

## **16.12.030.5: DEDICATION OF FACILITIES AND WATER RIGHTS:**

- A. Purpose: Water, being an invaluable resource essential to the existence of life and paramount to the future growth of Churchill County, must be preserved and the impact on its diminishing availability minimized. In 1903, the United States congress authorized the Newlands project. Subsequent federal decrees on the Carson and Truckee Rivers secured water rights that have allowed and enhanced this community's growth.

To ensure the long term sustainability of the water resources in Churchill County and to ensure that a balance is maintained between aquifer recharge and water withdrawal, water rights shall be dedicated to Churchill County for all new development. To ensure an adequate, sustained water supply for the intended use or permit, the developer, property owner, or contractor, shall dedicate to Churchill County, as a condition precedent to the issuance of a permit or approval of the land division or development, any water resources reasonably necessary to either serve or sustain the intended use or development.

Furthermore, the purpose of these requirements is to encourage the development of water and sewer facilities in the urbanizing area and to eliminate the use of individual domestic wells and septic tanks on lots created in a subdivision that is less than five (5) acres in size.

- B. Applicability: The provisions of this section shall apply to all permits, approvals, land divisions, subdivisions, planned unit developments or development projects in the county with the following exceptions:
1. The provisions of this section do not apply to land divisions and development within hydrographic basins 128 (Dixie Valley), 73 and 74 (Humboldt Sink region), 75 (Hot Springs Flat area), 76 (Fernley area), 77 (North Valley), 78 (Granite Springs Valley), 123 (Rawhide Flats), 124 (Fairview Valley), 125 (Stingaree Valley), 126 (Cowkick Valley), 127 (Eastgate Valley area), 133 (Edwards Creek Valley), and 134 (Smith Creek Valley).
  2. The provisions of this section may not apply to the development of a cluster development where the agricultural reservation or conservation easement being established will continue irrigation and retain the surface water rights on the subject parcel in perpetuity. Upon approval of the cluster development parcel map and the agricultural reservation deed, the board of county commissioners shall determine if the provisions of this section shall apply.
  3. The provisions of this section may not apply to developments being served by existing water systems owned and operated by a utility on the effective date hereof but compliance with [title 13, chapter 13.02](#) of this code must be achieved.
- C. Water Resources: The development owner, land divider or property owner shall be required to dedicate to Churchill County, as a condition precedent to the 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 county planning department and the engineering and capital projects department and the state engineer. In the event the state and the county have different requirements under this section, both the county and state requirements, and the more stringent of the two, must be satisfied.

D. Water Right Dedication Requirements: The amount and type of water rights to be dedicated shall be in compliance with this section and [title 13, chapter 13.02](#) of this code.

1. Subdivisions, planned unit developments and parcel maps connecting to the county water system shall be required to dedicate the amount and type of water necessary to be served by the county system.
2. Parcel maps where lots created are undeveloped and are less than one gross acre in size and a county water line exists within one hundred eighty feet (180') of the property line shall be required to connect to the county system and shall be required to dedicate the amount and type of water necessary to be served by the county.
3. Parcel maps, division into large parcels, second and subsequent parcel maps and industrial or subdivision maps that are not connecting to the county water system as a condition of approval, shall dedicate to Churchill County 2.0 acre-feet of surface water per parcel that may be used by the county to ensure the long term sustainability of the county water resources and to ensure that a balance is maintained between aquifer recharge and water withdrawal. The total number of lots represented on the map indicates how many acre-feet will be dedicated regardless of existing buildings and wells.

E. Water Right Satisfaction:

1. The quantity of water rights required to be dedicated shall follow the above requirements unless otherwise required by the board or the state engineer. Final determination of the type and amount of water rights to be dedicated shall be by the county planning department and engineering and capital projects department.
2. Dedication of groundwater rights to Churchill County under the provisions of this section must be evidenced by any requisite permits from the state engineer including permits approving changes of place and/or manner of use, and may further be accomplished by quitclaim deed from the holder of the water rights to Churchill County. The deed must be in such form and executed in such a manner that is acceptable to the board.
3. It shall be the duty of the land divider or contractor to take all steps necessary to complete any dedication made pursuant to the provisions of this subsection E.
4. The dedication of water rights to Churchill County shall be achieved as follows:
  - a. Before approval of any tentative subdivision or planned unit development map the land divider or contractor shall submit a statement of intent to dedicate to Churchill County at the time of final map submittal the type and amount of water rights required to serve the subdivision.
  - b. Before submittal of a final subdivision map the land divider shall dedicate to Churchill County the quantity and type of water rights required to serve the portion of the subdivision reflected in the final map.
  - c. Prior to recordation of a parcel map where development will be connecting to the county system adequate groundwater rights to serve the land division shall be dedicated to the county unless the board accepts alternative water right dedication requirements as outlined in [title 13, chapter 13.02](#) of this code.
  - d. Prior to recordation of a parcel map, second and subsequent parcel map, division into large parcels, where development is not connecting to the county water system, surface water rights shall be dedicated to the county.

- e. Upon demonstration by the applicant that ground or surface water rights cannot be secured a cash in lieu payment may be accepted only in the following circumstances:
- (1) Land Divisions; Parcel Maps, Division Into Large Parcels, And Commercial Or Industrial Subdivisions: Cash in lieu payment for any parcel map, map of division into large parcels, or final map will only be accepted in circumstances where the parcel to be divided has no surface water rights appurtenant to it, and the proposed land division will be served with domestic or commercial wells.
  - (2) Second and Subsequent Parcel Maps (Parcel Maps Filed Following The Approval Of A Tentative Parceling Map): Cash in lieu payment for all second and subsequent parcel maps will only be accepted in circumstances where the parcel to be divided has no surface water rights appurtenant to it. Where a tentative parceling map has been approved and at least one parcel map has been recorded water right dedication requirements in effect at the time of parcel map approval shall apply.
  - (3) Cash In Lieu Payment Defined: A "cash in lieu payment" is an amount of cash equal to one and one-half ( $1\frac{1}{2}$ ) times the fair market value of water rights required for dedication in lieu of the requirements.
  - (4) Fair Market Value: Fair market value shall be determined from time to time, based upon a market analysis conducted by the county and will be established by resolution of the board.
  - (5) Reserve Fund: Upon receipt of such monies in lieu of dedication of water rights, the county clerk-treasurer shall place such monies in a special reserve fund for the purchase of water rights adequate to directly serve or indirectly recharge the source of water servicing the subject real property.
  - (6) Water Rights Status Verification: Water rights status of such lands shall be verified by the Truckee-Carson irrigation district.
5. a. The dedication of groundwater rights and facilities required by this section will be satisfied if the development owner or property owner enters into an agreement with the county, secured by a performance bond or other undertaking acceptable to the county. This agreement must constitute a binding offer to dedicate, conditioned only upon failure to receive final project approval, or, in case where a building permit is the only approval needed, failure to receive a building permit for the project. No building permit or recordation of a subdivision map shall be granted until dedication is accepted or an agreement conforming to this section has been accepted by the board.
- b. The engineering and capital projects department will evaluate the water rights offered for dedication based on, but not limited to, the following criteria:
- (1) Adequacy Of Amount: The adequacy of the amount of water resources offered for dedication to the county for the intended use;
  - (2) Type/Source Of Water Rights: The ability of the county to use the type of water rights being offered for dedication;
  - (3) 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;
  - (4) 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 state engineer, or the status of the water right established in a court decree, which are offered for dedication to the county; and

(5) Point Of Diversion: The ability of the county to obtain from the 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.

F. Authority To Utilize Dedicated Water Rights And Collect Administrative Fees:

1. The planning department, or an appointed county agent, may 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.
2. The development owner or property owner shall:
  - a. Pay all state engineer's office application fees to transfer the dedicated water rights to the proposed delivery facilities;
  - b. 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;
  - c. Comply with the terms of the water right permits or certificates as issued by the state engineer's office; and
  - d. Pay reasonable administrative fees and service fees to read and maintain water meters or carry out other activities as necessary to maintain the validity of the dedicated water right. (Bill 2010-G, 2010: Bill 2008-A, 2008: Bill 2005-F § 2.2, 2005)