

SUMMARY: An ordinance amending the Washoe County Code by revising provisions relating to dangerous and vicious dogs.

BILL NO. 1892

ORDINANCE NO. 1692

AN ORDINANCE AMENDING WASHOE COUNTY CODE CHAPTER 55 (ANIMALS AND FOWL) BY REPEALING A SECTION DUPLICATIVE OF STATE LAW RELATED TO HARBORING A VICIOUS DOG; BY ADDING A SECTION MAKING IT UNLAWFUL TO FAIL TO QUARANTINE OR SURRENDER FOR QUARANTINE BITING ANIMALS OR ANIMALS THAT HAVE BEEN IN CLOSE CONTACT WITH AN ANIMAL SUSPECTED OR KNOWN TO HAVE RABIES; BY ADDING A SECTION GOVERNING EUTHANASIA OF VICIOUS DOGS; BY AMENDING PROVISIONS RELATED TO: THE DEFINITIONS OF "DANGEROUS" DOG, "VICIOUS" DOG, "ANIMAL", "SUBSTANTIAL BODILY HARM" AND "PROVOCATION"; THE DANGEROUS AND VICIOUS DOG DETERMINATION PROCESS; EXEMPTIONS UNDER WHICH A DOG MAY NOT BE FOUND DANGEROUS OR VICIOUS; THE REQUIREMENTS FOR DANGEROUS AND VICIOUS DOG REGISTRATION; THE REQUIREMENTS FOR RELOCATING OR TRANSFERRING OWNERSHIP OF A DANGEROUS OR VICIOUS DOG; UNLAWFUL ACTS BY THE OWNER OR KEEPER OF A DANGEROUS OR VICIOUS DOG; IMPOUNDMENT OF A DOG, BOTH BEFORE AND AFTER A DANGEROUS OR VICIOUS DOG DETERMINATION; AND BY UPDATING A SECTION GOVERNING THE CRIMINAL AND CIVIL PENALTIES FOR A VIOLATION OF CHAPTER 55.

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

SECTION 1. Section 55.790 of the Washoe County Code is hereby repealed.

SECTION 2. Chapter 55 of the Washoe County Code is hereby amended by adding thereto a new section which shall be labeled 55.615 and read as follows:

55.615 Quarantine of biting animals or animals that have been in close contact with animal suspected or known to have rabies; unlawful acts.

1. It is unlawful for the owner or keeper of any dog, cat or ferret which has bitten a person and which the rabies control authority has ordered to be quarantined in accordance with section 55.610, to refuse to quarantine the animal in accordance with an animal control officer's instructions. It is further unlawful for the owner or keeper of such a dog, cat or ferret to refuse to surrender the animal for impoundment at the animal

services center upon the request of an animal control officer as provided in section 55.610. If any dog, cat or ferret is found to be in violation of the quarantine provisions of section 55.610, or if such animal's owner fails to surrender the animal for impoundment upon request, the owner of said dog, cat or ferret shall be guilty of a misdemeanor.

2. It is further unlawful for the owner or keeper of any animal which has been in close contact with an animal suspected or known to have rabies and which the rabies control authority has ordered to be quarantined in accordance with section 55.640, to refuse to quarantine the animal in accordance with an animal control officer's instructions. It is further unlawful for the owner or keeper of such an animal to refuse to surrender the animal for impoundment at the animal services center upon the request of an animal control officer. If any such animal is found to be in violation of the quarantine provisions of section 55.640, or if such animal's owner fails to surrender the animal for impoundment upon request, the owner of said animal shall be guilty of a misdemeanor.

SECTION 3. Chapter 55 of the Washoe County Code is hereby amended by adding thereto a new section which shall be labeled 55.785 and read as follows:

55.785 - Euthanasia of vicious dogs.

1. An administrative hearing officer, who declares a dog to be a vicious dog pursuant to section 55.750, may determine whether the vicious dog should be euthanized, provided that:

(a) The hearing officer's vicious dog declaration is based on section 55.750(1)(b)(1); and

(b) Regional animal services first submits a request to the administrative hearing officer asking the hearing officer to issue an order requiring the dog to be humanely euthanized.

(1) If regional animal services submits a request for a dog to be humanely euthanized, regional animal services shall provide notice of this request to the dog's owner at least ten (10) days prior to the scheduled dangerous or vicious dog determination hearing.

(2) At the scheduled hearing, the dog's owner shall have an opportunity to respond to the request.

2. If a dog determined to be vicious pursuant to section 55.750, through the intentional, reckless or negligent conduct of the dog's owner, attacks a human being or attacks another animal as defined in 55.750(2), then in addition to the criminal penalty provided in section 55.770, the dog shall be immediately confiscated and impounded, placed in quarantine if required for rabies control, and thereafter, upon the order of a court of

competent jurisdiction, may be humanely euthanized in an expeditious manner, with the costs of quarantine and euthanasia to be borne by the dog's owner.

SECTION 4. Section 55.750 of the Washoe County Code is hereby amended to read as follows:

55.750 Dangerous and vicious dog; determination.

1. As used in this section a dog is:

(a) "Dangerous" if:

(1) It is so declared pursuant to subsection (1)(a)(5);

(2) Without provocation, on two separate occasions within 18 months, it behaved menacingly, to a degree that would lead a reasonable person to defend themselves against substantial bodily harm or defend their animal against serious injury, when the dog was:

(i) Off the premises of its owner or keeper, or

(ii) Not confined in a cage, pen or vehicle;

(3) Without provocation, it seriously injured an animal while the dog was off the premises of its owner or keeper. Examples of serious injuries include, but are not limited to: lacerations requiring sutures, staples or glue; internal injuries requiring surgery; and broken bones.

(4) Without provocation, on two separate occasions within 18 months, it bit a human being, while the dog was off the premises of its owner or keeper.

(5) A dog may also be declared dangerous by a law enforcement agency if it is used in the commission of a crime by its owner or keeper.

(b) "Vicious" if:

(1) Without provocation, it killed or inflicted substantial bodily harm upon a human being on public or private property; whether on or off the premises of its owner or keeper;

(2) Without provocation, it killed an animal while the dog was off the premises of its owner or keeper; or

(3) After the dog has been declared dangerous, the dog continued the behavior described in subsection (1)(a).

2. Definitions. As used in sections 55.750 through 55.785, inclusive, the following terms shall have the meanings ascribed to them.

(a) "Animal" means any dog, cat or other mammal that is kept by a person primarily for personal enjoyment. "Animal" does not include birds, fish, rodents or rabbits, but may include livestock.

(b) "Substantial bodily harm" has the meaning ascribed to it in NRS 0.060.

(c) "Provocation" occurs when a person physically abuses, torments, teases, assaults, or attacks the subject animal.

3. Dangerous or vicious dog determination.

(a) The following persons may make a complaint before an administrative hearing officer approved by the Washoe County Board of County Commissioners requesting that a dog be declared dangerous or vicious:

(1) Any person who has been attacked by a dog, or an authorized representative of such person,

(2) Any person whose animal has been attacked by a dog, without provocation, and which has been killed or seriously injured by said dog, or an authorized representative of such person,

(3) Any law enforcement officer, or

(4) Any animal control officer.

(b) The hearing officer in such action may make a determination that the dog is a dangerous or vicious dog based upon evidence of the dog's history or propensity to attack without provocation. However, a history or propensity to attack is not required to make a determination that the dog is dangerous or vicious.

(c) If the hearing officer finds a dog to be dangerous or vicious, the hearing officer shall report that determination to regional animal services. If a law enforcement agency has made the declaration under subsection (1)(a)(5), the agency shall report that determination to regional animal services.

(d) Upon receipt of the determination from the hearing officer or declaration from a law enforcement agency that a dog is dangerous or vicious, regional animal services shall notify the owner or keeper of the dog that they must comply with the provisions of section 55.760.

4. A dog may not be found dangerous or vicious:

(a) Based solely on the dog's breed; or

(b) Because of a defensive act against a person who was committing or attempting to commit a crime or who was committing willful trespass upon premises occupied by the dog's owner or keeper; or

(c) Because of a defensive act against a person who provoked the dog by physically abusing, tormenting, teasing, assaulting, or attacking the subject animal; or

(d) Because the dog was defending itself from attack by an unrestrained animal while the dog was secured on a leash and accompanied by its owner or keeper; or

(e) Because the dog was actively working as an agricultural guardian on private property or open range performing duties such as herding or guarding livestock, at the direction of or with the permission of the livestock's owner or keeper.

5. This section shall not apply to animal shelters, commercial animal establishments, rescue/sanctuary animal facilities registered as 501(c)(3) organizations, or licensed veterinary clinics. This section shall not apply to dogs which are utilized by any law enforcement officer during the performance of his or her duties.

SECTION 5. Section 55.760 of the Washoe County Code is hereby amended to read as follows:

55.760 Dangerous and vicious dog; registration.

1. The owner or keeper of a dog that has been declared to be dangerous or vicious pursuant to section 55.750 must comply with the following registration requirements:

(a) Warning Sign. Post on their premises a warning sign, issued by regional animal services, which indicates that there is a dangerous or vicious dog on the property. The sign must be posted in a location which is clearly visible from any access point onto the property. (This may require multiple signs).

(b) Enclosure Requirements. Demonstrate that the dog is securely confined within the owner or keeper's residence or property.

(1) For a dog which is confined inside a dwelling, requirements will be based on aspects of the particular dwelling and shall include such security measures as regional animal services deems acceptable to prevent the entry of young children and to prevent the dog from escaping the dwelling.

(2) For a dog which is left unattended outside for any period of time, the dog shall be secured inside a proper enclosure. A proper enclosure consists of an enclosure constructed of not less than nine-gauge chain link fencing or other material of equal or greater strength as approved by regional animal services. The floor(s) shall be concrete or an equivalent material unless the posts supporting the kennel walls have concrete footings not less than 24 inches in depth and the perimeter of the kennel has a concrete footing at least six inches wide and not less than 12 inches deep. The enclosure fencing shall be securely fixed to the pad or footing. A roof over the entire enclosure shall be constructed of not less than nine-gauge chain link fencing or other material of equal or greater strength as approved by regional animal services. The roof must be securely fixed to all sides of the enclosure. All fencing and gate(s) shall be of suitable height to comfortably house the adult size of the largest breed of dog kept within that enclosure. All animals shall at all times have access to an area sheltered from adverse climatic conditions. All sheltered areas must be located inside the enclosure. All entrances to the

enclosure must be secured by a padlock at all times. The minimum size of such enclosure shall be determined as follows:

(i) At least ten feet in length by five feet in width for one dog.

(ii) For each additional dog kept in the enclosure for any length of time: A minimum of an additional five feet in width per dog is required.

Enclosures of equivalent size but other dimensions may be approved by an animal control officer on a case-by-case basis.

(c) Liability Insurance.

(1) The owner of a dangerous dog must:

(i) Post a surety bond with the county in an amount of at least \$150,000.00 per dog declared dangerous, issued by an agency authorized to do business in the State of Nevada, payable to any person(s) injured by the dangerous dog, with Washoe County Regional Animal Services listed as an additional interest; or

(ii) Provide evidence of a policy of liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business in the State of Nevada in the amount of at least \$150,000.00 per dog declared dangerous, insuring the owner for any personal injuries inflicted by the dangerous dog, with Washoe County Regional Animal Services listed as an additional interest.

(2) The owner of a vicious dog must:

(i) Post a surety bond with the county in an amount of at least \$250,000.00 per dog declared dangerous, issued by an agency authorized to do business in the State of Nevada, payable to any person(s) injured by the dangerous dog, with Washoe County Regional Animal Services listed as an additional interest; or

(ii) Provide evidence of a policy of liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business in the State of Nevada in the amount of at least \$250,000.00 per dog declared dangerous, insuring the owner for any personal injuries inflicted by the dangerous dog, with Washoe County Regional Animal Services listed as an additional interest.

(3) The owner of a dangerous or vicious dog shall maintain the surety bond or liability insurance policy required herein during the life of the animal.

(d) Microchipping. Microchip the dog declared dangerous or vicious and provide the identification number to regional animal services.

(e) Spay or Neuter. Spay or neuter the dog within 30 days of declaration and provide proof to regional animal services.

2. Fees. The owner of a dangerous or vicious dog shall pay an initial application fee to register the dog as a dangerous or vicious dog in an amount per dog as set by the board of county commissioners. Thereafter, the owner of a dangerous or vicious dog shall pay an annual renewal fee.

3. Time Period for Compliance. The owner of a dangerous or vicious dog shall comply with the provisions of this section within 30 days of receipt of notification of the hearing officer's dangerous or vicious dog determination. In regional animal services' discretion, regional animal services may agree to extend the time period for compliance with this section for one additional period of 30 days.

4. Inspections. The dog's owner shall allow an animal control officer or peace officer to inspect the premises where the animal is maintained at any reasonable hour.

5. Relocating a Dangerous or Vicious Dog. An owner or keeper of a dangerous or vicious dog shall not:

(a) Relocate the dog within Washoe County or re-introduce the dog into Washoe County from an outside jurisdiction without 30 days written notice to regional animal services. The notice must include:

- (1) The name and description of the dog;
- (2) A copy of the dangerous or vicious dog determination order; and
- (3) The dog's current address and proposed new address.

Prior to relocating the dog to the new address within Washoe County, the dog's owner or keeper must submit an application to register the dog at the new address, pay the registration fee, and submit to property inspection and enclosure approval by regional animal services. Prior to relocating the dog to the proposed new address, the dog's owner or keeper must comply with all registration requirements. Pending compliance at the new address, the dog may be impounded by an animal control officer or peace officer, in which case, the dog's owner or keeper shall pay all associated fees.

(b) Introduce a dog into Washoe County which has been declared potentially dangerous, dangerous, vicious, or a similar designation in another jurisdiction without 30 days written notice to regional animal services. The notice must include:

- (1) The name and description of the dog;
- (2) A copy of the relevant order from the other jurisdiction declaring the dog to be potentially dangerous, dangerous, vicious, or the similar designation; and
- (3) The dog's current address and proposed new address.

(c) Remove from Washoe County any dog declared dangerous or vicious or which has a dangerous or vicious dog determination

hearing pending without 30 days written notice to regional animal services. The notice must include:

- (1) The name and description of the dog;
- (2) A copy of the dangerous or vicious dog determination order, if applicable; and
- (3) The dog's current address and proposed new address.

Once the dog is removed from Washoe County, the dog's owner or keeper must also provide regional animal services with verification that the dog is no longer in Washoe County. Such verification shall include, at a minimum, proof of change of address, proof of licensing the dog in the new jurisdiction (if applicable), and proof that the dog's microchip information has been updated in the applicable brand-specific microchip registry.

6. Transferring Ownership. The following provisions relate to transferring ownership of a dog who has a determination pending, a dangerous dog, or a vicious dog, as provided herein:

(a) Dog with a Determination Pending. The owner or keeper of any dog which is awaiting a dangerous or vicious dog determination hearing shall not transfer or give away the dog without first providing written notice to regional animal services. The notice must include:

- (1) The name and description of the dog;
- (2) The dog's current address and proposed new address;
- (3) The contact information for the dog's new owner or keeper;
- (4) A statement that the owner or keeper has informed the new owner or keeper that they must comply with the registration requirements contained in this section if the dog is ultimately declared dangerous or vicious.

(b) Dangerous Dog. The owner or keeper of a dangerous dog shall not transfer or give away the dog without first obtaining approval from regional animal services. If the transfer is approved, the dog's new owner or keeper must microchip the dog and provide the microchip identification number to regional animal services prior to the dog's transfer. If approved for a transfer within Washoe County, the person to whom the dangerous dog is transferred must comply with all dangerous dog registration requirements set forth in section 55.760 and all other provisions of the dangerous dog code.

(c) Vicious Dog. The owner or keeper of a vicious dog is prohibited from transferring or giving away the dog under any circumstances as provided in NRS 202.500(4).

Section 6. Section 55.770 of the Washoe County Code is hereby amended to read as follows:

55.770 Dangerous and vicious dog; unlawful acts.

1. It is unlawful for an owner of a dog determined to be dangerous or vicious pursuant to section 55.750, to fail to register the dog in accordance with section 55.760 within the time period for compliance.

2. It is unlawful for an owner of a dog determined to be dangerous or vicious pursuant to section 55.750 to permit the dog to be outside its dwelling or outside the required enclosure unless the dog is under the direct control and supervision of the owner, keeper or other responsible adult, and the dog is muzzled and restrained by a Martingale-style collar which is securely attached to a lead not exceeding six feet in length. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or license tag, but must prevent the dog from attacking or biting any person or animal.

3. It is unlawful for an owner or keeper of a dog determined to be dangerous or vicious to leave the dog unattended while outside of the dog's approved dwelling or enclosure.

4. Notifications. The owner or keeper of a dangerous or vicious dog shall immediately notify regional animal services once they have knowledge that the dog is at large, is unconfined, has attacked another animal, has attacked a human being, or has died. The owner or keeper of a dangerous or vicious dog who fails to notify regional animal services that the dog is at large, unconfined, or has attacked another animal or human being may be subject to a criminal penalty. However, the owner or keeper of a dangerous or vicious dog who fails to notify regional animal services that the dog has died will not be subject to a criminal penalty.

5. If a dog determined to be dangerous or vicious pursuant to section 55.750 is found to be in violation of sections 55.750 through 55.785, inclusive, the owner of said dog shall be guilty of a misdemeanor.

Section 7. Section 55.780 of the Washoe County Code is hereby amended to read as follows:

55.780 Impoundment of dangerous and vicious dog; determination pending; post-determination; unlawful to fail to surrender dog for impoundment.

1. Determination Pending. For any dog which is awaiting a dangerous or vicious dog determination hearing, the following provisions apply:

(a) Incident with another animal. In the interests of public safety, a dog which has attacked another animal may be immediately confiscated and impounded by an animal control officer or peace officer pending a dangerous or vicious dog

determination hearing. Alternatively, in regional animal services sole discretion, a dog which has attacked another animal may be allowed to be kept in a secure and locked enclosure or dwelling on the owner's premises, approved by regional animal services, pending the hearing.

(b) Incident with a human being. In the interests of public safety, a dog which has attacked a human being shall be immediately confiscated and impounded by an animal control officer or peace officer pending the determination hearing.

(c) The dog's owner shall bear the costs of boarding and other related expenses. However, boarding fees will not be charged if the dog is not ultimately declared dangerous or vicious.

2. Post-Determination. A dog which has been declared dangerous or vicious shall be immediately confiscated and impounded by an animal control officer or peace officer upon the occurrence of any of the following, with the dog's owner to bear the costs of boarding and other related expenses:

(a) The dog is not validly registered under section 55.760;

(b) The dog's owner does not secure and maintain the surety bond or insurance required under section 55.760;

(c) Pending full compliance with the registration requirements, the dog is outside of the secure and locked enclosure or dwelling previously approved by regional animal services in accordance with subsection (1)(a);

(d) After the compliance deadline, the dog is outside of its' approved dwelling or enclosure in derogation of section 55.770(3) or the dog is not under the required physical restraint of the owner as required under section 55.770(2);

(e) The dog is being re-located within Washoe County or re-introduced into Washoe County from an outside jurisdiction and the new address has not yet been verified to comply with all registration requirements; or

(f) The dog attacks a person or another animal.

3. Any dog determined to be dangerous or vicious pursuant to section 55.750 and which has been confiscated and impounded in accordance with subsection (2) may be held in the interests of public safety pending further court order for disposition of the dog from a court of competent jurisdiction. In such case, the dog's owner shall bear the costs of boarding and other related expenses.

4. It is unlawful for an owner or keeper of a dog to fail to surrender the dog for impoundment at the request of an animal control officer or peace officer in accordance with this section. Any owner or keeper who fails to surrender such a dog shall be guilty of a misdemeanor.

Section 8. Section 55.800 of the Washoe County Code is hereby amended to read as follows:

55.800 Penalties.

1. Violation- Criminal Penalty. Except when a civil penalty is imposed pursuant to NRS 244.359 as provided in subsections 4 through 14 below, any person who violates or whose animal violates 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 six months, or by a fine of not less than \$100.00 or more than \$1,000.00, or by both fine and imprisonment. Failure to appear in the proper court to answer to such misdemeanor citation is a separate offense. Each day that a violation occurs also constitutes a separate offense.

2. For any second or subsequent 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 six months, or by a fine of not less than \$200.00 nor more than \$1,000.00, or both fine and imprisonment.

3. Community Service. With the exception of sections 55.110, 55.140, 55.190 and 55.390, for a first conviction for a violation of any provision of this chapter, and 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.

4. Violation- Civil Penalty. Except as prohibited by NRS 244.359, and in lieu of any criminal penalty which may be imposed for the violation(s) of any provision of this chapter, a civil penalty in favor of the county may be imposed in an amount not to exceed \$500.00. 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(6) and will be adjudicated in accordance with WCC 55.800(7) through 55.800(14) inclusive. An 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.

5. Notice of civil penalty- Written Warning. Except as prohibited by NRS 244.359, whenever any person or that person's animal is found in violation of any provision set forth in this chapter, an NCP may be issued. In lieu of issuing an NCP, a written warning may be served upon the owner of the animal by affixing the warning to the owner's place of residence in a

conspicuous place. The written warning shall be imprinted so as to advise the owner that the owner has violated a provision of this chapter, which—provision the owner violated, that the warning carries no civil or criminal penalty, but that future violations may result in civil or criminal penalties.

6. Notice of civil penalty—Form. The NCP authorized by WCC 55.800(4) must be on a form 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, inclusive, 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, and the address and telephone number for the Washoe County Regional Animal Services center (WCRASC);
- (e) Information which advises the alleged violator of the manner in which the violation occurred, and the time within which they must answer the NCP;
- (f) 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 an administrative hearing and will result in the imposition of an additional \$25.00 administrative assessment;
- (g) The NCP shall also advise the individual that the Washoe County Board of County Commissioners authorizes regional 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.

7. Notice of Civil Penalty— 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, if the alleged violator requests an administrative hearing to contest the NCP, as permitted in subsection 11 and chapter 125 of the Washoe County Code, the complaining party must appear at a hearing subsequently scheduled pursuant to WCC 55.800(11) 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.

8. Notice of Civil Penalty- Filing. The notice of civil penalty and/or an electronic record thereof, must be filed with and retained by Washoe County Regional Animal Services for the applicable retention period, and is deemed to be a public record of matters which are observed pursuant to a duty which is imposed by law. The NCP is considered prima facie evidence of the facts which are alleged therein.

9. Notice of Civil Penalty- Service. The notice of civil penalty must be served on the person to whom it is issued. The NCP 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 owner's 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.

10. Notice of Civil Penalty- 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 any provision of this chapter: \$100.00

(b) For second or subsequent NCPs issued for a violation of the same provision or section of this chapter, 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 provision or section of this chapter within a three year period.

11. Notice of civil penalty-Duties of animal owner/respondent.

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

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

(2) "Deny" liability for the civil penalty by either appearing in person at or by contacting the Washoe County Administrative Hearing Office (AHO) and completing a written request for an administrative hearing along with all paperwork required by the AHO within 30 days of the date of issuance of the NCP, at which time, a date for a hearing and assignment of a hearing officer on the NCP shall be scheduled.

(i) Assignment of the hearing officer to each case will occur in accordance with AHO procedures and chapter 125 of the Washoe County Code, but the hearing officer must be chosen from a list of hearing officers approved by the Washoe County Board of Commissioners. 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 they 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.

(ii) At the administrative hearing, any witness may present relevant evidence regarding the infraction and the issuance of the NCP.

(iii) At the conclusion of the administrative hearing, 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.

(iv) At the conclusion of the administrative hearing, 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.

(b) If the person served with an NCP fails to answer/respond to the NCP, either by paying the required fee or requesting a timely administrative hearing, the county may serve on the violator, either by mail or by personal service, an overdue notice. The overdue notice shall contain payment instructions, 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(6)(g) 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.

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

13. Judicial Enforcement- Procedure to Commence Civil Action. The civil action authorized in WCC 55.800(12) 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(9) or 60 days following the hearing officer's findings, as applicable. The civil action may be commenced 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 personal service or 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.

14. Judicial Enforcement- Time limit. Civil actions pursuant to this section 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; that the animal was owned by, registered to, or in the custody of the defendant on the date the NCP was served; and that the defendant has failed to pay the required civil penalties, unless any of these elements is satisfactorily rebutted by the defendant. The defendant may 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 defendant.

15. 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(4) through 55.800(11), any animal control officer is authorized to utilize the administrative enforcement procedures contained within WCC Chapter 125 in appropriate cases.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Proposed on the 23 day of August, 2022.

Proposed by Commissioner Jung.

Passed on the 13 day of September, 2022.

Vote:

Ayes: Hartung, Hill, Lucey, Jung

Nays: Herman

Absent: None


Chair
Washoe County Commission

ATTEST:


Alice Malarsini
County Clerk

This ordinance shall be in force and effect from and after September 23, 2022.