

# Chapter 4

## PROJECT REVIEW AND EXEMPT ACTIVITIES

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4.0 Purpose: This chapter implements Article VI(a) of the Compact requires TRPA to prescribe, by ordinance, those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the Tahoe Region and therefore will be exempt from its review and approval. This chapter also implements Compact provisions relating to projects and permits.

4.1 Applicability: Special provisions for activities in the shorezone and for signs are set forth in Chapters 26 and 52. This chapter sets forth which activities may have a substantial effect on the land, air, water, space or any other natural resources and therefore are projects subject to TRPA review and approval. This chapter also sets forth which activities will not have a substantial effect on the land, air, water, space and any other natural resource in the Region and therefore are exempt from TRPA review and approval. Exemption of activities from TRPA review and approval shall not be construed to exempt such activities from applicable provisions of the Code.

4.2 List Of Exempt Activities: The following activities are not subject to review and approval by TRPA provided they do not result in the creation of additional land coverage or relocation of land coverage, comply with Sections 30.6, 30.9 and 30.10 and meet all restrictions set forth below.<sup>§</sup>

4.2.A General Activities: The following general activities are exempt:

- (1) Interior remodeling provided there is no change or intensification of use and no increase in density; and interior structural remodeling of commercial or tourist accommodation structures that is less than \$40,000 in value.<sup>§§</sup>

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<sup>§</sup> Amended 11/20/02

<sup>§§</sup> Amended 11/19/03

- (2) Ordinary maintenance and repair, which is the upkeep, or preservation of the condition of property and includes: painting; re-roofing with non metallic material; replacement of windows, siding, doors, construction of overlays upon existing paved surfaces, air conditioning, sewer, water and electrical equipment, and other fixtures. For structures visible from the Scenic Threshold Travel Routes and from the Public Recreation Areas and Bicycle Trails identified in the 1993 Lake Tahoe Basin Scenic Resource Evaluation, painting and siding shall be consistent with Subparagraph 30.6.A(3).<sup>§§</sup>
- (3) Repair or replacement of existing fences not located in SEZs or bodies of water.
- (4) Excavation, filling or backfilling for a volume not in excess of three cubic yards provided the activity is completed within a 48 hour period and the excavation site is stabilized to prevent erosion. This exemption shall not be construed to exempt a series of excavations, which, when viewed as a whole, would constitute a project.
- (5) Removal of dead trees, up to but not including snags larger than 30 inches in westside forest types and snags larger than 24 inches in eastside forest types, on parcels of any size, and removal of dead limbs, and removal of live limbs not resulting in material damage to a tree. Protection of snags suitable for wildlife habitat shall be in accordance with the standards in Subsection 78.2.D.<sup>§</sup>
- (6) Seasonal lighting displays which are displayed between Thanksgiving and March 1 of the following year.
- (7) Demolition of structures, improvements, or facilities, less than 50 years of age, provided any associated excavation and backfill is exempt pursuant to Subparagraph 4 above. To obtain credit for coverage or existing development TRPA approval is required.
- (8) As of August 1, 1997, additional or new landscaping and gardening in stream environment zones and the backshore are not exempt. Landscaping and gardening provided any associated excavation or backfill, if any, is exempt pursuant to subparagraph (4) above and the landscaping is in accordance with Chapter 74, the BMP Handbook, and Code Subsection 81.7.A requirements for fertilizer use and the TRPA plant list.<sup>§§§</sup>
- (9) A home occupation customarily conducted entirely within a dwelling by the residents thereof, provided the occupation is clearly incidental and secondary to the use of the dwelling for residential purposes, and provided there is or are:

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<sup>§§</sup> Amended 11/20/02

<sup>§</sup> Amended 5/23/01

<sup>§§§</sup> Amended 12/18/02

- (a) No sales of products not produced on the premises, unless the sales are done by written order with no commodities or displays on the premises.
- (b) No employment of more than one person other than the residents of the dwelling;
- (c) No signs or structures advertising the occupation;
- (d) No outside storage of materials or supplies incidental to the home occupation; and
- (e) No more than one home occupation is carried on in a dwelling.

For guidance, the following uses are examples of home occupations: consultative professional occupations, whose function is one of rendering a service; a secondary business office; the making of clothing; the giving of music lessons; the creation of crafts.

- (10) Construction of new residential fences, provided the fence is not more than six feet high, does not obstruct the public's view of Lake Tahoe and is not located in an SEZ or body of water.
- (11) Parcel consolidations, provided deed restrictions permanently consolidating the parcels are recorded by the affected owners.
- (12) Replacement of combustion heaters (water or space) and woodstoves with units on TRPA's list of approved combustion heaters.
- (13)<sup>§</sup> Removal of trees 14 inches d.b.h. or less. Cutting, moving, removing, killing or materially damaging up to 100 live trees greater than fourteen inches d.b.h. and up to 30 inches d.b.h. in Westside forest types and 24 inches d.b.h. in eastside forest types, per year within a project area provided all live trees to be removed are marked and a tree removal permit is issued pursuant to a memorandum of understanding between a qualified agency and TRPA, and the tree removal does not constitute substantial tree removal as defined in Subsection 71.4.I. The memorandum of understanding shall be consistent with the standards in Chapter 71.<sup>§§</sup>

4.2.B Mail Delivery Activities: The following mail delivery activities are exempt:

- (1) Mail delivery receptacles which are designed and installed in accordance with design standards which are part of a TRPA-approved area wide mail delivery program.

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<sup>§</sup> Amended 7/28/04 and Amended 1/28/08

<sup>§§</sup> Amended 5/23/01

- (2) Mail delivery receptacles and support structures which comply with the following standards:
  - (a) One mail box for each parcel or project area which:
    - (i) complies with all U.S. Postal Service standards;
    - (ii) is located in such a manner and place that can be accessed by mail delivery vehicles such that the vehicles will not cause compaction or disturbance of previously uncompacted or undisturbed road or driveway shoulders or aprons; and
    - (iii) if located within a scenic highway corridor pursuant to Section 30.13, is colored using dark shades of earthtone colors and matte finish.
  - (b) One set of cluster boxes where the number of boxes is equal to the number of parcels or project areas being served which:
    - (i) meets the design and scenic standards listed in 4.2.B(2)(a)(i) through (iii), above.

4.2.C Temporary Activities: The following temporary activities are exempt.

- (1) A temporary activity which:
  - (a) Does not cause parking on unpaved areas;
  - (b) Does not create or relocate land coverage or disturbance;
  - (c) Does not require closure of a traffic lane or intersection of a state or federal high way for more than one hour, or the closure of U.S. 50 at any point between the South Wye and Kingsbury Grade for any period of time;
  - (d) Does not create noise in excess of the limits in Chapter 23;
  - (e) Does not exceed fourteen consecutive days in duration and will not occur more than four times in a calendar year; and
  - (f) If the temporary activity, other than the parking, is located on unpaved areas, the temporary activity does not occur on an unpaved area which has been used for temporary projects more than four times in the past calendar year.
- (2) Temporary activities in TRPA-approved special event areas in accordance with the TRPA approval.
- (3) Temporary activities which are reviewed and approved by a local government, the Forest Service, or a state agency pursuant to a memorandum of understanding with TRPA consistent with Chapter 7.

4.3 List of Qualified Exempt Activities: The following activities are not subject to review and approval by TRPA provided the applicant certifies on a TRPA qualified exempt form that the activity fits within one or more of the following categories and the activity does not result in the creation of additional land coverage or relocation of existing land coverage and complies with all restrictions set forth below. The statement shall be filed with TRPA at least three working days before the activity commences, except as required for demolition activities in Subparagraph 4.3.A(7) below, and shall be made under penalty of perjury.<sup>§</sup>

4.3.A General Activities: The following activities are qualified exempt:

- (1) <sup>§§§</sup>Structural repair of existing structures, less than \$21,000<sup>§§</sup> per year provided there is no excavation, filling or backfilling in excess of that exempted by paragraph (5) below, no increase in the dimensions of a structure, no intensification or change in use, no increase in commercial floor area, and no increase in density. This amount shall be calculated on an objective market valuation of the materials involved.
- (2) Structural modifications to existing structures required to comply with local building department and/or Uniform Building Code (UBC) standards, provided documentation by the local building department is submitted to TRPA, the modification is the minimum necessary, there is no excavation, filling or backfilling in excess of that exempted by paragraph (5) below, no increase in the dimensions of a structure visible from any TRPA designated scenic threshold travel route, no height created greater than that allowed by Table A of Chapter 22 of the TRPA Code, no intensification or change in use, no increase in commercial floor.
- (3) Structural remodeling or additions to existing structures provided there is, no excavation and backfilling in excess of that exempted by paragraph (5) below, no increase in the dimensions of a structure visible from any TRPA designated scenic threshold travel route, no height created greater than that allowed by Table A of Chapter 22 of the TRPA Code, no intensification or change in use, no increase in commercial floor area, no increase in density, no increase in existing hard coverage, a BMP retrofit plan and compliance schedule as set forth in Chapter 25 is submitted to TRPA, all excess coverage mitigation requirements, if any, are satisfied in accordance with Chapter 20, and there is existing paved access and parking.
- (3) Replacement of an existing mobile home in a legally-established mobile home space, which does not result in a change in use or additional land coverage.
- (4) Excavation, filling or backfilling for an area not in excess of seven

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<sup>§</sup> Amended 11/20/02

<sup>§§§</sup> Amended 08/22/05

<sup>§§</sup> Amended 11/19/03

cubic yards is exempt provided the activity occurs during the grading season (May 1 to October 15) in Land Capability Districts 4, 5, 6, or 7, or on parcels with IPES scores above the line, and the excavation site is stabilized within 48 hours to prevent erosion. This exemption shall not be construed to exempt a series of excavations which, when viewed as a whole, would constitute a project.

- (5) Demolition of structures, improvements or facilities, 50 years or greater in age, provided the structure, improvement, or facility is not designated, or pending for designation, on the Historic Resource Map, and a statement is filed pursuant to Section 4.3 at least three working days in advance of the activity. To obtain credit for coverage or existing development, TRPA approval is required<sup>§</sup>.
- (6) Changes in operation resulting in generation of less than 100 additional vehicle trips, in connection with a commercial, recreation or public service use, provided there is no change from one major use classification to another and the resulting use is an allowed use and the applicant pays an air quality mitigation fee in accordance with subparagraph 93.3.D.
- (7) An outdoor retail sales use associated with a holiday, season such as Christmas tree and pump kin patch sales, provided the use does not cause parking on unpaved areas, does not operate for more than six consecutive weeks in a twelve month period, and is located in a plan area designated commercial, public service or tourist.
- (8) Timber harvesting for the removal of dead, dying, and diseased trees (salvage cuts) under 30 inches d.b.h. in westside forest types and 24 inches d.b.h. in eastside forest types, on parcels of 20 acres or less in size, that are not part of a larger parcel of land in the same ownership provided that:<sup>§§</sup>
  - (a) A Tahoe Basin Tree Removal Permit, that expires twelve months after issuance, has been issued for trees marked pursuant to the memorandum of understanding between the appropriate state forestry agency and TRPA;
  - (b) Dying trees are defined as those determined to be dead within one year by a qualified forester authorized to issue a Tahoe Basin Tree Removal Permit by the Memoranda of Understanding between TRPA and the Nevada Division of Forestry and the California Department of Forestry and Fire Protection;
  - (c) A pre-operations field inspection is completed by TRPA, which is attended by a representative from the appropriate state forestry agency, property owner or authorized

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<sup>§</sup> Amended 7/28/04

<sup>§§</sup> Amended 5/23/01

representative, and the licensed timber operator;

- (d) Grading is not in excess of seven cubic yards for activities occurring between May 1 and October 15, or not in excess of three cubic yards for activities occurring between October 15 and May 1, and is limited to land capability districts 3, 4, 5, 6, 7;
  - (e) All slash shall be treated by chipping, piling for burning, or hauled away within 15 days following cutting and any burning of piled slash shall be completed within 30 days during permissible burn periods or no later than May 1 of the following year;
  - (f) Soil erosion protection and stabilization of disturbed areas shall be done concurrently with logging operations, with full completion no later than 48 hours following the end of cutting; and
  - (g) There are no watercourse or stream environment zone crossings except for existing bridges and culverts.
- (9)<sup>§</sup> Replacement of an existing roof with a metal roof that is composed of non-glare earthtone colors. For this subparagraph, non-glare earthtone colors are defined as Munsell<sup>®</sup> Colors set forth in Appendix G, TRPA Approved Earthtone Colors, of the Design Review Guidelines that have a value and chroma of 0-4 or other color systems that are equivalent to the adopted hues, values, and chromas of Appendix G<sup>§§</sup>. The applicant shall submit color and material samples to TRPA with their Qualified Exempt form.

4.4 Activities Reviewed By Local Government: The following activities are reviewed and approved in accordance with the TRPA Regional Plan and Code of Ordinances by a local government pursuant to a memorandum of understanding and are therefore exempt from TRPA review and approval:

- 4.4.A. Residential Activities Within the City of South Lake Tahoe (CSLT): As set forth in Appendix L, dated January 1995, to this Chapter.
- 4.4.B. Temporary Activities Within the City of South Lake Tahoe (CSLT): As set forth in the Memorandum of Understanding regarding exemption of temporary activities from TRPA review and approval between the CSLT and TRPA dated June 30, 1988, as may be amended by resolution of the Governing Board.
- 4.4.C. Sign Activities Within the City of South Lake Tahoe (CSLT): As set forth in the Memorandum of Understanding regarding exemption of sign activities from TRPA review and approval between the CSLT and TRPA dated June 1, 1994 and set forth in Appendix CC of this Chapter.
- 4.4.D. Residential Activities Within Placer County: As set forth in Appendix R,

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<sup>§</sup> Amended 11/20/02

<sup>§§</sup> Amended 1/22/03

dated February 1995, to this Chapter.

- 4.4.E Residential Activities Within El Dorado County: As set forth in Appendix W to this Chapter.
- 4.4.F Sign Activities Within the Placer County Portion of the Region: As set forth in the Memorandum of Understanding regarding exemption of sign activities from TRPA review and approval between Placer County and TRPA dated December 17, 1997 and set forth in Appendix DD of this Chapter.
- 4.4.G Residential Activities Within Washoe County: As set forth in Appendix EE, dated October 1995, of this Chapter.
- 4.4.H Activities Reviewed by El Dorado County: As set forth in Appendix JJ dated April, 1999 of this Chapter. [Amended June 27, 1999]
- 4.4.I Small Commercial and Related Activities by the City of South Lake Tahoe (CSLT): As set forth in Appendix KK, dated May, 1999, of this Chapter. [Amended July 25, 1999]
- 4.4.J Various Activities Within Placer County: As set forth in Appendix LL, dated April 3, 2000, of this Chapter. [Amended April 26, 2000]
- 4.5 Memoranda of Understanding: Those activities of public and quasi-public entities as set forth in the following memoranda of understanding (MOUs) between TRPA and such entities are exempt:
  - 4.5.A MOU with California Tahoe Conservancy: As set forth in Appendix B to this Chapter. [Amended September 26, 1999]
  - 4.5.B MOU with Nevada Division of State Parks: As set forth in Appendix C to this Chapter. [Amended September 27, 2000]
  - 4.5.C MOU with California Department of Parks and Recreation: As set forth in Appendix D to this Chapter. [Amended May 23, 1999]
  - 4.5.D MOU with the United States Forest Service: As set forth in Appendix E to this Chapter.
  - 4.5.E MOU with Pacific Bell: As set forth in Appendix F of this Chapter.
  - 4.5.F MOU with California Department of Transportation: As set forth in Appendix G of this chapter.
  - 4.5.G MOU with Nevada Department of Transportation: As set forth in Appendix H of this Chapter.
  - 4.5.H MOU with Tahoe City Public Utility District: As set forth in Appendix I of this Chapter.
  - 4.5.I MOU with South Tahoe Public Utility District: As set forth in Appendix J of this chapter.



- 4.5.J MOU with Incline Village General Improvement District: As set forth in Appendix K of this Chapter.
- 4.5.K MOU with Sierra Pacific Power Company: As set forth in Appendix M of this Chapter. [Amended May 23, 1999]
- 4.5.L MOU with Douglas County: As set forth in Appendix N of this Chapter. [Amended August 22, 2001]
- 4.5.M MOU with North Tahoe Public Utility District (NTPUD): As set forth in Appendix O of this Chapter.
- 4.5.N MOU with Tahoe-Douglas District: As set forth in Appendix P of this Chapter.
- 4.5.O MOU with TCI Cablevision: As set forth in Appendix Q of this Chapter.
- 4.5.P MOU with Tahoe Truckee Unified School District: As set forth in Appendix S of this Chapter.
- 4.5.Q MOU with Southwest Gas Corporation: As set forth in Appendix T of this Chapter.
- 4.5.R MOU with WP Natural Gas: As set forth in Appendix U of this Chapter.
- 4.5.S MOU with Douglas County Sewer Improvement District: As set forth in Appendix V of this Chapter.
- 4.5.T MOU with Nevada Bell: As set forth in Appendix X of this Chapter.
- 4.5.U MOU with Nevada Division of State Lands: As set forth in Appendix Y of this Chapter. [Amended June 28, 2000]
- 4.5.V MOU with El Dorado County: As set forth in Appendix Z, of this Chapter.
- 4.5.W MOU with Kingsbury General Improvement District: As set forth in Appendix AA of this Chapter.
- 4.5.X MOU with Lahontan Regional Water Quality Control Board: As set forth in Appendix BB of this Chapter. [Amended May 23, 1999]<sup>§</sup>
- 4.5.Y MOU with Contel/GTE: As set forth in Appendix FF of this Chapter.
- 4.5.Z MOU with Fulton Water Company: As set forth in Appendix GG of this chapter.
- 4.5.AA MOU with Tahoe Park Water Company: As set forth in Appendix HH of this chapter. [Amended May 23, 1999]
- 4.5.BB MOU with McKinney Water District: As set forth in Appendix II of this chapter. [Amended May 23, 1999]
- 4.5.CC MOU with City of South Lake Tahoe: As set forth in Appendix MM of

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<sup>§</sup> Amended 4/23/03

- this chapter. [Amended February 28, 2001]
- 4.5.DD MOU with Lukins Brothers Water Company, Inc.: As set forth in Appendix NN of this chapter.<sup>§</sup>
- 4.5.EE MOU with Round Hill General Improvement District: As set forth in Appendix OO of this Chapter.<sup>§§</sup>
- 4.6 Loss Of Exemption: An exempt activity shall be considered a project if TRPA finds that the activity may have a substantial effect on the land, air, water, space, or any other natural resources in the Region.
- 4.7 Projects: An activity which is not exempt from TRPA review and approval pursuant to Sections 4.2 through 4.9, inclusive, is a project subject to TRPA review and approval.
- 4.7.A Project Review: Projects shall be reviewed by TRPA in accordance with TRPA's Rules of Procedure and pursuant to the applicable Code provisions. Projects approved by TRPA shall be issued permits in accordance with the Rules of Procedure.
- 4.7.B Governing Board Action: Categories of projects and matters listed in Appendix A or as otherwise required by law shall require Governing Board or Hearings Officer approval. The Governing Board hereby delegates to the Executive Director, through the Hearings Officer, review and final action on the projects and matters not listed in Appendix A requiring Hearings Officer approval. Applicants for projects delegated to the Hearings Officer in Appendix A, shall have the right to bypass the Hearings Officer process and seek full Governing Board review of their project. Final review, action and approval on all other projects and matters are delegated to the Executive Director.<sup>§§§</sup>
- 4.7.C Unusual Circumstances: The Executive Director may determine that a project or matter not listed on Appendix A, because of unusual circumstances, warrants Governing Board review and action and may schedule the project for Governing Board consideration.
- 4.7.D Appeals: The final action of the Executive Director may be appealed to either the Governing Board pursuant to TRPA's Rules of Procedure or to a court of competent jurisdiction pursuant to Article VI (j) of the Compact.
- 4.8 Special Provisions: The following special provisions apply to certain projects:
- 4.8.A Emergency Projects: Emergency projects shall be reviewed and acted upon in accordance with the Rules of Procedure.
- 4.8.B Structures That Do Not Comply With Site Development Provisions: Repair or remodeling, and reconstruction, modification or expansion, of structures that do not comply with site development provisions (Chapters 20-30), may be approved provided TRPA finds that:

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<sup>§</sup> Amended 4/24/02

<sup>§§</sup> Amended 7/24/02

<sup>§§§</sup> Amended 2/25/98

- (1) The structure is not subject to a specific program of removal or modification pursuant to the site development provisions or other implementing programs of TRPA, or that the structure shall comply with the requirements of the applicable programs;
- (2) The repair or remodeling, reconstruction, modification, or expansion does not increase the extent to which the structure does not comply with the site development provisions; and
- (3) Any expansion complies with all applicable site development provisions.

4.8.C Buildings Damaged Or Destroyed By Fire Or Other Similar Calamity: Buildings damaged or destroyed by fire or other similar calamity may be repaired or rebuilt, except as prescribed by Chapter 28 in areas of identified avalanche or mass instability danger, and except as set forth in Chapters 50-56, inclusive, in the shorezone, with no requirement for excess coverage mitigation or height reduction, by fee or otherwise. Repair or reconstruction shall be in substantial conformance with the original structure, with no increase in floor area, land coverage, height, or volume.

- (1) Application: A complete application, as defined in the Rules of Procedure, shall be submitted to TRPA within eighteen months of the damage or destruction resulting from the calamity. Structures for which applications are not timely filed shall be considered derelict and not as existing structures.
- (2) Findings: TRPA may approve such projects provided TRPA finds that:
  - (a) The repair or reconstruction does not increase the extent to which the structure does not comply with the site development provisions; and
  - (b) There is no increase in height, floor area, land coverage, or volume of the structure.

4.9 Expiration Of TRPA Approvals: Approval by TRPA of any project expires three years after the date the approval is granted by TRPA, as defined in TRPA's Rules of Procedure, or December 19, 1980, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced.

4.9.A Operation Of Law: Expiration of TRPA approvals shall be by operation of law. Failure to give notice of expiration shall not affect the applicability of this provision.

4.9.B Commencement Of Construction: Commencement of construction shall be the pouring of concrete for a foundation, or work of a similar nature upon the permitted structure. Commencement of construction does not include grading, plan preparation, installation of utilities or landscaping.

- 4.9.C Diligent Pursuit: Diligent pursuit is defined as follows:
- (1) Diligent pursuit shall be defined by the condition of approval relating to completion of the project. Project approvals shall state the time for completion of the project.
  - (2) For projects approved without a condition of approval relating to completion of the project, diligent pursuit shall be defined as reasonable onsite progress toward completion of the project each building season beginning with the building season in which construction is commenced. Failure to accomplish onsite progress toward completion in any building season after construction has commenced and the three year approval period has passed shall result in expiration of the approval for failure to diligently pursue construction. Failure to give notice of such expiration shall not affect the applicability of this section.
- 4.9.D Single Family Homes: Construction of new single family homes shall be completed within two years from the date of the TRPA pregrading inspection. The two year period may be extended once for up to one year provided the request is made in writing prior to the expiration of the two year period, a security is posted to ensure completion or abatement of the project and TRPA makes either of the following findings:
- (1) The project was diligently pursued, as defined in subparagraph 4.9.C(2), during each building season (May 1 - October 15) since commencement of construction.
  - (2) That events beyond the control of the permittee, which may include engineering problems, labor disputes, natural disasters or weather problems, have prevented diligent pursuit of the project.
- 4.9.E Other Projects: Construction of projects other than new single family homes shall be complete by the date set forth in the conditions of approval. Extension of a completion schedule for a project other than a single family home may be granted provided the request is made in writing prior to the expiration of the completion schedule, a security is posted to ensure completion or abatement of the project and TRPA makes either of the following findings:
- (1) The project was diligently pursued, as defined in subparagraph 4.9.C(2), during each building season (May 1 - October 15) since commencement of construction.
  - (2) That events beyond the control of the permittee, which may include engineering problems, labor disputes, natural disasters or weather problems, have prevented diligent pursuit of the project.
- 4.9.F Completion Of Project: Completion of a building shall be defined as a fully enclosed structure with all permanent drainage improvements, slope stabilization, and revegetation installed. Completion of projects which do not consist of a building or buildings, shall be defined as commencement of the use or activity permitted and installation of all permanent drainage improvements, slope stabilization and revegetation.