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PROOF OF PUBLICATION

STATE OF NEVADA
COUNTY OF WASHOE

ss. Tana Ciccotti

being duly sworn, deposes and says:
That as legal clerk of the RENO GAZETTE-JOURNAL, a daily newspaper published in Reno, Washoe County, State of Nevada, that the notice:
Ordinance 950

of which a copy is hereto attached, has been published in each regular and entire issue of said newspaper on the following dates to wit:
April 16, 23 1996

Signed

T. Ciccotti

Subscribed and sworn to before me on 04/23/96

Notary Public

Jo Anne F. Wessel

**NOTICE OF ADOPTION
ORDINANCE 950**
NOTICE IS HEREBY GIVEN That Bill No. 1125, Ordinance No. 950, entitled AN ORDINANCE AMENDING CHAPTER 40 OF THE WASHOE COUNTY CODE TO PROVIDE CONSISTENCY WITH SIMILAR SUBJECT MATTER ORDINANCES OF RENO AND SPARKS. DELETING REFERENCE TO DROUGHT STAGES, ADOPTING TWO-DAY-A-WEEK LAWN WATERING WITH ALTERNATE MAKE-UP DAY, REPEALING CRIMINAL PENALTIES AND ADDING CIVIL PENALTIES, PROVIDING FOR A SUNSET, AND ADDING A CRITERIA FOR A DECLARATION OF WATER EMERGENCY AND OTHER MATTERS PERTAINING THERETO. was adopted on April 9, 1996, by Commissioners Joanne Bond, Steve Bradhurst, Mike Mouliot, Jim Shaw, and Grant Sims, and will become effective on APRIL 26, 1996. Typewritten copies of the ordinance are available for inspection by all interested persons at the office of the County Clerk, 75 Court Street, Reno, Nevada.
JUDI BAILEY, Washoe County Clerk
No. 1467 Apr 16, 23, 1996

JO ANNE F. WESSEL
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES NOV. 18, 1996

P.O. BOX 22000. RENO, NEVADA 89520
(702) 788-6200



SUMMARY: Amends chapter 40 of the Washoe County Code to provide consistency with similar subject matter ordinances of Reno and Sparks, deleting reference to drought stages, adopting two-day a week lawn watering with alternate make-up day, repealing criminal penalties and adding civil penalties, providing for a sunset and adding a criteria for a declaration of water emergency.

AN ORDINANCE AMENDING CHAPTER 40 OF THE WASHOE COUNTY CODE TO PROVIDE CONSISTENCY WITH SIMILAR SUBJECT MATTER ORDINANCES OF RENO AND SPARKS, DELETING REFERENCE TO DROUGHT STAGES, ADOPTING TWO-DAY A WEEK LAWN WATERING WITH ALTERNATE MAKE-UP DAY, REPEALING CRIMINAL PENALTIES AND ADDING CIVIL PENALTIES, PROVIDING FOR A SUNSET, AND ADDING A CRITERIA FOR A DECLARATION OF WATER EMERGENCY AND OTHER MATTERS PERTAINING THERETO.

BILL NO. 1125

ORDINANCE NO. 950

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

SECTION 1. Chapter 40 of the Washoe County Code is hereby amended by adding the thereto the provisions set forth as sections 2 to 14, inclusive, of this ordinance.

SECTION 2. Section 40.010 of the Washoe County Code is hereby amended to read as follows:

40.010 Exercise of authority by county commissioners.
Pursuant to NRS 244.3665, the board hereby exercises its lawful authority to:

1. Prohibit any waste of water within the unincorporated areas of the county by customers of a public water system;
2. Classify the conditions under which specified kinds and amounts of the use, consumption or expenditure of water are wasteful;
3. Provide for reasonable notice to water users who are customers of a public water system in the unincorporated area of the county of the existence of such conditions;
4. Require any person, group of persons, partnership, corporation or other business or governmental entity which is not a public water utility regulated by the public service commission of Nevada and which furnishes water by means of a public water system to any person, customer or user who wastes water within the meaning of sections 40.010 to 40.260, inclusive, to reduce or terminate water service to any such customer or user;

5. Prohibit the wasteful use of water at the times and places designated in the ordinance and in resolutions implementing such prohibitions; and

6. Provide appropriate penalties for violation of sections 40.010 to 40.260, inclusive.

SECTION 3. Section 40.020 of the Washoe County Code is hereby amended to read as follows:

40.020 Purpose; intent. It is the purpose and intent of this ordinance to prevent the waste of water as provided in this ordinance, which preventing the waste of water will also result in the residual benefits of providing for enhanced flows in the Truckee River and to Pyramid Lake, and to provide water for Truckee River in-stream flows to benefit recreation and riparian habitat.

SECTION 4. Section 40.180 of the Washoe County Code is hereby amended to read as follows:

40.180 Definition of "waste" of water; classification of conditions under which consumption or expenditure of water is wasteful. The existence of any of the following conditions involving the use, consumption or expenditure of water shall constitute prima facie evidence of the "waste" of water within the meaning of sections 40.010 to 40.260, inclusive:

1. Wastage of water.
2. Use of water through any meter or other facility when the customer or his agent or representative responsible for the use of such water has been given 24 hours personal notice to repair one or more leaks in any piping system or any plumbing fixture connected directly or indirectly to such meter or other facility and such customer or his agent or representative has failed to complete such repairs.
3. Using water or permitting the use of water in violation of any notice served on any person by the director of public works or his agent or representative as provided in sections 40.010 to 40.260, inclusive.
4. Using water in violation of any of the paragraphs of subsection 2 of section 40.230 after an emergency has been established by action of the board in accordance with the procedure set forth in section 40.230.
5. The washing of automobiles, trucks, trailers or any other type of mobile equipment, except in washing facilities operating with a water recycling system or using a nonpotable water source approved by the public works director with a prominently displayed sign in public view so stating, except where required by health and sanitary regulation, and except with a hose to which a self-closing nozzle is attached.

SECTION 5. Section 40.190 of the Washoe County Code is hereby amended to read as follows:

40.190 Tampering with water meter prohibited. It is unlawful for any customer or his agent or representative, other than a person employed by or representing a public water system, to remove, replace, alter, damage, bypass, or otherwise tamper with any water meter or water measurement device or components thereof, including but not limited to the meter face, dials, or other water usage indicators.

SECTION 6. Section 40.220 of the Washoe County Code is hereby amended to read as follows:

40.220 Enforcement. The department of public works and its officers and employees and the director of public works or his agents or representatives have the duty and are hereby authorized to enforce the provisions of sections 40.010 to 40.266, inclusive, including the issuance of any notice required or authorized by sections 40.010 to 40.266, inclusive.

SECTION 7. Section 40.225 of the Washoe County Code is hereby amended to read as follows:

40.225. Prohibited uses of water and planting of lawns.

1. Unless a variance has been granted by the public works director for additional watering days due to soil conditions or other extraordinary circumstances which require additional watering days, it shall be unlawful to utilize water for the irrigation of lawns at any time except as follows:

- (a) Residences with even addresses -- Wednesday and Saturday;
- (b) Residences with odd addresses -- Thursday and Sunday;
- (c) Commercial customers -- Tuesday and Friday;
- (d) In lieu of the other authorized days -- Monday.

The provisions of this section do not apply to the public water systems of Empire, Gerlach, the Lake Tahoe Basin, general improvement districts or to customers of any public water system providing water service within the unincorporated area which on or subsequent to the effective date of this ordinance has water meters installed upon ninety percent (90%) of the residences required by law to be retrofitted with water meters.

2. If a water emergency is declared by the board by resolution pursuant to section 40.230, it shall be unlawful to utilize water for the irrigation of lawns at any time except as follows:

- (a) No lawn watering from November 1 through February;
- (b) Lawn watering 1 day per week during March, April and May;
- (c) Lawn watering 2 days per week from June 1 through August 31

as follows:

- (1) Residences with even addresses -- Wednesday and Saturday;
- (2) Residences with odd addresses -- Thursday and Sunday;

- (3) Commercial customers -- Tuesday and Friday;
- (d) Lawn watering 1 day per week during September and October.
- 3. It shall be unlawful to utilize water for the irrigation of lawns between the hours of 1:00 p.m. and 5:00 p.m.
- 4. During a water emergency it shall be unlawful to plant a seeded or hydroseeded lawn from May 16 through September 15.
- 5. Nothing contained in this section shall prohibit:
 - (a) The use of waste water for any lawful purpose;
 - (b) The watering of new lawns for a period of 6 weeks from the date of planting seed or laying sod or watering vegetation planted for erosion control in a project approved by the board to the extent necessary to reasonably assure establishment thereof;
 - (c) The hand-watering of vegetable or flower gardens, trees and shrubs in a non-wasteful manner; or
 - (d) The watering of lawns in public parks, playgrounds and athletic fields on any day and at any time of day if done in a non-wasteful manner.
- 6. The board may restrict water usage beyond that established herein upon a finding that absent such further restriction there is an imminent threat to public health and safety.

SECTION 8. Section 40.230 of the Washoe County Code is hereby amended to read as follows:

40.230 Conditions constituting wasteful use of water under emergency circumstances.

- 1. Upon a finding that a water emergency condition exists or is likely to exist, the board may declare the existence of emergency conditions by the adoption and publication in a newspaper having general circulation in the county of an appropriate resolution stating the nature of the emergency, the area or areas of the county subject to the emergency conditions, and the reasons and findings necessitating the preservation of water and the elimination of all uses that would result in the waste of water by customers of a public water system, in order to preserve and protect the general health, welfare, safety and convenience of the citizens residing in the unincorporated area of the county or designated areas therein. In making a finding that a water emergency condition exists or is likely to exist, the board shall consider:
 - (a) The amount of recorded precipitation during the preceding year in the area affected in relation to the normal precipitation recorded for such area;
 - (b) The amount of water contained in any reservoir, storage basin (including without limitation any underground water supply basin), or other water supply facilities utilized by any public water system in the area affected in relation to the projected water use from such reservoir, storage basin or other water supply facility;
 - (c) The level of stream flows in the area affected in relation to normal stream flows;

(d) The existence or the probability of existence of an order from any federal water master or other official having jurisdiction in the area in question that any diversion that may be made from any river or stream to satisfy the water rights of any public water system serving customers in the county is insufficient to satisfy such water rights; or

(e) The existence or the probability of existence of circumstances related to the ability of a water purveyor to provide an adequate water supply to its customers.

2. When an appropriate resolution has been adopted by the board, the following conditions shall apply in specifying the kinds and amounts of consumption or expenditure of water which will be deemed and presumed to be "wasteful" within the meaning of section 40.180:

(a) Except when acting pursuant to a dust control permit issued by the district health department, use of water for allaying dust, unless a permit for such use is issued by the director of public works or his agent or representative to enable an applicant for such permit to comply with any other valid law, regulation or ordinance;

(b) Use of water to wash any sidewalk, walkway, driveway, street, parking lot, tennis court or other hard-surfaced area, if the director of public works has issued a public notice or published such notice in a newspaper of general circulation in the county directing the discontinuance of such use of water for the period of time specified in such notice. Such notice shall be a condition precedent to any violation of this subsection and shall be based on a finding by the director of public works that the public health, safety, and convenience requires such a restriction on such use of water because of limited water supplies. The director of public works may rely on representations from any public utility that supplies water to customers in making such a finding;

(c) Use of water from fire hydrants for any purpose other than extinguishing fires or use in public works department maintenance vehicles;

(d) Use of water for any outdoor decorative purpose; and

(e) Restaurant practice of serving water to customers except upon request of said customers

SECTION 9. Section 40.240 of the Washoe County Code is hereby amended to read as follows:

40.240 Designation of areas within unincorporated area for emergency enforcement.

1. The board may designate by a resolution adopted pursuant to Section 40.230 any area or areas within the unincorporated area which shall be subject to the "emergency conditions" set forth in section 40.230. In such event the board shall specify in the resolution the boundaries of any area designated to be subject to the "emergency conditions" set forth in section 40.230 and shall

publish them in a newspaper of general circulation in the county. The resolution shall specify the time during which the designated area shall be subject to the "emergency conditions" of section 40.230, together with the reasons for such declaration.

2. Upon the request of the board of trustees of a general improvement district operating a public water system which is affected in the same or similar manner as provided in this ordinance, the board may include such districts within the areas which shall be subject to the prohibitions and "emergency conditions" provided for in this chapter, and may assist such district with enforcement.

3. In any resolution declaring a water emergency adopted by the board, the board may require any hotel, motel or restaurant located within the designated area to post, in a conspicuous place and in an easily readable form, a notice of the existence of a declared water emergency, together with a request to avoid the waste of water by customers of the particular establishment. The board may further require any hotel or motel to post a similar notice in each guest room. It is unlawful to fail to post the notices required by this section and any resolution of the board.

SECTION 10. Section 40.250 of the Washoe County Code is hereby amended to read as follows:

40.250 Presumption. In any action brought upon a violation of sections 40.010 to 40.266, inclusive, proof of any of the conditions stated in section 40.266, together with proof that such condition originated at any residence, place of business or real property at which water is supplied to a customer of a public water system, constitutes a rebuttable presumption that the owner, occupant or user of such residence, place of business or real property was a customer of such public water system and was responsible for such violation.

SECTION 11. Section 40.260 of the Washoe County Code is hereby amended to read as follows:

40.260 Infraction; notice of infraction; service; duties of respondent; judicial enforcement.

1. Except as otherwise exempted herein, it is a civil infraction for any customer of a public water system to waste water.

2. Whenever any customer of a public water system is found to be in violation of sections 40.010 to 40.266, inclusive, a notice of infraction must be issued.

3. The notice of infraction must be on a form prescribed by the director of public works and contain the following:

- (a) The location at which the violation occurred;
- (b) The date and time of the violation;

- (c) The section of the code allegedly violated;
- (d) Information providing the date and time of a hearing and procedure under which the notice should be answered;
- (e) Any other information prescribed by the director of public works;
- (f) The signature of the person who issued the notice of infraction.

4. The original notice of infraction, or a facsimile thereof, must be filed with the director of public works and maintained as a public record. The filed notice shall constitute prima facie evidence of the facts which are alleged therein. A duplicate of the notice of infraction must be served on the person to whom it is issued as provided herein.

5. Service of a duplicate notice of infraction shall be as follows:

- (a) By personal service upon the customer;
- (b) By fixing the notice to the property of the customer in a conspicuous place, which service shall have the same force and effect and is subject to the same penalties for the disregard thereof, as if the notice were personally served on the customer;

6. For purposes of this section, a customer who is not the owner of the real property to which water is supplied by a public water system, but who occupies or uses said real property with the permission of the owner, express or implied, is deemed to be the agent of the owner to receive a notice of infraction, whether said notice is personally served on the occupier or user or affixed to the real property.

7. A customer is liable for the civil fines imposed pursuant to section 40.266. The owner of the real property, even if not the occupant or user thereof, is also liable for such civil fines unless he is able to demonstrate that the waste of water was without his permission, express or implied. An owner who pays a civil fine pursuant to section 40.266 has the right to recover from the occupant or user of the real property the civil fines so paid, and has a cause of action in any court which has the appropriate jurisdiction against the occupant or user of the real property for the amount so paid.

8. A person responding to a notice of infraction must:

- (a) "Admit" the commission of the infraction and pay the designated civil fine; said fine may be paid by mail or in person to the department of public works and without any formal appearance.

- (b) "Deny" the commission of the infraction; said denial must be made in person on the date and time set on the notice unless a continuance has been granted by the director of public works.

9. The burden to prove any defense shall be upon the person raising said defense.

10. If the director of public works, or designated hearing officer, determines that the infraction has not occurred or that an infraction has been committed but a reasonable defense exists for the commission thereof, the director of public works, or designated hearing officer, may dismiss the notice of infraction

and release the customer or owner from liability thereunder.

11. If the director of public works, or designated hearing officer, determines that an infraction has been committed and that no reasonable defense exists, the director of public works, or designated hearing officer, may, in the interest of justice and on behalf of the county, enter into an agreement for the timely or periodic payment of the applicable fines.

SECTION 12. A new section 40.265 of the Washoe County Code is hereby added to read as follows:

40.265 Appeal; judicial enforcement of fine or assessment.

1. A person against whom the director of public works, or designated hearing officer, has entered a finding of liability and assessment of fine, by default or otherwise, may, if the assessed fine has been paid, appeal to justice court within ten (10) days from the date of entry of the finding and assessment. Appeal shall be made by filing with the director of public works a written notice containing the appellant's name, current address, telephone number, notice of infraction number, and a statement that the appellant appeals the finding and assessment.

2. Upon receipt of timely notice of appeal the director of public works shall forward the notice of appeal, together with a copy of the notice of infraction and a copy of the director of public works, or designated hearing officer's, finding and assessment to the appropriate justice court and a copy of the same to the district attorney.

3. On appeal, the matter shall be resolved as a civil action, except that no formal complaint need be filed or summons issued. The filing of the notice of appeal shall constitute a submission by the appellant to the jurisdiction of the appropriate justice court and to all notices and orders issued by said court during appeal and to final judgment of said court on resolution of the appeal.

4. If a fine or assessment has been made by the director of public works, or designated hearing officer, and has not been paid when due, judicial enforcement may be by way of civil suit for judgment in the appropriate justice court. Such action may be commenced any time after the expiration of forty (40) days following the date upon which the fine or assessment was due by the filing of a complaint in the name of the county and the issuance and service of a summons by certified mail, return receipt requested, addressed to the customer or owner at his last known address or in any other manner authorized by law.

SECTION 13. A new section 40.266 of the Washoe County Code is hereby added to read as follows:

40.266 Schedule of civil fines and assessments. The civil fines and assessments imposed for infractions of sections 40.010 to

40.266, inclusive, shall be as established by the director of public works and approved by the board.

SECTION 14. The provisions of section 40.225 shall expire by limitation on the earlier of twelve (12) years from the date this ordinance becomes effective or when at least ninety percent (90%) of all water customers required to be retrofit metered under the Preliminary Settlement Agreement have had water meters installed.

Proposed on the 26th day of March, 1996.
Proposed by Commissioner Shaw:
Passed on the 9th day of April, 1996.

Vote:

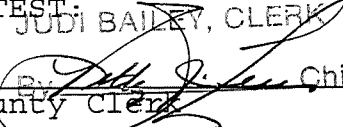
Ayes: Joanne Bond, Steve Bradhurst, Mike Mouliot, Jim Shaw, Grant Sims

Nays: No nays.

Absent: No one.



Chairman
Washoe County Commission

ATTEST:
JUDI BAILEY, CLERK


Chief Deputy
County Clerk

This ordinance shall be in force and effect from and after the 26th day of April, 1996.