

SUMMARY: Establishing a storm water discharge program within certain areas of Washoe County and providing procedures for its enforcement.

BILL NO. 1404

ORDINANCE NO. 1223

AN ORDINANCE ESTABLISHING A STORM WATER DISCHARGE PROGRAM BY WASHOE COUNTY WITHIN CERTAIN AREAS OF WASHOE COUNTY; AUTHORIZING THE DEPARTMENT OF WATER RESOURCES AND/OR PUBLIC WORKS TO ISSUE PERMITS TO BUSINESSES AND CONSTRUCTION DISCHARGERS; PROVIDING PROCEDURES FOR ENFORCEMENT; AND OTHER MATTERS RELATING THERETO.

Adopted December 9, 2003

WASHOE COUNTY STORM WATER DISCHARGE ORDINANCE,
SCHEDULE OF PERMIT FEES AND PROVIDING PROCEDURES FOR ENFORCEMENT

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

ARTICLE 1. GENERAL PROVISIONS

- 1.1 Short Title. This Ordinance shall be known and may be cited as the Washoe County Storm Water Discharge Program.
- 1.2 Enabling Statutes. This Ordinance is adopted pursuant to NRS 244.157. Chapter 445A of the Nevada Revised Statutes and the Clean Water Act.
- 1.3 Purpose and Policy. The purpose and intent of this Ordinance is to:
- a. Protect and enhance the water quality of our watercourses, water bodies, groundwater and wetlands in a manner pursuant to and consistent with the Clean Water Act.
 - b. Control non-storm water discharges to storm drain systems and reduce pollutants in storm water discharges.
 - c. Encourage the recharge of ground water, where appropriate, and prevent the degradation of ground water quality.
- 1.4 Administration. This Ordinance shall apply to all activities which may potentially affect the municipal separate storm sewer system (MS4), any private storm sewer system or any body of water with the unincorporated area of Washoe County. Additionally, permanent and temporary storm water management controls and facilities, constructed as part of any activities listed in this Ordinance, which are located with the unincorporated area of Washoe County are also subject to this Ordinance. The storm water management standards shall apply to industrial, commercial, institutional, and multifamily residential development, as well as subdivision projects with private access.
- 1.5 Regulatory Consistency. This Ordinance shall be construed to assure consistency with the requirements of the Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, the State of Nevada Division of Environmental Protection (NDEP) Storm Water "Associated with Industrial Activity" General Permit and the municipal separate storm sewer system (MS4) NPDES Permit and any amendments, revisions or re-issuances thereof. No permit or approval issued pursuant to this Ordinance shall relieve a person of the responsibility to secure permits and approvals required for activities regulated by any other applicable rule, code, act, permit or ordinance.
- 1.6 Discharges Subject to These Regulations. All storm water discharges to the County's storm water facilities, whether located within the Cities of Reno or Sparks or on Tribal lands, are equally subject to any storm sewer charges and construction requirements.
- 1.7 Discharges Outside the Unincorporated Area of Washoe County. The County shall accept storm water from dischargers located within the Cities of Reno or Sparks, on Tribal lands or from other counties. The County will bill all dischargers located within the Cities of Reno and Sparks or on Tribal lands through the respective City, Tribe, sanitary district, storm sewer district or storm sewer utility district in accordance with the charges prescribed by resolution adopted pursuant to section 5.4 of this Ordinance by the Board of County Commissioners.
- 1.8 Severability. If any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof to any person or circumstance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance or the application of such provision to other persons or circumstances. The Board hereby declares that it would have passed this Ordinance or any section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared to be unconstitutional.

- 1.9 Disclaimer of Liability. The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific, engineering and other relevant technical considerations. The standards set forth herein are minimum standards and this Ordinance does imply that compliance will ensure that there will be no unauthorized discharge of pollutants into the waters of the United States. This Ordinance shall not create liability on the part of the County, any agent or employee thereof, for any damages that result from reliance on this Ordinance or any administrative decision lawfully made thereto.
- 1.10 Adoption of Structural Control Design Manual. The Truckee Meadows Structural Control Design Manual, together with all addendum, all of which are on deposit in the office of the County Clerk, are adopted by reference and incorporated herein and made a part hereof as if set forth in full.
- 1.11 Adoption of Industrial Best Management Practices Handbook. The Truckee Meadows of Industrial Best Management Practices Handbook, together with all addendum, all of which are on deposit in the office of the County Clerk, are adopted by reference and incorporated herein and made a part hereof as if set forth in full.
- 1.12 Adoption of Construction Best Management Practices Handbook. The Truckee Meadows Construction Best Management Practices Handbook, together with all addendum, all of which are on deposit in the office of the County Clerk, are adopted by reference and incorporated herein and made a part hereof as if set forth in full.
- 1.13 Words and Phrases. For the purposes of this Ordinance, all words used herein in the present tense shall include the future; all words in the plural number shall include the singular number; and all words in the singular number shall include the plural number.

ARTICLE 2. DEFINITIONS

- 2.1 Best Management Practices ("BMPs") is defined at 40 CRF §122.2 and in addition the term shall include erosion and sediment controls, storm water conveyance, storm water diversion, and treatment structures, and any procedure or facility used to minimize the exposure of pollutants to storm water or to remove pollutants from storm water.
- 2.2 Clean Water Act ("CWA") formerly known as the Federal Water Pollution Act, is legislation which provides statutory authority for both NPDES pretreatment and storm water programs.
- 2.3 EPA or Environmental Protection Agency means the U.S. Environmental Protection Agency. Where appropriate, the term may also mean the administrator or other duly authorized official of said agency.
- 2.4 Environmental Control Permit means a permit issued to an industrial/commercial user by an environmental control officer for discharges into the municipal separate storm sewer system (MS4) and sanitary sewer system.
- 2.5 Inspector, Designated Agent and Environmental Control Officer means a person authorized by the Water Resources Director or Public Works Director to inspect storm water and wastewater generation, conveyance, processing and disposal facilities. A designated agent could be Environmental Control Officers of the Cities of Reno and Sparks.
- 2.6 Illicit Connection means any physical connection to a publicly maintained storm sewer system composed of non-storm water which has not been permitted by the public entity responsible for the operation and maintenance of the system.
- 2.7 Illicit Discharge means any discharge to a storm sewer system that is not composed entirely of storm water except discharges pursuant to a NPDES permit, discharges resulting from fire fighting activities, and discharges further exempted in section 3.9 of this Ordinance.

- 2.8 Impervious Surface means a surface which prevents or retards the penetration of water into the ground, including, but not limited to, roofs, sidewalks, patios, driveways, parking lots, concrete and asphalt paving, compacted native surfaces and earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of storm water.
- 2.9 Local Agency means one or more of the agencies involved with providing review, approval or oversight of the site's (a) activities; (b) pollution prevention controls; or (c) storm water discharge.
- 2.10 Municipal NPDES Permit means an area-wide NPDES permit issued to a government agency or agencies for the discharge of storm water from a storm drain system.
- 2.11 Municipal Separate Storm Sewer System ("MS4") includes, but is not limited to, those facilities located within the unincorporated area of Washoe County and owned or operated by a public entity by which storm water may be collected and conveyed to waters of the United States, including any roads with drainage systems, public streets, inlets, curbs, gutters, piped storm drains and retention or detention basins, which are not part of a Publicly Owned Treatment Works ("POTW") as defined at 40 CFR §122.2.
- 2.12 NDEP means the Nevada Division of Environmental Protection.
- 2.13 Non-Storm Water Discharge means any discharge to the municipal storm drain system that is not composed entirely of storm water.
- 2.14 NPDES Permit or National Pollutant Discharge Elimination System Permit means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1251).
- 2.15 Person means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.
- 2.16 Pollutant means substances including, but not limited to:
- a. Commercial and industrial waste (such as fuels, solvents, chemicals, detergents, plastic pellets, hazardous materials or substances, hazardous wastes, fertilizers, pesticides, soot, slag, ash and sludge).
 - b. Metals (such as cadmium, lead, zinc, copper, silver, nickel, chromium and arsenic) and nonmetals (such as carbon, chlorine, fluorine, phosphorous, sand and sulfur).
 - c. Petroleum hydrocarbons (such as fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease).
 - d. Eroded soils, sediment, and particulate materials in amounts which may adversely affect the beneficial use of the receiving waters, flora, or fauna of the state.
 - e. Animal waste (such as discharges from confinement facilities, kennels, pens, recreational facilities, stables and show facilities).
 - f. Substances having acidic or corrosive characteristics such as a pH of less than 5.5 or greater than 9.0 units.
 - g. Substances having unusual coloration or turbidity, levels of fecal coliform, fecal streptococcus, or enterococcus, which may adversely affect the beneficial use of the receiving waters, flora or fauna of the state.
- 2.17 Pollution means the man-made or man-induced alternation of the chemical, physical, biological or radiological integrity of air, water or earth.
- 2.18 Premises means a parcel of real estate or portion thereof, including any improvements thereon which is determined by the County to be a single user for the purposes of receiving, using, and paying for storm water conveyance, including adjacent sidewalks and parking strips.
- 2.19 Director means either the Director of the Water Resources Department or the Director of Public Works, whichever is applicable under the provisions of this Ordinance, or his authorized representative.

- 2.20 Secondary Containment means a level of containment that is external to and separate from primary containment (e.g. concrete dike, wall, barrier, berm, bin, drum or tank).
- 2.21 Storm Water means surface runoff and drainage associated with rainstorm events and snow melt.
- 2.22 Storm Water Management means the process of collection, conveyance, storage, treatment, and disposal of storm water to ensure control of the magnitude and frequency of runoff to minimize the hazards associated with flooding and the impact on water quality caused by manmade changes to the land.
- 2.23 Storm Water Management Plan means details of the drainage system, structures, BMPs, concepts and techniques that will be used to control storm water, including drawings, engineering calculations, computer analyses, maintenance and operations procedures, and all other supporting documentation.
- 2.24 Storm Water Pollution Prevention Plan (SWPPP) means a plan required by storm water regulations or permits that includes but is not limited to site map(s), an identification of industrial, construction/contractor activities that could cause pollutants in the storm water, and a description of measure or practices to control these pollutants.
- 2.25 Waters of the United States means waters defined at 40 CFR §122.2 and in addition means discharges to storm drain systems that in turn discharge to the waters of the United States are considered to be discharges to the waters of the United States.

ARTICLE 3. STORM WATER REGULATIONS AND REQUIREMENTS

- 3.1 Discharge Regulations and Requirements. An intentional non-storm water discharge to any storm sewer system, including both the municipal separate storm sewer system (MS4) and private storm sewer systems, is a violation of the Ordinance unless exempted by sections 3.9 and 3.10 of this Ordinance.
- 3.2 General Requirements.
- a. Any person engaged in activities that will or may result in pollutants entering a storm sewer system shall undertake pollution prevention measures and controls to the maximum extent practicable (MEP) to reduce such pollutants. Examples of such activities include, but are not limited to, proper use and disposal of household chemicals such as pesticides and fertilizers; and ownership, use and maintenance of facilities which may be a source of pollutants such as parking lots, fueling stations, industrial facilities, retail establishments, etc.
 - b. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, animal waste, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm sewer inlet, catch basin, conduit or other drainage structures, parking area, or upon any public or private plot of land so that the same might be or become a pollutant, except where such pollutant is being temporarily stored in properly contained waste receptacles or is part of a well defined compost system.
- 3.3 Prohibited Discharges. The following discharges from industrial or commercial activities are prohibited unless the discharge is in compliance with a NPDES permit:
- a. No person shall cause or permit any dumpster, solid waste bin, animal vegetable oil and grease rendering bin or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm sewer, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the unincorporated area of the County.
 - b. The occupant or owner of any real property in the unincorporated area of the County where there is located a paved sidewalk or parking area shall maintain said paved surface free of dirt or litter to the maximum extent practicable (MEP) and provide an adequate means for the disposal of refuse, rubbish, garbage, or other articles so as to prevent such matter from entering a storm sewer system. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on said real property.

- c. No person shall throw or deposit any pollutant in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere within the unincorporated area of the County, except as otherwise permitted under local, state or federal law.
 - d. No person shall cause a discharge or disposal of sanitary or septic waste or sewage into the storm drain system from any property or residence, recreational vehicle, lunch wagon, portable toilet, or any other mobile source having a holding tank, container or device. Any accidental spill or release of sewage shall be reported immediately to the local agency.
 - e. No person shall cause a discharge or disposal of wastewater into the storm sewer system from activities including, but not limited to, mobile vehicle washing, steam cleaning, carpet cleaning, lunch wagon cleaning, floor scrubbing and/or mopping, washing, rinsing or degreasing of commercial motor vehicles, fueling sites, vehicle repair garages, trash enclosures, shopping carts, sidewalks, building exteriors and parking lots unless otherwise stated in section 3.6 of this Ordinance.
 - f. No person shall cause a discharge or disposal of wastewater into the storm sewer system from cleaning tools, vehicles, and equipment associated with any building materials, i.e., concrete, plaster, stucco and painting, etc.
 - g. No person shall discharge from the washing or rinsing of restaurant floor mats, equipment or garbage dumpsters, cans and bins in such a manner that causes non-storm water to enter into the storm sewer system.
- 3.4 Good Housekeeping Practices. The occupant or the owner of any real property shall perform good housekeeping practices to minimize the impact of pollution to the maximum extent practicable (MEP) into the storm sewer system. The practices include, but are not limited to:
- a. Monitoring areas around trash dumpsters/enclosures, storage areas, loading docks and outdoor processing to ensure they are maintained in a clean and orderly manner.
 - b. Measures to eliminate or reduce exposure of garbage and refuse materials to precipitation or runoff prior to disposal.
 - c. Institute BMPs to eliminate or reduce exposure to precipitation and runoff from the storage or raw and/or finished products, equipment, machinery, motor vehicles, parts or regulated and hazardous materials.
 - d. Ensure immediate containment, cleanup and reporting of a leak or spill of raw or process liquids.
 - e. Employ cleaning practices for parking lots, sidewalks, industrial and commercial properties and residential vehicles to ensure compliance with all provisions of federal, state and local agency codes.
 - f. Water line flushing, foundation/footing drainage, swimming pool and air conditioning condensate discharges shall be conducted in a manner not to cause a violation with any provision of federal, state or local agency codes.
 - g. Institute a storm water pollution prevention employee training program to reduce or eliminate storm water pollution.
- 3.5 Illicit Connections. It is prohibited to establish, use, maintain or continue illicit drainage connections to the municipal separate storm sewer system (MS4), or to commence or continue any illicit discharges to the municipal separate storm sewer system (MS4).
- 3.6 Surface Cleaning.
- a. Surface cleaning of equipment including, but not limited to, over the road commercial motor vehicles, paved parking lots, private streets or roads, fuel dispensing sites, or similar structure, shall be allowed by the Local Agency under the following conditions:
 - (1) Wastewater shall be directed to or collected and disposed of into the sanitary sewer system through an approved pretreatment device.
 - (2) Written permission shall be obtained and provided to the Local Agency for approval if wastewater is to be removed from the cleaning site for pretreatment and sanitary sewer disposal.
 - (3) Cleaning may be performed using detergents and cleaners appropriate for the pretreatment and sanitary sewer systems.
 - b. Surface cleaning of garbage and/or grease rendering container enclosures shall be allowed by the Local Agency under the following conditions:
 - (1) Wastewater shall be disposed of into the sanitary sewer system through an approved pretreatment device.
 - (2) Cleaning may be performed using detergents and cleaners appropriate for the pretreatment and sanitary sewer systems.

- c. Surface cleaning of equipment such as, but not limited to, shopping carts, bread racks, plastic milk storage crates and floor mats, shall be permitted by the Local Agency under the following conditions:
- (1) Wastewater shall be disposed of into the sanitary sewer system.
 - (2) Cleaning may be performed using detergents and cleaners appropriate for the sanitary sewer system.
- d. Wastewater from surface cleaning of motor vehicles for sale or resale shall be allowed to discharge into the storm sewer system by the Local Agency under the following conditions:
- (1) Vehicles are rinsed without the use of detergents.
 - (2) Only the cleaning of the exterior surface of vehicles will be conducted.
 - (3) No cleaning of the under carriage or engine compartment will be conducted.
- e. Wastewater from surface cleaning of sidewalks, paved drive-throughs, patios and building exteriors shall be allowed to discharge into the storm sewer system by the local agency under the following conditions:
- (1) Pollutants such as, but not limited to, petroleum, food waste, grease, gum, cigarette butts, garbage, and paint chips are collected and properly disposed of.
 - (2) Cleaning is conducted without the use of cleaners (i.e., detergents, degreasers, solvents, etc.).
- 3.7 Outdoor Storage Areas – Commercial and Industrial Facilities. In outdoor areas, no person shall store regulated or hazardous substances whether dry or liquid in such a manner that allows contact with storm water where pollutants may discharge into the storm sewer system. These materials include, but are not limited to used motor vehicle parts, batteries, brake shoes, new and spent grease, oil, antifreeze, sludge or any other contaminated substance. To prevent the discharge of regulated or hazardous substances to the municipal separate storm sewer system (MS4), the County may require the removal of the substance or the installation or construction of a cover, enclosure or a secondary containment system. Secondary containment may consist of a system of concrete dikes, walls, barriers, berms, or other devices as required by the Director of Water Resources. No person shall operate a spill containment system such that it allows incompatible products to mix and thereby create a hazardous condition.
- 3.8 Secondary Containment. When the Director of Water Resources deems it necessary to reduce the risk of exposing the populace, environment, sanitary or storm drain systems to incompatible substances, secondary containment shall be installed.
- 3.9 Non-Storm Water Discharges. Discharges from the following activities will not be considered significant contributors of pollutants to waters of the state or U.S. when properly managed: fire sprinkler and water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering irrigation water, diverted stream flows, rising ground waters, groundwater infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, roof drains, water from crawl space pumps, residential air conditioning condensation, springs, individual residential and non-profit group exterior car washes, flows from riparian habitats and wetlands, de-chlorinated swimming pool discharges or flows from fire fighting activities and training. Accordingly, discharges from such activities are not subject to the prohibition against discharges. With written concurrence of the Nevada Department of Environmental Protection (NDEP), the County may exempt in writing other non-storm water discharges which are not a source of pollutants to the waters of the state or U.S.
- 3.10 Discharge Pursuant to NPDES Permit. The prohibition of discharges shall not apply to any discharge regulated under a NPDES permit issued and administered by the Nevada Division of Environmental Protection (NDEP), provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.
- 3.11 Discharge in Violation of Permit. Any discharge that would cause a violation of a municipal NPDES permit and any amendments, revisions or re-issuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and the County shall seek to have such persons defend, indemnify and hold harmless the Count in any administrative or judicial enforcement action against the permit holder relating to such discharge as provided by applicable rules of law. Any fines or penalties imposed upon County resulting from unauthorized discharges are the responsibility of the party causing the violation and may be collected by any appropriate civil process.

- 3.12 Compliance with General Permits. Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES permit issued by the Nevada Division of Environmental Protection (NDEP), shall comply with all provisions of such permits, including notification to and cooperation with local entities as required by State and Federal regulations. Proof of compliance with said NPDES General Permits may be required in a form acceptable to the Director of Public Works prior to issuance of any grading, building or occupancy permits.
- 3.13 Notification of Spills. All persons in charge of a facility or responsible for emergency response for a facility are responsible to train facility personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the Director of Water Resources upon becoming aware of any suspected confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the municipal separate storm sewer system (MS4). As soon as any person in charge of a facility or responsible for emergency response for a facility has such knowledge, such person shall take all necessary steps to ensure the Director of Water Resources is immediately notified of the occurrence and that containment and clean up of such release is performed. The notification requirements of this section are in addition to any other notification requirements set forth in Federal, state or other local regulations or laws.
- 3.14 Maintenance of Private Storm Water Facilities.
- a. Private storm water facilities shall be maintained by the owner or other responsible party per the manufacturer's recommendation and at the frequency recommended by the manufacturer or upon request of the Director of Water Resources and shall be repaired and/or replaced by such person when such facilities are no longer functioning as designed.
 - b. Disposal of waste from maintenance of facilities shall be conducted in accordance with applicable federal, state and local laws and regulations.
 - c. Records and maintenance and repair shall be retained by the owner or other responsible party for a period of three years and shall be made available to the Director of Water Resources upon request.
 - d. Any failure to maintain facilities or correct problems with facilities after receiving due notice from the County may result in criminal or civil penalties and the County may perform corrective or maintenance work which shall be at the owner's expense.
- 3.15 Inspection.
- a. The Director of Water Resources, or his designated agent, shall have the right of entry for inspection purposes of the facilities discharging to the municipal separate storm sewer system (MS4) to ascertain compliance with the County's storm water regulations. Persons or occupants of the premises where storm water is discharged shall allow the Director of Water Resources, or his designated agent, ready access to all parts of the premises for the purpose of inspection, records examination, random sampling and/or sampling in areas with evidence of storm water pollution, illicit discharges, or similar factors or in the performance of any other duties as called for in this Ordinance.
 - b. The owner or other responsible party shall make annual inspections of the facilities and maintain records of such inspections for a period of three years.
 - c. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Ordinance.
- 3.16 Monitoring Facilities, Reports and Access by County Personnel.
- a. The Director of Water Resources may require the discharger, at his own expense, to construct, operate and maintain monitoring facilities and equipment, and to submit monitoring reports for inspection. The monitoring facility will normally be required to be located on the discharger's premises outside of the building.
 - b. Flow measurement and sampling may be conducted periodically by County personnel. The County may install, maintain and operate sampling and measuring equipment on the premises of the discharger. Where a discharger has security guards, arrangements will be made so that upon presentation of suitable identification, the Director of Water Resources or his designated agent will be permitted to enter without delay for the purposes of performing the specific regulatory oversight responsibilities of this Ordinance.
 - c. There shall be accommodations made at each discharger site to allow safe and immediate access as required for personnel or designated agents of the Director of Water Resources. It is unlawful for any

person to prevent, or attempt to prevent, any such entrance or obstruct or interfere with any such personnel or agents of the County while so engaged.

- 3.17 Best Management Practices ("BMPs"). When it becomes necessary or desirable to discharge into the storm sewer system any matter from any source which does not conform to the requirements outlined in this Ordinance, it is required that before such matter may be discharged into the storm sewer system, the producer therefore shall pre-treat same using best management practices to the maximum extent practicable at his own expense. Upon written notice from the County of the requirement to utilize best management practices, the user shall have ten (10) working days to reply to the Director of Water Resources as to a plan of compliance and shall be in compliance within ninety (90) days unless a time extension is granted by the County. If analytical procedures are used to determine compliance, it will be those specified in 40 CFR Part 136. Such best management practices may include but are not limited to sedimentation chambers, oil separators, fiber rolls, storm drain catch basin filters, silt fences, secondary containment and any other device which effect a change of any nature in the characteristics of the matter being treated. Any and all such devices and equipment shall not be put into operation without a written permit or approval issued by the Director of Water Resources and shall be provided with all necessary features of construction to permit inspection of operations and testing of material passing through them, and shall be open to the inspection of the Director of Water Resources or his designated agents. Any best management practice used to pre-treat storm water to the maximum extent practicable shall be provided and maintained at the user's expense. Detailed plans showing the best management practices and operating procedures shall be submitted to the Director of Water Resources before construction or installation. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this Ordinance. Any subsequent changes in the best management practices or method of operation shall be reported to and be approved by the Director of Water Resources.
- 3.18 Soil Tracking and Drag Out. To limit the tracking of mud and sediment onto public roadways, a discharge into the storm sewer system or the spread of air borne dust by vehicles and equipment exiting an Industrial, Commercial or Construction site having exposed soil, best management practices shall be installed. Best management practices at a minimum may include, but not be limited to:
- a. Installation of aggregate base at the soil exposed exit of the premises. The aggregate applied should be a minimum of 1 to 3 inch washed, well-graded gravels or crushed rock with a minimum depth of 12 inches. The minimum exit length and width shall be 50 feet long and 10 feet wide respectively.
 - b. Straw wattles, silt fences or inserts may be used to protect storm sewer catch basins on the premises where exposed soil is present.
- 3.19 Recycling Facilities/Vehicle Wrecking and Dismantling. Prior to staging any material outdoors on a site for the purpose of recycling, the industrial or commercial user shall take all measures necessary to prevent a storm sewer discharge by securing, removing and properly storing regulated or hazardous materials whether it is a liquid or solid. These regulated or hazardous materials include, but are not limited to, petroleum contaminated vehicle parts, batteries, motor oil, transmission fluid, brake fluid, gear oil, cutting oil, soluble oil, gasoline, paper products and toner cartridges.

ARTICLE 4. ENFORCEMENT

- 4.1 Enforcement Authority. The Director of Water Resources shall enforce the provisions and requirements prescribed in this Ordinance unless otherwise indicated by specific reference. The Washoe County Sheriff and/or an Industrial Discharge Inspector designated to enforce the regulations contained in this Ordinance shall have the power and authority of a peace officer for the purpose of preventing and abating violations.
- 4.2 Violation Notice. In the event of a minor or potential hazard, the Director of Water Resources or his designated agent shall issue a notice to the discharger to remedy the hazard. Said notice shall require the discharger to submit to the Director of Water Resources within ten days a detailed plan and time schedule of specific action the discharger will take in order to correct or prevent a violation of this Ordinance. If the discharger fails to submit an acceptable plan, fails to comply with the notice, or fails to comply with the plans submitted, the discharger shall be charged with a violation pursuant to section 4.14 of this Ordinance.

- 4.3 Cease and Desist Order. In the event a discharger or potential discharger threatens the municipal separate storm sewer system (MS4), or endangers the health or safety of any person, the Director of Water Resources or his designated agent, shall issue a cease and desist order to the discharger. If the discharger fails to obey said order immediately, the Director of Water Resources or designated agent shall take such action as may be necessary to insure compliance, including, but not limited to, by and through the Washoe County Sheriff, causing the arrest of the person responsible for the discharge and/or the cessation of the discharger's ability to discharge.
- 4.4 Enforcement Procedures.
- a. When discharge of storm water has taken place in violation of this Ordinance or the provisions of an Environmental Control Permit, the Director of Water Resources or designated agent may issue a cease and desist order and direct those persons not complying with such prohibitions, limits, requirements, or provisions, to:
 - (1) Comply forthwith;
 - (2) Comply in accordance with a time schedule set forth by the Director of Water Resources; or
 - (3) Take appropriate remedial or preventative action.
 - b. The Director of Water Resources, his designated agent, or employees bearing proper credentials, have the authority to issue an on-site citation to any discharger whose discharge is in violation of this Ordinance.
 - c. Any user who violates the provisions of this Ordinance or applicable and inclusive state and federal regulations, is subject to having his permit revoked by the Director of Water Resources for:
 - (1) Failure of a user to factually report the storm water constituents, flow and/or characteristics of his discharge;
 - (2) Failure of the storm sewer user to report significant changes in operations, or storm water constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
 - (4) Failure to immediately report a spill or discharge of a regulated or hazardous substance; or
 - (5) Violation of conditions of an Environmental Control Permit.
- 4.5 Appeals. Any user, permit applicant, or permit holder affected by any decision, action, or determination, including cease and desist orders made by the Director of Water Resources, interpreting or implementing the provisions of this Ordinance, may file with the Director of Water Resources a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration. A person may, within ten (10) days, following written notice of the Director's decision, appeal the Director's decision to the Board of County Commissioners by filing an appeal with the County Clerk. An appeal shall be scheduled for hearing by the Board of County Commissioners within thirty (30) days of receipt of the appeal by the County Clerk.
- 4.6 Damage to Facilities. When a discharge to the storm drain causes an obstruction, damage, or any other impairment to a County storm water facility, the Director of Water Resources may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's storm sewer service charge, if any, or the user's water or sewer bill. The charge may also be collected through any appropriate civil process.
- 4.7 Injunctive Relief/Threatened Violation. Whenever a discharge of storm water threatens to cause a condition of contamination, pollution, or nuisance, the County may petition the appropriate court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate to prohibit such discharge.
- 4.8 Indemnity. Any person who violates or aids or abets the violation of any provisions of this Ordinance, regulations, requirements, or conditions set forth in permits duly issued, or who discharges storm water which causes pollution, or violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard, shall be liable to indemnify the County in the full amount of any penalty, fine or judgment imposed against the County which is attributable to, or results from, such violation.

- 4.9 Civil Liability. At the option of the Director of Water Resources, the County may impose civil liability, instead of a criminal sanction, in an amount not to exceed one thousand (\$1,000.00) dollars for a violation of any provision of this Ordinance. Such civil penalty is in addition to, not in substitution for, any indemnification liability identified in section 4.8 herein.
- 4.10 Termination of Service.
- a. The Director of Water Resources may terminate or cause to be terminated storm sewer service, water service or sewer service to any premises in violation of any provisions of this Ordinance if a discharge or effluent causes or threatens to cause a condition of contamination, pollution or nuisance. Prior to termination of service, the Director of Water Resources shall notify the owner of such property in writing that service is intended to be so terminated and conduct a hearing. Such notice shall be mailed to the owner as his name and address are shown on the real property assessment rolls on which general taxes are collected, or as known to the County Clerk, and a copy shall be delivered to the tenant or posted conspicuously on the property. The notice shall state the date of proposed termination of service and the reasons therefore and the date the Board of County Commissioners will hold a hearing upon such intended termination. Such hearing shall not be held less than ten days subsequent to the giving of notice as herein required.
- b. The Director of Water Resources may suspend the storm sewer service, water service or sewer service when such suspension is necessary, in the opinion of the Director of Water Resources, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes the County to violate any condition of the NPDES permit. Any person notified of a suspension of the storm sewer service shall immediately stop or eliminate the contribution to the system. In the event of a failure of the person to comply voluntarily with a suspension order given under this subsection, the Director of Water Resources or his designated agent shall take such steps as deemed necessary to prevent or minimize damage to the storm sewer system or endangerment to the health or safety of any individuals. Such steps may include, but are not limited to, by and through the Washoe County Sheriff, the arrest of the discharger and cessation of the discharger's ability to discharge. The Director of Water Resources shall reinstate the suspended storm sewer service, water service or sewer service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Director of Water Resources within fifteen days of the date of occurrence.
- 4.11 Correction of Violation – Collection of Costs. The Director of Water Resources may correct any violation of this Ordinance or any violation of any order issued by the Director of Water Resources as authorized by this Ordinance. The cost of such correction may be added to any storm sewer service, water service or sewer service charge payable by the person in violation, or the owner or tenant of the property upon which the violation occurred. The County shall then have such remedies for the collection of such costs as it has for the collection of utility service charges, including the placing of liens upon subject property for any delinquent payment. Liens imposed for such costs shall run with the land and with the waste.
- 4.12 Injunctive Relief/Continuing Violation. The County may petition the appropriate court for a preliminary or permanent injunction, or both, to correct any violation of this Ordinance or any violation of any order issued by the Director of Water Resources as authorized by this Ordinance. No one has the option of paying for the right to allow wastes to continue to seep into the environment and the County has no authority to accept payment pursuant to section 4.11 as an alternative to continued pollution.
- 4.13 Falsifying of Information. Any person who knowingly makes any false statement, representations, record, or who knowingly renders inaccurate any monitoring device or method required under the regulations, is declared to be in violation of this Ordinance and subject to the civil liabilities imposed under section 4.8 of this Ordinance, or subject to prosecution and punishment pursuant to section 4.14 of this Ordinance.
- 4.14 Misdemeanor Penalty. Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and, upon conviction thereof, may be punished by a fine of not more than One Thousand (\$1,000.00) Dollars and/or imprisonment of not more than six months. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the provisions of this Ordinance is committed, continued, or permitted by any such person.

- 4.15 Remedies are Cumulative. The remedies and sanction provided in this Ordinance are cumulative and the institution of any proceeding or action seeking any one of such remedies or sanctions does not bar any simultaneous action or proceeding seeking any other of such remedies or sanctions.
- 4.16 Specific Remedies do not Impair Other Rights. No remedy or sanction provided for in this Ordinance impairs any right which the County or any person has under any federal or state law or common law.

ARTICLE 5. ENVIRONMENTAL CONTROL PERMITS

- 5.1 Objective. The objective of an environmental control permit is to control and reduce pollution to the Truckee River, its tributaries and the waters of the U.S. from storm water discharges associated with industrial and commercial activities through the use of Best Management Practices (BMPs).
- 5.2 Permit. Industrial/Commercial storm water dischargers connected to the County's storm sewer system shall obtain an Environmental Control Permit from the Director of Water Resources. It is unlawful for any industrial or commercial discharger to discharge storm water without such permit. The Director of Water Resources shall require a permit for the following categories of industrial and commercial dischargers:
- Storm Water Discharges associated with Industrial Activity as defined in 40 CFR §122.6(b)(14) subject to industrial activity.
 - Facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (ix) in this section).
 - Facilities whose industrial classification is listed in the State of Nevada Division of Environmental Protection Storm Water General Permit NVR050000, as defined in the Standard Industrial Classification (SIC) Manual.
 - Facilities currently permitted under the State of Nevada Division of Environmental Protection General Permit NVR050000.
 - Those industrial or commercial establishments discharging storm water to the municipal separate storm sewer system (MS4) that the Director of Water Resources determines to require regulation or source control.
- 5.3 Permit Application. To obtain an Environmental Control Permit, all industrial/commercial dischargers shall complete and submit to the Director of Water Resources a permit application. The application may require the following information:
- Name, address, title, phone number and Standard Industrial Classification (SIC) number;
 - Site plans, storm water drainage plans, and details to show all storm drains and appurtenances by size, location and elevation as required by the Director of Water Resources;
 - Description of business activities, including type of product, raw materials used, and variation in operations;
 - Identification of actual and potential sources of pollution that may reasonable be expected to affect the quality of storm water discharges from an industrial or commercial facility.
 - Establishment of best management practices (BMPs) and any necessary controls that will prevent or effectively reduce pollution in storm water discharges from industrial/commercial facilities and ensure compliance with the terms and conditions of the Environmental Control Permit.
 - Description of how selected best management practices (BMPs) and control are appropriate for an industrial or commercial facility and how each will effectively prevent or lessen pollution.
 - Any other information as may be deemed necessary by the Director of Water Resources to evaluate the permit application.
- 5.4 Permit Fees.
- Fees for an Environmental Control Permit and monitoring by the County shall be set by resolution of the Board of County Commissioners at a public hearing. Fees collected shall defray administrative, sample collection, inspection, testing, and other costs associated with storm water permit applications and evaluations as required in section 5.5 of this Ordinance.

- b. Payments shall be due and payable upon receipt of a bill and shall be delinquent if not fully paid within thirty (30) days of the date on which the bill is sent to the user by the County. A penalty of eight and three-tenths percent (8.3%) per month of the charges may be added to all delinquent charges.
- c. A delinquency existing on July 1 of any year shall be reduced to judgment and imposed as a lien against the real property subject of the permit.

5.5 Terms and Conditions of Permit.

- a. In general, an Environmental Control Permit shall be issued for a period of one year. A permit may be issued for a period less than a year or otherwise set to expire on a specified date. Whatever the stated term of the permit, the permit continues in full force and effect and the user is bound by the terms of the permit until the user receives notification by the Director of Water Resources that the permit is expired or about to expire. The terms and conditions of a permit may change during the life of the permit as limitations or requirements identified in this Ordinance are modified and changed. The user shall be informed of any proposed modifications to their permit conditions at least thirty days prior to the effective date of the modification. Any modification of conditions or imposition of new conditions to the permit shall include a reasonable time period for compliance.
- b. Storm water permit conditions shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, user charges and fees. Permits may contain, but are not limited to, the following:
 - (1) The unit charge or schedule of user charges and fees for storm water to be discharged to the municipal separate storm sewer system (MS4);
 - (2) Requirements for installation and maintenance of inspection and sampling facilities;
 - (3) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
 - (4) Compliance schedules;
 - (5) Requirements for submission of technical reports or discharge reports;
 - (6) Requirements for maintaining and retaining records relating to storm water discharge as specified by the Director of Water Resources and affording County access thereto;
 - (7) Requirement of notification of accidental discharges or spills to storm water facilities;
 - (8) Requirements for pretreatment of storm water before discharge;
 - (9) Requirement for the development of a compliance schedule for the installation of technology required to meet applicable discharge standards and requirements;
 - (10) Other conditions necessary to accomplish the purpose of this Ordinance.
- c. The permit may include a time schedule that allows the discharger time to meet the conditions of the permit.
- d. The industrial or commercial discharger, who has been issued a permit, will be responsible for all costs required to comply with any conditions of the permit.

5.6 Change of Permit Terms and Conditions. The Director of Water Resources may change any or all terms and conditions of an Environmental Control Permit for cause. The Director of Water Resources shall specify a reasonable compliance period for compliance with any required changes in a permit.

5.7 Transfer of a Permit. Environmental Control Permits are issued to a specific user for a specific operation. An Environmental Control Permit shall not be assigned, transferred or sold to a new owner or new user, or represented as valid for different premises or a new or changed operation.

ARTICLE 6. CONSTRUCTION SITE STORMWATER DISCHARGE REGULATION,
PERMITTING AND INSPECTION

6.1 Purpose and Intent.

- a. Promote and protect the health, safety, and general welfare of the citizens of Washoe County and enhance and preserve the quality and value of our resources by regulating construction activities.
- b. Provide for the protection of storm water, ground water, water bodies, watercourses, and wetlands pursuant to and consistent with the Clean Water Act, and NPDES permit granted to the Washoe County.
- c. Manage and control the amount of pollutants in storm water discharges, soil erosion, sediment discharge, mud and dirt deposits on public roadways, and municipal storm sewer systems caused by or a result of construction activities.

- d. Ensure adequate drainage, storm water management and soil conservation measures are utilized at the site of any construction activity.
- 6.2 Applicability. Off-site impacts of erosion and sedimentation from a construction site shall be limited to the maximum extent practicable and polluting substances such as construction materials and wastes shall be contained on the site where they cannot drain or be transported by storm water into a water body, channel or storm drain. Best Management Practices shall be implemented for all construction sites and are mandated for construction sites with a disturbed area of one acre or greater or one acre or less if in a sensitive area or part of a larger planned development according to the performance standards of the "Truckee Meadows Construction Site Best Management Practices Handbook" ("BMP Manual").
- 6.3 Regulatory Consistency. This Ordinance shall be construed to assure consistency with state and federal laws, rules and regulations, including the Clean Water Act and all acts amendatory thereof or supplementary thereto; all NPDES permits issued to Washoe County; and any other provisions of the Washoe County Code. Compliance with this Ordinance does not exempt any person from complying with other applicable ordinances, rules, codes, acts or permits.
- 6.4 Construction Site Discharge Regulations and Requirements.
- a. Construction Permit Submittal is required on all projects that may require a grading, site development, building, site drainage, or encroachment permit and will disturb one or more acres of land (including public works projects).
 - b. Prior to the issuance of a Construction Permit, the following must be submitted:
 - (1) Construction Permit Submittal Checklist,
 - (2) Performance Standards Compliance Checklist,
 - (3) Copy of Notice of Intent from NDEP or copy of a receipt for payment of Notice of Intent.
 - c. The installation and maintenance of storm water controls are to be in accordance with the standards as set for in the BMP Manual and the SWPPP.
 - d. At the end of construction, the site shall be finished, cleaned, re-vegetated and permanent erosion controls are installed in accordance with the Notice of Intent, the BMP Manual and the SWPPP.
- 6.5 Administrative Fees.
- a. The required permit fees are based on the nature or size of the permitted area and are for the purpose of providing administration, inspection and enforcement of the provisions of this Ordinance.
 - b. The County shall collect an administrative service charge for inspection of storm water quality controls, for inspection of the measures at the completion of work, and for inspection of measures at the start of each phase of work. The administrative service charge is as set forth in the current Resolution and any amendments thereto which establishes the service charges and fees for the County.
 - c. The above listed fees shall be doubled if the construction activity is commenced prior to the issuance of the required permit and/or installation of Storm water controls. Payment of the double fee shall not preclude the County from taking any other enforcement actions within its authority.
- 6.6 Inspection.
- a. All Construction activities, which fall within this Ordinance, shall be subject to the inspection provisions provided herein.
 - b. The County maintains the right to inspect any site of construction activity. The Responsible Person shall schedule inspection through the Public Works Department. Initial inspections must be requested a minimum of 24 hours prior to the completion of the placement of the BMPs. Follow up inspections will not be scheduled, but will occur as follows:
 - (1) At the end of construction when the site has been finished, cleaned, re-vegetated and permanent erosion controls are in place.
 - (2) Monthly for those sites with a combination of extreme factors including slopes greater than 10%, proximity to floodplains and waterways, long project duration (in excess of 6 months) and environmental sensitivity.
 - (3) Additional inspections may also occur as deemed necessary by the Public Works Director.
 - (4) For phased projects, the County shall inspect installed measures per the BMP Manual and the SWPPP prior to the commencement of each phase.

- c. If an inspector determines the installed storm water controls are placing the County at risk of violating its NPDES permit, the inspector may order modifications or changes to the storm water controls. If a modification or change to the storm water controls is not immediately implemented, enforcement action may be taken.
- d. Emergency control measures may be ordered when pollutants are actually leaving the site.
- e. A complaint of violation shall be promptly investigated by inspection.

6.7 Enforcement.

- a. Authority. The Public Works Director and his duly authorized representatives are hereby authorized and directed to enforce all the provisions of this Article 6. The Washoe County Sheriff and/or the duly authorized representatives of the Public Works Director that are designated to enforce the regulations contained in this Ordinance shall have the power and authority of a peace officer for the purpose of preventing and abating violations.
- b. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code or any other lawful ordinance, the Public Works Director or his authorized representative may enter the property at all reasonable times to inspect the same or to perform any duty imposed upon the Public Works Director by this code, provided he shall first present proper credentials and request entry. If entry is refused, the Public Works Director or his authorized representative shall have recourse to every remedy provided by law to secure entry.
- c. Notice of Violation. Whenever the Public Works Director or his authorized representative finds a violation of the provisions of this code, the Public Works Director or his authorized representative may issue a notice of violation in writing served on the responsible person. The notice of violation will provide a time period in which the corrective action must be completed.
- d. Stop Orders. If the notice of violation is not complied with within the time period provided therein, the Public Works Director or his authorized representative may order the work stopped by a written stop work order served on the responsible person, and any such persons shall forthwith stop such work until authorized by the Public Works Director to proceed with the work.
- e. Penalty for Violation. In addition to any other remedies under this Article 6, a person violating any of the provisions of this Article is subject to the penalties set forth in Article 4 of this Ordinance and as provided in the Washoe County Code.
- f. NDEP. The County may, at its discretion, contact the NDEP for further enforcement.
- g. Costs Accrued by County. Should the County be required to intercede in the installation, maintenance or removal of measures, said costs accrued by the County for time and material necessary to correct the defective installation, maintenance or removal of said measures, shall be levied against the property, and shall be paid in full prior to issuance of any final approval or certificate of occupancy associated with the permit, and prior to issuance of any subsequent permit or start of subsequent phase.

6.8 Immediate Compliance. All construction activity subject to this Article shall come into compliance upon adoption of this Ordinance.

6.9 Disclaimer of Liability. The degree of protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and this Ordinance does not imply that compliance will ensure against all unauthorized discharge of pollutants. This Ordinance shall not create liability on the part of the County, any agent or employee thereof for any damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

Proposed on the 18th day of NOVEMBER, 2003

Proposed by Commissioners SHAW

Passed on the 9th day of DECEMBER, 2003

Vote:

Ayes: Commissioners: *HUMKE, GALLOWAY, SHAW & WEBER*

Nays: Commissioners: *(NONE)*

Absent: Commissioners: *SERRAZZA*

David E. Hunter

Chairman
Board of County Commissioners

ATTEST:

Amy L. R. Harvey

AMY HARVEY, Washoe County Clerk

This Ordinance shall be in force and effect from and after the *10th* day of *DECEMBER*,
2003.

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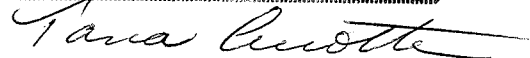
ss: Julia Ketcham

Being first duly sworn, deposes and says: That as the legal clerk of the Reno Gazette-Journal, a daily newspaper published in Reno, Washoe County, State of Nevada, that the notice referenced below has published in each regular and entire issue of said newspaper between the dates: **12/12/03 - 12/19/03**, for exact publication dates please see last line of Proof of Publication below.

Signed:



Subscribed and sworn to before me



Proof of Publication

NOTICE OF ADOPTION WASHOE COUNTY ORDINANCE NO. 1223 NOTICE IS HEREBY GIVEN THAT: Bill No. 1404, Ordinance No. 1223 entitled AN ORDINANCE ESTABLISHING A STORM WATER DISCHARGE PROGRAM BY WASHOE COUNTY WITHIN CERTAIN AREAS OF WASHOE COUNTY; AUTHORIZING THE DEPARTMENT OF WATER RESOURCES AND/OR PUBLIC WORKS TO ISSUE PERMITS TO BUSINESSES AND CONSTRUCTION DISCHARGERS; PROVIDING PROCEDURES FOR ENFORCEMENT; AND OTHER MATTERS RELATING THERETO. was adopted on December 9, 2003 by Commissioners Galloway, Humke, Shaw and Weber. Commissioner Sferrazza was absent. This ordinance shall be in full force and effect from and after December 19, 2003. Typewritten copies of the ordinance are available for inspection by all interested persons at the office of the County Clerk, 350 South Center Street, Suite 100, Reno, Nevada. AMY HARVEY, Washoe County Clerk and Clerk of the Board of County Commissioners No.157803 Dec 12, 19, 2003