

Chapter 9.05 PARK RULES

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9.05.005 Short title.

The short title of this chapter shall be the “Clark County parks rules ordinance.” This chapter may be cited by its short title. (Sec. 3 of Ord. 2012-09-02)

9.05.010 Definitions.

The terms used in this chapter, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

~~“Commissioners/Councilors”~~ means the members of the Clark County ~~board—of commissioners/Council~~.

~~“Director/Parks Manager”~~ means the county ~~director/Parks Manager~~ of the ~~Vancouver-Clark parks and recreation department/Public Works Department~~ or his or her designee.

“Expressive activity” includes conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. For purposes of this chapter, expressive activity does not include sports events, fund-raising events, or events the principal purpose of which is entertainment.

“Hearing examiner” means a person or panel of persons on whom the county has conferred responsibility pursuant to Chapter [2.51](#) to conduct hearings authorized by this chapter.

“Knowingly” means to act when:

- (1) One is aware of a fact, facts, circumstances or result described by a statute or ordinance defining an offense; or
- (2) One has information which would lead a reasonable person in the same situation to believe that facts exist which facts are described by a statute or ordinance defining an offense.

“Motor-driven vehicle” means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of the state of Washington.

“Park” means and includes all county owned or operated public parks, open spaces, public squares, bathing beaches, trails, play and recreation grounds, athletic fields or facilities, county owned or operated community centers, skate parks, shelters, and restrooms or parking lots associated with any county owned or operated public park.

“Park and facility use permit” means written approval for an activity or event for use of a park, following an application for and payment of a fee, if any, pursuant to a written consent issued by the ~~director/Parks Manager~~ under this chapter or pursuant to Section [9.05.220](#).

“Power-driven, mobility device” means any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf carts, electronic personal assistance mobility devices (EPAMDs), such as the Segway PT®, or any mobility device designed to operate in areas without defined pedestrian routes.

“Special event” means:

- (1) Any organized assemblage at any park which is to gather for a public purpose under the direction and control of a person or organization and the principal purpose of which is not expressive activity; or

- (2) Any other organized activity conducted by a person for a common or collective use, purpose, or benefit that involves the use of or has an impact on other public property or facilities or the provision of governmental services in response thereto and the principal purpose of which is not expressive activity.

Examples of special events include concerts, parades, circuses, fairs, festivals, weddings, baptisms, community events, fund-raising events, private parties, promotional events, mass participation sports (such as marathons and running events, bicycle races or tours, tournaments), or spectator sports (such as football, basketball and baseball games, golf tournaments, or vehicle or boat races).

“Weapon” means:

- (1) Any firearm, explosive as defined in RCW [70.74.010](#), or any knife having a blade longer than three (3) inches, dagger, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury.
- (2) Any bow and arrow, crossbow, slingshot, spring or gas propelled BB, pellet or airsoft guns, spears or javelins or other similar weapon which is commonly used in a recreational manner but is capable of causing death or bodily injury.

Whenever consistent with the context of this chapter, words in the present, past, or future tenses shall be construed to be interchangeable with each other, and words in the singular number shall be construed to include the plural. (Sec. 3 of Ord. 2012-09-02)

9.05.015 Police power and park rules.

- (1) This chapter constitutes the park code of the county and is an exercise of the police power of the county and is necessary for the public peace, health, safety and welfare.
- (2) The ~~director~~[Parks Manager](#) is authorized to adopt rules for the management, operation and control of parks consistent with the police power of the county. Such rules shall be posted at all parks. (Sec. 3 of Ord. 2012-09-02)

9.05.020 Hours.

It is unlawful for a person or vehicle to remain upon property under the jurisdiction of the county parks during closing hours set by the county parks, except at designated fishing sites, camp areas, other special use areas, or when authorized by a park and facility use permit. It shall be unlawful for any person to enter upon any portion of park land or waters which have been designated and posted as closed to public use or entry. Parks not posted shall be open twenty-four (24) hours a day. (Sec. 3 of Ord. 2012-09-02)

9.05.030 Protection of park property.

Within the property of the county parks, it is unlawful to:

- (1) ~~Willfully~~[Willfully](#) mutilate, injure, remove, deface or destroy any fencing, guidepost, notice, sign, enclosure, irrigation or lighting system, or any other physical property within any park;

- (2) Cut, break, mark upon any building, bridge, wall, fountain, hedge, or other structure;
- (3) Appropriate, excavate, injure or destroy any historical ruin or any object of antiquity, or otherwise harm any work for the protection of ornamentation of any park or parkway;
- (4) Cut, break, injure, destroy, take or remove any tree, shrub, timber, plant or natural object in any park;
- (5) Remove any earth, boulders, gravel or sand, without the prior written consent of the ~~director~~[Parks Manager](#);
- (6) Add any foreign matter, such as sawdust, sand, gravel or soil conditioner, to any field or park in order to use the field property in wet weather without the prior written consent of the ~~director~~[Parks Manager](#). (Sec. 3 of Ord. 2012-09-02)

9.05.040 Signposting.

It is unlawful to place or erect any signboard, sign, billboard, decoration, or device of any kind in any park without the prior consent of the ~~director~~[Parks Manager](#). It is unlawful to place or erect any structure of any kind in any park without the prior written consent of the ~~director~~[Parks Manager](#). (Sec. 3 of Ord. 2012-09-02)

9.05.050 Fires and fireworks.

- (1) Fires in park properties shall be confined to camp stoves, fireplaces, or firepits provided for such use. No fire shall be left unattended or be permitted to spread or extend to or burn any shrubbery, trees, timber, ornaments, or improvements. At the discretion of the parks department, fires shall be restricted or prohibited at times when fire hazard conditions are high. Coals and ashes must be disposed of in a designated disposal facility and must be completely extinguished prior to disposal.
- (2) It is unlawful to discharge fireworks within a park, except when authorized with a park and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.060 Animals and birds.

- (1) It is unlawful for any person while on park property to:
 - (a) Cause or allow any animal or fowl to run or roam at large, except as provided in Section [8.15.020](#)(2);
 - (b) Hunt, pursue, trap, kill, injure or molest any wildlife or disturb their habitats;
 - (c) Take any fish from the waters of any park, except in conformity with the rules and regulations of the ~~State Fisheries Commissioner~~[State of WA Department of Fish and Wildlife Commission](#);
 - (d) Permit any animal to be unleashed or untethered at any time, except as provided in Section [8.15.020](#)(2);

- (e) Permit any dog, cat, or other domesticated animal—with the exception of guide dogs or service animals and the county sheriff's mounted or canine patrol—to enter the developed area of Salmon Creek Park—Klineline Pond;
 - (f) Permit any dog, cat, or other domesticated animal—with the exception of guide dogs or service animals and the county sheriff's mounted or canine patrol—to enter the beach and surrounding turf area of Vancouver Lake Park between April 1st and October 31st.
- (2) To protect public health and protection of public resources, the ~~director~~**Parks Manager** may prohibit dogs, except guide dogs or service animals, as defined by Chapter **70.84** RCW, from entering or being present in areas designated and posted as off limits to dogs. (Sec. 3 of Ord. 2012-09-02)

9.05.070 Contraband.

All game, animals, fowl, birds, fish and other aquatic life, hunted, killed, taken or destroyed or had in possession contrary to applicable hunting and fishing regulations are declared to be contraband and are subject to confiscation. Any weapon or object, or objects carried or used by any person in violation of these rules, shall also be subject to seizure by the county. (Sec. 3 of Ord. 2012-09-02)

9.05.080 Swimming, bathing and wading.

It is unlawful to:

- (1) Swim, bathe, or wade at times and places that are posted as restricting such activity;
- (2) Leave a child unaccompanied by an adult in or near any lake, pond or watercourse;
- (3) Appear in a nude or naked condition. (Sec. 3 of Ord. 2012-09-02)

9.05.090 Boating and watercraft.

It is unlawful to bring into, use, or navigate any boat, personal watercraft, yacht, canoe, raft or other watercraft upon any watercourse upon the properties under the jurisdiction of the county in areas posted as restricting such use. (Sec. 3 of Ord. 2012-09-02)

9.05.100 Camping.

It is unlawful to camp except in such areas as may be provided and designated for such purposes by the county, unless authorized through a park and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.110 Horses.

It is unlawful:

- (1) For any person to ride or lead a horse or pack animal upon any property under the jurisdiction of the county where prohibited and posted;
- (2) For any person to ride a horse or pack animal in a careless, negligent or reckless manner so as to create a nuisance or to endanger the life, property, or persons of others on any lands under the jurisdiction of the county;

- (3) For the driver of any vehicle to not yield the right-of-way to any person riding a horse on paths designated for and permitting equestrian use. (Sec. 3 of Ord. 2012-09-02)

9.05.120 Motor-driven vehicles.

Except for authorized power-driven, mobility devices, or when authorized with a parks and facility use permit, it is unlawful for any person to:

- (1) Operate a motor-driven vehicle of any kind except on roads or designated parking areas;
- (2) Operate a motor-driven vehicle on any park or roadway within a park at a speed exceeding ten (10) miles per hour or at any speed greater than that posted;
- (3) Operate any motor-driven sled or snowmobile on any property under the control of the county parks department except where permitted by posted notice;
- (4) Drive a motor-driven vehicle for the purpose of having a speed contest. This section does not apply to any event for which a permit has been applied for and granted by the county ~~commissioners~~Councilors;
- (5) Drive any motor vehicle upon county park property while under the influence of intoxicating liquor or narcotic, drug, barbitol, or any derivative of barbitol;
- (6) Operate a motor vehicle upon county park property while his/her license to operate a motor vehicle has been suspended or revoked;
- (7) Operate a motor vehicle without having a valid operator's license and motor vehicle registration;
- (8) Operate any vehicle upon county park property contrary to posted traffic signs, symbols, rules or regulations on marked roadways;
- (9) Operate any vehicle in any manner upon county park property which results in excessive noise or disturbs the peace of other persons using the area;
- (10) Operate or ride a motorcycle without wearing equipment or clothing as may be required by state law;
- (11) Continuously cruise in any motor-driven vehicle through any park area. (Sec. 3 of Ord. 2012-09-02)

9.05.130 Operation of bicycles, skateboards, roller skates, in-line skates and foot scooters.

- (1) Except within designated skate parks, skate spots, other courses or tracks specific for such use, or prior authorization by a park and facility use permit, bicycles, skateboards, roller skates, in-line skates and foot scooters shall be operated as closely to the right-hand curb or right-hand side of the path, trail or roadway as conditions will permit and not more than two (2) bicycles shall be operated abreast.

- (2) Bicycles, skateboards, roller skates, in-line skates and foot scooters may be operated upon such paths, trails, or roadways as may be designated for vehicular use, and shall only be operated during park hours, and shall obey the rules and regulations applicable to motor vehicles. (Sec. 3 of Ord. 2012-09-02)

9.05.140 Peddling and soliciting. 

It is unlawful for any person to operate a concession, sell, or offer for sale, peddle, hawk or vend any goods, wares, merchandise, food, liquids or services, without prior written authorization of the ~~director~~Parks Manager, or prior authorization by a park and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.150 Unlawful obstruction. 

It is unlawful to, by force, threats, enclosing, or any other means, prevent any person from entering, leaving, or make full use of any park property. (Sec. 3 of Ord. 2012-09-02)

9.05.160 Hindering employees. 

It is unlawful to interfere with, or in any manner hinder any employee or agent of the county while performing their official duties. (Sec. 3 of Ord. 2012-09-02)

9.05.170 Alcoholic beverages, drugs. 

It is unlawful to:

- (1) Have in one's possession an open container of intoxicating beverages or to consume intoxicating beverages while in or upon the property under the jurisdiction of the county parks department, except when authorized through a park and facility use permit.
- (2) Use or have in their possession any drug or narcotic, the sale, use or possession of which is prohibited by state law.
- (3) Upon entering a park, be under the influence of intoxicating beverages, or any drug or narcotic of which is prohibited by state law. (Sec. 3 of Ord. 2012-09-02)

9.05.180 Personal conduct. 

- (1) It is unlawful to:
 - (a) Engage in any violent, abusive, loud, vulgar, obscene or otherwise disorderly conduct, or to disturb or annoy park patrons, or to harass livestock or interfere with farming activities which have been lawfully permitted on property under the jurisdiction of the county parks ~~department~~division.
 - (b) Practice or play golf, or any other game of like character, or operate any radio- or remote-controlled model airplane or aircraft, -or self-propelled boat or any model rocket within a county park except in areas specifically designated by the parks division and posted for such use, or with the permission of the parks ~~director~~Parks Manager.
 - (c) Conduct or to participate in any form of gambling or game of chance upon park property except in accordance with state law and county ordinance.

- (2) Any bona fide charitable or nonprofit organization desiring to conduct legalized gambling pursuant to the laws of the state of Washington and such ordinances pertaining to gambling adopted by Clark County shall apply for a park and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.190 Firearms and other weapons.

Except in designated target range areas or when authorized by a park and facility use permit, it is unlawful to:

- (1) Carry, exhibit, or display, within or upon the park properties of the county, any weapon, as defined in Section [9.05.010](#), Definitions, except firearms which are subject to regulation by the state.
- (2) Discharge, within county park property, any weapon from which a projectile(s) may be fired by an explosive such as gunpowder except as allowed by state law such as RCW [9.41.270](#), exceptions to penalties for unlawful carrying or handling of a firearm. (Sec. 3 of Ord. 2012-09-02)

9.05.200 Littering and pollution.

It is unlawful to:

- (1) Discard, or to deposit refuse of any kind in or upon any park property, except by placing in containers provided for such purpose;
- (2) Throw, drop or discharge into or leave in waters any substance, liquid or solid which may result in the pollution of said waters;
- (3) Deposit industrial, commercial, or household trash or garbage either on park property or in trash receptacles belonging to county parks. (Sec. 3 of Ord. 2012-09-02)

9.05.210 Public exhibition.

It is unlawful to exhibit, display or show anything or collection of things, or perform or assist in any performance in or upon county park property likely to cause persons to congregate so as to interfere with the proper use of the property by the general public or to obstruct the passage of vehicles or persons without first obtaining written permission from the ~~director~~[Parks Manager](#), or when authorized through a parks and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.220 Permits and agreements.

- (1) The ~~director~~[Parks Manager](#) is authorized to issue a park and facility use permit for use of parks and parks facilities consistent with the other provisions of this chapter.
 - (a) An approved park and facility use permit is required for all special events as defined in Section [9.05.010](#), regardless of number of attendees. Additionally, a park and facility use permit is required for all activities within parks or park facilities that will or may significantly impact other park users, utilize the park and/or park facility in a manner which it was not designed or intended to accommodate, or expose the county to increased liability.

- (b) Issuance of a park and facility use permit is expressly conditioned on the issuance of all other required city, county, or state permits or licenses prior to the date of the activity or event.
 - (c) Each park and facility use permit will specify the event or activity, the date(s) and times for which it is issued, the park or facility or portion thereof to which it applies, and any condition of use. Issuance of a park and facility use permit shall not be construed to confer any preferential right or expectation upon the recipient with respect to any future use of a park or park facility or future sponsorship of any event or activity.
 - (d) Parks and facility use permits shall generally be issued to the first party submitting an application to conduct an event or activity on a given date; provided, however, that recurring events may have priority over new requests.
 - (e) A park and facility use permit will not be valid unless the permit is signed by both the applicant and directorParks Manager, and all required supplemental information has been provided to the directorParks Manager.
 - (f) A park and facility use permit is a license which is personal and non-assignable, and which may be revoked at any time for violation of the terms of the permit or any local, state or federal law.
 - (g) A park and facility use permit shall not be required for an expressive event as defined in Section 9.05.010.
- (2) The directorParks Manager will send a notice of the denial of an application for a park and facility use permit to the applicant for the permit.
- (a) The denial of a park and facility use permit may be appealed to the directorParks Manager.
 - (b) An appeal must be made within five (5) business days of the date of the written denial. An appeal is made by filing a written petition with the directorParks Manager, setting forth the grounds for appeal and including any relevant documents.
 - (c) The directorParks Manager shall consider the appeal and issue a written decision within five (5) business days of its receipt.
 - (d) The directorParks Manager's decision is final.
- (3) Outdoor music festivals, entertainments, amusements and assemblies as defined in RCW 70.108.010 and Clark County Code Section 5.32.020 shall be allowed with special conditions required by the authorized park and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.230 Special permits.

No erection, construction or maintenance shall be made on the property of the county parks by any person, firm or corporation without having obtained written permission authorizing such

works from the ~~director~~Parks Manager and specifying in detail the work to be done and the conditions to be fulfilled. (Sec. 3 of Ord. 2012-09-02)

9.05.235 Fees for parks and programs.

- (1) The ~~board of county commissioners~~Clark County Council has authority to establish fees for the use of parks, and for participation in parks and recreational activities; provided, that the ~~board~~Council must consider the policies set forth below.
- (2) The policies for setting fees authorized by this chapter are as follows:
 - (a) County policy is to finance through its tax base a reasonable balance of parks and recreation services that meets the needs of the general citizenry. This financing should be directed to assure the overall administration and coordination of leisure services and for the provision of parks, open space, landscapes, parks improvements, recreation facilities, and their adequate maintenance.
 - (b) As it relates to recreation activities, the county, through user fees and charges, may charge an amount to cover direct program costs for labor, leadership, supplies, materials, and service charges that benefit identifiable and specific groups, i.e., enrichment classes, sports leagues.
 - (c) When unusual or hardship circumstances apply, the county may make some compensatory efforts to support special service needs, i.e., persons of disability or low income.
 - (d) When the operation of facilities requires special operational costs involving materials, supplies, supervision, and services, additional fees may be appropriate. The fee amount will take into consideration the goal of making the facility self-supporting.
 - (e) An applicant for a park and facility use permit will be charged a fee pursuant to this section. (Sec. 3 of Ord. 2012-09-02; amended by Sec. 1 of Ord. 2013-04-01)

9.05.240 Fees and charges.

It is unlawful to:

- (1) Use any park or facility for which a fee has been established by the county without payment of such fee.
- (2) Charge fees for entrance to any park area, or charge a fee for use of park property or for any event which may take place on park property, unless authorized by a park and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.250 Reservation.

It is unlawful to interfere with the authorized use of a reserved area of the park. (Sec. 3 of Ord. 2012-09-02)

9.05.260 Parking.

It is unlawful:

- (1) For the operator of a vehicle to stop, stand or park his vehicle in any place marked as a passenger or load zone.
- (2) For the operator of a vehicle to stop, stand or park his vehicle upon any roadway or in any parking area as to form an obstruction to traffic.
- (3) To park in areas not designated for parking.
- (4) To park a vehicle, without paying the daily parking fee, or displaying an authorized parking pass, in an area of a park where parking fees are required. Violation of this subsection shall be considered an infraction, with a fine in the amount of forty dollars (\$40.00). (Sec. 3 of Ord. 2012-09-02)

9.05.265 Presumption in reference to illegal parking.

There shall be a prima facie presumption that the registered owner of an illegally parked vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred if it is proven that the particular vehicle described in the complaint was stopping, standing or parking in violation of this chapter together with proof that the defendant named in the complaint was at the time of such violation the registered owner of such vehicle.

In accordance with RCW [46.90.740](#) this presumption only applies when the procedures prescribed in RCW [46.90.720](#) and [46.90.730](#) have been followed. (Sec. 3 of Ord. 2012-09-02)

9.05.270 Amplified sound—Permit required.

It is unlawful to operate or use any amplified sound system in any park without a park and facility use permit issued under this chapter. (Sec. 3 of Ord. 2012-09-02)

9.05.280 Tobacco products.

It is unlawful to use any form of tobacco while in or within the immediate area of the following:

- (1) Playgrounds and play areas.
- (2) Public restrooms, shelters, and gazebos.
- (3) Public events at parks, ball fields, or public beaches, such as concerts, and during adult and youth league games and practices. (Sec. 3 of Ord. 2012-09-02)

9.05.290 Exclusion from parks.

- (1) This section shall be enforced so as to emphasize voluntary compliance with laws and park rules, and so that inadvertent minor violations that otherwise would fall under subsection (3)(a) of this section can be corrected without resort to an exclusion notice.
- (2) Exclusion. In addition to any other penalty authorized under this chapter, any employee authorized by the ~~director~~[Parks Manager](#) or any law enforcement officer

may exclude, by delivering an exclusion notice in person or by certified mail to the individual, from a park(s), any person who, while in any park:

- (a) Violates any provisions within this chapter;
- (b) Violates any park rule that has been adopted by the parks and recreation advisory commission and is posted at the park; or
- (c) Violates any provision of the Clark County Code, or any provision of the Revised Code of Washington.

The individual need not be charged, tried, or convicted of any crime or infraction in order for an exclusion notice to be issued or effective. The exclusion may be based upon observation by the ~~director~~Parks Manager or the ~~director~~Parks Manager's designee, or upon the sort of civilian reports that would ordinarily be relied upon by police officers in the determination of probable cause.

- (3) Length of Exclusion. An exclusion issued under the provisions of this section:
 - (a) Shall be no greater than seven (7) days if the individual has not been excluded from any park within one (1) year prior to the violation.
 - (b) Shall be no greater than thirty (30) days if the individual has been excluded from any park only one (1) time within one (1) year prior to the violation.
 - (c) Shall be no greater than one (1) year if the individual has been excluded from any park more than one (1) time within one (1) year prior to the violation.
- (4) Exclusion Notice. The exclusion notice shall be in writing and shall contain the date of issuance. The exclusion notice shall specify the length and places of exclusion. The exclusion notice shall be signed by the issuing individual. The exclusion notice shall be delivered to the excluded individual in person or sent by certified mail to the excluded individual's last known address. Warning of the consequences for failure to comply shall be prominently displayed on the notice.
- (5) The ~~director~~Parks Manager, after an appeal, may rescind or shorten an exclusion notice of seven (7) days. The hearing examiner, after a hearing, may rescind or shorten an exclusion notice of more than seven (7) days.
- (6) Appeal.
 - (a) An individual receiving an exclusion notice of seven (7) days may petition the ~~director~~Parks Manager to have the exclusion notice rescinded or the period of exclusion shortened. The petition for an appeal must be delivered to the ~~director~~Parks Manager or postmarked no later than twenty-four (24) hours after the issuance date of the exclusion notice. The petition must be in writing, must state the reasons that justify rescission or shortening of the exclusion period, and must be accompanied by a copy of the exclusion notice on which the appeal is sought. The decision shall occur within one (1) day after the ~~director~~Parks Manager receives the petition.

- (b) If the violation is proved, the exclusion notice shall be upheld; but upon good cause shown, the ~~director~~Parks Manager may shorten the duration of the exclusion. If the violation is not proved by a preponderance of the evidence, the ~~director~~Parks Manager shall rescind the exclusion. If the ~~director~~Parks Manager rescinds the exclusion, the exclusion shall not be considered a prior exclusion for purposes of this chapter.
- (c) An excluded individual seeking judicial review of the ~~director~~Parks Manager's decision must file an application for a writ of review with the Clark County superior court within fourteen (14) days of the date of the ~~director~~Parks Manager's decision.

(7) Hearing.

- (a) An individual receiving an exclusion notice longer than seven (7) days may petition the hearing examiner to have the exclusion notice rescinded or the period of exclusion shortened. The petition for a hearing must be delivered to the hearing examiner or postmarked no later than seven (7) days after the issuance date of the exclusion notice. The petition must be in writing, must state the reasons that justify rescission or shortening of the exclusion period, and must be accompanied by a copy of the exclusion notice on which the hearing is sought. The hearing should occur within seven (7) days after the hearing examiner receives the petition. The hearing examiner shall take reasonable steps to notify the petitioner of the date, time, and place of the hearing.
- (b) The hearing examiner may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing examiner shall not issue a subpoena for the attendance of a witness at the request of the petitioner unless the request is accompanied by the fee required by RCW [5.56.010](#) for a witness in district court. The petitioner shall be responsible for serving any subpoena issued at the petitioner's request.
- (c) At the hearing, the violation must be proved by a preponderance of the evidence in order to uphold the exclusion notice. If the exclusion notice was issued because of the alleged violation of any criminal law, the petitioner need not be charged, tried, or convicted for the exclusion notice to be upheld. The exclusion notice establishes a prima facie case that the excluded individual committed the violation as described. The hearing examiner shall consider a sworn report or a declaration under penalty of perjury as authorized by RCW [9A.72.085](#), written by the individual who issued the exclusion notice, without further evidentiary foundation. The certifications authorized in Rule 6.13 of the Criminal Rules for Courts of Limited Jurisdiction shall be considered without further evidentiary foundation. The hearing examiner may consider information that would not be admissible under the evidence rules in a court of law but which the hearing examiner considers relevant and trustworthy.
- (d) If the violation is proved, the exclusion notice shall be upheld; but upon good cause shown, the hearing examiner may shorten the duration of the

exclusion. If the violation is not proved by a preponderance of the evidence, the hearing examiner shall rescind the exclusion. If the hearing examiner rescinds an exclusion, the exclusion shall not be considered a prior exclusion for purposes of this chapter.

- (e) The decision of the hearing examiner is final. An excluded individual seeking judicial review of the hearing examiner's decision must file an application for a writ of review in the Clark County superior court within fourteen (14) days of the date of the hearing examiner's decision.
- (8) The exclusion shall remain in effect during the pendency of any administrative or judicial proceeding.
- (9) No determination of facts made under this section by the ~~director~~Parks Manager or the hearing examiner shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding. (Sec. 3 of Ord. 2012-09-02)

9.05.300 Trespass in parks.

- (1) A person is guilty of trespass in parks if he or she knowingly enters or remains in a park from which he or she has been excluded during the period covered by an exclusion notice pursuant to Section [9.05.290](#).
- (2) It is not a defense to the crime of trespass in parks:
 - (a) That the underlying exclusion issued pursuant to this chapter is on appeal when the excluded person is apprehended, charged, or tried under this section; or
 - (b) That the excluded person entered or remained in the park pursuant to a permit that was issued in the name of another person either before or after the date of the exclusion notice. (Sec. 3 of Ord. 2012-09-02)

9.05.310 Penalty.

- (1) It is a misdemeanor punishable by a maximum fine of one thousand dollars (\$1,000) and/or ninety (90) days' incarceration in the county jail to commit any act made unlawful by this chapter or for any person to violate any of the provisions of this chapter.
- (2) Violation of any provision of this chapter shall be grounds for revocation of any park and facility use permit issued hereunder or pursuant to Chapter [5.32](#) and for denial of any future application for a park and facility use permit. (Sec. 3 of Ord. 2012-09-02)

9.05.320 Prosecution for violation.

Anyone concerned in the violation of this chapter whether directly committing the act or omitting to do a required act, or who aids or abets the same, is and shall be a principal under the terms

of this chapter and shall be proceeded against and prosecuted as such. (Sec. 3 of Ord. 2012-09-02)

