

CHAPTER 40

WATER AND SEWAGE

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### Waste of Water

- 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 40.266, 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 40.266, inclusive.

[§1, Ord. No. 347; A Ord. Nos. 822, 950, 971]

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.

[§13, Ord. No. 347; A Ord. Nos. 822, 950]

40.030 Definitions. For the purpose of sections 40.010 to 40.266, inclusive, the terms, phrases, words and their derivation defined in sections 40.010 to 40.160, inclusive, have the meanings ascribed to them in those sections.

[Part §2, Ord. No. 347; A Ord. No. 971]

40.040 "Customer" defined. "Customer" refers to any person who:

1. Is an owner, occupant or user of real property to which water is supplied by a public water system.

2. Uses water supplied by a public water system.

3. Is billed for the supply of water from a public water system.

4. Is responsible for or otherwise has the right or permission to utilize the supply of water provided by a public water system.

[Part §2, Ord. No. 347]

40.050 "Department" defined. Unless specified otherwise in sections 40.010 to 40.266, inclusive, "department" refers to the department of water resources of the county under the supervision and direction of the director of water resources, which department is hereby designated as the official governmental agency responsible for coordinating and supervising the enforcement of sections 40.010 to 40.266, inclusive.

[Part §2, Ord. No. 347; A Ord. No. 971]

40.060 "Excessive" defined. "Excessive" as used in relation to the use, expenditure or application of water which is the subject of sections 40.010 to 40.266, inclusive, means any immoderate or unreasonable consumption of water which results in water:

1. Running to waste into any street, road, parking lot,

gutter, drain way, swale, sewage system or any place for the disposal of water in a steady stream or flow; or

2. In the course of running to waste, collecting in pools or in any depressed area to a depth of 1 inch or more; or

3. Being used, expended or applied as part of the water supply provided by any public water system, in a manner contrary to any water conservation regulation, policy, rule, condition, directive or request which has been issued to the customers of the public water system in question or which has been given general public notice by the public water system in question; or

4. Being expended in any combination of subsections 1 to 3, inclusive, of this section.

[Part §2, Ord. No. 347; A Ord. Nos. 822, 971]

40.070 "Hand watering" defined. "Hand watering" refers to the use or expenditure of water supplied to a customer or any person through a hose connected to a piping system while such hose is hand held and such water is used for any exterior purpose or is otherwise expended outside any dwelling, building or structure.

[Part §2, Ord. No. 347]

40.080 "Irrigate" defined.

1. "Irrigate" means to apply or to expend water onto land, whether by channels, by flooding, by sprinkling, or by any other means whatsoever, except by hand watering.

2. "Irrigate" also refers to any act of irrigation.

[Part §2, Ord. No. 347]

40.090 "Person" defined. "Person" means any natural person, any group of persons, any firm, partnership, association, corporation, company or any other organization or entity which is not a public utility regulated by the public service commission of Nevada.

[Part §2, Ord. No. 347]

40.100 "Public water system" defined.

1. "Public water system" refers to any publicly or privately owned network of pipes, conduits, wells, machinery, reservoirs, holding tanks and any other components, including any combination thereof, which supplies water to customers who are charged a fee of any kind or nature for such service or which is designed to supply water or is capable of supplying water to customers for a fee at two or more dwellings, buildings or lots.

2. Within the meaning of sections 40.010 to 40.266, inclusive, a public water system includes any such system operated under the regulatory authority of the public service commission of Nevada and any other such system.

[Part §2, Ord. No. 347; A Ord. No. 971]

40.110 "Running to waste" defined. "Running to waste" means the application, expenditure or use of water in such a way that the water can be observed collecting in pools or in any depressed area or flowing or running across the ground or any surface area in a manner that is excessive for the use or nonuse to which the

water is being put.

[Part §2, Ord. No. 347]

40.120 "Shall" defined. "Shall" is always mandatory and never directory.

[Part §2, Ord. No. 347]

40.130 "Unincorporated area" defined.

1. "Unincorporated area" refers to all geographic areas within the boundaries of the county, excepting those areas lying within the corporate boundaries of the city of Reno and the city of Sparks.

2. Nothing contained in sections 40.010 to 40.266, inclusive, prevents the board from defining or designating any specified area or areas within the "unincorporated area" for the purpose of the administration of sections 40.010 to 40.266, inclusive, if circumstances require such designation.

[Part §2, Ord. No. 347; A Ord. No. 971]

40.140 "Wastage of water" defined. "Wastage of water" refers to any act of a customer involving the use, application or expenditure of water supplied from a public water system which results in such water running to waste; but nothing contained in this section may be construed to prohibit any person having a direct legal right or owning an appropriated water right from using water in accordance with the express terms and conditions of any permit to use or appropriate water issued under authority of the state engineer or pursuant to any order or directive of any federal water master having authority in the county or pursuant to any lawful court order or decree.

[Part §2, Ord. No. 347]

40.150 "Wastewater" defined. "Wastewater" means treated effluent from any sewage treatment plant operated by a governmental or private entity or effluent emitted from an individual sewage disposal system approved by the district health department.

[Part §2, Ord. No. 347]

40.160 "Water" defined. "Water" refers to all water, except wastewater, supplied from a public water system to any customer who uses water.

[Part §2, Ord. No. 347]

40.170 Waste of water prohibited.

1. It is unlawful for any customer of a public water system to waste water as defined in section 40.180 in the unincorporated area of the county.

2. For the purposes of sections 40.010 to 40.266, inclusive, the use, consumption or expenditure of water under any of the conditions classified in section 40.180 shall be presumed to be wasteful and a violation of sections 40.010 to 40.266, inclusive.

3. Nothing contained in this section may be construed to prohibit any person having a direct legal right or owning an

appropriated water right from using water in accordance with the express terms and conditions of any permit to use or appropriate water issued under authority of the state engineer or pursuant to any order or directive of any federal water master having authority in the county or pursuant to any lawful court order or decree.

[§3, Ord. No. 347; A Ord. No. 971]

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 40.266, 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 water resources or his agent or representative as provided in sections 40.010 to 40.266, 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 director of water resources 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.

[§4, Ord. No. 347; A Ord. Nos. 822, 950, 971]

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.

[§5, Ord. No. 347; A Ord. No. 950]

40.200 Accidental wastage of water; notice of violation precondition to prosecution for violation. If any violation of sections 40.010 to 40.266, inclusive, is the result of any accidental breaking of any hose, water pipe, irrigation device or system, or any other component of a water-delivery system, which accident or emergency is beyond the control of any customer where

the violation occurs, personal notice of such violation shall be given by the director of water resources or his agent or representative to the customer or person or an agent or representative of the customer having the custody, control or responsibility for the property or who has a pecuniary interest therein. Such notice shall direct that the situation or condition causing the violation of sections 40.010 to 40.266, inclusive, be corrected within 24 hours from the time of the receipt of such notice. If any violation of sections 40.010 to 40.266, inclusive, has not been corrected within such time, it shall constitute an unlawful condition within the meaning of section 40.180 and shall be punishable as provided in section 40.266.

[§6, Ord. No. 347; A Ord. No. 971]

40.210 Furnishing water used in violation of section 40.010 et seq. unlawful.

1. The director of water resources or his authorized agent or representative may issue an appropriate notice to any person representing a public water system which is not doing business as a utility regulated by the public service commission of Nevada but which furnishes water to any customer for business, manufacturing, agricultural or household use, which notice may specify that any customer or person who is being furnished water is in violation of sections 40.010 to 40.266, inclusive.

2. Upon receipt of such notice, the person who furnishes or supplies water shall take all appropriate steps to correct and eliminate any violation of sections 40.010 to 40.266, inclusive, within 24 hours of receipt of any such notice from the director of water resources. Any supplier of water who receives a notice as provided in this section shall make every effort to notify the customer responsible for the waste of water in violation of sections 40.010 to 40.266, inclusive, to correct and eliminate the violation.

3. It is unlawful for any person to continue to furnish water to any customer on whose property any violation of sections 40.010 to 40.266, inclusive, is allowed to continue more than 24 hours after receipt of the notice provided for in this section from the director of water resources, unless the director of water resources extends such time limit in writing upon request of the water supplier.

[§7, Ord. No. 347; A Ord. No. 971]

40.220 Enforcement. The department of water resources and, within its service territory, the Truckee Meadows Water Authority, their officers and designated employees, 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.

[§8, Ord. No. 347; A Ord. Nos. 950, 971, 1160]

40.225 Prohibited uses of water and planting of lawns.

1. Unless a variance has been granted by the director of water

resources 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.

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.

[§2, Ord. No. 822; A Ord. Nos. 950, 971]

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.

(f) The recommendation of the Truckee Meadows Water Authority Board for the declaration of a water emergency.

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 water resources 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 water resources 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 water resources that the public health, safety, and convenience requires such a restriction on such use of water because of limited water supplies. The director of water resources 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 county 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.

[§9, Ord. No. 347; A Ord. Nos. 822, 950, 971, 1160]

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 chapter, 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.

[§10, Ord. No. 347; A Ord. Nos. 822, 950]

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.

[§11, Ord. No. 347; A Ord. No. 950]

40.260 Infraction; notice and filing with agencies 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 water resources 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 water resources;
- (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 water resources 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. If the infraction occurs within the service territory of the Truckee Meadows Water Authority, a copy of the notice of infraction is to be filed with the general manager of the Truckee Meadows Water Authority and maintained therein as a public record.

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 water resources 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 water resources.

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

10. If the director of water resources, 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 water resources, or designated hearing officer, may dismiss the notice of infraction and release the customer or owner from liability thereunder.

11. The director of water resources shall notify the Truckee Meadows Water Authority when an infraction within the Truckee Meadows Water Authority service territory has been resolved, either through payment of the fine or by dismissal.

[§12, Ord. No. 347; A Ord. Nos. 534, 950, 971, 1160]

40.265 Appeal; notice of appeal; judicial enforcement of fine or assessment.

1. A person against whom the director of water resources, 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 may be made by filing with the director of water resources 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 water resources shall forward the notice of appeal, together with a copy of the notice of infraction and a copy of the director of water resources, or designated hearing officer's, finding and assessment to the appropriate justice court and a copy of the same to the district attorney. The director of water resources shall provide a copy of any appeal relating to an infraction within the Truckee Meadows Water Authority territory to the Truckee Meadows Water Authority.

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 water resources, 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.

[§12, Ord. No. 950; A Ord. Nos. 971, 1160]

40.266 Schedule of civil fines and assessments. The civil fines and assessment imposed for infractions of sections 40.010 to 40.266, inclusive, shall be as established by the director of water resources and approved by the board.

[§13, Ord. No. 950; A Ord. No. 971]

#### Pollution of Lake Tahoe

40.270 Unlawful pollution of waters of Lake Tahoe; penalty. Any person who places or allows to pass, or places where it can pass, any offal, sewage or discharge from any slaughterhouse or pen, corral, stable, barn, butcher shop, residence, hotel, camp or any other building or source whatever, into the waters of Lake Tahoe, or who causes the waters of Lake Tahoe to become polluted, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$200, or by imprisonment in the county jail not exceeding 100 days, or by both fine and imprisonment.

[§1, Ord. No. 6; A Ord. No. 534]

#### Department of Water Resources

40.280 Creation of department of water resources.

1. There is hereby created the Washoe County department of water resources.

2. The department shall be responsible primarily for the planning, management and operation of water resources including, but not limited to, water, sewer, flood control, and drainage, as assigned by the board of county commissioners.

3. The department shall provide staff services to and on behalf of the water planning commission created pursuant to sections 40.500 to 40.560 of this chapter.

[§2, Ord. No. 971]

40.290 Creation of position of director of water resources.

1. The position of director of water resources is hereby created. The director shall be appointed by the board of county commissioners upon recommendation of the county manager and shall serve at the pleasure of the board.

2. The director shall appoint, pursuant to the provisions of chapter 5 of this code regulating county personnel, such professional, technical, clerical and operational staff as the execution of his duties and the operation of his department may require.

[§3, Ord. No. 971]

40.300 Powers, duties of director of water resources. The director of water resources shall direct and supervise all planning, administrative and technical activities of the department of water resources. In addition to the duties as may be required in the daily administration of the department, the director shall act as secretary to the water planning commission.

[§4, Ord. No. 971]

40.310 Divisions of department of water resources enumerated.  
The department of water resources shall consist of:

1. A utility services division;
2. A resource planning and management division; and
3. Such other divisions as the board of county commissioners may in its discretion from time to time establish.

[§5, Ord. No. 971]

40.320 Utility services division: Appointment of manager.

1. The manager of the utility services division shall be appointed by the director of water resources.
2. The manager of the utility services division is responsible to the director of water resources and has such powers and duties as are conferred upon him by the director of water resources in administering the operations of the department.

[§6, Ord. No. 971]

40.330 Resource planning and management division: Appointment of manager.

1. The manager of the resource planning and management division shall be appointed by the director of water resources.
2. The manager of the resource planning and management division is responsible to the director of water resources and has such powers and duties as are conferred upon him by the director of water resources in administering the operations of the department.

[§7, Ord. No. 971]

#### Department of the Truckee River Flood Management Project

40.400 Creation of the Department of the Truckee River Flood Management Project: Purpose.

1. There is hereby created the Department of the Truckee River Flood Management Project.
2. The purpose of the Department of the Truckee River Flood Management Project is to provide for the safety, welfare, and protection of the people and property within Washoe County by reducing the risk of flooding within the Reno-Sparks metropolitan areas of Washoe County. The department shall be responsible primarily for planning, management, and operations related to the flood control project.

[§2, Ord. No. 1272]

40.410 Creation of position of flood management project director.

1. The position of flood management project director is hereby created. The director shall be selected by the Flood Project Coordinating Committee and appointed by the county pursuant to the consent procedures established in the Truckee River Flood Management Project Cooperative Agreement and is in the unclassified service of the county.

2. The project director serves at the pleasure of the Coordinating Committee and the county, subject to the consent procedures in the Cooperative Agreement.

3. The project director shall report to the county manager on a day-to-day basis for operations supervision and administrative oversight within the parameters of the policy direction of the Coordinating Committee.

[§3, Ord. No. 1272]

40.420 Duties of the flood management project director.

1. The flood management project director shall direct and supervise all planning, administrative, and technical activities of the Department of the Truckee River Flood Management Project and advance the interests of the project with business groups, regulatory and government agencies, and environmental groups.

2. The director shall oversee all functions of the department and shall supervise the employees assigned to the department.

[§4, Ord. No. 1272]

Water Planning Commission

40.500 Purpose and authority.

1. The 1995 Nevada Legislature enacted Senate Bill 489, certain provisions of which were effective July 1, 1995, which bill provides for comprehensive planning and management of water in certain counties (hereinafter "Act"). The Act authorizes Washoe County to engage in water planning activities and to impose by ordinance a surcharge of up to 1.5 percent on customer water bills within the region as herein defined for planning.

2. The county of Washoe desires to implement the provisions of the Act to assure that a water plan is completed, or substantial progress made thereon, and approved in whole or in part prior to March 31, 1997, for presentation to the Nevada Legislature.

[§2, Ord. No. 935]

40.510 Creation. The Washoe County water planning commission is hereby created, pursuant to the provisions of Senate Bill 489 of the Sixty-Eighth Session of the Nevada Legislature, to perform all the duties and functions delegated to the water planning commission by the terms of the Act.

[§3, Ord. No. 935]

40.520 Definitions.

1. "Affected entity" means a city within the region or a governmental entity or public utility providing services related to the subject matter of the comprehensive water plan.

2. "Board" means the board of county commissioners.

3. "Commission" means the water planning commission.

4. "Facility" means a facility enumerated in section 40.570.

5. "Public water, wastewater or flood control system" means a water, wastewater or flood control facility intended to serve an identified territory or specified geographical area.

6. "Region" means the territory to be included within and

under the planning and management jurisdiction of the water planning commission, to wit: all of Washoe County except the Tahoe Basin, reservation lands and all property north of Township 25.

7. "Regional planning commission" means the commission established pursuant to NRS 278.0262.

8. "Water supplier or provider" means any mutual water company, investor owned utility, public service commission regulated utility, governmental utility or homeowner association utility that supplies water to the region as defined herein.

[§4, Ord. No. 935; A Ord. No. 1009]

40.530 Commission; membership; terms; qualifications; alternates.

1. The commission shall be composed of nine voting members, as follows:

- (a) One member appointed by the Reno city council;
- (b) One member appointed by the Sparks city council;
- (c) One member appointed by the board;
- (d) One member appointed by the board to represent the interests of owners of domestic wells;
- (e) One member appointed by the trustees of the Sun Valley general improvement district;
- (f) One member appointed by Sierra Pacific Power Company, or its successor;
- (g) One member appointed by the governing body of the Pyramid Lake Paiute Tribe of Indians;
- (h) One member appointed by agreement of the Reno city council and Sparks city council to represent environmental, biological, conservation or public concerns;
- (i) One member appointed by the governing board of the Washoe County water conservation district.

2. The commission shall also be composed of at least eight non-voting members, as follows:

- (a) One member appointed by the public service commission of Nevada;
- (b) One member appointed by the Nevada advocate for customers of public utilities;
- (c) One member appointed by the administrator of the division of environmental protection of the state department of conservation and natural resources;
- (d) One member appointed by the state engineer;
- (e) One member appointed by the administrator of the division of water planning of the state department of conservation and natural resources;
- (f) One member appointed by the board of directors of the Carson-Truckee water conservancy district;
- (g) One member appointed by the Washoe County board of health;
- (h) One member appointed by a majority of the voting members of the commission to represent the public at large.

Additional nonvoting members may be appointed by the commission as needed upon a majority vote of the voting members.

3. The term of a voting member is 3 years, except for the initial term which shall be in accordance with the provisions of

the Act. A member may be appointed to additional terms as desired by the respective appointing authority.

4. The members, both voting and nonvoting, must not hold any elective office and must be qualified as to at least one of the following categories:

(a) A registered professional engineer with experience related to comprehensive planning, natural resources or environmental protection;

(b) A specialist in hydrology;

(c) Experienced in law, management or planning related to water;

(d) Experienced in municipal finance;

(e) Experienced in construction, planning or operation of facilities or systems for supplying or treating water, for collecting or treating sewage, for drainage of storm water, or for control of floods;

(f) Knowledgeable in the areas of water conservation, biology, natural systems, water quality and water management.

5. The body appointing either a voting or nonvoting member of the commission shall designate an alternate to serve in the absence of the member for the same term. The appointees may be removed for cause by the appointing body in accordance with procedures established by the appointing body.

[§5, Ord. No. 935]

#### 40.540 Chairman; meetings; quorum.

1. The chairmanship of the commission shall be rotated on July 1 of each year among the members appointed pursuant to section 40.530 (1) (a), (b) and (c).

2. Meetings of the commission shall be held at least monthly and any time upon the call of the chairman or three voting commission members. Notices of meetings shall be sent to all commission members, both voting and nonvoting, and as otherwise provided in NRS chapter 241.

3. A quorum consists of a majority of the voting members and, except as otherwise provided in section 40.560 (3), action may be taken upon an affirmative vote of a majority of voting members.

[§6, Ord. No. 935]

#### 40.550 Funding; water fee surcharge; duties of water suppliers; sunset.

1. There is hereby imposed a fee of 1.5 percent on billings of customers of water suppliers or providers within or to the region as defined in section 40.560 herein.

2. The fee shall not be imposed upon any late penalties, handling fees, turn-ons, turn-offs, or other similar fees.

3. All water suppliers and providers shall state and identify the fee imposed herein separately on its billings or charges to customer effective with the first full billing cycle commencing on or after October 1, 1995.

4. All fees collected by a water supplier or provider pursuant to this section shall be deposited into a special account in the county water management fund and all monies, including any interest accruing to said account, shall be expended solely for

purposes of water planning.

5. The fees shall be imposed and collected by the water suppliers and providers commencing with the first full billing cycle after September 30, 1995.

6. A water fee collected pursuant to this section is to be collected at the retail sale level upon the gross water sale unless the fee has already been paid upon the water through a prior purchase from a supplier.

7. Upon application by a water supplier, provider or on the board's own motion, the board may waive the collection of fees if accounting and collection costs are not offset or only minimally offset by collections or if minimal benefit will be derived from water planning activities on a temporary or permanent basis.

8. The county manager shall adopt procedures necessary to effectuate the provisions of this section, including but not limited to a schedule for transfer of the fee by water suppliers and providers to County.

[§7, Ord. No. 935; A Ord. No. 1009]

**Note:** 40.550 extending the 1.5 percent water bill surcharge, in accordance with actions taken by the 1997 Nevada Legislature, was made retroactive to July 1, 1997.

[§9, Ord. No. 1009]

40.560 Rules; records; commission action on water plan and amendments; conditions precedent to adoption of plan or amendments.

1. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations. This record shall be a public record.

2. Complete records of official actions of the commission shall be kept on file in the department of water resources.

3. At least six votes are necessary to recommend a plan, or amendments thereto, to the board.

4. The commission action on a plan or amendment thereto must be by resolution, which resolution must identify the text, maps and descriptive or other matter constituting the plan.

5. The commission or board or other affected entity may initiate an amendment to the plan if the commission finds:

(a) The proposed amendment will complete a plan component or address a matter not addressed in the current approved plan; or

(b) The proposed amendment is necessitated by changes within the region, including but not limited to changes in local or regional comprehensive plans; or

(c) The proposed amendment is necessary by virtue of an updating of the assumptions upon which the current approved plan was based.

6. In addition to any review of the plan initiated pursuant to paragraph 5 herein, the commission shall initiate a total plan review of the initial adopted plan no later than January of the year 2002 and shall review the plan at least every three years thereafter. After each review pursuant to this section, the commission must submit any proposed amendment to the board or

report there are none.

7. A plan, or amendment to the plan, must be adopted by the board by a two thirds vote of the total board membership and receive a determination of conformance by the regional planning commission prior to it becoming effective.

8. The procedures for notice and public hearings on the initial plan and any amendments shall be those established in the Act.

[§8, Ord. No. 935; A Ord. Nos. 971, 1009]

40.570 Conformance review; qualified facilities; notice.  
Facilities requiring conformance review pursuant to NRS 540A.230 are classified for purposes of conformance review as follows:

1. Facilities subject to review and decision by the commission:

(a) Large facilities recognized in the water plan, as defined by the commission and maintained on a list in the department of water resources;

(b) Proposed public water and/or wastewater systems;

(c) Flood control facilities.

2. Facilities subject to review and placed on a consent agenda for approval or denial as recommended by staff to the commission:

(a) Facilities not meeting the requirements of paragraph 1 but processing sewerage in excess of 187,500 gallons per day;

(b) Facilities not meeting the requirements of paragraph 1 but supplying water in excess of 625 acre feet per year;

(c) Small facilities recognized in the water plan, as defined by the commission and maintained on a list in the department of water resources;

(d) Facilities not meeting the requirements of paragraph 1 requiring a state discharge permit.

3. For purposes of determining the type of review pursuant to this section, no facility may be knowingly or intentionally segmented or phased to result in a lesser level of review.

[§6, Ord. No. 1009]

40.580 Final decision; time period.

1. Any proposal for the construction of a facility subject to review pursuant to section 40.570 hereinabove must be acted upon within 30 days of an application determined complete has been submitted unless the time period for review is waived by the applicant in writing.

2. Notice that the application has been received and the period for comment to staff and/or date of hearing before the commission must, at minimum, be provided to the citizen advisory board for the area of the region within which the proposed facility is located.

3. A determination of conformance by the commission of a facility submitted for review pursuant to section 40.570 is final unless appealed.

4. Any determination of nonconformance shall be in the form of a written notice of decision accompanied by any recommended actions to be taken to make the proposal conform to the water plan.

5. A determination by the commission pursuant to this section may be appealed to the board by filing a written appeal with the director of water resources within 10 days after receipt of the written notice of decision.

6. For purposes of this section, a written notice of decision shall be presumed to be received within 3 days of the mailing of the notice.

7. An appeal filed pursuant to this section must state with specificity the reasons why the applicant believes the commission erred in its determination.

[§7, Ord. No. 1009]

40.590 Appeal; wait on denials.

1. The clerk of the board shall schedule a public hearing on the appeal of commission determination before the board within 30 days of the date of the filing of the appeal with the director of water resources.

2. In addition to the notice required pursuant to NRS chapter 241, the public hearing on appeal pursuant to this section shall be noticed to those persons requesting notice on a form to be provided by the department.

3. The board shall consider only those items cited in the appeal. In its deliberation, the board may use the record and any additional evidence relative to the application and may confirm, reverse or modify the appealed actions based upon its interpretation of the evidence submitted.

4. After a determination of nonconformance, no application for a conformance review for the same facilities, without substantial change, may be accepted for one (1) year immediately following the denial.

[§8, Ord. No. 1009]