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BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: *Amends the Development Code by updating the standards within Article 422, Water and Sewer Resource Requirements, to remove the requirement to dedicate water rights to Washoe County under certain circumstances.*

BILL NO. _____

ORDINANCE NO. _____

Title:

An ordinance amending the Washoe County Code at Chapter 110 (Development Code), within Article 310, *Temporary Uses and Structures*, to update the standards within Article 422, Water and Sewer Resource Requirements, to remove the requirement to dedicate water rights to Washoe County for commercial, industrial, or civic uses in areas not served by the Truckee Meadows Water Authority, or a General Improvement District; and other matters necessarily connected therewith and pertaining thereto.

WHEREAS:

- A. This Commission desires to amend Washoe County Code Chapter 110 (Development Code), Article 422, Water and Sewer Resource Requirements; and,
- B. The Washoe County Commission initiated the proposed amendments to Washoe County Code Chapter 110 (Development Code) by Resolution on June 27, 2017; and,

- C. The amendments and this ordinance were drafted in concert with the District Attorney, and the Planning Commission held a duly noticed public hearing for WDCA17-0002 on October 3, 2017, and adopted Resolution Number 17-12 recommending adoption of this ordinance; and,
- D. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Commission desires to adopt this Ordinance; and,
- E. This Commission has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, therefore it is not a "rule" as defined in NRS 237.060 requiring a business impact statement.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DOES HEREBY ORDAIN:

SECTION 1. Section 110.422.03 is hereby amended to read as follows:

Section 110.422.03 Definitions. These definitions apply specifically to this Article:

- (a) "Development" means any new residential, commercial or industrial development of land, including the division of land into two or more parcels.
- (b) "Relinquishment" means the relinquishment of groundwater rights to the State of Nevada within a hydrographic basin for the purpose of offsetting the impacts of additional groundwater withdrawn from proposed domestic wells to serve individual homes. Relinquishment of groundwater rights are a prerequisite to approval of newly created residential lots utilizing individual domestic wells as their source of water supply. Proof of relinquishment is satisfied when the appropriate approved affidavit from the Nevada State Engineer's Office is recorded with Washoe County.
- (c) "TMWA" means the Truckee Meadows Water Authority.
- (d) "PUC" means the Public Utilities Commission of Nevada.
- (e) "Water purveyor" means:
 - (1) A public water system as defined in NRS 445A.235, as amended;

- (2) A community water system as defined in NRS 445A.808, as amended;
 - (3) A noncommunity water system as defined in NRS 445A.828, as amended;
 - (4) A nontransient water system as defined in NRS 445A.829, as amended;
or
 - (5) A transient water system as defined in NRS 445A.848, as amended;
 - (6) A water system as defined in NRS 445A.850, as amended.
- (f) "Will Serve" means a commitment for water service per NAC 445A.6666 and NAC 278.290.
- (g) **"General improvement district" (GID) and "district" alone each means any general improvement district organized pursuant to NRS chapter 318.**

SECTION 2. Section 110.422.15 is hereby amended to read as follows:

Section 110.422.15 Water Rights and Water Resource Satisfaction. Developments to be served by the Truckee Meadows Water Authority **or a GID** shall be required to satisfy the water resource dedication requirements of the Truckee Meadows Water Authority **or the GID**. For those developments not served by the Truckee Meadows Water Authority **or a GID**, the development owner or property owner shall be required to dedicate or submit proof of relinquishment to Washoe County as a condition precedent to any permit or approval, any water rights reasonably necessary to ensure an adequate water supply for the intended or permitted use. **For new commercial, industrial, or civic developments not served by the Truckee Meadows Water Authority or a GID, proof of ownership may be accepted in lieu of dedication, provided the requirements of subsection (h) below, other than (h)(1), are met. For any new development not served by the Truckee Meadows Water Authority or a GID, presentation of a valid will-serve from a water purveyor approved and under Nevada Public Utilities Commission jurisdiction or the submittal of proof of the relinquishment of water rights may substitute for the dedication of water rights to Washoe County.** The amount of water rights necessary shall be determined by the Washoe County Community Services Department and the Nevada State Engineer; said water rights amount are singular and not cumulative. In the event the State of Nevada and the County have different requirements under this section, the most stringent of the County or State requirements must be satisfied. No building permit, special use permit, or recordation of a parcel map or subdivision map shall be granted until the dedication, **proof of ownership** ~~or the proof of relinquishment of water rights is~~ accepted by the Washoe County Community Services Department. The Community Services Department will evaluate the ~~proof of relinquishment of water rights, or the water rights offered for dedication to Washoe County or to a water purveyor~~ **water rights** as described above based on, but not limited to, the following criteria:

- (a) Water Resource Requirements. In accordance with this section, in those instances where Washoe County's water resource requirements are more stringent than the State Engineer's, additional water rights will be relinquished, **required** or dedicated as appropriate;

- (b) Adequacy of Amount of Water. The amount of water resources for the intended use is adequate to provide a reliable water supply and is **owned and controlled by the property owner and/or the developer of the project** or offered for dedication to the County or proof of the relinquishment of water rights is submitted to the County;
- (c) Proximity of Source. The proximity of the hydrologic basin or source of water ~~offered for dedication to the County or proof of the relinquishment of water rights~~ **necessary in support of the project** for the intended use;
- (d) Proof of Ownership. Valid proof of ownership, including a chain of title to the original water right holder, for the water rights ~~offered for dedication to the County or proof of the relinquishment of water rights~~ **necessary in support of the project**;
- (e) Status of Water Right. The priority and yield of the water right, the current manner and place of use, and the status of the permits or certificates issued by the Nevada State Engineer, or the status of the water right established in a court decree, which are ~~offered for dedication to the County or proof of the relinquishment of water rights~~ **necessary in support of the project**;
- (f) Point of Diversion. The ability of the water purveyor, the developer, or the property owner to obtain from the Nevada State Engineer the necessary permits to change the point of diversion, and the manner and place of use of the water right for the intended use; and
- (g) Relinquishment. In the case of parcel or subdivision maps creating new residential parcels with an individual domestic well as their source of water supply, the applicant shall deliver proof of the relinquishment of the water rights to the County.
- (h) **Any water rights previously dedicated to the County pursuant to this section in connection with a commercial, industrial, or civic use may be reconveyed to the original grantor or the original grantor's successor, if good cause exists, either sua sponte by the County at the sole discretion of the Director of the Planning and Building Division of the Community Services Department, or upon application to the Director of the Planning and Building Division of the Community Services Department. For purposes of this subsection, good cause shall at a minimum include the following findings:**
 - (1) The operation for which the water rights were originally dedicated has continued to operate in good standing and in compliance with all applicable conditions and other legal requirements;
 - (2) The water rights will continue to be used in connection with the operation and will be properly maintained with the State Engineer's office and will not be sold or otherwise alienated as long as the operation continues;
 - (3) The applicant and the County cause to be filed with the State Engineer a written request for advance notification to the county of any proceedings and copy of all notices and correspondence concerning the subject water rights; and
 - (4) The county or its lawful designee does not serve as the water provider for the operation or property in question and has no plan to do so for at least the 10 year period following the application.

If water rights are reconveyed pursuant to this subsection and the county or its lawful designee subsequently becomes the water provider for the property in question, then the water rights must again be dedicated to the appropriate water purveyor pursuant to this section and all regulations and requirements governing the provision of water service by the water purveyor.

SECTION 3. General Terms.

1. All actions, proceedings, matters, and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
2. The Chairman of the Board and officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. Each term and provision of this Ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this Ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then the offending provision or term shall be excised from this Ordinance. In any event, the remainder of this Ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

DRAFT: October 3, 2017

Passage and Effective Date

Proposed on _____ (month) _____ (day), 2017.

Proposed by Commissioner _____.

Passed on _____ (month) _____ (day), 2017.

Vote:

Ayes:

Nays:

Absent:

Robert Lucey, Chair
County Commission

ATTEST:

Nancy Parent, County Clerk

This ordinance shall be in force and effect from and after
the _____ day of the month of _____ of the year
_____.