Notice: Per NRS 239B.030, this document does not contain

personal information as defined in NRS 603A.040

Summary: Amends procedures for water and sewer resource requirements as the result of changes required from the transfer of the water utility functions of the Washoe County Community Services Department to the Truckee Meadows Water Authority and removes references to impact fees for the Southeast Truckee Meadows Specific Plan, which no longer exists.

BILL NO. 1750

# ordinance no. 1568

An ordinance amending the Washoe County Code at Chapter 110 (Development Code) at Article 422, Water and Sewer Resource Requirements, for changes required from the transfer of the water utility functions of the Washoe County Community Services Department to the Truckee Meadows Water Authority and to delete Sections 110.422.30, Contracts for Water Rights and Facilities, Sections 110.422.10, Water Resources and 110.706.10, Southeast Truckee Meadows Specific Plan Impact Fee, in their entirety; to add a new Section 110.422.02, Definitions; to amend Section 110.422.00, Purpose, for water and sanitary resource requirements for development; to clarify in Section 110.422.01, Exceptions, that the resource requirements do not apply to the Tahoe Planning Area, areas within the TMWA service area, and developments within a General Improvement District (GID) which is receiving water and sanitary sewer service from said GID; to clarify in Section 110.422.05, Applicability, where within the County the resource requirements apply; to amend 110.422.15, Water Rights Satisfaction, for resource requirements and water rights dedication or relinquishment requirements outside of TMWA's service area; to remove administrative and service fee requirements from Section 110.422.20, Authority to Utilize Dedicated Water Rights and Collect Administrative Fees; to clarify in Section 110.422.25, Water Facilities, the procedures offer dedication and to for operate water delivery facilities; and, update the Article with the to Community Services Department organization and remove references to the Department of Water Resources, Utility Services Division. Recommendations include other matters properly relating thereto.

#### WHEREAS:

- A. Changes to Article 422 (Water and Sewer Resource Requirements) of the Washoe County Development Code (Chapter 110) are desired to reflect changes for the provision of water service within the unincorporated areas of Washoe County resulting from the transfer of the water utility functions of the Washoe County Community Services Department to the Truckee Meadows Water Authority;
- В. As authorized by Washoe County Code Section 110.818.05, the Washoe County Planning Commission initiated amendments to the Development Code for required name and responsibility changes resulting from the transfer of water utility functions by Resolution Number 14-22 on November 13, 2014. Due to the expiration of the required 125 day hearing time frame, the Planning Commission re-initiated the amendments Resolution Number 15-11 on August 4, 2015. amendments and this ordinance were drafted by the District Attorney, and the Planning Commission held a duly noticed public hearing for DCA 14-012 on September 1, 2015, and adopted Resolution Number 15-17 recommending adoption of this ordinance.
- C. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Board of County Commissioners desires to adopt this Ordinance; and
- D. This Board of County Commissioners has determined that this ordinance is being adopted pursuant to requirements set forth in Chapter 278 of NRS, therefore is not a "rule" as defined in NRS 237.060 requiring a business impact statement.

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

<u>SECTION 1.</u> Section 110.422.10 of the Washoe County Code is hereby deleted in its entirety.

<u>SECTION 2.</u> Section 110.422.30 of the Washoe County Code are hereby deleted in its entirety.

 $\underline{\text{SECTION 3.}}$  Section 110.706.10 of the Washoe County Code is hereby deleted in its entirety.

<u>SECTION 4.</u> A new Section 110.422.03 is added to read as follows:

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

- (a) "Development" means any new residential, commercial or industrial development of land, including the division of land into two or more parcels.
- (b) "Relinquishment" means the relinquishment of groundwater rights to the State of Nevada within a hydrographic basin for the purpose of offsetting the impacts of additional groundwater withdrawn from proposed domestic wells to serve individual homes. Relinquishment of groundwater rights are a prerequisite to approval of newly created residential lots utilizing individual domestic wells as their source of water supply. Proof of relinquishment is satisfied when the appropriate approved affidavit from the Nevada State Engineer's Office is recorded with Washoe County.
- (c) "TMWA" means the Truckee Meadows Water Authority.
- (d) "PUC" means the Public Utilities Commission of Nevada.
- (e) "Water purveyor" means:
  - (1) A public water system as defined in NRS 445A.235, as amended;
  - (2) A community water system as defined in NRS 445A.808, as amended;
  - (3) A noncommunity water system as defined in NRS 445A.828, as amended;
  - (4) A nontransient water system as defined in NRS 445A.829, as amended; or
  - (5) A transient water system as defined in NRS 445A.848, as amended;
  - (6) A water system as defined in NRS 445A.850, as amended.
- (f) "Will Serve" means a commitment for water service per NAC 445A.6666 and NAC 278.290.

<u>SECTION 5.</u> Section 110.422.00 of the Washoe County Code is hereby amended to read as follows:

<u>Section 110.422.00 Purpose.</u> The purpose of this article, Article 422, Water and Sewer Resource Requirements, is to manage the practices and procedures related to the following resource requirements associated with any and all development in the unincorporated portion of

the County, except as otherwise exempted under Section 110.422.01, to ensure water supply and sanitary sewage treatment to adequately protect the public health and safety:

- (a) Securing and/or dedicating sufficient water rights and water resources for the development; and
- (b) Construction of water delivery facilities, and sanitary sewer collection facilities for any development.

<u>SECTION 6.</u> Section 110.422.01 of the Washoe County Code is hereby amended to read as follows:

## <u>Section 110.422.01 Exemptions.</u> The provisions of this article do not apply to the following:

- (a) Development within the Tahoe planning area which is receiving water and sanitary sewer service from any water and/or sanitary sewer provider operating within the Lake Tahoe Hydrographic Basin as demonstrated:
  - (1) By a "will serve" letter from the appropriate utility service provider; or
  - (2) A note on the final map stating the applicant shall be responsible for complying with utility service provider(s) requirements at the time of applying for a building permit.
- (b) Development within the Truckee Meadows Water Authority Service Area which:
  - (1) Is receiving or will receive water services from TMWA and which has secured a valid "will serve" letter issued by TMWA for build out of the development;
  - (2) Has secured a written acknowledgment from TMWA indicating TMWA's conditions for provision of future water service, and that TMWA is willing to provide water service to the development upon satisfaction of such conditions; or
  - (3) Has identified on a final subdivision map or parcel map that any future development of the property shall be required to, prior to applying for a building permit, satisfy all applicable TMWA requirements, including water resource dedication, sufficient to provide water service and to issue a will serve commitment.
- (c) Development within a General Improvement District (GID) which is receiving water and sanitary sewer service from said GID as demonstrated:
  - (1) By a "will serve" letter from the GID; or
  - (2) A note on the final map stating the applicant shall be responsible for complying with the GID requirements at the time of applying for a building permit.

<u>SECTION 7.</u> Section 110.422.05 of the Washoe County Code is hereby amended to read as follows:

<u>Section 110.422.05</u> Applicability. The provisions of this article shall apply to all development projects of any kind in the unincorporated portion of the County which require permits or approvals of the county and which require the use of water resources, require water supply delivery, or require sanitary sewage treatment. Adequate water resources are required for all new development, including:

- (a) <u>Subdivisions and New Residential Parcels with Individual Wells.</u> Subdivisions and parceling of land creating new residential parcels which will be served by individual domestic wells;
- (b) <u>Subdivisions and New Residential Parcels with a Community Water System.</u> Subdivisions and parceling of land creating new residential parcels which will be served by a community water system;
- (c) <u>Multi-family, Manufactured/mobile Home Residential Development.</u>
  Development creating new multi-family residential dwelling units or mobile home residential dwelling units, which will be served either by individual wells or a community water system;
- (d) <u>Non-Residential Development.</u> Development creating new commercial, industrial or civic buildings or uses which will be served by either an on-site well or a community water system; and
- (e) <u>Other Development.</u> Any other development requiring a permit or approval of the county with a requirement for, or an impact on, water resources.

<u>SECTION 8.</u> Section 110.422.15 of the Washoe County Code is hereby amended to read as follows:

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

- (a) Water Resource Requirements. In accordance with this section, in those instances where Washoe County's water resource requirements are more stringent than the State Engineer's, additional water rights will be relinquished or dedicated as appropriate;
- (b) Adequacy of Amount of Water. The amount of water resources for the intended use is adequate to provide a reliable water supply and is offered for dedication to the County or proof of the relinquishment of water rights is submitted to the County;
- (c) <u>Proximity of Source.</u> The proximity of the hydrologic basin or source of water offered for dedication to the County or proof of the relinquishment of water rights for the intended use;
- (d) <u>Proof of Ownership.</u> Valid proof of ownership, including a chain of title to the original water right holder, for the water rights offered for dedication to the County or proof of the relinquishment of water rights;
- (e) <u>Status of Water Right.</u> The priority and yield of the water right, the current manner and place of use, and the status of the permits or certificates issued by the Nevada State Engineer, or the status of the water right established in a court decree, which are offered for dedication to the County or proof of the relinquishment of water rights;
- (f) <u>Point of Diversion.</u> The ability of the water purveyor, the developer, or the property owner to obtain from the Nevada State Engineer the necessary permits to change the point of diversion, and the manner and place of use of the water right for the intended use; and
- (g) Relinquishment. In the case of parcel or subdivision maps creating new residential parcels with an individual domestic well as their source of water supply, the applicant shall deliver proof of the relinquishment of the water rights to the County.

<u>SECTION 9.</u> Section 110.422.20 of the Washoe County Code is hereby amended to read as follows:

<u>Section 110.422.20 Authority to Utilize Dedicated Water Rights and Applicant's Responsibilities.</u> The Community Services Department, or any other appropriate County department, division or agency, may:

- (a) <u>Applications to Nevada State Engineer.</u> File applications with the State Engineer's Office to change the point of diversion, and the manner and place of use of the dedicated water rights to put the water resources to beneficial use and to otherwise utilize and maintain the validity of the dedicated water rights; and
- (b) <u>Applicant's Responsibilities.</u> Require the development owner or property owner to:
  - (1) Pay all State Engineer's Office application fees to transfer the water rights to the proposed delivery facilities;

- (2) If applicable, allow County personnel to enter the property in order to read water meters on all wells and delivery facilities, or perform other related inspections as necessary; and
- (3) Comply with the terms of the water right permits or certificates as issued by the State Engineer's Office.

<u>SECTION 10.</u> Section 110.422.25 of the Washoe County Code is hereby amended to read as follows:

### Section 110.422.25 Water Delivery Facilities.

- (a) The development owner or property owner shall be required to:
  - (1) Within those hydrographic basins which contain a TMWA owned and operated water delivery system:
    - (a) Design and construct all water delivery facilities to TMWA standards and specifications, regardless of whether TMWA will provide water service to the development. The intent of this process is to facilitate an orderly integration of water system facilities into the TMWA water delivery system in the future; and
    - (b) Submit an irrevocable offer of dedication of all the water delivery facilities to TMWA, which offer may be accepted or rejected by TMWA. If said offer is rejected, the offer of dedication shall be deemed to remain open and TMWA may at any later date and without further action by the owner, accept the dedication of such facilities.
  - (2) Outside of any hydrographic basin containing TMWA owned or operated water delivery systems:
    - (a) Petition the PUC or otherwise cause the creation of a public water system as defined above, under the PUC jurisdiction, or
    - (b) Operate and maintain, in accordance with applicable regulatory requirements and standards, any facilities for water treatment, supply, storage, transmission and distribution, and appurtenances such as wells, pipelines, pumps and storage tanks located within or outside the property boundary or subdivision which are necessary to ensure an adequate water supply to a development, which have not otherwise been dedicated to and accepted by a water purveyor. This section also applies to facilities that will be constructed to serve one single-family dwelling on an existing parcel of land approved with an individual domestic well as its source of water supply.
- (b) For the purpose of this Article, Washoe County is not a public water purveyor, nor does the County own or operate any community water systems as defined in NRS 445A. It will be the responsibility of the development owner or property owner to comply with the requirements of TMWA, where applicable, or the PUC

for privately owned public water systems, regarding any plans for the creation of community water systems within the unincorporated portion of Washoe County covered by this Article. By allowing development which includes community water systems, Washoe County assumes no risk or obligation for future operation or maintenance of any potable water delivery system.

<u>SECTION 11.</u> Section 110.422.35 of the Washoe County Code is hereby amended to read as follows:

<u>Section 110.422.35 Sanitary Sewer Facilities.</u> The development owner or property owner shall be required to dedicate any facilities for sewage collection, treatment and disposal, and appurtenances such as pipelines and pumps located within or outside the property boundary or subdivision which are necessary to insure adequate sanitary sewer collection and disposal to a project or development. This section applies to facilities that will be constructed to serve a project or development, except:

- (a) <u>Single-Family Dwelling.</u> Facilities to serve one single-family dwelling in an existing subdivision;
- (b) <u>Previous Facilities.</u> Facilities which were previously constructed to serve existing users; and
- (c) <u>Utility Facilities.</u> Facilities, whether new or existing which are enlarged or improved in order to serve the proposed development or subdivision, which were owned and operated by a utility under a certificate of public convenience and necessity issued by the Nevada Public Service Commission.

<u>SECTION 12.</u> Section 110.422.40 of the Washoe County Code is hereby amended to read as follows:

<u>Section 110.422.40 Sanitary Sewer Collection Facility Standards.</u> The following standards apply to all sanitary sewer collection facilities:

- (a) <u>Design.</u> The facilities offered for dedication or subject to a dedication agreement must be designed and constructed in accordance with standards and other requirements established by ordinance or recommended by the Community Services Department as a condition of either project approval or the issuance of a building permit. Standards and other requirements may include plan checking, design review, inspections, systems testing and other matters to be determined by the Community Services Department.
- (b) Required Dedications and Acceptance. The facilities required to be dedicated shall be determined by the Community Services Department. The Community Services Department will accept a dedication pursuant to this section if the facilities conform to the requirements of this section and perform as designed.
- (c) <u>Issuance of Permits.</u> Except for permits issued for the construction of facilities to be dedicated, no building permit or special use permit may be issued and no other administrative approval may be granted until the dedication is accepted or an agreement conforming to this article has been executed. Unless issued for the construction of a facility to be dedicated, any permit or approval for which

application has been made subsequent to the effective date of Washoe County Ordinance Number 586, which is January 10, 1984, and issued prior to the dedication is void.

#### SECTION 13. General Terms.

- 1. All actions, proceedings, matters, and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
- 2. The Chairman of the Board and officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
- 3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
- 4. This Ordinance shall be in effect after it is signed by the Chair of the Board of County Commissioners, attested by the County Clerk, and published by title as required by NRS 244.100.
- 5. Each term and provision of this Ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this Ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then the offending provision or term shall be excised from this Ordinance. In any event, the remainder of this Ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

# Passage and Effective Date

This Ordinance was proposed on October 13, 2015 by Board Member Lucy.

This Ordinance was passed on October 27, 2015.

Those voting "aye" were Marsha Berkbigler, Ktty Jung, Vaughn Hartung, Bob Lucy, "

Those voting "nay" were None

Those absent were None

Those abstaining were None

.

Marsha Berkbigler, Chair County Commission

ATTEST:

Nancy Parent

County Clerk

This Ordinance shall be in force and effect immediately upon the date of the second publication as required by NRS 244.100, which is November 6, 2015.

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STATE OF NEVADA COUNTY OF WASHOE

Being first duly sworn, deposes and says: That as the legal clerk of the Reno Gazette-Journal, a daily newspaper of general circulation published in Reno, Washoe County, State of Nevada, that the notice referenced below has published in each regular and entire issue of said newspaper between the dates: 10/30/2015 - 11/6/2015, for exact publication dates please see last line of Proof of Publication below.

Subscribed and sworn to before me

Signed:

AMERICA ACEVEDO

NOTARY PUBLIC - STATE OF NEVADA

My Commission Expires: 06-26-2018

Certificate No: 14-14488-2

#### **Proof of Publication**

NOTICE OF ADOPTION WASHOE COUNTY ORDINANCE NO. 1568 BILL NO. 1750 NOTICE IS HEREBY GIVEN that typewritten copies of the above-numbered and entitled ordinance are available for inspection by the interested parties at the office of the County Clerk of Washoe County, Nevada, at her office in the Washoe County Complex, 1001 E. Ninth Street, Building A, Reno, Washoe County, Nevada; and that the ordinance was proposed on October 13, 2015 by Commissioner Lucey and was passed and adopted at a regular meeting held on October 27, 2015 by the following vote of the Board of County Commissioners: AN ORDINANCE AMENDING THE WASHOE COUNTY CODE AT CHAPTER 110 (DEVELOPMENT CODE) AT ARTICLE 422, WATER AND SEWER RESOURCE REQUIREMENTS, FOR CHANGES REQUIRED FROM THE TRANSFER OF THE WATER UTILITY FUNCTIONS OF THE WASHOE COUNTY COMMUNITY SERVICES DEPARTMENT TO THE TRUCKEE MEADOWS WATER AUTHORITY AND TO DELETE SECTIONS 110.422.30. CONTRACTS FOR WATER RIGHTS AND WATER FACILITIES, SECTIONS 110.422.10, WATER RESOURCES, AND 110.706.10, SOUTHEAST TRUCKEE MEADOWS SPECIFIC PLAN IMPACT FEE, IN THEIR ENTIRETY; TO ADD A NEW SECTION 110.422.02, DEFINITIONS; TO AMEND SECTION 110.422.00, PURPOSE, FOR WATER AND

Ad Number: 2000064895 Page 1 of 2

SANITARY RESOURCE REQUIREMENTS FOR DEVELOPMENT: TO CLARIFY IN SECTION 110.422.01, EXCEPTIONS, THAT THE RESOURCE REQUIREMENTS DO NOT APPLY TO THE TAHOE PLANNING AREA, AREAS WITHIN THE TMWA SERVICE AREA, AND DEVELOPMENTS WITHIN A GENERAL IMPROVEMENT DISTRICT (GID) WHICH IS RECEIVING WATER AND SANITARY SEWER SERVICE FROM SAID GID; TO CLARIFY IN SECTION 110.422.05, APPLICABILITY, WHERE WITHIN THE COUNTY THE RESOURCE REQUIREMENTS APPLY: TO AMEND 110.422.15. WATER RIGHTS SATISFACTION, FOR RESOURCE REQUIREMENTS AND WATER RIGHTS DEDICATION OR RELINQUISHMENT REQUIREMENTS OUTSIDE OF TMWA'S SERVICE AREA; TO REMOVE ADMINISTRATIVE AND SERVICE FEE REQUIREMENTS FROM SECTION 110.422.20, AUTHORITY TO UTILIZE DEDICATED WATER RIGHTS AND COLLECT ADMINISTRATIVE FEES; TO CLARIFY IN SECTION 110.422.25, WATER FACILITIES, THE PROCEDURES TO OFFER FOR DEDICATION AND TO OPERATE WATER DELIVERY FACILITIES; AND, TO UPDATE THE ARTICLE WITH THE CURRENT COMMUNITY SERVICES DEPARTMENT ORGANIZATION AND REMOVE REFERENCES TO THE DEPARTMENT OF WATER RESOURCES, UTILITY SERVICES DIVISION. RECOMMENDATIONS INCLUDE OTHER MATTERS PROPERLY RELATING THERETO. Those Voting Aye: Marsha Berkbigler, Kitty Jung, Vaughn Hartung, Jeanne Herman and Bob Lucey. Those Absent: None. This Ordinance shall be in full force and effect from and after November 6, 2015. IN WITNESS WHEREOF, the Board of County Commissioners of Washoe County, Nevada, has caused this Ordinance to be published by title only. DATED October 28, 2015 Nancy Parent, Washoe County Clerk and Clerk of the Board of County Commissioners No 64895 Oct 30, Nov 6, 2015

NOTICE IS HEREY GIVEN that byewritten copies of the above-numbered and entitled ordinance are available for firspection by the interested parties at the office of the County Complex, 1001 and the above-numbered and entitled ordinance are available for inspection by the interested parties at the office of the County Complex, 1001 and the above-numbered and entitled ordinance are available for inspection by the interested parties at the office of the County Complex, 1001 and that the ordinance was proposed on October 23, 2015 by Commissioner, and washee County, Neva-at and adopted at a regular meeting held on October 27, 2015 by Commissioner, and Noblandic Education of County Commissioners. An ORDINANCE AMENIONIG THE OPARITY COUNTY COMMINITY COUNTY COUNTY COMMINITY COUNTY COMMINITY COUNTY COMMINITY COUNTY COMMINITY COUNTY COUNTY COUNTY FERSOURCE REQUIREMENTS FOR WATER AND AND WATER ADDACAS. APPLICABILITY, WHERE WITHIN THE RESOURCE REQUIREMENTS FOR DEVELOPMENT. TO CARRIPY IN SECTION 110.422.0. DEFINITY AND ONLY APPLY TO THE TRACKE COUNTY THE RESOURCE REQUIREMENTS FOR DEVELOPMENT. TO CARRIPY IN SECTION 110.422.0. DEFINITY COUNTY FOR RESOURCE REQUIREMENTS FOR DEVELOPMENT. WATER COUNTY THE RESOURCE REQUIREMENTS AND WATER RIGHTS AND THE PROCEENING WATER REQUIREMENTS AND WATER RIGHTS AND THE SECTION 110.422.0. DEFINITY RESOURCE REQUIREMENTS AND WATER RIGHTS AND THE SECTION 10.422.0. DEFINITY OF THE THE ARTICLE WITH THE CURRENT OF THE THE COUNTY THE RESOURCE REQUIREMENTS AND SERVICE BEAUTY OF THE THE ARTICLE WITH THE COUNTY RESOURCE REQUIREMENTS AND SECTION 10.45. THE ARTICLE WITH THE COUNTY REMOVE ADMINISTRATIVE FEES. TO CLARIPY IN SECTION 10.45. THOSE ADMINISTRATIVE RESULTS AND SECTION 10.45. THE RESOURCE SECURIFIES AND SECTION 10.45. THE ARTICLE WITH THE RE

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