WASHOE COUNTY

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STAFF REPORT
BOARD MEETING DATE: May 10, 2022

DATE: March 25, 2022

TO: Board of County Commissioners

FROM: Eric Crump, Operations Division Director
Community Services Department, 328-3625, crump@washoecounty.gov

THROUGH: Dave Solaro, Arch., P.E., Assistant County Manager
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SUBJECT: Introduction and first reading of Washoe County Code Chapter 95, governing parks and recreation; repealing the entire existing Chapter 95, and enacting a new ordinance that revises and replaces Chapter 95 provisions governing parks and open space, including but not limited to the Definitions applicable to the chapter, Open Space and Regional Parks Commission, Powers and Duties of the Director, Enforcement of the chapter, use of vehicles and non-motorized vehicles, domestic animals, and visitor conduct. The proposed ordinance amends provisions regarding the Open Space and Regional Parks Commission to reflect applicable Nevada law; gives the Director power to designate employees as enforcement officials, appoint personnel authorized to collect fees, and approve special activity permits in certain circumstances; grants the Regional Parks and Open Space Commission authority to approve and establish a schedule of proposed fees for park facilities, recreation programs and special events and activities; establishes a requirement for a group use permit for activities involving more than 25 persons; expands provisions regarding concession/commercial operations in county parks, establishing a requirement for a permit; establishes a permit requirement for commercial/professional filming and photography to incorporate the previously enacted policy exempting small scale photography and filming from the permit requirement; allows use of unmanned aerial apparatuses (drones) if nondisturbing and nonthreatening, and allows the Director to prohibit use of drones in parks or portions of county parks; enacts provisions regarding use of operator-propelled vehicles including bicycles and electric bicycles in parks, granting the Director discretion to prohibit such use and requiring operators to restrict speed and safely operate the vehicle; expands the Director's ability to prohibit smoking, fires, or any open flames based on fire risk and weather conditions; prohibits pyrotechnics and liquid or solid fuel model rockets in county parks; generally prohibits smoking and vaping in parks, but allows the Director to designate specific smoking areas; clarifies provisions regarding camping, including granting the Director authority to limit or prohibit certain recreational vehicles based on conditions and characteristics of individual campsites; requires appropriate food storage on campsites;

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clarifies that persons lawfully camping may gather downed deadwood for lawful campfires; and establishes provisions regarding enforcement including that it is unlawful to violate a provision of the chapter, allows for an enforcement official to exclude a person violating the chapter from county parks with appropriate notice, grants citation power to enforcement officials, establishes criminal and civil penalties with appropriate notice.

And, if introduced, set the public hearing and second reading of the ordinance for May 24, 2022. (All Commission Districts.)

SUMMARY

The Community Services Department, requests an introduction and first reading of Washoe County Code (Chapter 95 – Parks and Recreation) specific to Washoe County's Regional Parks and Open Space functions, the Open Space and Regional Parks Commission and the County's Park facilities and parklands. Throughout the years, there have been minor changes to Chapter 95; however, the last major update that was approved by the Board of County Commissioners (Board) was completed in 1987. The code has become outdated and lacks cohesive organization, making it difficult for the public to understand and for staff to enforce. Existing code does not allow for park rangers to issue citations or otherwise enforce the code outside a verbal command to the violator. The Board directed staff in June of 2014 to evaluate the existing code. Staff has spent a significant amount of time evaluating the code and researching best practices through the nation in an effort to assure the County's Park facilities provide a safe and enjoyable experience for the public. The Open Space and Regional Park Commission approved changes in 2016, however this was not brought forth for approval by the Board.

The proposed revisions to Chapter 95 of Washoe County Code will enhance public safety and enjoyment of county parks.

Washoe County Strategic Objective supported by this item Fiscal Sustainability: Long-term sustainability

PREVIOUS ACTION

September 28, 2021 – The Board directed the County Clerk to submit the request to the District Attorney for preparation of a proposed ordinance for County Code Chapter 95 (repeal and enact), pursuant to Washoe County Code Section 2.030 and 2.040.

June 1, 2021 – Open Space and Regional Parks Commission reviewed, discussed, and approved proposed changes to Washoe County Code Chapter 95.

July 5, 2016 – Open Space and Regional Parks Commission reviewed, discussed, and approved proposed changes to Washoe County Code Chapter 95.

June 7, 2016 – Open Space and Regional Parks Commission reviewed and discussed proposed changes to Washoe County Code Chapter 95 (no action taken).

April 5, 2016 – Open Space and Regional Parks Commission reviewed and discussed proposed changes to Washoe County Code Chapter 95 (no action taken).

July 1, 2009- Open Space and Regional Parks Commission recommended to the Board of County Commissioners approval of the changes to Washoe County code, Chapter 95 – Parks and Recreation.

June 2, 2009 – The Open Space and Regional Parks Commission provided input on proposed changes to Washoe County Code Chapter 95 – Parks and Recreation (no action taken).

2004 – The Board of County Commissioners amended code to reflect the department name to Regional Parks and Open Space.

2003 – The Board of County Commissioners amended code to reflect the commission name change to Open Space and Regional Parks Commission.

2002 – The Board of County Commissioners amended the section of code regarding the collection of fees.

1987 – The Board of County Commissioners approved updates to several sections of the code.

BACKGROUND

September 28, 2021, the Board of County Commissioners directed the County Clerk to submit the request to the District Attorney for preparation of a proposed ordinance for County Code Chapter 95 (repeal and enact), pursuant to Washoe County Code Section 2.030 and 2.040.

Public input was received from the Open Space and Regional Parks Commission at two public meetings and the Park Commission formally recommended these changes on July 5, 2009. The changes, additions and modifications included:

- Reduction in number of mandatory meetings of Open Space and Regional Parks Commission. Currently the minimum number is 9 meetings in a year.
- Provision for designating off-leash areas in parks.
- Provision for use of remote-control devices in parks.
- Provisions for use of food storage lockers in parks.
- Adding powers for enforcement officers to issue notices of violation and citations for violations of Chapter 95.

The Department involved many staff in reviewing and recommending changes to the Code from 2014 through 2016. The recommended changes to the Code include reorganization from three general areas into eight more specific categories to make it easier to research and understand. The original areas were:

- Open Space and Regional Parks Commission
- Department of Regional Parks and Open Space
- Use of County Park System Facilities

The new specific categories are:

- General Regulations
- Motor Vehicles
- Non-Motorized Vehicles
- Domestic Animals
- Visitor conduct
- Overnight Use
- Cultural, Historic, Natural and Wildlife
- Enforcement

This was approved by the Open Space and Regional Parks Commission July 5, 2016. There are a few sections with recommended changes since 2016. Major changes include:

- Greater authority for Open Space and Regional Parks Commission (items that will be approved by the Park Commission rather than the BCC)
    - Fee schedule for Regional Parks and Open Space
    - Park District Plans
    - Park Master Plans
    - Park Naming and Design
    - Special Event Agreements
    - Park Policies and Guidelines
    - Discretionary Permits as outlined in section 110 of Washoe County Code
    - Resolutions of Support
- Smoke Free parks
    - Joint meeting (WC, Reno, and Sparks) in 2017 had this as an agenda item. A working group was formed and Park Commissioner Nenzel was the representative from Washoe County.
    - Was approved in 2019 by all three entities and signage has been installed. The cities moved forward with their municipal code changes. This language will formalize the change.
    - **95.010** under definitions: sections 14,15 and 16 define smoking, vaping and vapor products
    - **95.350** smoking and vaping prohibited in public parks except in designated areas
- Motorized use on trails (e-bikes)
    - Staff conferred with Nevada State Parks and researched current state definitions of e-bikes per NRS to be consistent
    - Changes would adopt the NRS 484B.017 "Electric bicycle" definition. "Electric bicycle" means a device upon which a person may ride, having two or three wheels, or every such device generally recognized as a bicycle that has fully operable pedals and is propelled by a small electric engine which produces not more than 1 gross brake horsepower and which produces not more than 750 watts final output, and:
        1. Is designed to travel on not more than three wheels in contact with the ground but is not a tractor; and
        2. Powered solely by such a small electric engine, is capable of a maximum speed of not more than 20 miles per hour on a flat surface while carrying an operator who weighs 170 pounds.

        The term does not include a moped or an electric scooter.
    - The US Forest Service Lake Tahoe Basin Management Unit is currently scoping the use of e-bikes on Forest Service trails throughout the basin.
    - There are multiple electronic devices including scooters and skateboards so language that captured all of the motorized electronic devices was used.
    - The language generally allows for the use of type 1 and type 2 e-bikes
    - Bicycles and Other Operator-Propelled Vehicles:
        - No person may operate or ride a bicycle, electric bicycle as defined in Chapter 484B of NRS, 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.
    - All persons must restrict speed and manner of operation of a bicycle, electric bicycle as defined in Chapter 484B of NRS, 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.
    - 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 make such an accommodation unreasonable or unfeasible.

- Enforcement authority would be given to enforcement officials to issue notices of civil penalty (NCP) or citations.
    - Park Rangers and District Managers would be considered the enforcement officials.
    - Policies and procedures would be adopted within the department and extensive training provided before enforcement officials issue NCPs or citations.
    - Currently both Regional Animal Services (RAS) and Code Enforcement (CE) have staff who issue NCPs and citations that are not peace officers.
    - There are good training programs in place through RAS and CE that would be modified based on staff experiences and park needs.
    - Distinction between verbal warnings, written warnings, NCP and citation: NCPs are heard through an administrative hearing which are managed through the Reno Justice Court – the Administrative Hearing Office. Citations with criminal violations would be considered a misdemeanor through Reno or Sparks Justice Courts.

FISCAL IMPACT

There is no fiscal impact to request the introduction and first reading of Washoe County Code Chapter 95.

RECOMMENDATION

It is recommended that the Board of County Commissioners introduce and conduct a first reading of the proposed ordinance and set the public hearing for a second reading and possible adoption for May 24, 2022.

POSSIBLE MOTION FOR THE FIRST READING OF WASHOE COUNTY CODE CHAPTER 95

Should the Board agree with Staff's recommendation, a possible motion would be:

"Move to approve the introduction and first reading of Washoe County Code Chapter 95, governing parks and recreation; repealing the entire existing Chapter 95, and enacting a

new ordinance that revises and replaces Chapter 95 provisions governing parks and open space, including but not limited to the Definitions applicable to the chapter, Open Space and Regional Parks Commission, Powers and Duties of the Director, Enforcement of the chapter, use of vehicles and non-motorized vehicles, domestic animals, and visitor conduct. The proposed ordinance amends provisions regarding the Open Space and Regional Parks Commission to reflect applicable Nevada law; gives the Director power to designate employees as enforcement officials, appoint personnel authorized to collect fees, and approve special activity permits in certain circumstances; grants the Regional Parks and Open Space Commission authority to approve and establish a schedule of proposed fees for park facilities, recreation programs and special events and activities; establishes a requirement for a group use permit for activities involving more than 25 persons; expands provisions regarding concession/commercial operations in county parks, establishing a requirement for a permit; establishes a permit requirement for commercial/professional filming and photography to incorporate the previously enacted policy exempting small scale photography and filming from the permit requirement; allows use of unmanned aerial apparatuses (drones) if nondisturbing and nonthreatening, and allows the Director to prohibit use of drones in parks or portions of county parks; enacts provisions regarding use of operator-propelled vehicles including bicycles and electric bicycles in parks, granting the Director discretion to prohibit such use and requiring operators to restrict speed and safely operate the vehicle; expands the Director's ability to prohibit smoking, fires, or any open flames based on fire risk and weather conditions; prohibits pyrotechnics and liquid or solid fuel model rockets in county parks; generally prohibits smoking and vaping in parks, but allows the Director to designate specific smoking areas; clarifies provisions regarding camping, including granting the Director authority to limit or prohibit certain recreational vehicles based on conditions and characteristics of individual campsites; requires appropriate food storage on campsites; clarifies that persons lawfully camping may gather downed deadwood for lawful campfires; and establishes provisions regarding enforcement including that it is unlawful to violate a provision of the chapter, allows for an enforcement official to exclude a person violating the chapter from county parks with appropriate notice, grants citation power to enforcement officials, establishes criminal and civil penalties with appropriate notice.

And, set the public hearing and possible adoption of the ordinance for May 24, 2022."