained through misrepresentation, or where a use of the sidewalk or abutting land has been established or is conducted in a manner that violates or fails to comply with the provisions of this ordinance or condition of approval of the permit, or where the use of the sidewalk land is undertaken in violation of any local, state, or federal law which affects the health, safety, peace, morals or general welfare of the public.

4.1 **Notice of Pending Revocation.** The General Manager shall notify the permittee of the intended revocation of the approval of a permit at least 7 days before a revocation hearing, except in the case of emergency conditions when 24 hours' notice may be given as follows. Such notice shall contain the following:

4.1.1 A heading reading, "Notice of Revocation".

4.1.2 The provisions and/or conditions violated and the means to correct the violation(s), if any.

4.1.3 The date and place of the revocation hearing, if one is requested by the permit holder.

4.2 Before the revocation shall be effective of an approved permit, if a hearing is requested in writing by the permit holder prior to the effective date specified in the notice of revocation, a hearing shall be conducted by the Board of Directors or a committee of two Board members appointed by the Chairman of the Board.

4.3 If, after the revocation hearing has been conducted, the hearing body finds that grounds for revocation have been established, the hearing body may:

4.3.1 Allow the permittee additional time to correct the violation or non-compliance; or,

4.3.2 Refer the matter to the full Board to consider modification of conditions of approval of the permit on the basis of evidence presented at the hearing, or to take other action; or,

4.3.3 Confirm the revocation or partial revocation of the permit by the General Manager and order the discontinuance or removal of the approved use within the time specified by the hearing body.

4.4 The burden of providing that grounds for revocation of the permit do not exist shall be upon the permit holder. If there is substantial evidence that the permit should be revoked, whether presented by TCPUD representatives, the permit holder or others, the revocation may be confirmed on the basis of the evidence presented at the hearing. It shall be a condition of each permit that the permit holder waives by acceptance of the permit any claims or causes of action for damages, liability or specific enforcement. If the permit is revoked or amended, the hearing provided herein shall be the permit holders' sole and exclusive remedy.

5.0 **Signage:** No person shall erect, alter, maintain, or relocate a permanent or temporary sign on or over the sidewalk, except with a written permit from TCPUD and obtaining any other authority required, including TRPA and Placer County authority. "Signs" may include, without excluding others, the following:

5.1 **A-frame Signs:** Any portable sign or structure composed of two sign surfaces mounted or attached back to back in such a manner as to form a basically triangular vertical cross section through the faces.

5.2 **Mobile or Portable Signs:** A sign not permanently attached to the ground or building is prohibited and permit applications will not be accepted for such uses.

6.0 **Tenants/Lessees of Abutting Lands:** If the abutting owner leases, licenses or otherwise provides to third parties the right to occupy all or portions of the abutting lands of owner, those users or occupants shall be jointly and severally liable and responsible to perform all of the obligations of this Ordinance with the owners of the abutting land.

7.0 **Noise Restrictions from Activities Conducted upon Sidewalks:** No person or abutting landowner shall use loudspeakers or similar devices for amplifying sound outdoors for the purpose of advertising products or services to persons utilizing or located upon the sidewalk or to attract patrons.

Specific maximum cumulative noise levels for community noise levels in specific areas of Tahoe City to be described in an Appendix "B" to be adopted by the TCPUD from time to time are as follows:

7.1 Where applicable, a maximum 55 CNEL override for the Highway 28 and Highway 89 corridors is permissible.

7.2 The maximum CNEL for Special Areas #3 and #4 and #5 is 55 CNEL (see Appendix B for Tahoe City Special Areas Map) .

7.3 The maximum CNEL for all areas of the community plan except as noted in 1 and 2 above is 65 CNEL.

7.4 The maximum CNEL for Shorezone Tolerance Districts 4, 6, and 7 is 55 CNEL and the maximum for the lakezone is 50 CNEL.

8.0 **Sidewalk Maintenance and Repair:** The owners of lots or portions of lots abutting on any portion of a sidewalk as to the area of the sidewalk located between the extension of the owners' abutting property lines to the street or road, including sidewalks, gutters and sidewalk furniture, and persons in possession of such abutting lands by virtue of any lease, contract or other form of right shall be jointly and severally obligated to and bound by this ordinance to maintain and repair such sidewalk areas and sidewalk furniture located between the extensions of the property lines and to pay all costs and expenses thereof as provided herein.

8.1 **Maintenance and Repair of Sidewalks:** The maintenance and repair of sidewalks shall include all reasonable measures to promptly inspect, remove and correct defects or dangerous conditions, but not limited to maintenance and repair of surfaces including grading, re-leveling, re-surfacing, removal and replacement of sidewalks, pavers or portions and the removal and filling or replacement or repair of sidewalk furniture, trees and landscaping and snow removal.

8.2 **Displacement:** A sidewalk shall be repaired if it is in any of the following conditions: vertical displacement between adjacent pavers or between pavers and adjacent concrete, or gouges in pavers or concrete surfaces, of more than 0.25 inches. Walking surface cross-slopes shall not exceed 1/4 inch per foot. In areas of curb ramps slope shall not exceed 1:12 and vertical rise shall not exceed six inches.

8.3 **TCPUD may Perform:** If the TCPUD General Manager determines that sidewalk, materials or substances deposited on the sidewalk, street furniture including trees or vegetation creates an imminent public safety hazard, the TCPUD may, but is not required to, remedy the conditions forthwith at the cost of Abutting Owner.

8.4 **No Extension of Duty to General Public; Duty Owed to District:** In accordance with Streets & Highway Code Section 5610 *et seq*, this Ordinance and Abutting Landowners' duties thereunder shall not be deemed to create a duty of care to the general public or to third parties relating to potential injuries or damages arising from use of the sidewalk. This Ordinance shall establish certain duties owed by Abutting Landowners to District. If District incurs attorneys' fees, costs, expenses, liability or judgments because of third party claims against District, its employees, Directors, agents or independent contractors which claims arise from or are caused directly or indirectly by a breach of this Ordinance or a breach of other duties owed to District under the law by Abutting Landowner, District may commence legal action through civil proceedings for damages, indemnity, contribution or any similar or related legal or equitable remedy. Unless a judgment is entered against an Abutting Landowner upon those claims, District will not add those civil claims as a lien upon the real property of the Abutting Landowner. The occurrence of an injury or damage relating to the sidewalks or sidewalk furniture shall give rise to written notice by the Landowner, District or Abutting Tenant or possessor having notice of the event and circumstances to the other described persons and to District.

9.0 **Sidewalk and Street Furniture Modifications:** The alteration or removal of the sidewalk or street furniture by any person or entity without the prior written approval of the TCPUD is prohibited. Abutting property owners wishing to modify the design of a portion of the sidewalk or associated street furniture shall prepare and provide to the TCPUD General Manager or designee a set of engineered plans for proposed modifications. The TCPUD reserves the right to charge a review fee commensurate with administrative costs incurred in such review. The TCPUD General Manager or designee has the right to accept, deny or modify proposed modifications. This decision may be appealed to the TCPUD Board of Directors.

10.0 **Street Furniture Maintenance and Replacement:** Street furniture is to be maintained and replaced by the abutting property owner as reasonably required to maintain it in good and safe conditions. Upon the expiration of the one-year warranty of the construction contract, TCPUD will replace light bulbs in street furniture.

11.0 **Obstruction of Sidewalks:** Sidewalks may not be obstructed without the prior approval of the TCPUD. Any activity or use that might obstruct or otherwise impede the normal passage of pedestrians on sidewalks shall be prohibited. Such activities or uses shall include, but not be limited to, the following:

- a) the parking of a motor vehicle, except emergency vehicles, on or over any portion of a sidewalk;
- b) the dumping, depositing, or placing [of] refuse, leaves, or snow upon a sidewalk;
- c) the growth of trees, bushes, or other plants in such a way that any part of the plant growing on or over a sidewalk might impede or obstruct the passage of pedestrians or create a sight distance hazard for uses or the right-of-way.

12.0 **Snow and Ice Removal:** No property owner shall place or cause snow to be placed on the sidewalks. Furthermore, it shall be the duty of every property owner to make a good faith effort to clear the sidewalks and stairways at the perimeter of his/her property from accumulation of snow.

12.1 Every owner of abutting land or sidewalk shall promptly remove and clear away, or cause to be removed and cleared away from the sidewalk, snow, ice and mud from so much of the sidewalk as abuts on the owners' land.

12.2 Snow shall not be allowed to accumulate to a depth of more than four inches during business hours, defined as 8:00 a.m. to 7:00 p.m., seven days a week prior to commencing and diligently providing for its removal. If the standard is violated for longer than a 24-hour period, TCPUD reserves the right, but shall not have a duty, to remove snow and ice at the abutting landowners' cost. This standard applies except in climactic conditions that make it physically impossible to perform the work.

12.3 In the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the abutting property owner, shall, within the time mentioned above, cause enough sand or other approved substances described in Appendix "C" to be adopted by TCPUD by resolution from time to time to be put on the sidewalk to attempt to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause the sidewalk to be thoroughly cleaned. The person or entity charged with its removal shall only use snow and ice melter products approved in writing by TCPUD from time to time as referred in Appendix "D".

12.4 It shall be the duty of every abutting owner to uncover and remove accumulated snow and windrows of snow from over and around fire hydrants. The hydrants shall be uncovered for a distance of not less than three feet on all sides so that the hydrants are accessible for emergency use. Hydrants shall be uncovered within 24 hours of the time they are buried by a plowed windrow of snow or from the time they become buried from drifts.

12.5 No abutting owner shall allow or permit snow or ice to accumulate on, or to project or overhang from, any roof, ledge or other part of the structure or building upon the abutting property where the accumulation, projection or overhang of ice or snow constitutes a hazard or presents a reasonable possibility of sliding off the building onto any sidewalk.

12.6 It shall be a violation of this ordinance for any person to deposit, haul, push, blow or otherwise deposit snow, ice, or mud accumulated on private property onto any sidewalk.

12.7 If the General Manager or his/her designee finds that any portion of a sidewalk has not been cleared of snow ice, mud and other obstructions, the General Manager or his/her designee may elect to provide for the work to be performed at the expense of the landowner or the General Manager may elect to notify the abutting owner to perform the work. Notice is sufficient if hand-delivered or telephoned to the owner, lessee or occupant. If the person so notified fails to remove the snow, ice or mud accumulations as required by the notice from the General Manager or his/her designee, the General Manager or his/her designee may cause the removal of the snow, ice or mud and charge and collect the costs thereof, including administrative costs and District overhead and indirect costs to the abutting property owner.

12.8 The fact that TCPUD has undertaken repair or maintenance of a given area of sidewalk shall not act to relieve the owner of the abutting property from their obligations to clear accumulations of snow, ice or mud under this paragraph or their duties under any other provisions of this ordinance.

13.0 **Sweeping and Cleaning:** Abutting property owners are responsible for keeping the sidewalk free from visible litter, dirt, and organic matter, as determined by the General Manager. Placing materials into the gutter not permitted by Cal Trans is expressly forbidden.

14.0 **Garbage and Litter Removal:** It shall be a violation of this ordinance for any person to store, place, keep or deposit any solid waste or recyclable material on any sidewalk except in a suitable container for collection. All trash receptacles and collection structures shall be emptied by the abutting property owner when contents reach within six inches of the rim, or when noxious contents create odors or a public nuisance or safety hazard.

Littering of the sidewalk is prohibited. Litter is defined to include:

14.1 lighted cigarettes, cigars, ashes, firecrackers or any other flaming or glowing substance;

14.2 any glass bottles, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal or vehicle; and,

14.3 any refuse.

15.0 **Weeds and Adjacent Landscaping or Vegetation:** No abutting property owner shall cause or allow weeds to grow on or through the sidewalk. Plant material on any portion of the sidewalks outside of the planters is prohibited. In addition, plant material in the planters that is not of a species on the approved planting materials list on Appendix "F" adopted by TCPUD by resolution from time to time is prohibited. Removal of the unapproved plant material is the responsibility of the abutting property owner and shall be performed in accordance with all legal requirements.

15.1 The trees, shrubs, hedges or other landscaping shall not interfere with the public convenience or safety in the use of sidewalks. Maintenance of trees, shrubs, hedges and other landscaping includes, but is not limited to, deep root watering, root pruning, installing root barriers, clearance and structural trimming, fertilizing, pest control and removal of branches, leaves and other debris. Owners shall inspect routinely and remove all dead, diseased, or dangerous trees and shrubs, or broken or decayed limbs which constitute a menace to the safety of the public. Abutting property owners shall routinely inspect and maintain any trees, shrubs, hedges or other landscaping on the abutting land in a non-dangerous condition.

15.2 Every owner of any tree or shrub overhanging any portion of the sidewalk, except for the planter box itself, shall prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection. At least a 3½ foot wide by 8½ foot high passageway must be maintained to allow the public to walk along the sidewalk free of obstructions.

15.3 The TCPUD shall have the right but not the duty to prune any tree or shrub on abutting property or in a planter box when it interferes with the proper spread of light along the street from a street light, interferes with visibility of any traffic control device, sign or sight triangle at intersections, or otherwise constitutes a hazard on a sidewalk.

15.4 It shall be unlawful for any person to remove trees situated in the sidewalk and in a planter box without obtaining permission from the TCPUD for that purpose. It shall be unlawful as a normal practice for any person, firm, or government entity to top any tree. Topping is the severe cutting back of limbs to stubs larger than three inches in diameter with the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. All pruning of trees must meet the ISA standards or the California Arborous Association standards. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section as determined by the TCPUD.

15.5 Trees that die or that are severely damaged must be replaced in-kind. The tree species may be replaced by a different species in certain circumstances, as determined by the TCPUD. Plant material on any portion of the sidewalks outside of the planters is prohibited. Plant material in the planters that is not of a species on the approved planting materials list maintained by TCPUD attached as Appendix "E" from time to time is prohibited. Removal of unapproved planting materials from the planter boxes is the responsibility of the abutting owner.

16.0 **Enforcement:** When any portion of the sidewalk, street furniture, vegetation or abutting property affecting the sidewalk is in a condition which violates the terms of this ordinance, the TCPUD General Manager or his/her designee shall notify the abutting owner and/or person in possession of the property abutting the sidewalk of the violation utilizing the procedures provided in Streets and Highways Code Section 5600-5660, *et seq.*, as amended from time to time.

16.1 Those procedures include a requirement that notice to repair be given by delivering a written notice personally to the owner and/or to the person in possession of the property facing upon the sidewalk so out of repair, or by mailing a postal card, postage prepaid, to the person in possession of such property, or to the owner thereof at his/her last known address as the same appears on the last equalized assessment rolls of such city or to the name and address of the person owning such property as shown in the records of the office of the clerk, and posting of notice. The District Board of Directors will resolve all issues appealed to it relating to enforcement or interpretation of this Ordinance.

16.2 District shall adopt and amend Appendices to this Ordinance by resolution from time to time which will specify and determine the following requirements, among other terms and conditions which shall be enforced by TCPUD:

Appendix "A"	Application Instructions and Forms
Appendix "B"	Tahoe City Special Areas Map
Appendix "C"	Record Drawings
Appendix "D"	De-icer Materials Approved by TCPUD
Appendix "E"	Tree Replacement Species
Appendix "F"	List of Approved Groundcover

These Appendices as amended from time to time shall be enforceable as if included within the text of this ordinance.

16.3 If in the reasonable discretion and determination of the General Manager of TCPUD, there is an immediate and urgent need to remedy the violation of this Ordinance, TCPUD may, but shall not have a duty to, provide for performance of the work to remedy or correct the violation at the cost of the abutting property owner and/or occupant of the abutting property without notice prior to performing the work or with notice given in a shorter period than that provided in Section 5600 et seq of the Streets and Highways Code. TCPUD shall be entitled to recover its costs both direct and indirect as well as an administrative cost of fifty percent (50%) of the Districts direct and indirect costs of performing work to attempt to remedy, correct, mitigate, or protect against a violation of this ordinance and interest at the legal rate of interest until District is reimbursed.

16.4 Enforcement of any of the provisions of this ordinance may occur in addition to other means, by civil enforcement means commenced by the TCPUD, or by civil action commenced by adjoining abutting property owners or the occupants or tenants of adjoining abutting property or, if provisions of this ordinance are adopted as part of the Placer County Code, as misdemeanors or infractions under that authority.

16.5 Funding of Deficit Relating to Liability and Enforcement: It is recognized that the costs and expenses of enforcement of the provisions of this Ordinance and/or Encroachment and Use Agreements, may involve substantial expenditure and advance of funds, in advance of the recovery of those funds from abutting landowners who owe the amounts to the District under the terms of this Ordinance. District agrees to advance such funds from the District General Fund without charging interest upon those funds to the Operation & Maintenance Accounts maintained for the Sidewalk. District will not charge the interests or costs upon those advances against the Operation & Maintenance funds collected by the District from all abutting landowners, but instead will hold those amounts, including interest upon those amounts, and recover those amounts and interest thereon from its enforcement actions against abutting landowners who violate the terms and provisions of the Ordinance and/or Encroachment Agreement. The District reserves the right, at such time as the advances exceed, in the reasonable determination of the District, the ability of the District to provide for the advance of such funds, to provide for an election of the landowners benefitting from the sidewalk to provide for the increase in amounts of maintenance, operation, repair and reconstruction assessments in accordance with California law.

17.0 Activities Prohibited on Sidewalks: The following activities are prohibited on the sidewalks:

- 17.1 bicycling
- 17.2 skating (in-line, skateboards, scooters or similar wheeled devices)
- 17.3 horseback riding and horses
- 17.4 skiing, snowshoeing, ice skating, and sledding, sliding or propelling by any other winter sports device.
- 17.5 parking of or operation of any motorized vehicles (except for emergency vehicles)
- 17.6 parking of bicycles, except for those parked in bicycle racks
- 17.7 panhandling
- 17.8 pets not on leashes
- 17.9 vending machines
- 17.10 newspaper racks
- 17.11 advertisements

18.0 Disorderly Conduct: Every person who commits any of the following acts on the sidewalk is guilty of disorderly conduct, a misdemeanor:

18.1 Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

18.2 Who loiters or wanders upon the sidewalk or streets or from place to place without apparent reason or business and who refuses to identify himself or herself and to account for his or her presence when requested by any peace officer so to do, if the surrounding circumstances would indicate to a reasonable person that the public safety demands this identification.

THIS ORDINANCE is passed and adopted this 19th day of January, 2001, at a regular meeting of the Board of Directors of the Tahoe City Public Utility District, and shall be published and posted as provided in Public Utilities Code Section 16075, and shall become effective thirty (30) days following the date of adoption, except if a petition shall be filed as provided by law, in which case the ordinance shall be suspended as provided in Section 16801, *et seq.*, and effective thereafter if the conditions of Section 16083 of the Public Utilities Code are complied with; adopted by the following vote:

AYES: Directors Treabess, Winter, Reinkens, Atchley, Henrikson

NOES: None

ABSENT: None

TAHOE CITY PUBLIC UTILITY DISTRICT

By: 
Ron Treabess, President

I, Dee A. Malone, District Clerk & Ex-officio Secretary of the Board of Directors of the Tahoe City Public Utility District, do attest that the above Ordinance No. 240 is a true and correct copy of the Ordinance and the Exhibits attached thereto adopted by the above vote of the Board of Directors, constituting a majority of the Board of Directors, and remains in full force and effect and has not been rescinded or amended.

Dated: 1/19/01


District Clerk & Ex-officio Secretary thereof
Tahoe City Public Utility District

APPENDIX A
Application Instructions and Form

CERTIFICATES

(1) Filed in the office of the Clerk of the Tahoe City Public Utility District, County of Placer, State of California, this 7th day of April, 1997.

SUZANNE K. SCHMIDT
Clerk of the
Tahoe City Public Utility District

(2) Recorded in the office of the Clerk of the Tahoe City Public Utility District this _____ day of _____, 199__.

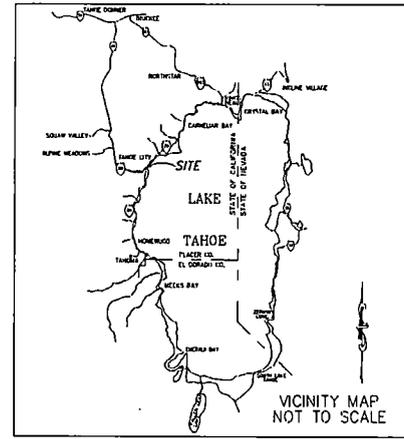
SUZANNE K. SCHMIDT
Clerk of the
Tahoe City Public Utility District

(3) An assessment was levied by the Board of Directors of the Tahoe City Public Utility District, County of Placer, State of California, on the lots, pieces and parcels of land shown on this assessment diagram. Said assessment was levied on the _____ day of _____, 199__. Said assessment diagram and the assessment roll were recorded in the office of the Clerk of the Tahoe City Public Utility District on the _____ day of _____, 199__. Reference is made to the assessment roll recorded in the office of the Clerk of the Tahoe City Public Utility District for the exact amount of each assessment levied against each parcel of land shown on this assessment diagram.

SUZANNE K. SCHMIDT
Clerk of the
Tahoe City Public Utility District

KEY TO PARCELS

KEY NO.	ASSESSOR'S PARCEL NO.								
1	094-070-001-000	21	094-090-011-000	41	094-095-035-000	61	094-110-009-000	81	094-130-008-000
2	094-070-002-000	22	094-090-001-000	42	094-090-036-000	62	094-110-010-000	82	094-130-004-000
3	094-070-003-000	23	094-090-008-000	43	094-090-037-000	63	094-110-011-000	83	094-130-005-000
4	094-070-004-000	24	094-090-009-000	44	094-090-038-000	64	094-110-012-000	84	094-130-006-000
5	094-070-005-000	25	094-090-010-000	45	094-090-039-000	65	094-110-013-000	85	094-130-007-000
6	094-070-006-000	26	094-090-011-000	46	094-090-040-000	66	094-110-014-000	86	094-130-009-000
7	094-070-007-000	27	094-090-012-000	47	094-090-041-000	67	094-110-015-000	87	094-130-010-000
8	094-070-008-000	28	094-090-013-000	48	094-103-001-000	68	094-110-016-000	88	094-130-011-000
9	094-070-009-000	29	094-090-014-000	49	094-103-002-000	69	094-110-018-000	89	094-130-012-000
10	094-070-010-000	30	094-090-015-000	50	094-103-003-000	70	094-110-019-000	90	094-130-013-000
11	094-070-011-000	31	094-090-016-000	51	094-103-004-000	71	094-110-021-000	91	094-130-015-000
12	094-070-013-000	32	094-090-017-000	52	094-103-005-000	72	094-110-023-000	92	094-130-016-000
13	094-070-014-000	33	094-090-018-000	53	094-110-001-000	73	094-110-024-000	93	094-130-017-000
14	094-070-015-000	34	094-090-019-000	54	094-110-002-000	74	094-110-025-000	94	094-130-021-000
15	094-080-002-000	35	094-090-024-000	55	094-110-003-000	75	094-130-001-000	95	094-130-022-000
16	094-080-003-000	36	094-090-026-000	56	094-110-004-000	76	094-130-003-000	96	094-130-025-000
17	094-080-004-000	37	094-090-027-000	57	094-110-005-000	77	094-130-004-000	97	094-130-026-000
18	094-080-005-000	38	094-090-029-000	58	094-110-006-000	78	094-130-005-000	98	094-130-028-000
19	094-080-009-000	39	094-090-030-000	59	094-110-007-000	79	094-130-006-000	99	094-130-029-000
20	094-080-010-000	40	094-090-031-000	60	094-110-008-000	80	094-130-007-000		
		150	094-510-001-000	155	094-540-007-000	161	094-540-015-000		
		151	094-510-002-000	156	094-540-008-000	162	094-540-016-000		
		152	094-540-004-000	157	094-540-009-000	163	094-540-017-000		
		153	094-540-005-000	158	094-540-010-000	164	094-540-018-000		
		154	094-540-006-000	159	094-540-013-000	165	094-540-020-000		
		160	094-540-014-000						

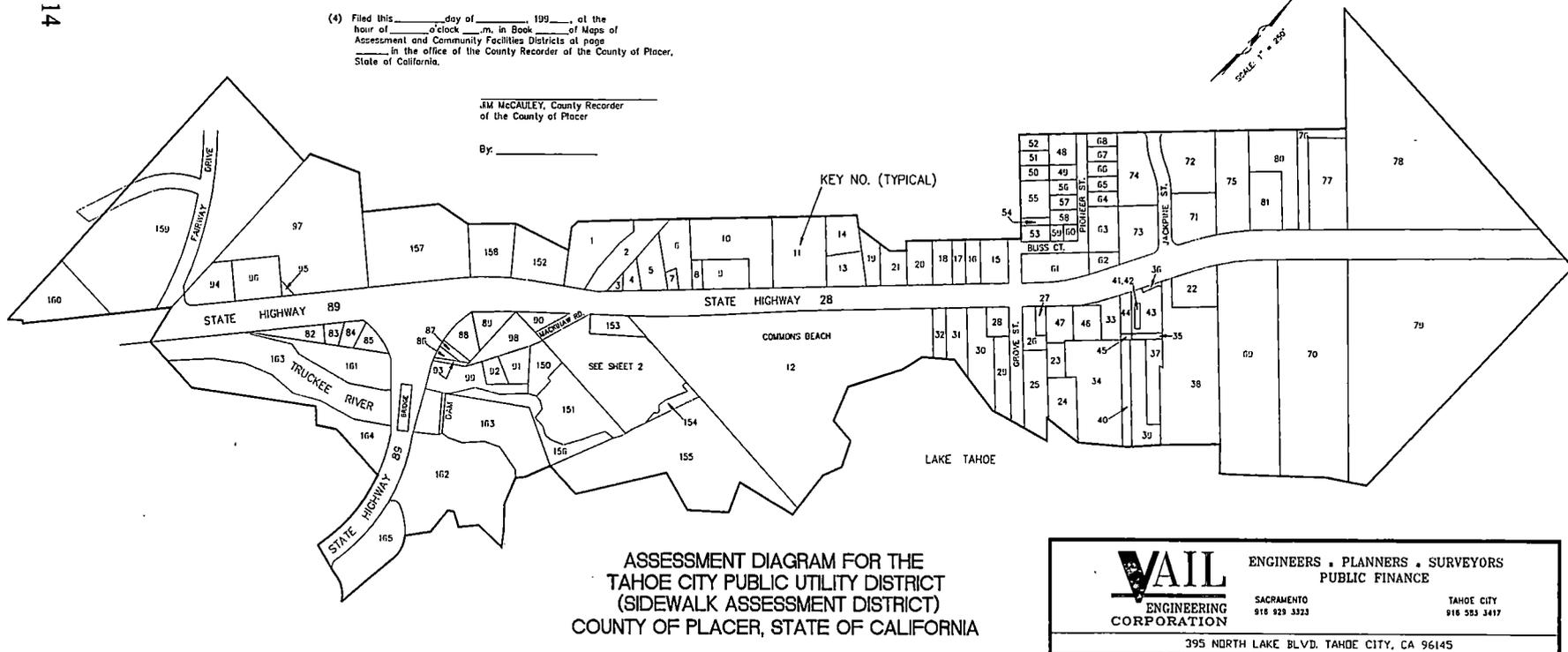


APPENDIX B
Tahoe City Special Areas Map
1 of 2

(4) Filed this _____ day of _____, 199__, at the hour of _____ o'clock _____ m., in Book _____ of Maps of Assessment and Community Facilities Districts at page _____ in the office of the County Recorder of the County of Placer, State of California.

J.M. McCauley, County Recorder
of the County of Placer

By: _____

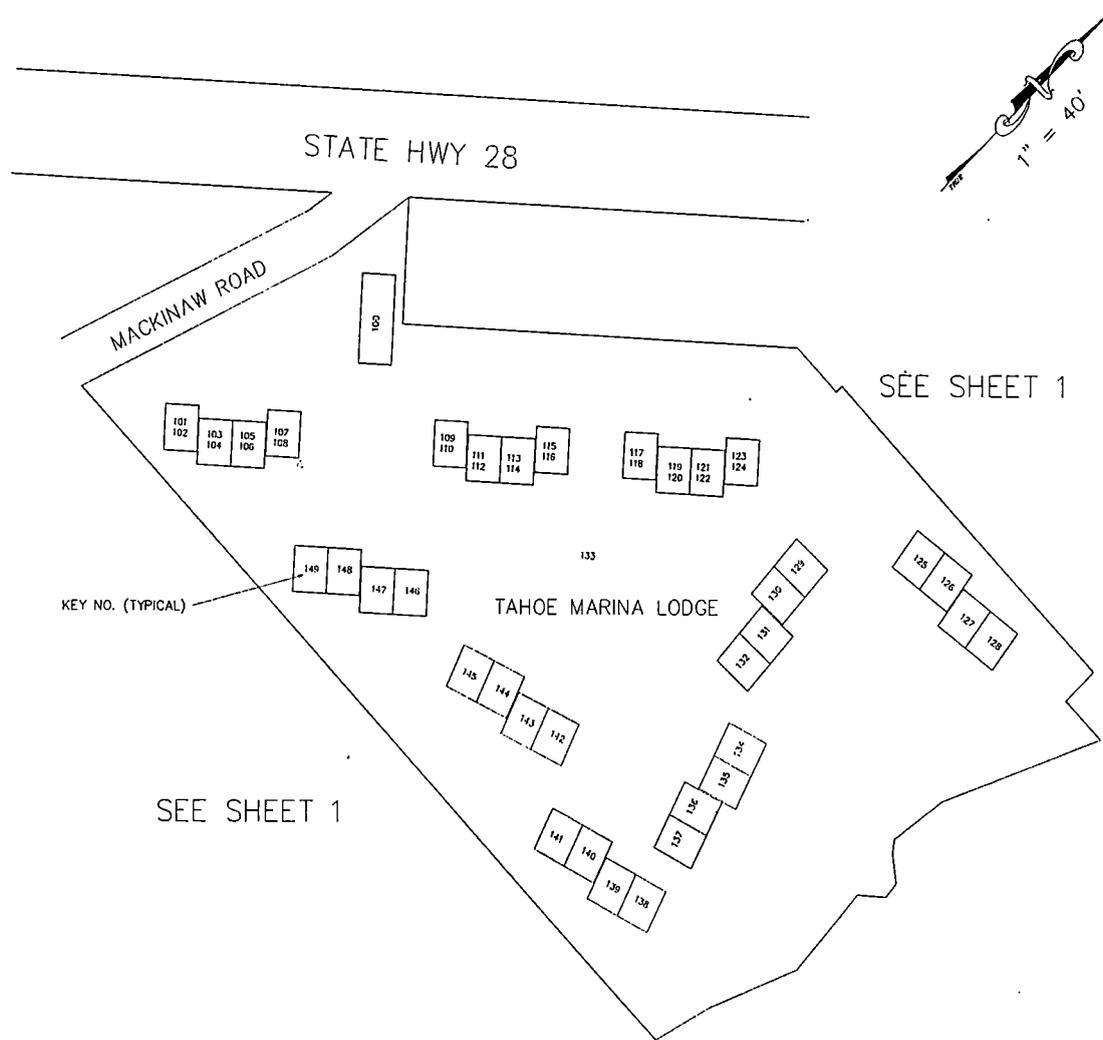


ASSESSMENT DIAGRAM FOR THE TAHOE CITY PUBLIC UTILITY DISTRICT (SIDEWALK ASSESSMENT DISTRICT) COUNTY OF PLACER, STATE OF CALIFORNIA

VAIL ENGINEERING CORPORATION
ENGINEERS • PLANNERS • SURVEYORS
PUBLIC FINANCE
SACRAMENTO 916 929 3323 TAHOE CITY 916 583 3417
395 NORTH LAKE BLVD. TAHOE CITY, CA 96145

KEY TO PARCELS

KEY NO.	ASSESSOR'S PARCEL NO.
100	94-500-001-000
101	94-500-002-510
102	94-500-012-520
103	94-500-003-510
104	94-500-003-520
105	94-500-004-510
106	94-500-004-520
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145	94-500-034-000
146	94-500-035-000
147	94-500-036-000
148	94-500-037-000
149	94-500-038-000



KEY NO. (TYPICAL)

ASSESSMENT DIAGRAM FOR THE
 TAHOE CITY PUBLIC UTILITY DISTRICT
 (SIDEWALK ASSESSMENT DISTRICT)
 COUNTY OF PLACER, STATE OF CALIFORNIA

 VAIL ENGINEERING CORPORATION	ENGINEERS • PLANNERS • SURVEYORS PUBLIC FINANCE
	SACRAMENTO 916 929 3323
395 NORTH LAKE BLVD. TAHOE CITY, CA 96145	

APPENDIX C
Record Drawings
(to be added upon the completion of the Urban Improvement Phase 2 Project)

APPENDIX D
De-icer Materials approved by TCPUD

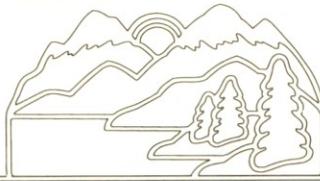
1. Superior Snow-N-Ice Melter® by CP Industries;
2. Ice Fighter Plus® by Morgro, Inc.
3. Snow Plow™.

APPENDIX E
Tree Replacement Species

Trees that die or that are severely damaged must be replaced in-kind. The tree species may be replaced by a different species in certain circumstances, as determined by TCPUD.

APPENDIX F
List of Approved Groundcover

Ground Cover, Shrubs and Wildflowers	
Botanical Name	Common Name
<i>Acer glabrum</i>	Mountain Maple
<i>Alnus tenuifolia</i>	Mountain Alder
<i>Amelanchier alnifolia</i>	Western Serviceberry
<i>Aquilegia formosa</i>	Columbine
<i>Arctostaphylos nevadensis</i>	Pinemat Manzanita
<i>Arctostaphylos patula</i>	Green Leaf Manzanita
<i>Artemisia tridentata</i>	Sagebrush
<i>Astanopsis sempervirens</i>	Rush Chinquapin
<i>Ceanothus cordulata</i>	Show Brush
<i>Ceanothus prostratus</i>	Squaw Carpet
<i>Ceanothus velutinus</i>	Tobacco Brush
<i>Chrysothamnus nauseosus</i>	Rabbitbrush
<i>Cornus stonolifera</i>	Red Stem Dogwood
<i>Delphinium glaucum</i>	Larkspur
<i>Eriogonum umbellatum</i>	Sulphur Flower
<i>Lilium parvum</i>	Leopard Lily
<i>Lupinus breweri</i>	Lupine
<i>Penstemon heterodoxus</i>	Sierra Penstemon
<i>Penstemon newberryi</i>	Mountain Pride
<i>Potentilla fruticosa</i>	Cinquefoil
<i>Prunus demissa</i>	Western Chokeberry
<i>Purshia tridentata</i>	Bitterbrush
<i>Quercus vaccinifolia</i>	Huckleberry Oak
<i>Ribes nevadensis</i>	Sierra Current
<i>Ribes roezlii</i> Sierra	Gooseberry
<i>Rosa woodsii</i>	Mountain Rose
<i>Rubus parviflorus</i>	Thimbleberry
<i>Salix lemmonii</i>	Stream Willow
<i>Salix</i> spp.	Willow
<i>Sambucus microbotrys</i>	Elderberry
<i>Spiraea densiflora</i>	Mountain Spiraea
<i>Symphoricarpos albus</i>	Snowberry



Tahoe City Public Utility District

January 25, 2001

Tahoe World
P.O. Box 138
Tahoe City, CA. 96145

RE: LEGAL AD – **Ordinance #240 - Ordinance Governing Use, Maintenance, Repair Reconstruction and Liability Relating to Sidewalks in the Tahoe City Area**

Please publish the attached notice in the legal section of the **February 1, 2001** issues of the Tahoe World and the Tahoe Daily Tribune, or as close to this date as possible.

Please provide two **original** affidavits of publication for each newspaper for our files.

Thank you,

Dee A. Malone
District Clerk

DAM:ma

attachment

RECEIVED

MAR - 1 2001

TAHOE CITY
P.U.D.

TAHOE CITY PUBLIC UTILITY DISTRICT
ORDINANCE GOVERNING USE, MAINTENANCE, REPAIR, RECONSTRUCTION AND LIABILITY RELATING TO SIDEWALKS IN THE TAHOE CITY AREA

Ordinance No. 240

Adopted January 19, 2001

Tahoe World
PO Box 138
Tahoe City, CA 96145
Proof of Publication
Tahoe World

Tahoe City Public Utility Dist
PO BOX 33
Tahoe City CA 96145

REFERENCE: w-tcpud
502412 37503066 Ordinance 2

STATE OF CALIFORNIA

County of Placer

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of THE TAHOE WORLD, a newspaper of general circulation, printed and published in Tahoe City, County of Placer and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Placer, State of California, under date of September 14, 1964, Case Number 27,114; that the notice, of which the annexed is a printed copy [set in type not smaller than nonpareil] has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

All in the year 2000

PUBLISHED ON: 02/15

TOTAL COST: 870.75
FILED ON: 02/15/01

I certify [or declare] under penalty that the foregoing is true and correct.

Signature: Michelle Sissen

Date: 02/16/01

Be it enacted by the Board of Directors of the Tahoe City Public Utility District, TCPUD, the following Ordinance entitled "Ordinance Governing Use, Maintenance, Repair, Reconstruction and Liability Relating to Sidewalks in the Tahoe City Area" shall be effective on the date the Board of Directors accepts by official action a Bill of Sale to sidewalk improvements, but not earlier than thirty (30) days following adoption of this Ordinance. The Ordinance provides and requires as follows:

1.0 Purpose of Ordinance: The purpose of this ordinance is to enforce the agreement that exists between the TCPUD and commercial property owners, vacant property owners, or owners with other uses in the Tahoe City downtown area, which agreement led to the construction and installation of curbs, sidewalks, and associated improvements. The ordinance attempts to ensure the District has the authority to protect the community's substantial investment in the sidewalk improvements and to protect individual property owners from adjacent neighbors that may be delinquent with respect to their responsibilities regarding the sidewalks, by providing mechanisms to attempt to cause the sidewalks and associated improvements to be maintained to a predetermined standard. The ordinance prescribes measures to apportion liability for costs, defense costs, claims and damages connected or related to the sidewalk, to limit District's liability regarding maintenance of the sidewalk facility, and to provide for collection of costs incurred if abutting landowners do not repair and maintain the sidewalk.

2.0 Definitions: For purposes of this ordinance, unless otherwise apparent from the context, certain words and phrases used herein are defined as follows: **2.1 "Board"** means the elected members of the Tahoe City Public Utility District's Board of Directors. **2.2 "Encroachment"** means any structure or object of any kind or character placed, without authority of law or permit from TCPUD, either on, in, over or under any easement for sidewalk purposes owned by the TCPUD. **2.3 "General Manager"** means the person appointed by the Tahoe City Public Utility District's Board responsible for all operations of the TCPUD. Within the ordinance, where

the term General Manager is used, it also means the person(s) s/he designates to conduct a specific task.

2.4 "Sidewalk" means the areas overlying the District ownership of Real Property improved with sidewalks paved with concrete, asphaltic concrete, mortared stone, mortared rock, mortared brick, including a park or parking strip located in the area overlying the easement for sidewalk purposes of the TCPUD and between the easement line and the street line, and also including curbing located within the sidewalk area, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip (California Streets and Highways Code, Section 5600). For all purposes of this ordinance, the phrase "sidewalk" shall include "street furniture", unless a contrary specific statement is included in the provision. The concrete gutter, curb face and upper ledge forming the top of the curb are the property of CalTrans and will be maintained by CalTrans, and is not a part of the "sidewalk".

2.5 "Street Furniture" means all amenities placed on or in the sidewalk with written authority of District for public use and/or to enhance the beauty of the public space. These include: trees, landscaping, benches, bollards, light fixtures and posts, planters and trash receptacles.

2.6 "TCPUD" means the Tahoe City Public Utility District. **2.7 "Abutting property" or "abutting lands"** means the lands adjacent to the sidewalk easement of TCPUD fronting on the sidewalk, which sidewalk lies between the street or road and the abutting lands, the extension of which property lines of the adjacent lands to the street delineates the portion of the sidewalk to which the abutting property or abutting lands have responsibility under this ordinance. **2.8 "Abutting landowner" or "abutting property owner"** means the owner of the "abutting property" or "abutting lands".

3.0 Permits for Use or Encroachment Upon Sidewalks:

All sales activities, commercial or other organized use of the sidewalks, including but not limited to sales, commercial storage, special events, community events, athletic events, entertainment activities, location of temporary or permanent encroachments, storage of materials, location of signs, displays, or other uses of the area of the sidewalk or its surface, are prohibited, unless the use is pursuant to a written permit issued by TCPUD in advance of the use and the use conforms to the terms of the Permit authorized by the

General Manager for temporary encroachment upon and use of the sidewalk. **3.1 Permit Authorization Process:** The TCPUD requires submission of a written application to receive a permit for temporary use of the sidewalk. Completed permit applications shall be submitted to the TCPUD no later than 45 days prior to the date of the proposed use of the sidewalks. A sample application with instructions is included in Appendix "A" adopted by Resolution of the District from time to time. **3.2 Permit Decisions:** Permit decisions shall be made by the General Manager, and shall be appealable to the Board of Directors of TCPUD. A \$300.00 minimum non-refundable application fee deposit is required to be accompanied with the application. The complete deposit and fee shall be commensurate with the cost of administrative staff time necessary to process the permit, and the processing fee shall be paid whether or not the per-

mit is granted or accepted by the applicant. TCPUD may charge a fee proportionate to the gross revenues generated by commercial activity allowed on the sidewalks. TCPUD may require an advance deposit as compensation for potential cleaning costs or security or other possible costs. The amount of the deposit fee shall reflect all relevant factors, including the length of time of the encroachment and the estimated disturbance or risks. **3.3 Permit Appeal:** If a permit is not approved by the General Manager, the applicant can appeal the decision to the TCPUD Board. The applicant shall submit an appeal in writing. The Board shall review the appeal and decide if a permit will be approved. An applicant may only appeal a permit application decision one time. No right to require a special meeting of the TCPUD Board of Directors to consider an appeal shall exist. If an appeal cannot be heard at a regular Board meeting of TCPUD before the proposed event or use, the appeal shall be deemed denied without a hearing.

4.0 Permit Revocation: The General Manager may initiate proceedings to revoke any permit issued, in any case where it is determined that the permit was obtained through misrepresentation, or where a use of the sidewalk or abutting land has been established or is conducted in a manner that violates or fails to comply with the provisions of this ordinance or condition of approval of the permit, or where the use of the sidewalk land is undertaken in violation of any local, state, or federal law which affects the health, safety, peace, morals or general welfare of the public. **4.1 Notice of Pending Revocation.** The General Manager shall notify the permittee of the intended revocation of the approval of a permit at least 7 days before a revocation hearing, except in the case of emergency conditions when 24 hours' notice may be given as follows. Such notice shall contain the following: **4.1.1** A heading reading, "Notice of Revocation" **4.1.2** The provisions and/or conditions violated and the means to correct the violation(s), if any. **4.1.3** The date and place of the revocation hearing, if one is requested by the permit holder. **4.2** Before the revocation shall be effective of an approved permit, if a hearing is requested in writing by the permit holder prior to the effective date specified in the notice of revocation, a hearing shall be conducted by the Board of Directors or a committee of two Board members appointed by the Chairman of the Board. **4.3** If, after the revocation hearing has been conducted, the hearing body finds that grounds for revocation have been established, the hearing body may: **4.3.1** Allow the permittee additional time to correct the violation or non-com-

pliance; or, **4.3.2** Refer to the hearing body, or **4.3.3** Refer to the full Board to consider modification of conditions of approval of the permit on the basis of evidence presented at the hearing, or to take other action; or, **4.3.4** Confirm the revocation or partial revocation of the permit by the General Manager and order the discontinuance or removal of the approved use within the time specified by the hearing body. **4.4** The burden of providing that grounds for revocation of the permit do not exist shall be upon the permit holder. If there is substantial evidence that the permit should be revoked, whether presented by TCPUD representatives, the permit holder or others, the revocation may be confirmed on the basis of the evidence presented at the hearing. It shall be a condition of each permit that the permit holder waives by acceptance of the permit any claims or causes of action for damages, liability or specific enforcement. If the permit is revoked or amended, the hearing provided herein shall be the permit holders' sole and exclusive remedy.

5.0 Signage: No person shall erect, alter, maintain, or relocate a permanent or temporary sign on or over the sidewalk, except with a written permit from TCPUD and obtaining any other authority required, including TRPA and Placer County authority. "Signs" may include, without excluding others, the following: **5.1** A-frame Signs: Any portable sign or structure composed of two sign surfaces mounted or attached back to back in such a manner as to form a basically triangular vertical cross section through the faces. **5.2** Mobile or Portable Signs: A sign not permanently attached to the ground or building is prohibited and permit applications will not be accepted for such uses.

6.0 Tenants/Lessees of Abutting Lands: If the abutting owner leases, licenses or otherwise provides to third parties the right to occupy all or portions of the abutting lands of owner, those users or occupants shall be jointly and severally liable and responsible to perform all of the obligations of this Ordinance with the owners of the abutting land.

7.0 Noise Restrictions from Activities Conducted upon Sidewalks: No person or abutting landowner shall use loudspeakers or similar devices for amplifying sound outdoors for the purpose of advertising products or services to persons utilizing or located upon the sidewalk or to attract patrons. Specific maximum cumulative noise levels for community noise levels in specific areas of Tahoe City to be described in an Appendix "B" to be adopted by the TCPUD from time to time are as follows: **7.1** Where applicable, a maximum 55 CNEL override for the Highway 28 and Highway 89 corridors is permissible. **7.2** The maximum CNEL for Special Areas #3 and #4 and #5 is 55 CNEL (see Appendix B for Tahoe City Special Areas Map). **7.3** The maximum CNEL for all areas of the community plan except as noted in 1 and 2 above is 65 CNEL. **7.4**

The maximum CNEL for Shorezone Tolerance Districts 4, 6, and 7 is 55 CNEL and the maximum for the lakezone is 50 CNEL.

8.0 Sidewalk Maintenance and Repair: The owners of lots or portions of lots abutting on any portion of a sidewalk as to the area of the sidewalk located between the extension of the owners' abutting property lines to the street or road, including sidewalks, gutters and sidewalk furniture, and persons in possession of such abutting lands by virtue of any lease, contract or other form of right shall be jointly and severally obligated to and bound by this ordinance to maintain and repair such sidewalk areas

and sidewalk furniture situated between the extensions of the property lines and to pay all costs and expenses thereof as provided herein. **8.1 Maintenance and Repair of Sidewalks:** The maintenance and repair of sidewalks shall include all reasonable measures to promptly inspect, remove and correct defects or dangerous conditions, but not limited to maintenance and repair of surfaces including grading, re-leveling, re-surfacing, removal and replacement of sidewalks, pavers or portions and there- removal and filling or replacement or repair of sidewalk furniture, trees and landscaping and snow removal. **8.2 Displacement:** A sidewalk shall be repaired if it is in any of the following conditions: vertical displacement between adjacent pavers or between pavers and adjacent concrete, or gouges in pavers or concrete surfaces, of more than 0.25 inches. Walking surface cross-slopes shall not exceed 1/4 inch per foot. In areas of curb ramps slope shall not exceed 1:12 and vertical rise shall not exceed six inches. **8.3 TCPUD may Perform:** If the TCPUD General Manager determines that sidewalk, materials or substances deposited on the sidewalk, street furniture including trees or vegetation creates an imminent public safety hazard, the TCPUD may, but is not required to, remedy the conditions forthwith at the cost of Abutting Owner. **8.4 No Extension of Duty to General Public; Duty Owed to District:** In accordance with Streets & Highway Code Section 5610 et seq. this Ordinance and Abutting Landowners' duties thereunder shall not be deemed to create a duty of care to the general public or to third parties relating to potential injuries or damages arising from use of the sidewalk. This Ordinance shall establish certain duties owed by Abutting Landowners to District. If District incurs attorneys' fees, costs, expenses, liability or judgments because of third party claims against District, its employees, Directors, agents or independent contractors which claims arise from or are caused directly or indirectly by a breach of this Ordinance or a breach of other duties owed to District under the law by Abutting Landowner, District may commence legal action through civil proceedings for damages, indemnity, contribution or any similar or related legal or equitable remedy. Unless a judgment is entered against an Abutting Landowner upon those claims, District will not add those civil claims as a lien upon the real property of the Abutting Landowner. The occurrence of an injury or damage relating to the sidewalks or sidewalk furniture shall give rise to written notice by the Landowner, District or Abutting Tenant or possessor having notice of the event and circumstances to the other described persons and to District.

9.0 Sidewalk and Street Furniture Modifications: The alteration or removal of the sidewalk or street furniture by any person or entity without the prior written approval of the TCPUD is prohibited. Abutting property owners wishing to modify the design of a portion of the sidewalk or associated street furniture shall prepare and provide to the TCPUD General Manager or designee a set of engineered plans for proposed modifications. The TCPUD reserves the right to charge a review fee commensurate with administrative costs incurred in such review. The TCPUD General Manager or designee has the right to accept, deny or modify proposed modifications. This decision may be appealed to the TCPUD Board of Directors.

10.0 Street Furniture Maintenance and Replacement: Street furniture is to be maintained and replaced by the abutting property owner as reasonably required

to maintain it in good and safe conditions. Upon the expiration of the one-year warranty of the construction contract, TCPUD will replace light bulbs in street furniture.

11.0 Obstruction of Sidewalks: Sidewalks may not be obstructed without the prior approval of the TCPUD. Any activity or use that might obstruct or otherwise impede the normal passage of pedestrians on sidewalks shall be prohibited. Such activities or uses shall include, but not be limited to, the following: **a)** the parking of a motor vehicle, except emergency vehicles, on or over any portion of a sidewalk; **b)** the dumping, depositing, or placing [of] refuse, leaves, or snow upon a sidewalk; **c)** the growth of trees, bushes, or other plants in such a way that any part of the plant growing on or over a sidewalk might impede or obstruct the passage of pedestrians or create a sight distance hazard for uses or the right-of-way. **12.0 Snow and Ice Removal:** No property owner shall place or cause snow to be placed on the sidewalks. Furthermore, it shall be the duty of every property owner to make a good faith effort to clear the sidewalks and stairways at the perimeter of his/her property from accumulation of snow. **12.1** Every owner of abutting land or sidewalk shall promptly remove and clear away, or cause to be removed and cleared away

from the sidewalk, snow, ice and mud from so much of the sidewalk as abuts on the owners' land. **12.2** Snow shall not be allowed to accumulate to a depth of more than four inches during business hours, defined as 8:00 a.m. to 7:00 p.m., seven days a week prior to commencing and diligently providing for its removal. If the standard is violated for longer than a 24-hour period, TCPUD reserves the right, but shall not have a duty, to remove snow and ice at the abutting landowners' cost. This standard applies except in climactic conditions that make it physically impossible to perform the work. **12.3** In the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the abutting property owner, shall, within the time mentioned above, cause enough sand or other approved substances described in Appendix "C" to be adopted by TCPUD by resolution from time to time to be put on the sidewalk to attempt to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause the sidewalk to be thoroughly cleaned. The person or entity charged with its removal shall only use snow and ice melter products approved in writing by TCPUD from time to time as referred in Appendix "D". **12.4** It shall be the duty of every abutting owner to uncover and remove accumulated snow and windrows of snow from over and around fire hydrants. The hydrants shall be uncovered for a distance of not less than three feet on all sides so that the hydrants are accessible for emergency use. Hydrants shall be uncovered within 24 hours of the time they are buried by a plowed windrow of snow or from the time they become buried from drifts. **12.5** No abutting owner shall allow or permit snow or ice to accumulate on, or to project or overhang from, any roof, ledge or other part of the structure or building upon the abutting property where the accumulation, projection or overhang of ice or snow constitutes a hazard or presents a reasonable possibility of sliding off the building onto any sidewalk. **12.6** It shall be a violation of this ordinance for any person to deposit, haul, push, blow or otherwise deposit snow, ice, or mud accumulated on private property onto any sidewalk. **12.7** If the General

Manager or his/her designee finds that any portion of a sidewalk has not been cleared of snow ice, mud and other obstructions, the General Manager or his/her designee may elect to provide for the work to be performed at the expense of the landowner or the General Manager may elect to notify the abutting owner to perform the work. Notice is sufficient if hand-delivered or telephoned to the owner, lessee or occupant. If the person so notified fails to remove the snow, ice or mud accumulations as required by the notice from the General Manager or his/her designee, the General Manager or his/her designee may cause the removal of the snow, ice or mud and charge and collect the costs thereof, including administrative costs and District overhead and indirect costs to the abutting property owner. **12.8** The fact that TCPUD has undertaken repair or maintenance of a given area of sidewalk shall not act to relieve the owner of the abutting property from their obligations to clear accumulations of snow, ice or mud under this paragraph or their duties under any other provisions of this ordinance.

13.0 Sweeping and Cleaning: Abutting property owners are responsible for keeping the sidewalk free from visible litter, dirt, and organic matter, as determined by the General Manager. Placing materials into the gutter not permitted by CalTrans is expressly forbidden.

14.0 Garbage and Litter Removal: It shall be a violation of this ordinance for any person to store, place, keep or deposit any solid waste or recyclable material on any sidewalk except in a suitable container for collection. All trash receptacles and collection structures shall be emptied by the abutting property owner when contents reach within six inches of the rim, or when noxious contents create odors or a public nuisance or safety hazard. Littering of the sidewalk is prohibited. Litter is defined to include: **14.1** lighted cigarettes, cigars, ashes, firecrackers or any other flaming or glowing substance; **14.2** any glass bottles, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal or vehicle; and, **14.3** any refuse.

15.0 Weeds and Adjacent Landscaping or Vegetation: No abutting property owner shall cause or allow weeds to grow on or through the sidewalk. Plant material on any portion of the sidewalks outside of the planters is prohibited. In addition, plant material in the planters that is not of a species on the approved planting materials list on Appendix "F" adopted by TCPUD by resolution from time to time is prohibited. Removal of the unapproved plant material is the responsibility of the abutting property owner and shall be performed in accordance with all legal requirements. **15.1** The trees, shrubs, hedges or other landscaping shall not interfere with the public convenience or safety in the use of sidewalks. Maintenance of trees, shrubs, hedges and other landscaping includes, but is not limited to, deep root watering, root pruning, installing root barriers, clearance and structural trimming, fertilizing, pest control and removal of branches, leaves and other debris. Owners shall inspect routinely and remove all dead, diseased, or dangerous trees and shrubs, or broken or decayed limbs which constitute a menace to the safety of the public. Abutting property owners shall routinely inspect and maintain any trees, shrubs, hedges or other landscaping on

the abutting land in a non-dangerous condition. **15.2** Every owner of any tree or shrub overhanging any portion of the sidewalk, except for the planter box itself, shall prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection. At least a 3 foot wide by 8 foot high passageway must be maintained to allow the public to walk along the sidewalk free of obstructions. **15.3** The TCPUD shall have the right but not the duty to prune any tree or shrub on abutting property or in a planter box when it interferes with the proper spread of light along the street from a street light, interferes with visibility of any traffic control device, sign or sight triangle at intersections, or otherwise constitutes a hazard on a sidewalk. **15.4** It shall be unlawful for any person to remove trees situated in the sidewalk and in a planter box without obtaining permission from the TCPUD for that purpose. It shall be unlawful as a normal practice for any person, firm, or government entity to top any tree. Topping is the severe cutting back of limbs to stubs larger than three inches in diameter with the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. All pruning of trees must meet the ISA standards or the California Arborous Association standards. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section as determined by the TCPUD. **15.5** Trees that die or that are severely damaged must be replaced in-kind. The tree species may be replaced by a different species in certain circumstances, as determined by the TCPUD. Plant material on any portion of the sidewalks outside of the planters is prohibited. Plant material in the planters that is not of a species on the approved planting materials list maintained by TCPUD attached as Appendix "E" from time to time is prohibited. Removal of unapproved planting materials from the planter boxes is the responsibility of the abutting owner.

16.0 Enforcement: When any portion of the sidewalk, street furniture, vegetation or abutting property affecting the sidewalk is in a condition which violates the terms of this ordinance, the TCPUD General Manager or his/her designee shall notify the abutting owner and/or person in possession of the property abutting the sidewalk of the violation utilizing the procedures provided in Streets and Highways Code Section 5600-5660, et seq., as amended from time to time. **16.1** Those procedures include a requirement that notice to repair be given by delivering a written notice personally to the owner and/or to the person in possession of the property facing upon the sidewalk so out of repair, or by mailing a postal card, postage prepaid, to the person in possession of such property, or to the owner thereof at his/her last known address as the same appears on the last equalized assessment rolls of such city or to the name and address of the person owning such property as shown in the records of the office of the clerk, and posting of notice. The District Board of Directors will resolve all issues appealed to it relating to enforcement or interpretation of this Ordinance. **16.2** District shall adopt and amend Appendices to this Ordinance by resolution from time to time which will specify and determine the following requirements, among other terms and conditions which shall be enforced by TCPUD: Appendix "A" Application

Instructions and Form Appendix "B" Tahoe City Special Areas Map Appendix "C" Record Drawings Appendix "D" De-icer Materials Approved by TCPUD Appendix "E" Tree Replacement Species Appendix "F" List of Approved Groundcover These Appendices as amended from time to time shall be enforceable as if included within the text of this ordinance. **16.3** If in the reasonable discretion and determination of the General Manager of TCPUD, there is an immediate and urgent need to remedy the violation of this Ordinance, TCPUD may, but shall not have a duty to, provide for performance of the work to remedy or correct the violation at the cost of the abutting property owner and/or occupant of the abutting property without notice prior to performing the work or with notice given in a shorter period than that provided in Section 5600 et seq of the Streets and Highways Code. TCPUD shall be entitled to recover its costs both direct and indirect as well as an administrative cost of fifty percent (50%) of the Districts direct and indirect costs of performing work to attempt to remedy, correct, mitigate, or protect against a violation of this ordinance and interest at the legal rate of interest until District is reimbursed. **16.4** Enforcement of any of the provisions of this ordinance may occur in addition to other means, by civil enforcement means commenced by the TCPUD, or by civil action commenced by adjoining abutting property owners or the occupants or tenants of adjoining abutting property or, if provisions of this ordinance are adopted as part of the Placer County Code, as misdemeanors or infractions under that authority. **16.5 Funding of Deficit Relating to Liability and Enforcement:** It is recognized that the costs and expenses of enforcement of the provisions of this Ordinance and/or Encroachment and Use Agreements, may involve substantial expenditure and advance of funds, in advance of the recovery of those funds from abutting landowners who owe the amounts to the District under the terms of this Ordinance. District agrees to advance such funds from the District General Fund without charging interest

upon those funds to the Operation & Maintenance Accounts maintained for the Sidewalk. District will not charge the interests or costs upon those advances against the Operation & Maintenance funds collected by the District from all abutting landowners, but instead will hold those amounts, including interest upon those amounts, and recover those amounts and interest thereon from its enforcement actions against abutting landowners who violate the terms and provisions of the Ordinance and/or Encroachment Agreement. The District reserves the right, at such time as the advances exceed, in the reasonable determination of the District, the ability of the District to provide for the advance of such funds, to provide for an election of the landowners benefiting from the sidewalk to provide for the increase in amounts of maintenance, operation, repair and reconstruction assessments in accordance with California law.

17.0 Activities Prohibited on Sidewalks: The following activities are prohibited on the sidewalks: **17.1** bicycling **17.2** skating (in-line, skateboards, scooters or similar wheeled devices) **17.3** horseback riding and horses **17.4** skiing, snowshoeing, ice skating, and sledding, sliding or propelling by any other winter sports device. **17.5** parking of or operation of any motorized vehicles (except for emergency vehicles) **17.6** parking of bicycles, except for those parked in bicycle racks **17.7** panhandling **17.8** pets not on leashes **17.9** vending machines **17.10**

newspaper racks **17.11** advertisements **18.0 Disorderly Conduct:** Every person who commits any of the following acts on the sidewalk is guilty of disorderly conduct, a misdemeanor: **18.1** Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms. **18.2** Who loiters or wanders upon the sidewalk or streets or from place to place without apparent reason or business and who refuses to identify himself or herself and to account for his or her presence when requested by any peace officer so to do, if the surrounding circumstances would indicate to a reasonable person that the public safety demands this identification. THIS ORDINANCE is passed and adopted this 19th day of January, 2001, at a regular meeting of the Board of Directors of the Tahoe City Public Utility District, and shall be published and posted as provided in Public Utilities Code Section 16075, and shall become effective thirty (30) days following the date of adoption, except if a petition shall be filed as provided by law, in which case the ordinance shall be suspended as provided in Section 16801, et seq., and effective thereafter if the conditions of Section 16083 of the Public Utilities Code are complied with; adopted by the following vote: AYES: Directors Treabess, Winter, Reinkens, Atchley, Henrikson NOES: None ABSENT: None TAHOE PUBLIC UTILITY DISTRICT By: Ron Treabess, President. I, Dee A. Malone, District Clerk & Ex-officio Secretary of the Board of Directors of the Tahoe City Public Utility District, do attest that the above Ordinance No. 240 is a true and correct copy of the Ordinance and the Exhibits attached thereto adopted by the above vote of the Board of Directors, constituting a majority of the Board of Directors, and remains in full force and effect and has not been rescinded or amended. Dated: 1/19/01. District Clerk & Ex-officio Secretary thereof Tahoe City Public Utility District

APPENDIX A

Application Instructions and Form

APPENDIX B

Tahoe City Special Areas Map 2 of 2 See

APPENDIX C
Record Drawings (to be added upon the completion of the Urban Improvement Phase 2 Project)

APPENDIX E

Tree Replacement Species Trees that die or that are severely damaged must be replaced in-kind. The tree species may be replaced by a different species in certain circumstances, as determined by TCPUD.

APPENDIX F

List of Approved Groundcover
Ground Cover, Shrubs and Wildflowers
Botanical Name (Common Name)
Acer glabrum (Mountain Maple)
Alnus tenuifolia (Mountain Alder)
Amelanchier alnifolia (Western Serviceberry)
Aquilegia formosa (Columbine)
Arctostaphylos nevadensis (Pinemat Manzanita)
Arctostaphylos patula (Green Leaf Manzanita)
Artemisia tridentata (Sagebrush)
Anatanopsis sempervirens (Rush Chinquapin)
Ceanothus cordulata (Show Brush)
Ceanothus velutinus (Squaw Carpet)
Ceanothus velutinus (Tobacco Brush)
Chrysothamnus nauseosus (Rabbitbrush)
Cornus stolonifera (Red Stem Dogwood)
Delphinium glaucum (Larkspur)
Eriogonum umbellatum (Sulphur Flower)
Lilium parvum (Leopard Lilly)
Lupinus breweri (Lupine)
Penstemon heterodoxus (Sierra Penstemon)
Penstemon newberryi (Mountain Pnede)
Potentilla fruticosa (Cinquefoil)
Prunus

