



# ORDINANCE No. 2448

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### AN ORDINANCE AMENDING SECTION L-VI 1 OF ARTICLE 1 OF CHAPTER VI OF THE NEVADA COUNTY LAND USE AND DEVELOPMENT CODE PERTAINING TO ON-SITE SEWAGE DISPOSAL STANDARDS

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

#### SECTION I:

Pursuant to Land Use and Development Code Sections L-VI 1.1 – 1.22, the Board of Supervisors hereby finds and determines as follows:

1. That the existing definitions in the Sewage Disposal Ordinance (Ord. 1975) in the County Land Use and Development Code Section L-VI 1.1 – 1.22, are amended to the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy to meet the requirements of AB 885 and the State of California Water Resources Control Board; and
2. That the proposed amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

#### SECTION II:

Section L-VI 1 of Article 1 of Chapter VI of the Land Use and Development Code is hereby amended to read as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

#### SECTION III:

This Ordinance shall take effect and be in full force thirty (30) days from and after introduction, public hearing and adoption pursuant to Government Code section 25131, and it shall become operative on the 7th day of June, 2018, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in the Union, a newspaper of general circulation printed and published in the County of Nevada

## **Exhibit A**

### **Sec. L-VI 1.1 Purpose**

The purpose of this Chapter is protection of public health through establishment of minimum standards for design, construction, installation, operation, maintenance, replacement, alteration, enlargement, repair and abandonment of facilities for disposal of sewage within the unincorporated area of Nevada County. The procedural and regulatory framework is contained in this Chapter. All work shall be done pursuant to this Chapter with the applicable permits in compliance with accepted engineering practice. The Board of Supervisors, by separate Resolution, may adopt per Assembly Bill 885 and State of California Water Resources Control Board a Local Area Management Plan (LAMP) and State Water Resources Control Board On-Site Wastewater Treatment System (OWTS) Policy, delineating in specific detail implementing standards and regulations reflecting acceptable practices and procedures.

### **Sec. L-VI 1.2 Definitions**

For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

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- K. QUALIFIED PROFESSIONAL: one of the following persons (exclusive of Department personnel)
1. Certified Engineering Geologist,
  2. Certified Professional Soil Scientist,
  3. Registered Civil Engineer, or
  4. Registered Environmental Health Specialist

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### **Sec. L-VI 1.3 Applicability of This Chapter**

The requirements of this Chapter, as supplemented by the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy, shall apply to all sewage disposal and for any division of land in Nevada County approved after the adoption of this Chapter.

### **Sec. L-VI 1.4 Sewage Disposal**

- A. It shall be unlawful for any person, whether as principal, servant, agent, employee, owner or tenant, to treat or dispose of sewage in any manner other than by a sewer, septic tank and leaching system, centralized sewage disposal system, public sewer system or other method of sewage disposal meeting the standards set forth in this Chapter and the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy.
- B. A system shall be constructed, operated and maintained in compliance with all requirements of the permit allowing its installation and operation and so as not to permit sewage to rise to the ground surface or to discharge sewage onto the ground or into the groundwater or surface water.

### **Sec. L-VI 1.8 Site Evaluation Required**

A site evaluation of the property, in conformance with the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy, shall be conducted by the Department and the applicant's consultant prior to issuance of a system permit in order to provide sufficient information to prepare the site approval report as required in Section L-VI 1.10 of this Chapter. The property owner or owner's authorized representative shall make application for a site evaluation to the Department and pay the required fee before applying for a system construction permit.

### **Sec. L-VI 1.9 Soil Testing Required**

- A. A minimum of two (2) soil test pits are required in an area proposed for sewage disposal prior to applying for a system permit, provided, however, that the Department may waive this requirement where sufficient information already exists. The soil test pits shall be witnessed by the Department and the applicant's consultant. All soil test pit excavations shall be adequately protected and backfilled following logging of the soil by a qualified professional.
- B. "Wet weather testing" to determine the depth to water below the surface of the ground may be required by the Department prior to approving a site for a system. Wet weather testing will be performed during that time of year representative of soil saturation as determined by the Department according to the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy.
- C. System sizing shall be based on percolation tests or soil type. Where percolation tests are utilized for sizing the system, a minimum of three (3) percolation tests shall be performed in the area where a system is to be located. Percolation tests shall be conducted by the applicant's qualified professional.
- D. For parcels tested after the effective date of this chapter, the applicant's qualified professional shall prepare a site evaluation report for the site, including the results of all soil testing, in conformance with the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy. The site evaluation report shall be submitted to the Department by the applicant's qualified professional within sixty (60) days of the date the site evaluation is completed on the property.

### **Sec. L-VI 1.10 Site Approval Report**

A site approval report in conformance with the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy shall be prepared by the Department after receipt of the site evaluation report from the qualified professional or owner. The site approval report shall specify the type(s) of system(s), if any, that can be approved for the parcel. (Exception: a site approval report is not required where soils testing was conducted prior to the adoption of this Chapter and the Department finds that the site and prior test results are acceptable.)

### **Sec. L-VI 1.11 Sewage Disposal System Construction Permit Application**

- A. The property owner, qualified professional, or contractor, shall make application for a system permit on a form provided by the Department for that purpose.
- B. All information and documents required by the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy, including a consultant's design and certification where required, shall be provided and completed at the time of application and shall, at a minimum, include:
  - 1. The required number of site plans;

2. Results of all soils testing, if not on file at the Department;
3. A site approval report, unless not required; and
4. System design work and calculations for systems which are designed by a qualified professional.

#### **Sec. L-VI 1.12 Action on Permit Application**

- A. The Department will act on a system construction permit application to approve, conditionally approve, or deny it, based upon its compliance with the requirements of this Chapter and the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy.
- B. The Department may issue a permit only when all of the requirements of this Chapter and the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy have been met. The permit may contain conditions that apply to the construction, operation and maintenance of the system. The permit conditions shall be binding upon the property owner and successive property owners for the life of the system. System construction permits shall expire and become void one (1) year from the date they are issued. Upon written request, an unexpired permit may be renewed for a maximum of one (1) year beyond the initial expiration date. An unexpired valid permit may be transferred to a new property owner. The new owner shall make a written request for transfer of the permit upon the change of ownership.
- C. The Department shall deny any permit application that fails to comply in any regard with the requirements of this Chapter or the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy.
- D. The applicant or any person interested in the permit application may appeal any decision of the Department pursuant to Section L-VI 1.18.

#### **Sec. L-VI 1.13 Inspections**

- A. The system components and construction shall be inspected by the Department as required by the construction permit for compliance with permit conditions, this Chapter and the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy. Final approval of the construction permit shall only be granted after the Department has completed all necessary system inspections. Department inspection(s) of the system may be waived by the Department on a case-by-case basis for good cause as provided for in the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy.
- B. All special design system installations shall also be inspected by the applicant's qualified professional who shall certify in writing to the Department that the installation has met the design as approved by the Department. The final approval of the system by the Department cannot be given until this certification is received.
- C. The Department shall issue a Certificate of Satisfactory Completion for a system upon determination that the system as constructed and installed complies with the requirements of the permit and this Chapter, as supplemented by the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy. No system constructed after the effective date of this Chapter shall be placed into operation without a Certificate of Satisfactory Completion

#### **Sec. L-VI 1.14 System Monitoring and Maintenance**

- A. Any system identified in the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy or in conditions imposed upon permit approval as requiring

ongoing monitoring and maintenance after being placed in operation shall be operated and maintained in compliance with all applicable requirements. All owners of such systems shall obtain and maintain a current annual operating permit for the system, issued by the Department. The Department may suspend or revoke an operating permit for failure to comply with the applicable monitoring and maintenance requirements in which event further operation of the system shall cease until the suspension is lifted or a new annual operating permit issued.

- B. Monitoring, inspection and maintenance of these systems shall be performed by persons who possess a current registration, license, or certification in a related field by the State of California under the Business and Professions Code, and who demonstrate current knowledge and competency in the requirements of this Chapter and the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy as provided for in the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy.
- C. The Department may make periodic quality assurance checks to ensure that certified service providers are adhering to the requirements of the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy and specific permit conditions for monitoring and maintenance. The Department may suspend or revoke a person's certification for failure to comply with the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy and this Chapter.

#### **Sec. L-VI 1.15 Sewage Disposal System Abandonment**

A system shall be abandoned if the Department has issued a notice or an order to abandon the system or shall be abandoned if the system will no longer be used because the facility served by the system has connected to another approved sewer system or the use requiring the system has permanently terminated. A system shall only be abandoned in accordance with the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy. An abandoned system shall no longer be utilized for sewage disposal.

#### **Sec. L-VI 1.16 Variances**

- A. A variance from the requirements of this Chapter or the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy may be granted as provided therein on a case-by-case basis with written approval of the Director under the following circumstances:
  - 1. Because of special circumstances applicable to the specific parcel (e.g. size, shape, topography, soil characteristics, location, surroundings), a strict application of this Chapter and the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy would otherwise cause the property owner to suffer unique hardship or deprivation of property privileges enjoyed for other property in the vicinity and zoning district in which such property is located;
  - 2. The hardship was not intentionally caused by the action of the applicant;
  - 3. Granting the variance would not have any significant adverse environmental effect and would not significantly affect use of adjoining property; and
  - 4. Reduction of requirements would not present a health hazard or the pollution or degradation of public waters.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district.

- B. Applications for variances shall be made in writing on a form provided by the Department. Upon receipt of the application, the Department shall make an investigation to determine whether a variance should be granted under the provisions of this Section. After conclusion of the investigation, the Director or his/her designee shall prepare a written order of specific findings of fact and reasons for granting or denying said variance.
- C. The Director or his/her designee shall approve, conditionally approve or deny the variance in writing within fifteen (15) working days from the date a completed application is received, unless that time period is waived by the applicant due to the uniqueness, length, or complexity of the application or the issues raised.
- D. The applicant or any person interested in the variance may appeal any decision of the Director or his/her designee pursuant to Section L-VI 1.18 of this Chapter.

#### **Sec. L-VI 1.17 Advisory Group Established**

- A. There shall be and is hereby created a Sewage Disposal Technical Advisory Group as established in Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy by separate Resolution.
- B. The purpose of the Sewage Disposal Technical Advisory Group shall be to review and recommend proposed revisions and additions to the sewage ordinance and Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy in an advisory capacity; to review and recommend new methods, techniques and materials for on-site sewage disposal in an advisory capacity; and to serve as an appeal body pursuant to the provisions of Section L-VI 1.18 of this Article. The Group shall not be empowered to waive requirements of either this Article nor of the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy.

#### **Sec. L-VI 1.18 Appeals**

- A. Any decision of the Department or the Director or his/her designee pursuant to this Chapter and the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy may be appealed to the Sewage Disposal Technical Advisory Group following the procedures set out in the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy. Any appeal shall be filed with the Department within twenty (20) working days of the date of the decision, on forms provided by the Department with the appropriate fee.

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#### **Sec. L-VI 1.19 Requirements for Land Use Projects**

- A. Requirements of the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy shall be utilized in determining the suitability of the site for proposed land use projects. Unless otherwise approved by the Department, the site evaluation process of Section L-VI 1.8 shall be used to demonstrate sewage disposal feasibility for all land use projects. The written site evaluation report prepared by the applicant's qualified professional shall be submitted to the Department concurrently with the project application to the Nevada County Planning Department.
- B. For subdivisions, all proposed parcels shall have a site approval report as specified in Section L-VI 1.10 prior to recordation of the map. This requirement may be waived by the Department for creating parcels 40 acres or greater as provided for in the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy. For subdivisions with on-site systems proposed, a minimum usable disposal area shall be delineated on each lot of the map to be recorded. Minimum usable sewage disposal area requirements for subdivisions proposing centralized systems will be

considered on a case-by-case basis in accordance with the Centralized System Design Package and Article III of this Chapter.

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**Sec. L-VI 1.22 Severability**

If any portion of this Chapter is held to be invalid for any reason, or unconstitutional by a decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Chapter, including any other section, subsection, sentence, clause, or phrase therein, or the Local Area Management Plan (LAMP) and On-Site Wastewater Treatment System (OWTS) Policy supplementing those portions. Any invalid part of this Chapter shall be segregated from the remainder of the Chapter by the court holding such part invalid, and the remainder shall remain effective.

PASSED AND ADOPTED by a majority vote of the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 8th day of May, 2018, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Hank Weston, and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 

  
Edward C. Scofield, Chair

5/9/2017 cc: GIS\*  
Union\*  
COB\*  
CoCo\*  
QC\*  
EH\*