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 Sequence Number: 07-16-20
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 File Date: 7/10/2020

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Environment and Conservation
Division:	State Park Operations
Contact Person:	Michael Driver
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2nd Floor Nashville, Tennessee 37243
Phone:	(615) 253-2027
Email:	Michael.D.Driver@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 22nd Floor Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or 615-532-0200 Hearing impaired callers may use the TN Relay Service 1-800-848-0298
Email:	Jennifer.Katzenmiller@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	2 nd Floor, Conference Rooms A, B, and C		
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Ave.		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	08/31/2020		
Hearing Time:	11:00 AM	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

The Department of Environment and Conservation is committed to the Tennessee Pledge and reopening responsibly. All individuals planning to attend this hearing are asked to follow the current recommended guidelines for social distancing, hygiene, and wearing protective equipment when appropriate.

Alternate Hearing Option (An electronic participation option is also available. If the In-Person Hearing is Prohibited or Otherwise Inappropriate the Hearing will be Electronic-Only)

Method 1:	<p>You may also join electronically.</p> <p>Join by going to this link: https://tngov.webex.com/tngov/j.php?MTID=maef7d45ff64b5c3dcb93d2ffd65714d7</p> <p>Meeting number (access code): 161 960 5644 Meeting password: 3JWytAE2Ce7</p>
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Method 2:	Join by phone 1-415-655-0003 Access code: 161 960 5644 Global call-in numbers are available online at: Link for Global Call-in Numbers
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Additional Hearing Information:

If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Cheryl Gracy at (615) 532-0041 for more information.

This rule creates a system where citations can be served on individuals to notify them of the intent to seek assessment of civil penalties through the Attorney General's Office for violations of Tenn. Code Ann. Title 11, Chapter 1, Part 1 and the rules promulgated under Tenn. Code Ann. § 11-1-108 regarding parks and to seek a voluntary payment of such penalties.

An initial set of draft rules has been prepared for public review and comment. The "DRAFT" rules may be accessed for review using at <https://www.tn.gov/environment/ppo-public-participation/ppo-public-participation/ppo-state-parks.html>.

Oral or written comments are invited at the hearing. In addition, written comments may be submitted by email at Michael.D.Driver@tn.gov or mailed to: Tennessee Department of Environment and Conservation, Division of State Parks; Attention: Michael Driver, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243; telephone (615) 253-2027 or email: Michael.D.Driver@tn.gov. However, such written comments must be received by 4:30 PM CST, September 7, 2020 in order to assure consideration. For further information, please contact Michael Driver at the above address or telephone number or by e-mail at Michael.D.Driver@tn.gov.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0400-02-02	Public Use and Recreation
Rule Number	Rule Title
0400-02-02-.34	Parking
0400-02-02-.35	Notices of Violation

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf.

Chapter 0400-02-02
Public Use and Recreation

Amendment

Chapter 0400-02-02 Public Use and Recreation is amended by adding 0400-02-02-.34 Parking and 040002-02-.35 Notices of Violation to the Table of Contents so that, as amended, the Table of Contents shall read as follows:

0400-02-02-.01 Abandoned and Unattended Property	0400-02-02-.19 Public Assemblies, Meetings
0400-02-02-.02 Aircraft	0400-02-02-.20 Report of Injury or Damage
0400-02-02-.03 Audio Devices	0400-02-02-.21 Saddle and Pack Animals
0400-02-02-.04 Begging and Soliciting	0400-02-02-.22 Sanitation
0400-02-02-.05 Camping	0400-02-02-.23 Scientific Specimens
0400-02-02-.06 Closing of Areas	0400-02-02-.24 Skating, Skateboards, Roller Blades, Segways, Scooters, and Like Recreational Equipment
0400-02-02-.07 Disorderly Conduct	
0400-02-02-.08 Dogs, Cats, and Other Pets	
0400-02-02-.09 Explosives	0400-02-02-.25 Special Events
0400-02-02-.10 False Reports	0400-02-02-.26 Swimming and Bathing
0400-02-02-.11 Firearms, Traps, and Other Weapons	0400-02-02-.27 Tampering with Vehicle or Vessel
0400-02-02-.12 Fires	0400-02-02-.28 Travel on Trails
0400-02-02-.13 Fishing	0400-02-02-.29 Water Skiing
0400-02-02-.14 Alcoholic Beverages	0400-02-02-.30 Wildlife; Hunting
0400-02-02-.15 Lost and Found Articles	0400-02-02-.31 Winter Sports
0400-02-02-.16 Picnicking	0400-02-02-.32 Reserved
0400-02-02-.17 Portable Engines and Motors	0400-02-02-.33 Unmanned Aircraft Systems
0400-02-02-.18 Preservation of Public Property, Natural Features, Curiosities, and Resources	0400-02-02-.34 Parking
	0400-02-02-.35 Notices of Violation

Authority: T.C.A. § 11-1-108 and §§ 4-5-201 et seq.

Chapter 0400-02-02
Public Use and Recreation

New Rules

Chapter 0400-02-02 Public Use and Recreation is amended by adding Rule 0400-02-02-.34 Parking to read as follows:

0400-02-02-.34 Parking

- (1) No person shall:
 - (a) Stop, park, or leave any vehicle, whether attended or unattended, upon the paved or maintained surface of a road so as to leave less than 10 feet of the width of the same traffic lane for the free or unobstructed movement of other vehicles or upon a designated fire lane in violation of paragraph (1) of Rule 0400-02-05-.13; or
 - (b) Stop or park any vehicle, whether attended or unattended, in a manner that is prohibited or restricted by any sign in violation of paragraph (1) of Rule 0400-02-05-.18.
- (2) The person to whom a vehicle is registered and any person parking such a vehicle are jointly responsible for ensuring that a vehicle is not stopped, parked, or left in a manner that is in violation of paragraph (1) of this rule.
- (3) It shall be an affirmative defense for a person to whom a vehicle is registered to an alleged violation of

paragraph (1) of this rule that the vehicle stopped, parked, or left in violation of paragraph (1) of this rule was leased or rented to another person at the time of the violation. Provided, however, that the person to whom the vehicle was leased or rented shall be jointly responsible for ensuring that a vehicle is not stopped, parked, or left in a manner that is in violation of paragraph (1) of this rule.

- (4) A notice of violation containing a proposed civil penalty under Rule 0400-02-02-.35 for a violation of this rule may be served by as set out in paragraph (2) of Rule 0400-02-02-.35 or by leaving a copy of the notice of violation on the vehicle that is stopped, parked, or left in violation of paragraph (1) of this rule.

Authority: T.C.A. §§ 11-1-101(e), 11-1-109(b), and §§ 4-5-201 et seq.

Chapter 0400-02-02 Public Use and Recreation is amended by adding Rule 0400-02-02-.35 Notices of Violation to read as follows:

0400-02-02-.35 Notices of Violation


- (1) In addition to or in lieu of any other lawful action, the Commissioner may issue a notice of violation for any violation for which the Commissioner is authorized to seek a civil penalty pursuant to T.C.A. § 11-1-109 by notifying a person of the Commissioner's intent to seek assessment of a civil penalty pursuant to T.C.A. § 11-1-109(c) and offering to settle the matter by the person to whom the notice of violation was issued admitting that the alleged violation occurred and paying the proposed penalty according to paragraph (3) of this rule. Multiple alleged violations and proposed penalties may appear in a single notice of violation.
- (2) Except as set out by paragraph (4) of Rule 0400-02-02-.34, a notice of violation issued pursuant to paragraph (1) of this rule shall be served by U.S mail, personal service, email, or any other lawful means, on the person named in the notice of violation. The name and signature of the person issuing the notice of violation shall appear on the notice of violation.
- (3) Any person served a notice of violation pursuant to this rule:
 - (a) May provide the Commissioner with a copy of the notice of violation signed by the person named on the notice of violation accepting the proposed civil penalty and admitting to the violations alleged in the notice of violation. The signed notice of violation shall be sent to the Department as provided on the notice of violation or the Department's website. The person named on the notice of violation shall, by any means made available by the Department, make payment in the amount of the proposed civil penalty designated in the notice of violation within 30 calendar days of service of the notice of violation. The Commissioner may further settle the violations alleged in a notice of violation by such terms as the Commissioner determines appropriate; or
 - (b) If a person does not accept the proposed civil penalty set out in a notice of violation, or any subsequent offer of settlement, the Commissioner, through the attorney general and reporter, may institute proceedings for assessment in the chancery court of Davidson County or in the chancery court of the county in which all or part of the violation occurred, in the name of the Department to seek civil penalties pursuant to T.C.A. § 11-1-109(b)(3) and (c) for each violation. Nothing in this rule shall prohibit the Commissioner from seeking civil penalties greater than those proposed in the notice of violation or other offer of settlement.
- (4) Signing and returning a notice of violation without full payment of the proposed penalty in the notice of violation may result in the Commissioner instituting proceedings through the attorney general and reporter for assessment in the chancery court of Davidson County or in the chancery court of the county in which all or part of the violation occurred.
- (5) Each notice of violation shall state the proposed penalty for the violation alleged. The date of the violation shall be the date that the violation occurred, not the date that any penalty is proposed through a notice of violation. Only penalties accepted according to subparagraph (3)(a) of this rule, or assessed according to subparagraph (3)(b) of this rule, shall be considered when issuing a notice of violation. Each day of a continued violation shall constitute a separate violation. The following shall be the schedule of standard penalties to be proposed by the Department.
 - (a) For an alleged violation of Rule 0400-02-02-.34: \$35.

- (b) For any other alleged violation:
 - 1. First violation by an individual within a 365 day period, \$50;
 - 2. Second violation by an individual within a 365 day period, \$100; and
 - 3. Third or subsequent violation by an individual within a 365 day period \$200.
- (6) Any proposed civil penalties paid to the Department pursuant this rule shall be deposited in the state park fund created by T.C.A. § 11-3-302.
- (7) Nothing in this rule shall limit the Commissioner's authority to:
 - (a) Seek an assessment of civil penalties in excess of those proposed in a notice of violation through an action brought pursuant to T.C.A. § 11-1-109(c) without proposing to settle the matter by a notice of violation;
 - (b) Settle the allegations contained in a notice of violation after the expiration of the 30 day acceptance period; or
 - (c) Pursue any other lawful criminal or civil remedy.

Authority: T.C.A. §§ 11-1-101(e), 11-1-109(b), and §§ 4-5-201 et seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: July 10, 2020

Signature: 

Name of Officer: Michael D. Driver

Title of Officer: Senior Associate Counsel

Department of State Use Only

Filed with the Department of State on: 7/10/2020



Tre Hargett
Secretary of State

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