

SUMMARY: Amends facility connection, user/debt service, and operation and maintenance charges for provision of stormwater drainage and flood control service within the unincorporated area of north Spanish Springs Valley in Washoe County, and provides procedures for its enforcement. This Ordinance repeals Ordinance No. 1197.

BILL NO. 1478

ORDINANCE NO. 1305

AN ORDINANCE AMENDING FACILITY CONNECTION, USER /DEBT SERVICE, AND OPERATION AND MAINTENANCE CHARGES FOR PROVISION OF STORMWATER DRAINAGE AND FLOOD CONTROL SERVICE BY WASHOE COUNTY WITHIN THE UNINCORPORATED AREA OF NORTH SPANISH SPRINGS; REQUIRING THE DEPARTMENT OF WATER RESOURCES TO SUBMIT BILLINGS TO ALL USERS; REQUIRING PAYMENT THEREOF; AND PROVIDING PROCEDURES FOR ITS ENFORCEMENT. THIS ORDINANCE REPEALS ORDINANCE NO. 1197,

Adopted 6-27-06

**WASHOE COUNTY STORMWATER DRAINAGE
AND FLOOD CONTROL SERVICE ORDINANCE**

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THE BOARD OF WASHOE COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

ARTICLE 1. GENERAL PROVISIONS

- 1..1 **Short Title.** This ordinance shall be known and may be cited as the Washoe County Stormwater Management Ordinance.
- 1.2 **Enabling Statues.** This ordinance is adopted pursuant to NRS 244.157, NRS 318.116 and NRS 318.135.
- 1.3 **Enterprise.** The County will furnish, or cause to be furnished, systems used for the provision of stormwater drainage and flood control, including all parts of the enterprise, all appurtenances thereto, and land, easements, right in land, contract rights and franchises,
- 1.4 **Stormwater Management Fees.** The fees imposed by this ordinance are necessary to pay for (1) the operation, administration, maintenance, improvement, environmental restoration, and replacement of existing and future stormwater drainage systems; (2) improving the quality of stormwater runoff; and (3) complying with local, state, and federal stormwater and flood control regulations. All of the proceeds of these fees are in payment for use of the County's stormwater drain and flood control system by developed parcels and their owners. These fees shall not exceed the reasonable cost of providing the services, facilities, or regulatory activities for which the fees are charged.
- 1.5 **Stormwater Management Fund.** There is hereby established a special fund in the County treasury entitled the "Stormwater Management Fund", hereinafter referred to as the Fund. All revenues from Stormwater Management Fees established pursuant to Article 4 shall be deposited into the Fund,. Monies deposited into this Fund shall be expended for stormdrain and stormwater drainage related purposes as described in Section 1,4.. Appropriations shall be made as provided for by the Board of County Commissioners. Monies in the Fund, which are received by the County, subject to any limitations on their use, may only be expended in accordance with those limitations,.,
- 1.6 **Severability.** If any section, subsection, sentence, clause or phrase of this ordinance or the application thereof to any person or circumstance is for any reason held to be unconstitutional or invalid, such decision shall not affect validity of the remaining portions of this ordinance or the application of such provision to other persons or circumstances The Board hereby declares that it would have passed this ordinance or any section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared to be unconstitutional.
- 1.7 **Relief on Application.** After consideration by the Director as provided in Section 3.7, if any person is of the opinion that any provision of this ordinance is unjust or inequitable by reason of special circumstances as applied to his premises, he may make written application to the Board stating the special circumstances, citing the provision complained of, and requesting suspension or modification of that provision as applied to his premises,.,
- 1.8 **Relief on Own Motion.** The Board may, on its own motion, find that by reason of special circumstances any special provision of this regulation and ordinance should be suspended or modified as applied to a particular premise and may, be resolution, order such suspension or modification for any such premises during the period of such special circumstances, or any part thereof,
- 1.9 **Review by the Board.** This ordinance shall be reviewed by the Board on an annual basis to ensure that the provisions of this ordinance are kept up to date, and that the charges and fees set out in Articles 4 and 5 are adequate to meet the costs of operating the stormwater and flood control facilities. Article 4, Schedule A, shall be reviewed by the Board 6 months following adoption of this ordinance, to ensure that the charges and fees set out in Schedule A are adequate and appropriate to meet the costs of operating the stormwater facilities.
- 1.10 **Words and Phrases.** For the purposes of this ordinance, all words used herein in the present tense shall include the future; all words in the plural number shall include the singular number; all words in the singular number shall include the plural number; and all words in the masculine form shall include the feminine.

ARTICLE 2. DEFINITIONS

- 2.1 Account Transfer shall mean any change made to a billing account, including but not limited to new ownership or new tenancy,
- 2.2 Billing Period shall be the period for which a billing is made. It may be for an average month and need not coincide with the calendar month (i.e., may be billed on cycle of 29 to 31 days).
- 2.3 Board shall mean the Board of County Commissioners..
- 2.4 Commercial/Industrial shall mean any building, structure or facility or a portion thereof, devoted to the purposes of trade or commerce, or industry such as a store, office building, or industrial site or plant.
- 2.5 County shall mean the County of Washoe, State of Nevada.
- 2.6 Customer shall mean a person who receives stormwater drainage and flood control service from the County within the service area or who owns the parcel that is served.
- 2.7 Date of Presentation shall be the date upon which a bill or notice is either postmarked or hand delivered to the Customer.
- 2.8 Delinquent shall mean an account that has not been paid by the 1st day of the calendar month following the due date of payment specified on the bill.
- 2.9 Developer shall mean any person engaged in or proposing development of property.
- 2.10 Development shall mean a parcel of property being improved and requiring installation of stormwater drainage and flood control infrastructure from and possibly on the property being improved.
- 2.11 Director shall mean the Director of the Department of Water Resources or a duly authorized representative.
- 2.12 Easement shall mean an acquired legal right for the specific use of land owned by other's.
- 2.13 Employee shall mean any individual employed by the County excluding independent contractors, consultants, and their employees.
- 2.14 Law is a statute, rule or regulation established by Federal, State, County, or Municipal authorities.
- 2.15 May is permissive (see "shall", Sec. 225).
- 2.16 Multi-Family Residential shall mean any residence, apartment, or other dwelling occupied for habitational purposes by more than a single person or family and requiring stormwater drainage and flood control service.
- 2.17 Owner shall mean a person who holds legal title to the property or who is under contract to purchase the property.,
- 2.18 Parcel means the smallest, separately segregated lot, unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes and given an assessor's identification number by the Washoe County Tax Assessor.
- 2.19 Parcel Size means the size of the parcel measured in acres.
- 2.20 Person shall mean any individual, firm, association, organization, partnership, trust, company, corporation or entity, and any municipal, political, or governmental corporation, district, body, or agency other than the County.

- 2.21 Service Area shall mean the place of use of stormwater drainage and flood control infrastructure available to serve the certain areas as designated in Article 7,
- 2.22 Single Family Residential Parcel shall mean any residence, apartment, or other dwelling occupied for habitational purposes by a single person or family and requiring stormwater drainage and flood control service
- 2.23 Specific Plan shall mean the comprehensive plan for the Specific Planning area as identified in the comprehensive plan and as approved and adopted by the Planning Commission and Board,
- 2.24 Stormwater or Storm Drainage shall mean the water that enters the County's storm drainage system. From the standpoint of sources, it may be a combination of the runoff from residences, commercial buildings, industrial plants or institutions, together with any groundwater and surface water that may be present.
- 2.25 Shall is mandatory (see "may", Sec., 2.15).
- 2.26 Tenant shall mean a person renting or leasing premises from the owner or the owner's selected representative.

ARTICLE 3. CONDITIONS OF SERVICE

- 3.1 Area Served. Properties within the boundaries of the service area shall be eligible to receive stormwater drainage and flood control from the County in accordance with this Ordinance.
- 3.2 Damage to Property. The County will not be liable for damage to property resulting from storm drainage of flooding.
- 3.3 Tampering With County Property. No one except an employee or representative of the County shall at any time, in any manner, operate the gates or valves of the County's system; or interfere with the culverts, channels or other parts of the system, Penalty for violation of this Section shall be a fine of \$10,000,.
- 3.4 Ruling Final. All rulings of the Board shall be final, subject only to judicial review as provided by law.
- 3.5 Notices to Customers. Notices from the County to a Customer will normally be given in writing, and either delivered or mailed to him at his last known address. Where conditions warrant and in emergencies, the County may resort to notification either by telephone or messenger.
- 3.6 Notices from Customers. Notice from the Customer to the County may be given by him or by his authorized representative in writing at the County's operation office. The County's operating office is:
- Washoe County Department of Water Resources
4930 Energy Way
Reno, Nevada 89502
Telephone: 775-954-4600
Fax: 775-954-4610
- 3.7 Adjustment of Complaints. The Director shall have the power of discretion in the interpretation and application of this ordinance, including adjustment or rebate of charges due to special circumstances, if in the Director's opinion and with full documentation, the intent of this ordinance would not be accomplished and an injustice would result by its strict application. Any person not satisfied with a decision of the Director may appeal to the Board as provided in Section 17.
- 3.8 Customer's Premises. County employees or a designated representative shall have the right of access to Customer's property at all reasonable hours for any purpose related to the furnishing of service and protection of water quality.
- 3.9 Special Conditions. In the event that conditions arise which are not specifically covered by this ordinance, the County may take whatever action, including establishing rates and charges which, in its discretion, is warranted.
- 3.10 Effective Date. This Ordinance shall become effective on the date of its adoption by the Board. 3

3.11 Continuity. Adoption of this Ordinance shall not be construed as a waiver of any right or obligation under any prior agreement, contract, or commitment.

ARTICLE 4. STORMWATER MANAGEMENT CHARGES

4.1 Stormwater Management Charge. Stormwater management fees shall be imposed as provided in the Schedules set forth below.

4.2 Schedule A - Spanish Springs.

Land Use	Monthly User/ Debt Service Fee	Monthly Operation & Charge Maintenance Fee	Total Monthly	Total Annual Charge	Facility Connection Fee (Future Users Only)
Single Family Residential	\$6.00	\$1.34	\$7.34	\$88.08	\$1,285
Multi-Family Residential	\$1800/acre	\$4.02/acre	\$22.02	\$264.24/acre	\$2,010/acre
<u>Commercial/Industrial</u>	<u>\$70.00/acre</u>	<u>\$20.12/acre</u>	<u>\$90.12/acre</u>	<u>\$1,081.44/acre</u>	<u>\$2,737.50/acre</u>

4.3 Schedule B - (Reserved for future service areas).

ARTICLE 5. ADDITIONAL CHARGES

Damage to County Property. Any person causing damage to County property or appurtenances to stormwater or flood control facilities by any willful or negligent act shall be responsible for payment of all damages costs incurred by the County.

ARTICLE 6. TIME AND MANNER OF PAYMENT

6.1 Issuance of Bills. The charges provided for in Article 4 shall be paid to the County, as billed by the County, by the owner or tenant of each and every developed parcel in a service area who shall be presumed to be the primary utility rate payer of the other County utility services unless otherwise agreed to in writing by the County. The stormwater management charges shall be collected with the charges and rates for water and sewer services furnished by the County to such premises, and shall appear upon the same bill as prepared for water and sewer service charges and shall be due and payable monthly at the same time such charges for water and sewer services are due and payable. The total amount due for the charges herein fixed and for charges for water' and sewer shall be paid as a unit. In the event a developed parcel does not receive utility services from the County, facility connection, debt/user service and O & M fees will be billed separately. In any event the property owner or tenant shall be responsible to pay all unpaid or delinquent stormwater management charges.

602 Bills Due When Presented. Upon presentation, all bills shall be due and payable at the office of the Washoe County Treasurer.

6.3 Delinquent Accounts. If payment is not received by the first day of the calendar' month following the due date of payment specified on the bill, the account shall be considered delinquent and shall be charged a late payment fee of 1.5 percent per month on the outstanding balance, plus a handling fee of \$4.00 per month for each delinquent account.

6.4 Lien on Property. Until paid, all rates, tolls and charges provided in this ordinance constitute a perpetual lien on and against the property served and may be foreclosed upon as provided by law.

6.5 Failure to Receive a Bill. Failure to receive a bill does not relieve the Customer of the obligation to pay for services received.

6.6 Checks Not Honored by Bank. Checks presented in payment of bills which are returned by a bank shall be treated as though no payment had been made. A \$25.00 handling charge will be levied by the County in addition to any other charges or returned check fees charged by any bank to the County, which shall be reimbursed to the County by the customer., Redemption of returned checks may be required to be made by cash or equivalent.

ARTICLE 7. SERVICE AREAS

7.1 Intention. The intent of this ordinance is to establish Stormwater Management charges for provision of stormwater drainage and flood control service by Washoe County to service areas in unincorporated Washoe County, and further to new service areas that may be created in the future.. A separate accounting of each service area's revenues and expenditures need not be maintained under the Stormwater Management Fund.

7.2 Services Areas

A. The north Spanish Springs Valley service area shall be the area defined and set forth in Exhibit "A" (Map), attached and incorporated herein by reference.

B., Such other future service areas in the unincorporated area of Washoe County in which storm drainage and flood control infrastructure will be owned and operated by Washoe County.

Proposed on the 9th day of MAY, 2006

Proposed by Commissioners HUMKE

Passed on the 27th day of JUNE, 2006

Vote:

Ayes: Commissioners: LARKIN, Weber, Humke, GALLOWAY, Sferrazza

Nays: Commissioners: none

Absent: Commissioners: none

Robert M Larkin
Chairman
Board of County Commissioners

ATTEST:

Amy Harvey
AMY HARVEY, Washoe County Clerk

This ordinance shall be in force and effect from and after the 7th day of JULY, 2006.

BUSINESS IMPACT STATEMENT

The following business impact statement was prepared pursuant to NRS 237.090 to address the proposed impact of: an ordinance to amend the facility connection, user/debt service, and operation and maintenance charges for provision of stormwater drainage and flood control service by Washoe County within the unincorporated area of North Spanish Springs by: 1) amending fees and charges to businesses operating or choosing to operate in the Spanish Springs Valley.

1. **The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

The financial analysis report was transmitted to Spanish Springs Associates, the largest landowner/developer in the affected area. The report was also shared with their business associates. No negative responses were received. Also, comment on the proposed fee increase was solicited from the Spanish Springs Citizens Advisory Board on May 10, 2006. Comments received are reflected in the minutes of the meeting (attached).

2. **The estimated economic effect of the proposed rule on the businesses which it is to regulate, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:**

Adverse effects: None that can be quantified.

Beneficial effects: Proposed fee will provide sufficient cash flow to fund construction, operation and maintenance of the project facilities.

Direct effects: The estimated economic impact of the proposed rates on Commercial/Industrial business enterprises is summarized in Table I.

Indirect effects: N/A

TABLE I
Summary of Current Fees and Charges

Land Use	Monthly User/ Debt Service Fee	Monthly Operation & Maintenanc e Fee	Total Monthly Charge	Total Annual Charge	Facility Connection Fee (Future Users Only)
Commercial/Industrial	\$58.53/acre	\$20.12/acre	\$78.65/acre	\$943.80/acre	\$1095/acre

TABLE II
Summary of Proposed Fees and Charges

Land Use	Monthly User/ Debt Service Fee	Monthly Operation & Maintenance Fee	Total Monthly Charge	Total Annual Charge	Facility Connection Fee (Future Users Only)
Commercial/Industrial	\$70.00/acre	\$20.12/acre	\$90.12/acre	\$1,081.44/acre	\$2737.50/acre

- 3. The following constitutes a description of the methods that Washoe County considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:**

Alternative projects were evaluated and ranked. Alternative methods of allocating costs were considered, as were alternative financing methods.

- 4. Washoe County estimates that the annual cost to the County for enforcement of the proposed rule is:**

None.

- 5. The proposed rule provides a new fee or increases an existing fee and the total annual amount Washoe County expects to collect is:**

The proposed rule provides a new fee, providing approximately \$835,644 in revenue in year one. This revenue is earmarked for construction, debt service, and operation and maintenance activities within the stormwater drainage and flood control service area.

The money generated by the new fee or increase in existing fee will be used by Washoe County to:

Design, construct, operate and maintain the North Spanish Springs Floodplain Detention Facility.

- 6. The proposed rule includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity. The following explains why such duplicative or more stringent provisions are necessary.**

The proposed rule does not include provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity.

RESOLUTION

A RESOLUTION ADOPTING AN ORDINANCE AMENDING THE WASHOE COUNTY SCHEDULE OF STORMWATER MANAGEMENT CHARGES FOR STORMWATER DRAINAGE AND FLOOD CONTROL SERVICE BY WASHOE COUNTY WITHIN THE SERVICE AREA ESTABLISHED IN THE UNINCORPORATED AREA OF NORTH SPANISH SPRINGS, PROVIDING PROCEDURES FOR ITS ENFORCEMENT, AND REPEALING ORDINANCE NO. 1197.

WHEREAS, the proposed Ordinance Amending the Washoe County Schedule of Stormwater Management Charges for Stormwater Drainage and Flood Control Service by Washoe County within the service area established in the unincorporated area of North Spanish Springs, and Providing Procedures for its Enforcement has been previously discussed and considered at public meetings by the Board of County Commissioners of Washoe County; and

WHEREAS, the proposed Ordinance Amending the Washoe County Schedule of Stormwater Management Charges for Stormwater Drainage and Flood Control Service by Washoe County within the service area established in the unincorporated area of North Spanish Springs was recommended for approval by the Director of the Department of Water Resources; and

WHEREAS, the proposed Ordinance Amending the Washoe County Schedule of Stormwater Management Charges for Stormwater Drainage and Flood Control Service by Washoe County within the service area established in the unincorporated area of North Spanish Springs was presented to the Board of County Commissioners of Washoe County in a first reading on May 9, 2006; and

WHEREAS, pursuant to NRS 318.199 the Board of County Commissioners may take action after the public hearing and approve a Resolution Adopting an Ordinance Amending the Washoe County Schedule of Stormwater Management Charges for Stormwater Drainage and Flood Control Service by Washoe County within the service area established in the unincorporated area of North Spanish Springs, and Providing Procedures for its Enforcement.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of County Commissioners of Washoe County, as follows:


1. The Ordinance Amending the Washoe County Schedule of Stormwater Management Charges for Stormwater Drainage and Flood Control Service by Washoe County within the service area established in the unincorporated area of North Spanish Springs, Providing Procedures for its Enforcement, and Repealing Ordinance No. 1197 is hereby approved and adopted, and;
2. The Board of County Commissioners finds that this Ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.

ADOPTED this 27th day of June, 2006.

WASHOE COUNTY BOARD OF COMMISSIONERS

By 
Robert M. Larkin, Chairman

ATTEST:


Amy Harvey, County Clerk