

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. It shall be unlawful for a customer of a public water system that receives any water supply from the Truckee Meadows Water Authority to utilize water for the irrigation of lawns at any time except on the days and at the times allowed pursuant to the rules of the Truckee Meadows Water Authority.

2. During a water emergency declared by the board by resolution pursuant to section 40.230 it shall be unlawful to plant a seeded or hydroseeded lawn from May 16 through September 15.

3. 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.

4. 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; A Ord. No. 1434]

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]

Water and Sanitary Sewer Financial Assistance Program

40.335. Purpose and Authority. The Nevada State Legislature of 2009 enacted Assembly Bill 54, Chapter 365, Statutes of Nevada, 2009, which was later added to Chapter 244 of the Nevada Revised Statutes as NRS 244.3651 and NRS 244.3653, respectively. NRS

244.3651 authorizes counties with populations between 100,000 and 400,000, as may be amended from time to time, to establish a financial assistance program by ordinance for residential property owners, who desire to abandon their private on-site domestic wells or septic systems and connect to Public Water or Sewer Systems, thereby protecting and conserving groundwater resources in the region. The purpose of this Ordinance and new section of Chapter 40 is to:

1. Establish rules and regulations governing the administration of the "Water and Sanitary Sewer Financial Assistance Program" and ensure that these rules are applied in a non-discriminatory manner to all eligible residential property owners.

2. Ensure that available financial assistance in the form of loans are exclusively used to pay actual and necessary costs and expenses to:

- (a) disconnect from a Private Water or Sewer System;
 - (b) eliminate, decommission or properly abandon a Private Water or Sewer System; and

- (c) connect to a Public Water or Sewer System.

3. Ensure that loan amounts, fees, charges, costs, and any delinquencies, including penalties and interest, are repaid in accordance with this Ordinance and the terms and conditions of the loan agreements, notes, and related documents.

['2, Ord. No. 1449]

40.336. Finding of Public Purpose and Benefit. Based on evidence provided at public hearings, the Board hereby finds and determines as follows:

1. As of 2009, it is estimated that several thousand parcels in the Truckee Meadows Service Area of Washoe County are being served by domestic wells, on-site septic systems, or both.

2. Based on studies performed and data reviewed by the Washoe County Department of Water Resources, domestic wells in the southern portion of Washoe County have failed or no longer provide safe drinking water because of over-appropriation of groundwater resources, declining water tables, poor water availability due to geologic structure, and/or water quality issues caused by natural contaminants or groundwater contamination caused by septic system effluent. These various conditions pose a direct threat to the public's health, welfare and safety.

3. Converting parcels served by domestic wells or on-site septic systems to available Public Water or Sewer Systems, where such systems are or can reasonably be made available, would substantially reduce the impacts to property owners of over-appropriation of groundwater resources, declining water tables and contamination that threaten the public health, welfare and safety. Cost estimates, however, for converting a significant number of these parcels to available Public Water and Sewer

Systems indicate that the per parcel cost ranges from \$15,000 to \$30,000 to connect a parcel to each utility system, with a cumulative total cost of approximately \$600 million for converting all such parcels to a public or private utility service provider designed to serve in the area. Many residential property owners do not have the financial means of paying these significant up-front costs associated with conversion to Public Water and Sewer Systems, especially under economic conditions that include high unemployment and depreciating property values.

4. For the foregoing reasons, the Board finds that it is necessary to establish a program to offer available financial assistance to eligible residential property owners to serve the public purpose and benefit of assisting property owners desiring to convert from Private Water and Sewer Systems to Public Water and Sewer Systems in order to protect and promote the health, welfare and safety of its citizens.

['3, Ord. No. 1449]

40.337. Establishment of Financial Assistance Program. The Board hereby establishes a program to provide financial assistance in the form of loans issued to eligible owners of residential property, who desire to convert from a private on-site domestic well or septic system to a reasonably available Public Water or Sewer System. In basins where financial assistance for domestic well conversions is proposed, a plan for the protection and sustainable management of groundwater of such a basin shall be established, and from time to time amended.

['4, Ord. No. 1449]

40.338. Title. This Ordinance shall be known as the Water and Sanitary Sewer Financial Assistance Program ("Program" or "Ordinance").

['5, Ord. No. 1449]

40.339. Definitions.

1. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Chapter 244 of the NRS, as amended, and, if not defined therein, their common and ordinary meaning.

2. "Administrator" means the Director of the Washoe County Department of Water Resources or designee.

3. "Board" means the Board of Washoe County Commissioners as the legislative body of the county.

4. "Code" means the official code of the county's ordinances of a general and permanent character, as may be adopted and amended by the Board.

5. "Contractor" means a Nevada State licensed and duly qualified contractor who is authorized to perform the work and services related to the abandonment, decommissioning and

conversion of a private water or sewer system to a public water or sewer system.

6. "Loan" means the extension of credit or financing of principal, interest, fees and charges, of whatever kind and in whatever amount, issued by the county from the Water or Sewer Utility Enterprise Fund for the exclusive purpose of providing financial assistance to eligible property owners under this Program.

7. "Loan Package" means the Financial Assistance Program application, security agreement, promissory note, deed of trust and all other documentation, reports, authorizations, letters or requests for information required by the Administrator.

8. "Private Water System" means an on-site domestic well, and any facility or facilities related thereto, that serves potable water to an existing residential dwelling unit.

9. "Private Sewer System" means an on-site sewage or septic system, and any facility or facilities related thereto, that serves an existing residential dwelling unit for the disposal, collection, storage or treatment of sewage.

10. "Public Water or Sewer System" means Washoe County water or sewer system facility or facilities for the collection, pumping, treatment, storage or conveyance of potable water or sewage, and all appurtenances, equipment and machinery necessary, useful and convenient for obtaining, storing, transporting or transferring water or sewage.

11. "Reasonably Available" means that the residential property abuts or is within 400 feet of a Public Water or Sewer main, transmission or distribution line, and the residential property has legal access to the Public Water or Sewer System through either a public street, road or right-of-way, or through a temporary construction and/or permanent easement.

12. "Truckee Meadows Service Area or TMSA" shall mean the defined area, as amended from time to time, within which municipal services and infrastructure will be provided and which boundary is intended to guide orderly urban and suburban development within the Truckee Meadows area.

['6, Ord. No. 1449]

40.340. Administrator's Program Authority.

1. Authority to Award Loan Commitments up to \$25,000. Subject to and in accordance with the eligibility criteria and requirements set forth in this Ordinance, the Board hereby authorizes the Administrator or designee to enter into Loan commitments with eligible residential property owners in amounts of \$25,000.00 or less. For all other Loan commitments in amounts that exceed \$25,000.00, Board authorization shall be required.

2. Authority to Implement Administrative Regulations and Policies. The Administrator shall establish and implement regulations, policies and procedures regarding the administration of this Program. Program regulations, policies and procedures

shall include, but not be limited to, the responsibility for: receiving and processing applications; developing and providing Loan funding and repayment terms, conditions, and specifications; awarding Loans; monitoring construction; approving disbursements of Loan funds for authorized expenditures; establishing mechanisms for the collection of Loan payments; and administering the repayment of delinquencies under this Ordinance. Regulations, policies and procedures shall be adopted by the Board prior to implementation and shall be consistent with the provisions of this Ordinance and NRS 244.3651.

3. Accounting. Funds used to support this Program shall be accounted for separately and in accordance with generally accepted accounting principles.

4. Reporting. The Administrator shall report to the Board on a quarterly basis on the activities associated with this Program, including new loans made and loan repayment activity.

['7, Ord. No. 1449]

40.341. Applicability.

1. An eligible owner of residential property located in the Truckee Meadows Service Area of Washoe County may apply for financial assistance pursuant to this Program to pay for the necessary and actual costs and expenses associated with abandonment and conversion from a Private Water or Sewer System to a reasonably available Public Water or Sewer System.

2. Nothing in this Ordinance shall be construed to require the Board, the Administrator or designee to provide any financial assistance or to require any owner of residential property to apply for or accept financial assistance pursuant to this Program. Approval of financial assistance under this Program and its written regulations, policies and procedures shall be at the sole discretion of the Board or the Administrator, as authorized by the Board.

['8, Ord. No. 1449]

40.342. General Eligibility for Loans and Program Funding.

Loans shall be made subject to the following general eligibility requirements and Program funding terms and conditions:

1. Applicant. To qualify for financial assistance under the Program, the applicant must submit, upon verification by the Administrator, a certified copy of the deed from the Washoe County Recorder that evidences he/she is the current record owner of the residential property to be converted to the Public Water or Sewer System. An applicant must be current and not delinquent in payment of all Washoe County property taxes, fees and assessments, and payment of any existing mortgage, deed of trust, promissory note or other security instrument or agreement, if any.

2. Residential Property. The applicant's residential property must be currently served by a Private Water or Sewer System and

must be reasonably available to a Public Water or Sewer System. For purposes of this Ordinance, "reasonably available" means that the residential property abuts or is within 400 feet of a Public Water or Sewer main, transmission or distribution line, and the residential property has legal access to the Public Water or Sewer System through either a public street, road or right-of-way, or through a temporary construction and/or permanent easement. The residential property to be improved and connected to the Public Water or Sewer System must contain a permanent residential structure or mobile or manufactured home with a permanent foundation and must be assessed as real property by the Washoe County Assessor.

3. Program Funding. The Program may be funded by any combination of grants, gifts or other available monies on hand or accepted by the Board. The Administrator is encouraged to obtain additional funding in the form of grants or gifts to be used for the exclusive purpose of reducing Loan amount commitments to eligible property owners under this Program. Program funding is subject to availability. Grant funding, if available, is subject to the terms and conditions of the grant and shall be apportioned equally and uniformly to benefit each eligible property owner in accordance with the purpose, terms and conditions of the grant.
['9, Ord. No. 1449]

40.343. Financial Assistance Application Process. An applicant must satisfactorily complete and submit the applicable Program forms and fees to the Administrator before being considered eligible for financial assistance.

1. Loan Package and Program Funding Forms. The Administrator shall prescribe and make available to applicants Loan Package and Program forms.

2. Application Fee. All applicants for financial assistance shall be charged a standard, non-refundable application fee, which amount shall be established by the Administrator on an annual basis each July. The standard application fee shall be used to pay standard costs for processing the application and issuing financial assistance, including, but not limited to, all costs of administration, authorization, obtaining credit or other reports, certifications or other documents, and loan set-up fees.

3. Priority. Except as otherwise provided in this subsection, a Program application, together with the standard application fee, will be rated on a first-come, first-serve basis as of the date a completed and submitted application is received by the Administrator, with priority determined as of the date of the application's postmark, receipt date of facsimile or electronic mail transmission or hand delivery date stamp received.

4. Emergency Conditions. The Administrator or designee shall have the discretion to offer financial assistance to an eligible residential property owner who does not have priority status based upon the Program application's date of receipt, if:

- (a) All other general eligibility requirements have been satisfied; and
- (b) An emergency condition exists or is likely to exist, which necessitates providing the residential property owner with financial assistance, if the residential property owner's Private Water or Sewer System fails to operate and an imminent and substantial endangerment to the environment or to the health, safety and welfare of persons requires immediate action.

5. Acceptance of Application Not a Final Determination of Financial Assistance Granted. Receipt and acceptance of a Program application for financial assistance indicates only a determination that the application has been satisfactorily completed and that it is generally eligible, but does not constitute or imply a commitment of the Board to provide financial assistance, and shall not be construed as such until issuance of a final written determination. Applications will be accepted by the Administrator or designee until Program funding or credit for Loans is no longer available.

6. Denials. Letters of denial will be issued to applicants who are not qualified stating the reason for denial.

7. Withdrawal of Application. An applicant may decline financial assistance or withdraw a Program application at any time prior to disbursements of funds for any reason or no reason at all. Applicants who withdraw an application at any stage in the process shall not be entitled to a refund of the standard application fee.

['10, Ord. No. 1449]

40.344. Authorized Expenditures.

1. To the reasonable satisfaction of the Administrator or designee, all Authorized Expenditures, as defined in subsection 40.344(2), must be verified by invoices or receipts from a duly licensed Contractor or other qualified person, who has actually performed and completed the services or work. Retroactive to May 29, 2009, the Administrator or designee may authorize or recommend financial assistance for Authorized Expenditures already performed prior to the establishment of this Program, if:

(a) The work or services were performed and completed by a duly licensed Contractor or other qualified person in accordance with all applicable federal, state and local laws; and

(b) The work and services were performed and completed in accordance with all applicable public works and water and/or sewer utility standards and requirements.

2. Loan commitments issued to a residential property owner shall only be used for the purposes set forth in this section, and in each case, upon a finding by the Administrator or designee that the purpose of the Loan and the terms and condition of repayment satisfy the goals and eligibility requirements set forth under this Program. Authorized Expenditures shall be limited:

- (a) To offset, finance or pay for the costs directly associated with the design, specifications, records or document production, permit and plans for the connection of the residential property to a Public Water or Sewer System;
- (b) To offset, finance or pay for the costs associated with the construction, excavation, installation and connection to a Public Water or Sewer System;
- (c) To offset, finance or pay for the one-time system connection or hook-up fees, impact fees, capacity fees, lateral line costs, permitting and inspection fees;
- (d) To offset, finance or pay for the costs associated with the abandonment and/or decommissioning of a Private Water or Sewer System serving an applicant's eligible residential property; and
- (e) To offset, finance or pay for the costs associated with the repair and restoration of the applicant's residential property impacted by the non-negligent abandonment, construction and installation activities, work or services directly related to the conversion from a Private Water or Sewer System to a Public Water or Sewer System.

['11, Ord. No. 1449]

40.345. Construction Requirements.

1. The property owner, Contractor or other qualified person performing the work or services authorized under this Program shall be responsible for ensuring that all such work or services performed is consistent with applicable law, rules and regulations and that all necessary permits are obtained prior to the commencement of work or services.

2. The Administrator or designee may require eligible program applicants, who intend to use a licensed Contractor to perform the work or services under this Program, to submit a specified number of bids prior to authorizing such work or services. The Contractor, who is hired by the recipient of Funding or a Loan commitment, and who performs authorized work under this Program, must be properly licensed in the State of Nevada, in good standing and duly qualified under all applicable federal, state and local laws.

3. The property owner, Contractor or other qualified person shall not construct, install or connect to a Public Water or Sewer System unless the property owner has received written authorization from the Administrator or designee to proceed. This written authorization does not relieve the property owner, his/her contractor or other qualified person performing the work or services from the responsibility for obtaining all necessary permits and/or means of legal access prior to commencement of the work.

4. Contractors or other qualified persons, who perform abandonment, construction and connection activities, work or services under this Program shall be fully responsible for all

acts or omissions in the performance of such activities, work or services. Contractors or other qualified persons shall be responsible for promptly correcting acts or omissions to ensure that the work and services are properly performed.

5. Construction Inspections, Permits and Tests. Upon completion of the work and services authorized under this Program, the Administrator or designee must be provided with sufficient written documentation evidencing all final construction inspections, tests, permits and other related certificates or regulatory approvals before financial assistance will be disbursed. Disbursement of financial assistance to the property owner shall neither constitute nor be construed as the county's opinion of the quality of construction, workmanship or services, but only as to their completion.

['12, Ord. No. 1449]

40.346. Loan Commitments.

1. Loan Commitment. Upon submission of an application for financial assistance under this Program, the Board or Administrator or designee, as authorized by the Board, may approve the issuance of a Loan to an eligible applicant, subject to payment of a Loan Administrative fee described in 40.346(4). If a Loan under this Program is authorized, the residential property owner must execute applicable Loan Package documents, in the form of a promissory note and deed of trust or such other similar instruments, to pledge the real property as security for the Loan. Interest rates charged on Loans issued under this Program shall be determined by the county and may be subject to modification pursuant to the terms and conditions of the Loan agreements, instruments and documents.

2. Contractor Agreements with Residential Property Owner. Except as otherwise provided in this Ordinance, when a Loan commitment is authorized, the owner of the residential property shall enter into an appropriate agreement with the Contractor to perform and complete the work or services authorized under this Program. The Board, Administrator or any other county officer or representative shall not be a party or a third party beneficiary to any such agreement.

3. Loan Disbursements. The Board hereby authorizes the Administrator or designee to determine whether invoices and amounts submitted for payment qualify as Authorized Expenditures under the Program. After the Administrator or designee determines such invoices and amounts qualify as Authorized Expenditures, Loan disbursements for such amounts shall be made directly and only to the residential property owner, but only after a further determination is made by the Administrator or designee that all abandonment and conversion work or services of a Private Water or Sewer System to a Public Water or Sewer System have been performed and completed satisfactorily and in accordance with applicable public works and utility standards. Loan disbursements

shall only be made to a loan applicant or applicants.

4. Loan Administrative Fee. Each recipient of a Program Loan shall be charged a Loan Administrative Fee in the amount of one percent (1%) interest above the interest rate based on the weighted average cost of debt within the County's Department of Water Resources, which is recalculated at the beginning of each fiscal year, for loans made using cash on hand. This loan administrative fee shall be incorporated into the loan interest amount appearing on billing statements. The Loan Administrative Fee shall be used to pay the costs of issuing and servicing the loan, including, but not limited to, all costs of billing and collecting payment related to the loan.

['13, Ord. No. 1449]

40.347. Repayment Procedure for Program Loans.

1. Repayment of Loans. Repayment of Program Loans, together with all interest, fees and charges, shall, upon notice to the residential property owner, be made to the Washoe County Treasurer using similar procedures to those used for the collection of special assessments or other similar obligations due and owing the county.

2. Billings for Installments. Repayment of Program Loans shall be made in quarterly installments as determined by the Washoe County Treasurer for the parcel being converted to the Public Water or Sewer System. The Program Loan amount, after computing the applicable interest rate, fees and charges for the applicable period from the date of the notice in 40.347(1), shall be prepared by the Washoe County Treasurer as soon as reasonably practicable after Loan issuance. Billing and collection for the Loan amount shall thereafter be treated procedurally in a similar manner as that for any other special assessment or similar obligation for the parcel.

3. Delinquent Repayment of Loans.

(a) If the residential property owner does not timely pay to the Washoe County Treasurer each installment for the Loan amount computed and billed for the parcel, each such installment shall be deemed delinquent and shall accrue a monthly penalty equal to 5% of the delinquent installment plus any applicable penalties previously accrued. On May 1 of each year, any parcel with four or more installments delinquent, plus any penalties accrued, shall be added to the real property tax roll and collected as set forth below in section 40.348. The 5% monthly penalty will accrue through June 30 of each year following the determination to add the delinquency to the tax roll. Any further delinquent installments beyond the first four as described in 40.347(3)(a) above, shall result in the entire outstanding amount of the Loan being added to the real property tax roll and collected as set forth in section 40.348.

(b) The Washoe County Treasurer may, in his/her sole discretion, waive or reduce any penalties and interest accrued

for any delinquent installments caused by circumstances beyond the control of the residential property owner. A request to waive or to reduce any such penalties and interest must provide a proper showing of circumstances beyond the residential property owner's control and the failure to timely pay installments occurred despite the exercise of ordinary care.

['14, Ord. No. 1449]

40.348. Collection of Delinquencies.

1. The Board hereby adopts and incorporates in this Ordinance the procedures set forth in NRS 244.36605 for the collection of delinquent repayment of Loans or services, including without limitation, service charges, fees, interest and penalties. The Board further authorizes the Washoe County Treasurer to collect such delinquencies by preparing them to be collected on the tax roll, or with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner and at the same time as, together with and not separately from, Washoe County's general taxes.

2. In accordance with and in addition to the requirements of NRS 244.36605, the Washoe County Treasurer shall:

(a) Describe each lot or parcel of real property or each mobile or manufactured home with respect to which Loan amounts, charges, fees, penalties and interest are delinquent on May 1 of each year; and

(b) The amount of the delinquent Loan amounts, charges, fees, penalties and interest, to be prepared and submitted to the Washoe County tax receiver, in a form approved by the tax receiver, no later than June 1 of each year.

['15, Ord. No. 1449]

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]

Truckee River Flood Protection Financial Assistance Ordinance.

40.450 Title: Sections 40.450 through 40.460 shall be known as the Truckee River Flood Protection Financial Assistance Ordinance.

['2, Ord. No. 1439]

40.451 Recitals.

1. In May of 2009, the Nevada Legislature enacted Assembly Bill 54 which, upon approval by the Governor, became Chapter 325, Statutes of Nevada, 2009, beginning at page 1428 (the "Act");

2. In Section 3 of the Act, this board of county commissioners is authorized to (a) establish by ordinance a program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property resistant to flood damage; (b) accept gifts, grants and other sources of money to pay the costs associated with such a program; and (c) pay costs associated with such a program through the use of: (1) revenue and bond proceeds derived from a flood management project, except that no bond proceeds may be used to provide any loans pursuant to the program; (2) funds from the infrastructure fund of the county; and (3) Gifts, grants and other sources of money available to the board of county commissioners; and

3. In Subsection (4) of Section 3 of the Act, this board of

county commissioners may delegate the authority to administer such a program to a flood management authority as defined in the Act; and

4. By interlocal cooperative agreement entered into by Washoe County and the cities of Reno and Sparks and the University of Nevada System in 2005, the Truckee River Flood Management program was established and is overseen by the Flood Project Coordinating Committee, which committee has asked this board of county commissioners to establish a financing program under the Act as provided herein.

['3, Ord. No. 1439]

40.452 Findings

1. Public Purpose and Benefit.

(a) Based on evidence provided at public hearings, this board finds and determines as follows:

(b) Significant flooding has occurred ten times in the last 100 years, in Washoe County most recently causing (i) hundreds of millions of dollars in property damage; (ii) injuries and the loss of life; (iii) health hazards as flood waters become contaminated with sewage and hazardous substances that become mobile during a flood; (iv) the disruption of essential services for the safety of the public such as police, fire and ambulance services; and (v) the disruption of commerce, transportation, communication and essential utility services;

(c) In areas likely to be flooded, the adverse effect of flooding may be reduced by (i) building flood control structures such as levees, floodwalls, flood prevention facilities, ground and river bank terracing and the like, or (ii) by nonstructural methods such as elevating or otherwise flood proofing individual buildings, or (iii) by relocating structures outside of an Area Likely to be Flooded;

(d) In the case of the residential Approved Areas described in Attachment A to this ordinance, the adverse effects of flooding to the public health, safety and welfare may be reduced by elevating structures to be above the floodwaters or relocating structures outside the flood zone altogether so to remove property and persons from coming into contact with health and safety hazards of flood waters and assure that properties remain self-contained and continue to receive essential utility services during a flood event, thus reducing the need for public safety calls and services. Further, removing buildings from the floodplain or elevating them so water can pool underneath them allows the natural flows and temporary storage of flood waters over natural floodplains thus reducing depth and velocity of flood waters, and reducing public health and welfare damages to other areas; These public health, safety and welfare benefits may be provided at a fraction of the cost of building flood control structures;

(e) Providing financing for individualized non-structural

flood-proofing of the multifamily or commercial buildings in downtown Reno in Approved Areas identified in Attachment A is also a more functional, cost effective and reasonable alternative to protect people and property from the health and safety hazards of floodwaters rather than building and maintaining massive floodwall or levee structures which would be costly, aesthetically and functionally out of place, and would increase flooding downstream; and

(f) As a result of the foregoing, this Commission finds that the creation of this program to provide financial assistance to owners of public and private property in areas that are likely to be flooded is necessary to promote and protect the public health, safety and welfare.

2. Flood Management Authority

Based on a review and approval on February 1, 2010 of key provisions to be included in an interlocal cooperative agreement between Washoe County, the city of Reno and the city of Sparks establishing the Truckee River Flood Management Program, this Commission finds that if the Truckee River Flood Management Authority is established pursuant to such agreement that it would be a "flood management authority" as defined in the Act.

['4, Ord. No. 1439]

40.453 Definitions.

1. Except where the context otherwise requires, the definitions set forth in this section govern the construction of Sections 40.450 through 40.460.

2. Administrative Agency means the agency charged with administering this financing Program.

3. Administrator means the head of the Administrative Agency.

4. Approved Area means an area which has been approved for grants under this program as provided in this Chapter.

5. Area Likely to be Flooded is any area that has actually flooded or is determined by the Administrator (based on results of hydraulic models used by the Administrator) as likely to flood during a flood characterized as a "117 year event."

6. Base Floor of a building is the lowest floor which is occupied by human beings or intended to be occupied by human beings.

7. Building Flood Pool Area means any area beneath the Base Floor of a structure. The Building Flood Pool Area is created, in part, by elevation of the structure so that flood waters can accumulate underneath the structure without damaging the Base Floor. Garages, carports, storage areas and other spaces that are underneath a Base Floor which has been elevated under this financial assistance program are specifically included in this definition.

8. Flood-proofing means building of barriers around or making improvements to buildings to make them resistant to flood damage.

It does not include elevation or relocating buildings.

['5, Ord. No. 1439]

40.454 Establishment and Administration of Financial Assistance Program.

1. Establishment of Voluntary Program.

(a) There is hereby established a program to provide financial assistance to owners of public and private property in certain areas in order to make such property resistant to flood damage. The program shall be known as the Truckee River Flood Protection Financial Assistance Program, and shall be subject to and administered in accordance with the Act and this ordinance.

(b) This program expires and no financial assistance may be provided to any person or entity after all applications received on or before June 30, 2019 have been acted on by the Administrator.

(c) Nothing in this ordinance shall be construed to require the board of county commissioners to provide any financial assistance or to require any property owner to apply for or accept financial assistance pursuant to this program. Grants under this program shall be sought by voluntary application and approval shall be under the administrative discretion of the Administrator and subject to availability of funds.

2. General Program Requirements and Administration

(a) Grants Only. Financial assistance under this program shall be in the form of grants.

(b) Administering Agency. This program shall be administered by the Truckee River Flood Management Project Department of Washoe County created under this chapter, unless and until the Truckee River Flood Management Authority is duly established and the administration of the program is delegated in accordance with this chapter. For purposes of this Ordinance, the "Administrator" is the department head or chief executive officer of the Administering Agency.

(c) Delegation to Flood Management Authority. When (i) an interlocal cooperative agreement has been entered into by this board of county commissioners establishing the Truckee River Flood Management Authority; (ii) Directors have been appointed to represent Washoe County on such Authority; (iii) the Authority has been duly established; and (iv) the Authority has adopted a resolution accepting responsibility for the administration of this program under this ordinance and as provided by law, then the Authority is, without further action by this board, deemed to be delegated all the rights, powers and obligations of the Administering Agency under this Ordinance. Such delegation may be revoked by this board of county commissioners if the Act is amended or repealed or this board of county commissioners finds that the Authority is violating this ordinance or applicable law.

(d) Grants. The Administrator is authorized to accept gifts,

grants and other sources of money to pay the costs associated with this program.

(e) Costs. The Administrator is authorized to pay costs associated with the program through the use of: (1) revenue and bond proceeds derived from the Truckee River Flood Management Project, except that no bond proceeds may be used to provide any loans; (2) the Infrastructure Fund established pursuant to NRS 377B.150, but subject to requirements and limitations set forth in applicable law and in the Infrastructure Tax Plan adopted and amended from time to time under NRS 377B.100 and NRS 377B.160; and (3) gifts, grants, and other sources accepted as provided in this chapter.

(f) Regulations. The Administering Agency may, by resolution, adopt regulations regarding the administration of the program so long as they do not conflict with the provisions of this Ordinance.

(g) Relocation Expenses under Uniform Relocation Act. If an owner-occupant, a tenant, or a business is required to relocate temporarily in connection with the elevation or relocation of a dwelling or place of business, the Administrator shall determine whether or not any person is eligible for benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq) and implementing regulations (49 CFR Part 24) "URA" and if required, shall comply with the URA. See 49 CFR 24 Appendix A Section 24.2(a)(9)(ii)(D). Payments made under the URA are not considered part of any grant made hereunder but are payments separately and directly required by federal and state law.

(h) Designation of Approved Area.

(1) The areas described in Attachment A to this ordinance are Approved Areas.

(2) Subsequent Approved Areas may be approved by amendment to this Ordinance, except that if the Truckee River Flood Management Authority is the Administering Agency, the governing body of the Authority may add or withdraw an "Approved Area" by resolution, provided that a copy of that resolution is promptly submitted to the Washoe County Clerk.

(3) Approved Areas must be within Washoe County. Before designating an Approved Area, the governing body of the Administering Agency must make a written finding and determination that the Approved Area is in an Area Likely To Be Flooded and that the providing of financial assistance to owners of public and private property in such area is necessary to promote and protect the public health, safety and welfare.

['6, Ord. No. 1439]

40.455 General Eligibility for Grants.

1. General. In addition to requirements, limitations or provisions in this ordinance or in regulations of the Administering Agency, financial assistance under this program

must meet all the following criteria.

2. Approved Area. Financial assistance must be for projects that are within an Approved Area designated as set out in this chapter.

3. Buildings constructed before July 2009. Financial assistance may not be awarded to protect any building, structure or improvement unless the building, structure or improvement existed or construction had begun on the building, structure or improvement on or before July 1, 2009.

4. Relocation to area not likely to be flooded. Financial assistance may not be used to relocate any building, structure or improvement to a new location that is in an Approved Area or an Area Likely to be Flooded.

5. Other financial assistance. Financial Assistance may not be awarded unless the property owner has not received and agrees not to apply for any financial assistance to make his property resistant to flood damages from a tourism improvement district established pursuant to NRS 271A.070, a tax increment area created pursuant to NRS 278C.155, a redevelopment area established pursuant to NRS 279.426, a program for the rehabilitation of residential neighborhoods established pursuant to NRS 279A.030 or a program for the rehabilitation of abandoned residential properties established pursuant to NRS 279B.030.

6. Value exceeds Cost. Financial assistance may not be awarded if in the opinion of the Administrator the estimated cost of making property improvements resistant to flood damage exceeds the total value of the structures on the land.

7. Below flood elevation. Financial assistance may be provided only to property improvements whose Base Floor has actually been flooded in the past or is below the predicted flood elevation established by the Administrator for a 117 year flood event. The Administrator shall reevaluate and establish predicted flood elevations from time to time using current models and information. When considering a property for financial assistance, the Administrator shall use the most recently established predicted flood elevation when the application is being considered, and if the Administrator determines at that time that the property is eligible under the most recently established predicted flood elevation criteria, that determination remains in effect even if the predicted flood elevation is later changed.

8. No structural flood protection. Financial assistance shall not be provided to any property if the property is anticipated to be protected by a structural facility (levee, floodwall, bank stabilization or terracing, detention facility or the like) designated in the Living River Plan.

9. Other criteria. The Administering Agency may, by regulation, provide for other limitations and requirements.

['7, Ord. No. 1439]

40.456 Application Process and Fees

1. Deadline. All applications for financial assistance under this program must be submitted to the Administrator on or before June 30, 2019, unless another date is established by state law.

2. Forms. Application forms shall be prescribed by the Administrator. No application forms may require personal information as defined in NRS 603A.040 (Social Security Number, Drivers license or identification number, or any account or credit card number.)

3. Fees. A standard fee of \$500.00 shall be paid with each application. If the Administrator determines that the subject property is not eligible for financial assistance because the elevation of its Base Floor does not meet eligibility requirements set out in this Chapter, the fee will be refunded. Otherwise, the fee is non-refundable. The Administrator may negotiate additional fees from applicants and may change the standard fee by regulation provided that the total fee amount may not exceed the estimated costs of processing the application including all costs of obtaining title reports, environmental studies, surveys, engineering reports or certifications, and appraisals necessary to make determinations under the application.

4. Review and Approval of Applications. Upon submission of an application and payment of the required fees:

(a) The Administrator shall first obtain an elevation survey and determine if the applicant and the property are eligible for financial assistance under the program.

(b) If the applicant and property are eligible for financial assistance, the Administrator shall, at the Administering Agency's expense, obtain structural evaluations, appraisals, rough renderings of the elevation or relocation, and cost estimates to determine that the cost of the proposed project is less than the value of the improvements.

(c) The Administrator shall have complete administrative discretion and may take any action (approve, disapprove, rank, hold, delay or place on waiting lists) on applications based on any legally permissible reason, including, but not limited to, eligibility, location of property, severity of flooding, degree of flood protection being provided, grouping of contracts to maximize contract opportunities, compliance with program priorities or policies, costs versus benefits being provided, and availability of funding. Approval of an application is only a determination of general eligibility of a property for financial assistance and does not constitute or imply a commitment of the Agency to provide such financial assistance as further determinations must be made before a Grant Commitment is entered into.

(d) An applicant may decline financial assistance or withdraw an application at any time for any reason or no reason at all.

(e) When funding is available and the Agency is ready to proceed with finalizing a Grant Commitment, the Agency shall advise the Applicant to obtain detailed plans and specifications for the elevation or relocation project (the cost of which may be a part of the grant) and solicit bids for the project (which bids should be contingent upon entering into a Grant Commitment) and when bids are received, the Administrator shall compare the bids to the cost estimates previously obtained and make a determination whether the cost of the project is reasonable and consistent with the goals and priorities of the program.

(f) If the Administrator declines an application for financial assistance, the decision may be appealed to the governing body of the Administering Agency.

(g) If the Administrator approves the project, a Grant Commitment may be entered into.

['8, Ord. No. 1439]

40.457 Grant Commitments; Owner Responsibilities.

1. Grant Commitment. A grant commitment may be entered into between the Administering Agency and the property owner, subject to the Administering Agency's contract approval procedures. The commitment must specify what will be paid for with grant money, state the total amount of the commitment, specify a payment sequence (based on percentage of completion of the work to the satisfaction of Administrator), and state a termination date beyond which grant payments will not be made. Grant payments will be made directly and only to the property owner as work is completed, and the Grant Commitment is not assignable.

2. Contract between property owner and contractor. When a Grant Commitment is issued, the building owner shall enter into appropriate contracts with each contractor. The Administrative Agency shall not be a party or a third party beneficiary to that contract but may review it to determine if the contract is acceptable for financial assistance under the program. The building owner's contract with the contractor may include additional work not to be paid for by the grant provided that invoices and inspections distinguish between eligible and ineligible costs for the grant.

3. Payment. Grant payments will be made to the building owner who shall be responsible for making payments to all contractors.

4. Quality Control. The property owner is responsible for assuring that the quality of construction is satisfactory and up to required building and other codes. Inspections by the Administrative Agency are only for the purpose of determining that work has been accomplished in accordance with the sequence contemplated by the Grant Commitment.

['9, Ord. No. 1439]

40.458 Contractor Registry and Training

1. General. The Administrator shall keep a registry of and offer training to contractors as follows.

2. Contractor registry. The Administrator shall keep a registry of contractors who have indicated an interest in providing construction or other services relating to elevating, relocating, or flood-proofing properties and have submitted information about their qualifications. The registry and all information submitted is a public document and will be provided to all applicants for financial assistance. The Administrator may withdraw a contractor's name from the registry if the contractor's performance under this program has been unsatisfactory to the Administrator. Applicants for financial assistance may use any contractor of their choice provided that the Administrator may decline to provide grants if any work is to be done by a contractor or subcontractor who is unlicensed or whose performance under this program has been unsatisfactory to the Administrator.

3. Training. Each contractor in the registry shall be offered training to be provided by or approved by the Administrator regarding the program requirements and construction standards and techniques.

['10, Ord. No. 1439]

40.459 Residential Elevation or Relocation Assistance.

1. General In addition to the general provisions set forth above, the following standards and requirements apply to grants under this program to single family residences or duplexes.

2. Additional Eligibility and Grant Requirements

(a) Elevation or Relocation. Residential properties shall be eligible only for elevation or relocation. A residence that is relocated will not be elevated.

(b) Eligible costs. Financial assistance under this program for residences may only be used to pay for the actual and necessary costs of either elevating or relocating residential properties, as specified in Attachment B or otherwise approved by the Administrator.

(c) Construction standards and training. The Administrator shall prepare a construction standards manual for elevation and relocation projects and shall offer training to contractors.

(d) Deed Restrictions. Financial assistance shall not be provided unless the property owner executes and records a declaration of covenants, conditions and restrictions to run with the land and improvements being elevated or relocated. Said CC & Rs are to be on a form approved by the Administrator and must, to the satisfaction of the Administrator include the following provisions which must be binding on the owner and all subsequent owners:

(1) That all improvements will be continuously insured against damage by flood for the value of improvements and contents by an insurer who is qualified to underwrite insurance

in the State of Nevada;

(2) That the Building Flood Pool Area shall not be improved for occupation by human beings or used as temporary or permanent living space for human beings;

(3) That all vents or openings intended to accommodate the flowage of flood waters through the Building Flood Pool Area shall never be blocked or altered in a way that impairs the free flowage of water through the Building Flood Pool Area;

(4) That a permanent flowage easement is granted permitting the drainage and flow of storm waters or flood waters over, under and across the land without limitation as to volume, flow or depth.

['11, Ord. No. 1439]

40.460 Commercial Building Flood Proofing Assistance

1. General. In addition to the general provisions set forth above, the following standards and requirements apply to grants under this program to multifamily buildings (except duplexes) and commercial properties.

2. Additional Eligibility and Grant Requirements. Multifamily and commercial buildings shall be eligible only for flood proofing, and shall not be eligible for elevation or relocation.

3. Eligible costs. Financial assistance under this program for multifamily buildings or commercial buildings may only be used to pay for the actual and necessary costs of floodproofing properties, as specified in Attachment B or otherwise specified by the Administrator.

4. Construction standards and training. The Administrator shall prepare a construction standards manual for flood-proofing projects and shall offer training to contractors who are listed in the Contractor Registry.

6. Deed Restrictions. Financial assistance shall not be provided unless the property owner executes and records a declaration of covenants, conditions and restrictions to run with the land on which improvements are being flood-proofed. Said CC & Rs are to be on a form approved by the Administrator and must, to the satisfaction of the Administrator include the following provisions which must be binding on the owner and all subsequent owners:

(a) That the building owner shall at owner's expense, inspect, repair and replace, and maintain the flood proofing facilities to keep them operational at all times. Because the facilities are being financed with public funds for the purpose of promoting public safety, health and welfare, the Agency may enforce this provision by seeking equitable remedies, or through code enforcement proceedings including enforcement of codes relating to dangerous buildings.

(b) That the building owner agrees to indemnify and hold the Agency harmless from all claims and liability arising from the construction and operation of the flood-proofing facilities,

including liability arising from the impact that the facilities may have on flooding on other land.

(c) That a permanent flowage easement is granted permitting the drainage and flow of storm waters or flood waters over, under and across the land without limitation as to volume, flow or depth.

['12, Ord. No. 1439]

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]

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