



Washoe County Development Code Amendment for Article 422, *Water and Sewer Resource Requirements*

Open House

*August 23, 2017, 4:30 – 6 p.m.
Washoe County Administration Complex (1001 E. Ninth Street, Reno)
Building A, 2nd floor, West End
Slide Mountain Conference Room*

Background and reasons for proposed changes

Currently, Article 422 of the Washoe County Development Code provides a mandate for dedication of water rights to Washoe County for all new developments with a new water demand in the unincorporated Washoe County. The Code provides exceptions for developments within the Tahoe Basin, Truckee Meadows Water Authority (TMWA) service area, and any General Improvement District (GID) service area. The dedicated water rights are leased back to the project/property owner for 99 years at no cost, other than the cost of the maintenance of the permit, which such costs would be borne by the project/property owner absent the dedication requirement.

Washoe County recognizes that management of water resources may be achieved by other means than control of the water rights via the transfer of title. This recognition is in part due to availability of State water rights data on the Internet, evolution of the processes and procedures in the State Engineer's office and the evolution of the development community's knowledge of water rights requirements and their value and significance. Consequently, the Washoe County Board of Commissioners has requested the Code be amended to eliminate the requirement for dedication of water rights to the County with an associated lease-back.

As before, new development with new water demand would still be required to obtain the appropriate water rights as required by the State Engineer and the County Code. However, this amendment would limit Washoe County's role to that of conformance review of the project with the State water law.

What are the proposed changes?

The proposed amendment would potentially update portions of Article 422, *Water and Sewer Resource Requirements* as identified in the attached exhibit (A).

For more information, or to provide feedback on the proposed changes, please contact: Vahid Behmaram, Water Management Planner Coordinator, at 775.954.4647 or vbehmaram@washoecounty.us; or, Kelly Mullin, Planner, at 775.328.3608 or kmullin@washoecounty.us.

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT~~: DELETED LANGUAGE

BOLD RED TEXT: NEW LANGUAGE

Article 422 WATER AND SEWER RESOURCE REQUIREMENTS

Sections:

110.422.00	Purpose
110.422.01	Exceptions
110.422.03	Definitions
110.422.05	Applicability
110.422.15	Water Rights Satisfaction
110.422.20	Authority to Utilize Dedicated Water Rights and Collect Administrative Fees
110.422.25	Water Facilities
110.422.35	Sanitary Sewer Facilities
110.422.40	Facility Standards

Section 110.422.00 Purpose. 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 **a sustainable water supply and sanitary sewage treatment to adequately protect both the public health and safety and the natural resources of Washoe County:**

- (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.

[Amended by Ord. 1026, provisions eff. 7/1/98; Ord. 1568, provisions eff. 11/6/15.]

Section 110.422.01 Exemptions. 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~~ **parcel** map stating the applicant shall be responsible for complying with the GID requirements at the time of applying for a building permit.

[Amended by Ord. 1026, provisions eff. 7/1/98; Ord 1568, provisions eff. 11/6/15.]

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

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

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

[Added by Ord. 1568, provisions eff. 11/6/15.]

Section 110.422.05 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) Subdivisions and New Residential Parcels with Individual Wells. Subdivisions and parceling of land creating new residential parcels which will be served by individual domestic wells;
- (b) Subdivisions and New Residential Parcels with a Community Water System. Subdivision and parceling of land creating new residential parcels which will be served by a community water system;
- (c) Multi-family, Manufactured/mobile Home Residential Development. 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) Non-Residential Development. 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) Other Development. Any other development requiring a permit or approval of the County with a requirement for, or an impact on, water resources.

[Amended by Ord. 876, provisions eff. 7/7/93; Ord. 1568, provisions eff. 11/6/15.]

[Section 110.422.10, Water Resources, repealed by Ord. 1568, provisions eff. 11/6/15.]

Section 110.422.15 Water Rights and Water Resource Satisfaction. Developments, **outside Tahoe Planning area**, to be served by the Truckee Meadows Water Authority **or a GID** shall be required to satisfy the water resource dedication requirements of the Truckee Meadows Water Authority **or the GID**. For those developments not served by the Truckee Meadows Water Authority **or a GID**, the development owner or property owner shall be required to dedicate or submit proof of relinquishment to Washoe County, **or demonstrate proof of ownership**, 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, **proof of ownership** 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 **or proof of ownership** 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~~ **water rights** as described above based on, but not limited to, the following criteria:

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

reconveyed to the original grantor or the original grantor's successor, if good cause exists, either sua sponte by the County at the sole discretion of the Director of the Planning and Building Division of the Community Services Department, or upon application to the Director of the Planning and Building Division of the Community Services Department. For purposes of this subsection, good cause shall at a minimum include the following findings:

- (1) The operation for which the water rights were originally dedicated has continued to operate in good standing and in compliance with all applicable conditions and other legal requirements;
- (2) The water rights will continue to be used in connection with the operation and will be properly maintained with the State Engineer's office and will not be sold or otherwise alienated as long as the operation continues;
- (3) The applicant and the County cause to be filed with the State Engineer a written request for advance notification to the county of any proceedings and copy of all notices and correspondence concerning the subject water rights; and
- (4) The county or its lawful designee does not serve as the water provider for the operation or property in question and has no plan to do so for at least the 10 year period following the application.

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

[Amended by Ord. 876, provisions eff. 7/7/93; Ord. 1568, provisions eff. 11/6/15.]

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

- (a) Applications to Nevada State Engineer. 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) Applicants Responsibilities. Require the development owner or property owner to:
 - (1) Pay all State Engineer's Office application fees to transfer the dedicated 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.

[Amended by Ord. 876, provisions eff. 7/7/93; Ord 1568, provisions eff. 11/6/15.]

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) **If project does not meet the criteria for PUC regulation and control, 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.

[Amended by Ord. 876, provisions eff. 7/7/93; Ord 1568, provisions eff 11/6/15.]

[Section 110.422.30, Contracts for Water Rights and Water Facilities, repealed by Ord. 1568, provisions eff. 11/6/15.]

Section 110.422.35 Sanitary Sewer Facilities. 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) Single-Family Dwelling. Facilities to serve one single-family dwelling in an existing subdivision;
- (b) Previous Facilities. Facilities which were previously constructed to serve existing users; and
- (c) Utility Facilities. Facilities, whether new or existing which are enlarged or improved in order to serve the proposed development or subdivision, which were owned and operated under a certificate of public convenience and necessity issued by the Nevada Public Service Commission.

[Amended by Ord 1568, provisions eff. 11/6/15.]

Section 110.422.40 Sanitary Sewer Collection Facility Standards. The following standards apply to all water delivery and sanitary sewer collection facilities:

- (a) Design. 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) Issuance of Permits. 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.

[Amended by Ord. 876, provisions eff. 7/7/93, Ord 1568, eff 11/6/15.]