

ORDINANCE NO.

(Amend Henderson Municipal Code Section 14.14.040 - Golf Courses)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND SECTION 14.14.040 - GOLF COURSES OF TITLE 14 - UTILITY SERVICES OF THE HENDERSON MUNICIPAL CODE.

- WHEREAS, the City of Henderson, Nevada, (“City”) City Council (the “City Council”) adopted Ordinance No. 3905 on September 13, 2022, amending portions of Henderson Municipal Code (“HMC”) Title 14 - Utility Services to promote water use efficiency, prevent, discourage, and significantly reduce water waste, align the City with the regional approach being taken with respect to maximizing regional water resources, restructure certain administrative fines, update the enforcement process, and make clarifying changes to certain defined terms; and
- WHEREAS, Section 2.280.1 of the Henderson City Charter gives the City Council authority to “(a) [p]rovide, by contract, franchise or public enterprise, for any utility to be furnished to the City for the residents thereof;] (b) [p]rovide for the construction of any facility necessary for the provision of such utilities[; and] (c) [f]ix the rate to be paid for any utility provided by public enterprise”; and
- WHEREAS, NRS 268.411 gives the City Council authority to “prohibit by ordinance any waste of water within its jurisdiction” and, in that ordinance, “classify the conditions under which specified kinds and amounts of consumption or expenditure of water are wasteful” and “[p]rovide other appropriate penalties for violation of the ordinance which are based upon the classification adopted”; and
- WHEREAS, NRS 540.131.6 gives the City Council authority to adopt ordinances necessary to carry out a plan of water conservation adopted pursuant to NRS 540.131 that applies to property within its jurisdiction and to establish a schedule of fines for the violation of any ordinances so adopted; and
- WHEREAS, on August 16, 2021, the United States Bureau of Reclamation (“BOR”) released the Colorado River Basin August 2021 24-Month Study, declared that downstream releases from Hoover Dam will be reduced in 2022 because of declining reservoir levels, and thereby triggered mandatory cuts in the amount of water the State of Nevada is allowed to draw from the Colorado River by 21,000 acre feet for calendar year 2022 which is 7% of Nevada’s annual apportionment; and
- WHEREAS, on August 16, 2022, BOR declared a Tier 2 shortage and, as a result, the state of Nevada is required to reduce consumptive use by an additional 4,000 acre feet, to a total of 25,000 acre feet for calendar year 2023; and
- WHEREAS, these federal shortage declarations, the drop in Lake Mead’s elevation, and the BOR’s projections that it will continue to drop underscore the importance of continuing efforts to make conservation of water resources a top priority in the Southern Nevada region; and

WHEREAS, the Southern Nevada Water District (“SNWA”) provides wholesale water service to the City, the Las Vegas Valley Water District (“District”), and other SNWA purveyor member; and

WHEREAS, on December 20, 2021, SNWA’s Board of Directors adopted a new Water Resource Plan, approved a more aggressive conservation goal of 86 gallons per capita per day by 2035, and identified the reduction of golf course water budgets as one of the key actions that will help meet that conservation goal; and

WHEREAS, on May 19, 2022, SNWA’s Board of Directors approved a resolution that, when implemented by the SNWA’s purveyor members, will reduce golf course water budgets from 6.3 acre-feet per year (“AFY”) to 4.0 AFY per irrigated acre, and, according to SNWA, will save an estimated 2,586 AFY (842.6 million gallons) by 2035; and

WHEREAS, on August 1, 2022, the Las Vegas Valley Water District (“District”) provided notice that it is proposing changes to its Service Rules that, if approved, will reduce golf course water budgets from 6.3 AFY per irrigated acre to 4.0 AFY per irrigated acre for all golf courses within its service area that use Colorado River water, effective January 1, 2024; and

WHEREAS, on November 15, 2022, the District’s Board of Directors determined that proposed changes to the District’s Service Rules on golf course water budgets are not likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, approved the Business Impact Statement, and directed staff to set a public hearing for possible adoption of the proposed changes on January 3, 2023; and

WHEREAS, HMC 14.14.040.B currently allows golf courses to use up to 6.3 AFY per irrigated acre each calendar year before having to pay a surcharge for any water used over the annual water budget amount; and

WHEREAS, reducing the golf course water budgets from 6.3 AFY per irrigated acre to 4.0 AFY per irrigated acre for all golf courses within the City’s corporate boundaries is intended to promote water use efficiency and align the City with the regional approach being taken with respect to maximizing and conserving regional water resources; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Section 14.14.040 - Golf Courses is hereby amended to read as follows:

14.14.040 Golf courses.

A. Golf courses using or taking water within the city's corporate boundaries, whether or not that water is supplied by city, and golf course customers shall comply with all requirements in this chapter. At the department's written request,

a golf course property shall provide the department documentation regarding water used for irrigation on that property.

B. Golf course properties shall be on a water budget and allocated a maximum of (1) through December 31, 2023, 6.3 acre[-] feet [per calendar year] of water (including potable, raw, reclaimed, and other non-potable water) for each irrigated acre [then being irrigated (including potable, raw, and reclaimed)], per calendar year and (2) as of January 1, 2024, 4.0 acre feet of water (including potable, raw, reclaimed, and other non-potable water) for each irrigated acre, per calendar year. [, and the golf course property shall not exceed that water budget.] To measure water used for irrigation of the golf course property, the city may – subject to the approval of the director – require a golf course property and/or golf course customer, as applicable, to install a separate city-approved meter(s) per adopted standards on each service line that is used to irrigate the golf course property and to only use those service lines for outdoor irrigation of that golf course property. The department, in consultation with the golf course property's authorized representative, shall determine the irrigated acreage of the golf course. That irrigated acreage will include the golf course play turf, lakes and ponds then-existing within a golf course property, [and] lakes and ponds serving, in total or in part, as a golf-course-property irrigation reservoir, and other outdoor areas on the golf course property that are landscaped, irrigated with an irrigation delivery system, and are not occupied by a structure, walkway, roadway, curb, gutter, pavement, or parking lot. [The department, in consultation with the golf course property's authorized representative, shall determine the irrigated acreage of the golf course.] The city may periodically review the area comprising the irrigated acreage at a particular golf course.

C. If a golf course property contests the calculated irrigated acreage determined by the department, the golf course property may provide calculations supported by other methods acceptable to the department. The golf course property may hire an independent consultant, not affiliated with the golf course property, to calculate the irrigated acreage. In any case, however, the department shall make the final determination of the irrigated areas and the irrigated acreage for the golf course property.

D. A golf course property is limited to the total square feet of the golf course play turf area that existed as of September 19, 2022 and shall not increase the golf course play turf area.

E. Exemptions for golf courses.

1. Budgeted water apportionments may be used on the golf course property to syringe golf course greens without time-of-day or day-of-week restrictions, provided (a)(1) one station at a time is run manually or (2) on large irrigation projects, stations are run using hand-held remote irrigation controllers or computerized central controls, and the individual operating the spray irrigation is present to monitor their operation and (b) water does not flow onto, spray onto, pool on, or run off onto a walkway, bike path, pavement, gutter, street, or drain.

2. Budgeted water apportionments may be used on the golf course property to spray irrigate the golf course play turf without time-of-day or day-of-week restrictions, provided (a) the golf course property and/or golf course customer, as applicable, are in compliance with any and all applicable reclaimed water management plans (formerly referred to as effluent management plans) and reclaimed water use agreements and (b) water does not flow onto, spray onto, pool on, or run off onto a walkway, bike path, pavement, gutter, street, or drain. The foregoing exemption does not apply to other lawn grass or to other landscaped areas within the golf course property.

3. If a golf course property wishes to re-seed or overseed all or a portion of the golf course play turf, the golf course property must stay within its budgeted water apportionment.

F. If a golf course property exceeds their water budget, that customer must pay for the additional volume of water used at the rate(s) in the department service rules and as outlined in this title. The golf course property must also pay a surcharge for any water used over the annual water budget amount.

G. The city will not serve and a responsible person shall not use potable, reclaimed, or raw water provided by the city for a golf course that was not in existence as of September 19, 2022.

SECTION 2. If any section, subsection, sentence, clause, phrase, provision, or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk and notice of such filing shall be published once by title in the Las Vegas Review-Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance (Initial Publication). Following adoption by the City Council, this Ordinance shall be published by title together with the names of the Council members voting for or against passage (Final Publication). This Ordinance is scheduled for Final Publication on March 10, 2023, in the Las Vegas Review-Journal, at which time it will become effective.

END OF ORDINANCE