

SUMMARY: Amends the Washoe County Code by adding, revising, and amending provisions of the law governing the Community Services Department and the former department of regional parks and open space.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY ADDING, REVISING, AND AMENDING CHAPTER 95.

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

SECTION 1. Chapter 95 of the Washoe County Code is hereby amended by adding thereto the provisions set forth as sections 1, inclusive, of this ordinance.

CHAPTER 95

COMMUNITY SERVICES DEPARTMENT (Regional Parks and Open Space)

Purpose and General Provisions

95.010 Definitions.
95.020 Washoe County Open Space and Regional Parks Commission
95.030 Financial Support
95.040 Department of Community Services
95.050 Powers and duties of department

General Regulations

95.060 Park hours
95.070 Curfew limitations
95.080 Payment for use of facilities
95.090 Fees; method of establishment and collection
95.100 Group use permit
95.110 Concession operation
95.120 Filming with professional cast
95.130 Posting of signs and notices

Motor Vehicles

95.140 Landing of aircraft
95.150 Electrically-Powered, Gasoline-Powered, Remote/Radio Controlled Devices, Drones
95.160 Vehicle operators
95.170 Registered vehicles required
95.180 Speed limit

95.190 Roads; parking

Non-Motorized Vehicles

95.200 Bicycles and other operator-propelled vehicles

95.210 Unauthorized use of trails

Domestic Animals

95.220 Leash law; animal control

95.230 Horseback riding; Designated areas

95.240 Animal molesting or harming

Visitor Conduct

95.250 Fires: Designated areas; regulation

95.260 Property defacement

95.270 Depositing rubbish; littering; importing, exporting

95.280 Firearms, archery devices: Possession or discharge in county parks

95.290 Firecrackers prohibited

95.300 Disturbing the peace, trespassing

95.310 Sound Amplification

95.320 Abusive language; disturbances

95.330 Nudity and disrobing

95.340 Possession and consumption of alcoholic beverages or controlled substances

95.350 Smoking prohibited in designated areas

95.360 Sewage dumping; sanitation

95.370 Manner of Authorized Activity

Overnight Use

95.380 Camping: Designated areas; limitations

95.390 Number of persons occupying campsites

95.400 Time limits on camping

95.410 Occupancy right of campsites

95.420 Use of Food Storage Lockers

Cultural, Historic, Natural and Wildlife Resource

95.430 Plant molesting or harming

95.440 Excavation or disturbing features of historic site

95.450 Food and beverages at historical units

Enforcement

95.460 Compliance with code, rules and regulations; penalty

95.470 Exclusion From County Park

95.480 Powers of Enforcement Official

Washoe County Open Space and Regional Park Commission

95.010 Definitions

As used in sections 95.010 to 95.480, inclusive:

1. "Department" means the Community Services Department.
2. "Commission" or "park commission" means the Washoe County Open Space and Regional Parks Commission.
3. "Commissioner" or "park commissioner" means a member of the Washoe County Open Space and Regional Parks Commission.
4. "Director" means the director of the Community Services Department or his/her designee.
5. "Employee" means any person employed by Washoe County, through the Community Services Department.
6. "Enforcement Official" means the sheriff, fire chief(s) and district health officer or their authorized designees, as well as inspectors or other code enforcement officers in the county departments of community development, building and safety, public works, regional parks and open space, and water resources, as well as animal control officers and any Washoe County employee possessing citation powers pursuant to NRS 171.17751.
7. "Volunteer" is someone who gives his or her time, talent, energy, skills, common sense and experience for which he or she receives no pay or compensation.
8. "Person" includes individuals, a public or private cooperation, an unincorporated association, at partnership, a government or governmental instrumentality, or a non-profit entity.
9. "Park Resources" means any natural, cultural, historic, or human made structure or feature of a County park.
10. "Facilities" means any recreational or park property under the jurisdiction and control of the board of county commissioners.
11. "County Park" includes any area designated by the board of county commissioners as a public park, playground, special use or recreational facility or open space area managed by the department.
12. "Trail" means any paved or unpaved non-motorized path.
13. "Camping" or "camp" means to erect a tent or shelter or use any motor vehicle or any other means for the purpose of, or in such a way as will result in, overnight occupancy thereof in any county park.

95.020 Washoe County Open Space and Regional Parks Commission

1. Creation; name

Pursuant to the power granted the board of county commissioners by NRS 244.308 to 244.3091, inclusive, there is hereby created a county park commission to be known as the Washoe County Open Space and Regional Parks Commission.

2. Number and Selection of Members

The Washoe County Open Space and Regional Parks Commission shall be composed of nine members, all of whom shall be appointed by the board of county commissioners from residents of the county at large with reference to their fitness for office.

3. Terms of Office; Vacancies; Compensation and Expenses of Washoe County Open Space and Regional Parks Commission

- a) All commissioners shall be appointed for terms of 4 years.
- b) The terms shall be staggered in such manner as to provide that no more than three vacancies will occur in any year.
- c) Commissioners shall hold office until their successors are appointed and qualified.
- d) Any vacancy in the office of commissioner shall be filled for the unexpired term in the same manner as original appointments.
- e) Commissioners shall serve without compensation but shall be entitled to the same travel expenses and subsistence allowances as county officers.
- f) Commissioners shall serve a maximum of two full terms exclusive of any unexpired terms

Comment [JHB1]: Need to mirror BCC language in NRS

4. Oaths of Office of Washoe County Open Space and Regional Parks Commissioners; No Bond Required

At their first commission meeting after their appointment, park commissioners shall qualify by taking the oath of office. No bond shall be required of them.

5. Officers; Term

- a) The commissioners shall elect a chairperson, vice chairperson, and such other officers as are necessary from among their members during the first regularly scheduled meeting of the commission in the fiscal year and annually thereafter at the first regularly scheduled meeting in the fiscal year.
- b) The Director shall act as ex-officio secretary of the commission.

6. Meetings; Records; Quorum

- a) The commission shall hold at least four meetings each year and shall keep a complete record of all its transactions. A commissioner's absence from a meeting of the commission may be authorized in advance by the chair. Two consecutive unauthorized absences from meetings of the commission by any commissioner shall automatically result in a vacancy in the office of that commissioner.
- b) Five commissioners constitute a quorum for the transaction of business.
- c) Any resolution or motion may be adopted or other action ordered taken by a majority of the commissioners forming a quorum.

7. Powers and Duties of the Commission

The powers of the Washoe County Open Space and Regional Parks Commission are to act primarily in an advisory capacity to the board of county commissioners in promoting, aiding and encouraging public recreation and natural resource management including the development of recreation and park facilities.

The powers and duties of the park commission are inclusive of all those as identified in NRS 244.309, in addition to approval of the following, as authorized by the board:

1. Fee schedule for Regional Parks and Open Space
2. Park District Plans
3. Park Master Plans
4. Park Naming and Design
5. Special Event Agreements
6. Park Policies and Guidelines
7. Discretionary Permits as outlined in section 110 of Washoe County Code
8. Resolutions of Support

8. Citizens' Committee

The commission shall have the authority to appoint citizens' committees to assist the commission in making recommendations to the board of county commissioners concerning the matters set forth in section 95.020 of this code. Membership in citizens' committees shall be subject to the approval of the director. A commissioner shall be delegated to attend meetings of the citizens' committee. The citizens' committee shall report its recommendations directly to the commission.

9. Responsibility for Facilities

The jurisdiction of the commission includes, in addition to those enumerated, responsibility for study, analysis and recommendations for all existing and all future facilities when requested by the board of county commissioners.

COMMUNITY SERVICES DEPARTMENT

95.030 Financial Support

It shall be the policy of the county, to the extent allowed by law, to credit moneys received from or generated by park facilities for the use and benefit of those facilities.

95.050 Powers and Duties of Department/Director

1. The department shall administer, protect and develop the county park system for the use and enjoyment of the public.
2. The department may establish rules and regulations not inconsistent with law for the government and administration of the county park system.
3. The director shall administer, direct, supervise and coordinate all planning, management and operational functions and technical activities of the county parks in Washoe County.
4. The director shall be empowered to designate enforcement officials on behalf of the department.
5. The director shall be empowered to appoint authorize personnel as referenced in Washoe County code **95.080** to collect fees
6. The director may approve and issue a permit for any special activity when it is found to be in the best interest of the residents of the county and is conducted by a sponsoring agency approved by him/her.

Comment [JHB2]: Change numbering here and in table of contents

General Regulations

95.060 Park Hours

1. Park hours are sunrise to sunset unless specifically posted otherwise or authorized by the director or his/her designee.
2. No person, except county employees or enforcement officials on official business, may enter or be present in any county park after closing hours unless prior authorization has been issued by the department.

95.070 Curfew Limitations

1. The director may set a curfew for persons under 16 years of age in any county park, upon finding that conditions therein are such as to warrant special measures for the protection of juveniles and others, and for the safety and welfare of the general public.
2. When a curfew has been set, no person under 16 years of age may, during the curfew period, remain or be in a county park unless he/she is:
 - a) Accompanied by his/her parent or guardian;
 - b) Part of a group permitted to occupy a county park and is supervised by at least one responsible adult per 15 juveniles;
 - c) Camping after having furnished written consent of his/her parent or guardian, with the inclusive dates for which permission is granted to camp at the park involved, including the name, address and telephone number of his/her parent or guardian.

95.080 Payment for Use of Facilities

1. No individual or group shall use, occupy or be within the boundaries of any facility for which a fee has been established without having first paid the required fee.
2. The fees may be collected by a county employee or other authorized persons in the manner prescribed pursuant to the provisions of section 95.090 of this code.

95.090 Fees; Method of Establishment and Collection

1. For marketing or promotional purposes only, the county manager or designee shall have discretion to reduce fees, provide for group rates and membership packages for use of the county facility and to establish new fees for short term programs or exhibits that may occur within the department.
2. The director shall submit to the park commission, as needed, a schedule of proposed fees for utilization of reservable park facilities, recreation programs, and special events and activities within the county park system. The fees shall become effective upon an order of the park commission.

95.100 Group Use Permit

No group meetings, functions, concerts, athletic events or similar activities with attendance in excess of fifty (50) persons shall be held within the boundaries of a County Park without a valid Facility Group Use Permit. Depending on the size of the group and nature of the event other permits and licenses may also be required.

Comment [JHB3]: Caps or not? Needs to be consistent throughout

95.110 Concession Operation

1. No person shall sell food or beverage products at any county parks unless that person has obtained a permit from the Department. Copies of applicable City and County licenses and permits, plus all applicable insurance must be submitted prior to consideration of approval.
2. No person shall operate a concession, solicit, sell or offer for sale, peddle, or vend any goods or other merchandise including food, liquids or services in a county park without a permit or prior written authorization from the Director.
3. No person shall operate a business or part of a business in a county park without written authorization from the Director.

Comment [JHB4]: Mike to clean up

95.120 Commercial/Professional Filming and Photography

No person may participate in commercial photography, motion picture filming or photography involving the performance of a professional cast in any county park without having been issued a commercial photography permit.

95.130 Posting of Signs and Notices

No person may disturb, alter, create or erect signs or markers of any type without a written permit from the director or his/her designee.

Motor Vehicles

95.140 Landing of Aircraft

Except in emergency situations, no person may land any aircraft including hang-gliders, parasails, parachutes, balloons, ultralights, and similar on or take off in any aircraft from any area in any county park not specifically designated for such purposes without a written permit from the director or his/her designee.

95.150 Aerial apparatus

1. The use of remote/radio controlled, electrically-powered or gasoline-powered devices, including unmanned aerial vehicles, is prohibited in all county parks except in areas designated for such use, or by permit.
2. No person may operate any electrically-powered, gasoline-powered, remote/radio controlled device, including unmanned aerial vehicles, in any county park in such a manner as to disturb the peace or pose a threat to public health or safety.

95.160 Vehicle Operators

1. Except as otherwise provided in this section, no person may operate any motor vehicle, or off-road vehicle, in any county park unless he/she complies with the general requirements of chapter 483 of NRS, relating to licensing of persons who operate motor vehicles.
2. The director may permit operation of certain vehicles in county parks by persons who do not meet the requirements contained in subsection 1.

3.

95.170 Registered Vehicles Required

1. Except as otherwise provided in this section, no person may operate any motor vehicle, in any county park, unless, the vehicle is registered in compliance with chapter 482 of NRS, relating to registration of motor vehicles.
2. The director may permit operation of unregistered motor vehicles in county parks when he/she deems it to be in the public interest to do so.

95.180 Speed Limit

No person may drive a vehicle in a county park at a speed greater than 15 miles per hour, except where otherwise posted.

95.190 Roads; Parking

1. Motor vehicles shall be operated only on roads and in parking areas constructed or designated for motor vehicle use except where such areas have been officially designated for use by motor vehicles.
2. Automobiles, trailers, and other vehicles shall be parked only in designated parking areas.

Non-Motorized Vehicles

95.200 Bicycles and Other Operator-Propelled Vehicles

1. No person may operate or ride a bicycle, scooter, skateboard or other operator-propelled vehicle or device in any county park when the director has determined that conditions are unsafe or otherwise inappropriate for the operation of the vehicle or device and has issued an order prohibiting such activity.
2. All persons must restrict speed and manner of operation of a bicycle, scooter, skateboard or other operator-propelled vehicle or device to a reasonable and prudent manner relative to terrain, prevailing conditions, equipment, personal capabilities, personal safety and the safety of all other park users.
3. Compliant with Revised Final Title II Regulation of the Americans with Disabilities Act of 1990 (42 U.S. C. 12131), reasonable modifications will be accommodated for those with mobility disabilities and are requesting use of wheelchairs and power-driven mobility devices on county trails, unless there is a legitimate safety concern or other assessment factors.

95.210 Unauthorized Use of Trails

It shall be unlawful for any person to:

1. Operate any motorized vehicle, including, without limitation, motorcycles, trail bikes, or motorized bicycles upon any trail except as necessary to cross a street, driveway or access road intersection without authorization from the director or his/her designee;
2. Hold any event on any trail without authorization from the director or his/her designee
3. Ride a bicycle on a designated off-street bicycle trail in excess of 15 miles per hour, except during authorized events, or in a manner which is unsafe or which may be injurious to the rider or other persons.

Domestic Animals

95.220 Leash Law; Animal Control

Washoe County Code
2016

CHAPTER 95 – DEPARTMENT OF COMMUNITY SERVICES - REGIONAL PARKS AND OPEN
SPACE

Supplement 8 February

Page 97-8

1. Except as otherwise provided in this section, no person may:
 - a) Bring an animal into, permit an animal to enter or remain in, or possess an animal in any county park unless the animal is on a leash of no more than 6 feet in length and under the immediate control of that person. The director may, upon posting, designate certain areas within the County Parks as off-leash areas.
 - b) Bring an animal into, permit an animal to enter or remain in, or possess an animal on any beach adjacent to any body of water within any county park except in areas designated for animals. Animals are prohibited in the water in any bathing or swimming area.
 - c) Leave a pet unattended in any vehicle in extreme heat or cold temperatures. (NRS 574.195).
2. An employee or enforcement official may take any measure deemed necessary (including the removal of the animal from the park area) to protect park resources and wildlife or to prevent interference by the animal with the safety, comfort, or well-being of any person or other domestic animal in the park area.
3. The director may, prohibit animals in certain areas of county parks.
4. It is unlawful for any person to walk a domestic animal in a county park facility without carrying at all times a suitable container or other suitable instrument for the removal and disposal of animal feces and for immediately removing the feces and properly disposing of it.
5. The provisions of this section do not apply to any person who uses a certified human service animal to assist him/her as an aid to his/her mobility.

95.230 Horseback Riding: Designated Areas

No person may:

1. Lead or keep a horse or other large domestic animal in any county park, except on roads, trails or areas designated and posted for such purposes.
2. Hitch or confine a horse or other large domestic animal in a manner that may cause damage to any tree, shrub, improvement, or structure.

95.240 Animal molesting or harming

1. No person in any county park may molest, hunt, disturb, injure, trap, take, net, poison, harm or kill any kind of animal or fish, or attempt to do so, except that fish may be taken other than for commercial purposes in accordance with state fishing laws and regulations.

Visitor Conduct

95.250 Fires: Designated Areas; Regulation

1. Fires in parks shall be contained to:
 - a) Fire pits, fireplaces, and charcoal grills provided for such purpose;

- b) Portable camp stoves, lanterns, or gas grills used in established campsites, and picnic areas where fires are permitted.
- 2. No person may leave a fire unattended.
- 3. No person may leave a county park before extinguishing such fire.
- 4. Upon existence of extreme fire danger, the director may prohibit smoking or fires in designated areas within any county park or may close such areas to the public.

95.260 Property Defacement

No person in a county park may:

- 1. Disturb, destroy, remove, deface or injure any property in any county park.
- 2. Cut, carve, paint, mark, paste or fasten on any tree, fence, wall, building, monument or other property in any county park any bill, advertisement or inscription without a written permit from the director or his/her designee.

95.270 Depositing Rubbish; Littering Importing and Exporting

No person in a county park may:

- 1. Leave, deposit, drop or scatter bottles, broken glass, ashes, wastepaper, cans, animal waste or other rubbish in any county park, except in a receptacle designated for that purpose.
- 2. Import or deposit any rubbish into or in any county park from other places.
- 3. Export rubbish once it is in a receptacle designated for that purpose.

95.280 Firearms, Archery Devices:

- 1. Except as otherwise provided in this section, no person may discharge any weapon from which a projectile may be propelled by means of explosive, spring, gas, air or other force in any county park.
- 2. The provisions of this section relating to discharge of firearms do not apply if the firearm or archery device is discharged:
 - a) At a designated shooting or archery facility owned and operated by the county.
- 3. Any authorized county employee may, upon approval of the director, adopt reasonable rules governing the discharge of firearms and archery devices at the facility of which he/she is in charge, and all persons using the facility shall adhere strictly to those rules.

95.290 Pyrotechnics and Liquid or Solid Fuel Model Rockets Prohibited

No person may possess, discharge, set off or cause to be discharged in or into any portion of a county park or facility any firecrackers, torpedoes, rockets, fireworks, explosives, solid fuel

or liquid fuel propelled model or other substance harmful to the life or safety of any person, without a written permit from the director and his/her designee.

95.300 Disturbing the Peace

1. No person may conduct him/herself in such a manner as to disturb the peace in any county park or facility at any time.
2. No person may use threatening, abusive, boisterous, insulting or indecent language or make indecent gestures in any county park or facility.
3. A person violating any provision of this section shall be ordered to immediately cease the violation. Failure to comply constitutes a violation of this Chapter and constitutes grounds for the imposition of the penalty specified in Washoe County Code 125.050.
4. The director may order any person violating any provision of this code, or any applicable city ordinance or state or federal law to immediately leave the facility. Refusal or intentional failure to comply with such order shall constitute trespassing.
5. No person may use threatening, abusive, boisterous, insulting or indecent language, make indecent gestures in any county park.
6. No person may conduct or participate in a disorderly assemblage in any county park.

95.310 Sound Amplification

1. Notwithstanding any other provision of this code, it is unlawful for any person to permit or cause any noise, sound, music or program to be emitted from any sound amplifying equipment without express written permission from the director or his/her designee. Authorization may include monitoring terms and conditions to reduce impacts to adjoining neighborhoods.

95.330 Nudity and Disrobing

1. No person may publicly appear nude or disrobe while in any county park, except in authorized areas of buildings set aside for that purpose.

[§17, Ord. No. 229]

95.340 Possession and Consumption of Alcoholic Beverages or Controlled Substances

1. Director is authorized to designate park facilities and specific areas of activity within a park as a nonalcoholic area as appropriate.
2. It shall be unlawful for any person to possess any can, bottle or other container any alcoholic beverage which has been opened or the seal broken in any area of a county park facility which has been posted as a nonalcoholic area.
3. It shall be unlawful for any person to possess or use any controlled substance prohibited by NRS chapter 453 in any county park facility.

95.350 Smoking, Food, and Beverage Prohibited in Designated Areas

1. The director is empowered to designate certain areas or activities in county parks as non-smoking. No person may smoke in a county park or at an activity where smoking is prohibited.
2. No person shall possess or consume food or beverages in areas posted where food and beverage is prohibited.

95.360 Sewage Dumping; Sanitation

1. No waste, water, sewage or effluent from sinks, portable toilets or other plumbing fixtures may be deposited directly upon or into any county park except in a specified dump station.

[§19, Ord. No. 229; A Ord. Nos. 437, 713]

95.370 Manner of Authorized Activity

1. No person may participate in any activity in a manner that endangers the health and safety of participants, park users and the general public or presents a reasonable risk of damage to park resources or property.

Overnight Use

95.380 Camping: Designated Areas; Limitations

1. No person may camp in any county park except in areas designated and marked for that purpose.
2. No person under the age of 16 years may camp in any county park unless he/she is:
 - a) Accompanied by his/her parent or guardian;
 - b) Part of a group permitted to occupy a county park and is supervised by at least one responsible adult per 15 juveniles; or
 - c) Camping after having furnished to an authorized department employee written consent of his/her parent or guardian, with the inclusive dates for which permission is granted to camp at the park involved, including the name, address and telephone number of his/her parent or guardian.

95.390 Number of Persons/Vehicles Occupying Campsites

1. Except by express authorization of the director or department employee, or in areas that have been designated as group camp sites:
 - a. The number of persons occupying a campsite shall not exceed 7 except in group sites.
 - b. The number of vehicles occupying a campsite shall not exceed 2 except in group sites.

Comment [JHB5]: Eric follow up with Bryan on operations

95.400 Time Limits on Camping

1. No person may continually camp in any county park campground for more than 7 days within any 30-day period, unless written permission has been granted by the director.

95.410 Occupancy Right of Campsites

1. A campsite is considered occupied when it is being used or has been reserved for camping purposes by any person or group who has paid the daily use fee within the applicable time limits. No person may take possession or maintain possession of a campsite when he/she has been informed by an authorized department employee that the site has been reserved or when a person or group authorized to occupy the campsite has shown evidence of his/her right to occupy the campsite.

95.420 Use of Food Storage Lockers

1. No person occupying an individual or group camp site may leave the site unoccupied or retire for the night without first placing all food and beverage items in an animal resistant food storage locker or inside of a vehicle.

Cultural, Historic, Natural Resources and Wildlife

95.430 Plant Molesting or Harming

1. No person in any county park may willfully or negligently pick, dig up, cut, mutilate, destroy, injure, disturb, move, molest, burn or carry away any tree, plant or portion thereof, including foliage, flowers, berries, fruit, grass, turf, humus, shrubs, cones and dead wood, except upon authorization by the director.

Comment [JHB6]: Are we allowing people to take deadwood?

95.440 Animal molesting or harming.

1. No person in any county park may molest, hunt, disturb, injure, trap, take, net, poison, harm or kill any kind of animal or fish, or attempt to do so, except that fish may be taken other than for commercial purposes in accordance with state fishing laws and regulations.
2. Director may authorize certain activities in a county park related to wildlife for research or other educational purposes in compliance with local, state and federal regulations.

95.450 Excavation or Disturbing Features of Cultural or Historic Site

1. No person may knowingly and willfully excavate upon, or remove, destroy, injure or deface, any historic or prehistoric ruins, burial grounds, archeological or paleontological site, or inscriptions on such sites, in or on any county park.

Enforcement

95.470 Compliance With Code, Rules and Regulations; Penalty

Any person who:

1. Commits a violation of any provision contained in this Chapter, or in violation of any permit issued or rule adopted by the director; or
2. Enters or remains at any shooting facility in violation of any rule adopted by the director or authorized employees.

95.480 Exclusion From County Parks

1. An enforcement official may exclude a person that violates any County Park rule from one or more County Parks for a specified period of time. Any person found in a county park which he or she has been excluded from is considered trespassing.
2. A person as identified as excluded from a County Park may appeal the exclusion notice by filing an appeal to the Director within fifteen days of the exclusion date.

Comment [JHB7]: Does this need to be defined? What does this look like?

may be punished in accordance with Washoe County Code Section 125.050.

95.490 Citation powers of Enforcement Officials.

An enforcement officer of the county may: Prepare, sign and serve written citations on persons accused of violating a provision of the Nevada Revised Statutes or the Washoe County Code as it pertains to regional parks and open space. All citations so issued and served shall comply with the requirements of NRS 171.1773 and NRS 171.1775(5).

55.800 Penalties.

Comment [JHB8]: Mike to scrub the remaining portions of the document.

1. Except when a civil penalty is imposed pursuant to NRS 244.359 as provided below, any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not less than \$50 or more than \$1,000, or by both fine and imprisonment. Failure to appear in the proper court to answer to such misdemeanor citation is a separate offense.
2. Each day that a violation occurs constitutes a separate offense.
3. For any second conviction for violation of the same provision of this chapter, such person violating that provision shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not less than \$100 nor more than \$1,000, or both fine and imprisonment.
4. In lieu of all or part of the criminal penalty which may be imposed pursuant to this section, the convicted person may be sentenced to perform a fixed period of community service pursuant to the conditions prescribed by law.
5. Except as prohibited by NRS 244.359, and in lieu of any criminal penalty which may be imposed for the violation(s) of any ordinance enacted pursuant to NRS 244.359(3), a civil penalty in favor of the county may be imposed in an amount not to exceed \$500. In order to impose a civil penalty as authorized by NRS 244.359, a

peace officer or an animal control officer shall serve upon a person a "Notice of Civil Penalty" (NCP). The NCP shall contain the information required in WCC 55.800(8) and will be adjudicated in accordance with WCC 55.800(6) through 55.800(16) inclusive. A NCP is a civil infraction in nature and is not to be considered a criminal

offense for any reason. All civil penalties collected pursuant to WCC 55.800 shall be payable directly to Washoe County and shall be placed in the County's general fund.

6. Violation-Civil Infraction. It is a civil infraction for which a civil penalty may be imposed against an animal owner and in favor of the County, for an animal to be found in violation of any of the animal ordinances which are set forth in WCC 55.010 through 55.800 to the extent allowed by law.

7. Notice of civil penalty. Whenever any animal is found in violation of the animal ordinances which are set forth in WCC 55.010 through 55.800, a NCP may be issued. In lieu of issuing a NCP, a written warning may be served upon the owner of the animal by affixing the warning to the place of residence in a conspicuous place. The written warning shall be imprinted so as to advise the owner that the owner has violated the animal control ordinances, which animal control ordinances the owner violated, but that it carries no civil or criminal penalty.

8. Notice of civil penalty - Form. The NCP authorized by WCC 55.800(5) must be on a form which is provided by Washoe County Regional Animal Services and must contain the following information or as much of the following information as reasonably possible:

(a) The name and address of the alleged violator;
(b) The location at which the violation occurred together with the date and approximate time of the violation;

(c) The description of the animal found in violation of WCC 55.010 through 55.800 together with the section(s) of the Washoe County Code allegedly violated;

(d) The name of the peace officer or animal control officer who issues the notice of civil penalty;

(e) Information which advises of the manner in which the violation occurred, and the time within which, the NCP should be answered;

(f) Information that Washoe County Regional Animal Services Center (WCRASC) is the Washoe County agency

where the alleged violator shall appear. The NCP shall also contain the address, telephone number and the hours of operation of WCRASC;

(g) The amount of civil penalty imposed together with a statement that the NCP shall not be considered a criminal offense for any purpose and that a person who commits the infraction shall not be arrested as a result; the NCP shall also inform the person served that failure to respond to the NCP within 30 days of the date of issuance shall be deemed an admission of liability and a waiver of any right to a hearing and will result in the imposition of an additional \$25.00

administrative assessment;

(h) The NCP shall also advise the individual that the Washoe County Board of Commissioners authorizes animal services to accept as payment in full for the civil penalty, one half of the authorized penalty indicated on the NCP if the individual pays that amount within 30 days of issuance.

9. Issuance. The notice of civil penalty may be issued by any peace officer or animal control officer. The NCP may be issued by the peace officer or animal control officer based upon a written and signed statement of a complaining party. In such a case, the complaining party must appear at a hearing subsequently scheduled pursuant to WCC 55.800(13) (d) below, to testify. If the complaining party does not appear at the hearing in the case, the NCP will be dismissed and the respondent released from liability.

10. Filing. The notice of civil penalty and/or an electronic facsimile thereof, must be filed with and retained by Washoe County Regional Animal Services and is deemed to be a public record of matters which are observed pursuant to a duty which is imposed by law and is prima facie evidence of the facts which are alleged therein. The notice of civil penalty must be served on the person to whom it is issued as provided in section 55.800(11).

11. Service. The notice of civil penalty may be served upon the owner of the animal by personal service, regular US Postal Service mail to the last known address of the owner, or by affixing the notice to the place of residence in a conspicuous place. Service of the notice of civil penalty by mail or affixation has the same force and effect and is subject to the same penalties for the

disregard thereof as if the notice of civil penalty were personally served on the owner.

12. Liability. The owner of an animal is liable for all of the civil penalties which are imposed pursuant to this chapter. The following civil penalties are hereby authorized by the Board of County Commissioners:

(a) For the first NCP relating to an ordinance: \$100.00

(b) For second or subsequent NCPs issued for the same ordinance, as follows:

(1) Second NCP - \$200.00

(2) Third or subsequent NCP - \$400.00

(c) A peace officer or animal control officer may issue a criminal citation for a fourth or subsequent violation by the owner of the same ordinance within a three year period.

13. Notice of civil penalty-duties of animal owner/respondent.

(a) A person who responds ("the respondent") to a notice of civil penalty must either:

(1) "Admit" the commission of the civil infraction and pay the civil penalty imposed on the NCP, or

(2) "Deny" liability for the civil penalty.

(b) A person may "admit" pursuant to paragraph (1) of subsection (a) of this section by paying the amount of the civil penalty which is appropriate for the violation and which has been approved by the Washoe County Board of Commissioners.

(c) A person may "deny" liability pursuant to paragraph (2) of subsection (a) of this section by appearing in person at or by telephone contact to the Washoe County Regional Animal Services Center within 30 days of the date of issuance of the NCP to request a hearing, at which time, a date for a hearing and assignment of a hearing officer on the NCP shall be scheduled.

(d) Assignment of the hearing officer to each case will be on a fixed daily rotation basis, but the hearing officer must be chosen from a list of hearing officers approved by the Washoe County Board of Commissioners. Only one hearing officer will be so assigned per day to hear scheduled cases. The assigned hearing officer is subject to disqualification for bias, prejudice, conflict of interest, or for any other reason for which a judge may be disqualified in a court of law. At the hearing,

the hearing officer shall have the authority to require every witness to declare, under penalty of perjury, that he will testify truthfully, by oath or affirmation, administered by the hearing officer. An affirmation is sufficient if the witness is addressed in the following terms:

"Do you solemnly swear or affirm that the evidence you shall give in this matter now pending shall be the truth, the whole truth and nothing but the truth."

Assent to this affirmation shall be made by the answer "I do". The hearing officer shall not accept evidence from any party that does not assent to the affirmation.

(e) At that hearing, any witness may present relevant evidence regarding the infraction and the issuance of the NCP. If the hearing officer finds that the civil infraction has not occurred or a civil infraction has been committed but the respondent asserts and proves one or more legal defenses to the NCP, the hearing officer may dismiss the NCP and release the owner from liability.

(f) If the hearing officer finds that a civil infraction has been committed and no defense exists, the hearing officer may, in the interest of justice and on behalf of the County, enter into an agreement for the timely or periodic payment of the applicable civil penalty.

(g) In a contested hearing, the respondent against whom the hearing officer has entered a finding of liability and has assessed a civil penalty, by default or otherwise, may, if the assessed fine has been paid, seek judicial review thereof by filing a petition for a writ of mandate in the district court within 30 days of the hearing officer's findings.

(h) If the person served with a NCP fails to respond as set forth in this subsection, animal services may serve on the violator by mail or by personal service, an overdue notice which shall contain payment instruction including the address to which payments should be mailed or personally delivered. The overdue notice shall also state that payment of the civil penalty in accordance with WCC 55.800(8)(h) is no longer available to the violator and that the entire amount of the civil penalty indicated on the NCP shall be paid. In addition, the overdue notice shall inform the violator that an

additional administrative assessment of \$25.00 will also be charged.

14. Judicial enforcement. Judicial enforcement of a notice of civil penalty must be by way of civil suit in the appropriate Justice's Court. A certified copy of the notice of civil penalty constitutes a prima facie showing that a civil infraction occurred.

15. Commencement of civil action - Procedure. The civil action authorized in WCC 55.800(14) may be commenced at any time after the expiration of 60 days following the date on which the notice of civil penalty was served pursuant to WCC 55.800(11) or 60 days following the hearing officer's findings, by the filing of a complaint in the name of Washoe County and the issuance of a summons with respect thereto. Service of such complaint and summons on the defendant must be made by certified mail, return receipt requested, addressed to the registered owner of the animal at the owner's last known address, as indicated by any animal identification or in any other manner which is authorized by law. The proceedings in the Justice's Court for actions commenced pursuant this chapter shall be governed by the appropriate Justice Court Rules of Civil Procedure.

16. Time limit. Civil actions pursuant to this chapter may only be commenced within one year after the date on which the civil penalty occurred, and the standard of proof which is applied is the preponderance of the evidence. The County has satisfied its burden of proof if it shows that a civil infraction occurred and that the animal was owned by, registered to, or in the custody of the defendant on the date the NCP was served, unless either of these elements is satisfactorily rebutted by the defendant. The defendant may

*Washoe County Code Supplement 13, April 2012
CHAPTER 55 - ANIMALS AND FOWL Page 55-61*

assert and prove defenses as allowed by law and the court may dismiss the notice of civil penalty if it finds that a defense has been proven by the respondent.

17. Administrative Enforcement Authority. In addition to any criminal or civil penalties which are authorized by this chapter, in the sole discretion of Washoe County Regional Animal Services and in lieu of the process contained in WCC 55.800(5) through 55.800(16), any animal control officer is authorized to utilize the administrative enforcement procedures contained within WCC Chapter 125 in appropriate cases.

['82, Ord. No. 1207; A sec. 4, Ord. No. 1460 eff. 4-1-2011]