

FINAL REGULATIONS - CHAPTER 11 - WILDLIFE PARKS AND UNREGULATED WILDLIFE

MAILING – 08/31/2007

ARTICLE II - LICENSE REQUIREMENTS, LICENSE EXEMPTIONS, LICENSE TYPES, APPLICATION AND RECORD REQUIREMENTS, AND LICENSE RENEWAL.

#1102 - LICENSE REQUIREMENTS.

A. Except as authorized by Wildlife Commission regulation:

1. No person shall possess, sell, propagate, acquire, purchase, broker, transport, trade, barter or attempt to sell, propagate, acquire, purchase, broker, trade or barter live wildlife unless such person first obtains a proper license.
2. No person shall possess, buy, sell or attempt to buy or sell live wildlife or barter, trade or broker live wildlife except to or from persons properly licensed to purchase, sell, barter, trade, broker or possess such wildlife. When permitted by statute or Commission regulation, any person may buy or sell captive wildlife that is in the total custodial care of another licensed individual; however, ownership of said wildlife shall be indicated on the licensee's annual report.
3. All live wildlife possessed under the authority of these regulations must be approved by the Division and listed by species on the license. Live wildlife held under the authority of a commercial park license issued pursuant to this chapter may be possessed only for the stated commercial use. Wildlife held under the authority of this license must be held in a licensed facility unless it is being transported due to sale or purchase, for veterinary care, or to and from an exhibition approved by these regulations.
4. Approval of a license application shall not be granted if the proposed wildlife is deemed to be detrimental to native wildlife. Such approvals shall limit the species to be possessed and shall specify fencing configuration requirements necessary to protect Colorado's wildlife resources from significant negative impacts. Such approvals, denials, and any conditions imposed on such license shall be based on consideration of:
 - a. Potential habitat competition, damage or destruction.
 - b. Disruption of migration, breeding, or rearing and survival of young.
 - c. Predation.
 - d. Disease.

Additionally, these restrictions may include those necessary to minimize the danger to humans, domestic livestock or property.

5. New applications for Commercial Wildlife Park Licenses or new satellite facilities for species in the family Cervidae will not be approved anywhere in the state. Licenses issued prior to September 13, 2001 are eligible for renewal for 2002, except that licenses for mule deer are only eligible for renewal if the deer were in possession when the renewal application was received by the Division.
6. All big game animals owned by the State shall be removed from the confines of the proposed commercial area at the applicant's expense before the application for a license is approved. The applicant shall provide to the Division of Wildlife a plan or plans for removal. The Division shall supervise all removal operations. Where complete removal is not possible or management on site is deemed appropriate by the Division, the State must be fully compensated pursuant to written agreement for the animals and/or provide sufficient free public hunting to remove the animals.

7. Licenses shall be issued only for facilities which are owned, managed and/or leased by a single individual, partnership, limited liability company, cooperative, or corporation.
8. Licensees shall notify the Division when substantive changes to their commercial parks facility, such as fence length, fence configuration or acreage enclosed, the addition of non-contiguous parcels of land (satellite facilities), or species to be possessed are planned. Satellite facilities must comply with all licensing criteria and other applicable regulations. Such changes must be approved by the Division prior to construction or acquisition to include necessary license amendments.
 - a. To add additional families of wildlife to an existing license, the licensee must fill out a new license application listing the desired families. The amended license must be approved prior to the licensee acquiring and possessing any species within a previously unapproved family. In addition, the licensee must inform the Division in writing within 15 days following the acquisition of any new species under a previously approved family.
9. Only AZA accredited or certified facilities (commercial wildlife parks or wildlife sanctuaries) shall be permitted to possess animals from the families *Canidae*, *Felidae* and *Ursidae*, except that those animals lawfully in possession at such facilities before January 1, 2006 may be retained and those facilities licensed by the Division as a commercial wildlife park prior to January 1, 2001, and incorporated as a 501(c)(3) non-profit, which functioned as a wildlife sanctuary, may continue to import animals from these families.

B. Facility Contingency Plans

1. Animals from the families *Canidae*, *Felidae* or *Ursidae* may only be possessed at facilities that have a written contingency plan approved by the Division. The purpose of the contingency plan will be to detail the procedures that will be followed in the event the Division must provide for the disposition of animals in the families *Canidae*, *Felidae* or *Ursidae* if the facility is abandoned, the facility's license expires pursuant to #1107(A) of these regulations, or the facility's license is revoked pursuant to #1107(G) of these regulations. The contingency plan shall include provisions for the care and ultimate disposition of all such animals in the families *Canidae*, *Felidae* and *Ursidae* within sixty (60) days.
2. The contingency plan shall include detailed cost estimates to perform the specified activities and shall be updated every year at the time of license renewal, or whenever acquisition or disposition from the families *Canidae*, *Felidae* or *Ursidae* results in an aggregate population change greater than ten (10) percent in these three families during the year.

C. Financial Assurance

1. Prior to initial licensure or renewal of any license, any facility seeking authorization to possess animals in the families *Canidae*, *Felidae* or *Ursidae* must demonstrate financial assurance or bonding sufficient to fund the contingency plan. The facility may satisfy the financial assurance requirements through issuance of an irrevocable letter of credit, surety bond, insurance, or other financial assurance acceptable to the Division.
2. Facilities possessing animals in the families *Canidae*, *Felidae* or *Ursidae* shall establish a standby trust approved by the Division to receive the designated funds upon notification by the Division to the issuing institution that facility abandonment has occurred or the facility's license has been terminated or revoked and the animals have not been properly disposed of in accordance with #1107 of these regulations. The standby trust shall also provide for disbursement of funds as directed by the Division and as otherwise necessary for care and

disposition of the animals, such funds not to exceed the amount of the approved contingency plan. All forms of financial assurance shall be issued for at least one- (1) year (premiums or other costs of issuance shall be prepaid by the facility) and shall provide for automatic extension for subsequent one- (1) year periods unless the issuing institution notifies the Division by certified mail at least 120 days prior to expiration of the present term of its decision not to extend.

#1105 - APPLICATION REQUIREMENTS

- A. Prior to the issuance of any license, the Division shall determine that the applicant has met the following requirements:
1. Commercial Parks must demonstrate "commercial" status by documenting a profit motive as determined pursuant to the following criteria. An applicant does not have to meet all of the listed criteria. Nonprofit entities by definition cannot demonstrate the required "commercial" status required for licensing as a commercial park. Nonprofit entities must meet the requirements of and may only be licensed as wildlife sanctuaries, if at all.

These criteria include:

- a. Hiring of trained employees
 - b. Maintenance of detailed business records
 - c. Generation of profits
 - d. Abandoning the activity when profits cannot be achieved
 - e. Advertising
 - f. Experiencing annual increases in net income from the activity
 - g. Devoting significant amount of time to the activity
 - h. Devoting significant amount of money to the activity
 - i. Development of a written business plan
 - j. Operating the activity in a business like manner
 - k. Evidence of previous profitability in a similar activity
 - l. Consistent efforts to market products and/or services
 - m. Exercising care in carrying on the activity
 - n. Expectation of large profits if successful
 - o. Having or developing expertise with respect to the activity
 - p. Investigating the profit potential of the activity
 - q. Filing state and federal income tax returns on the activity
 - r. In-service training for existing employees
- ~~42~~. Wildlife Sanctuaries must demonstrate "nonprofit" status by documenting exemption from taxation under section 501(a) of the Internal Revenue Code and otherwise demonstrating compliance with section 501(c)(3) of such code.
 - ~~23~~. Submission of a completed application form provided by the Division.
 - ~~34~~. Submission of a plan of the proposed park showing areas to be fenced, topography, type of fence and isolation facilities.
 - ~~45~~. Submission of a list of all facilities to be covered by the license, including the address/location.
 - ~~56~~. Certification by the applicant that the proposed possession of wildlife is not in violation of any city or county ordinance and submission of any required local permits.

- 67. Certification by the applicant that he/she has been provided with information by the Division of Wildlife about Chronic Wasting Disease (CWD).
 - 78. Submission of proof of licensing by the USDA, or a letter from the USDA stating that a USDA license is not required for the type of activity proposed.
 - 9. Submission of a proposed contingency plan and financial assurance if the applicant proposed to possess animals in the families *Canidae*, *Felidae* or *Ursidae*.
- B. Within 30 days of the receipt of an application and facility plan, the Division will review the application and either
- 1. Notify the applicant in writing that the facility plan is acceptable and to proceed with facilities construction, or
 - 2. Notify the applicant of the Division's concerns regarding the proposed facility in writing. The Division will meet with the applicant to discuss the concerns and any modifications or corrections needed to comply with applicable laws and regulations. If the applicant and the Division reach agreement on the needed facility modifications, the Division will notify the applicant in writing to proceed with facility construction.
 - 3. If such agreement cannot be reached, the Division will deny the application as submitted.
- Once facilities construction is completed, the Division will inspect the facilities, and if all facilities requirements and other applicable laws and regulations requirements have been met, the license will be approved. Denial will be based on failure to comply with all applicable requirements. Written notification of the approval and issuance of the license or denial including reasons for the denial will be provided.
- C. Review of a denial of a license shall be in accordance with Section 24-4-104 C.R.S.

#1107 - EXPIRATION AND RENEWAL OF LICENSES

- A. Licenses are nontransferable and, with the exception of Non-commercial Wildlife Park Licenses, shall expire December 31 of each year. Licenses may be renewed upon written request and payment of the required fee without submitting a new application. All record keeping and reporting requirements must be met prior to license renewal. If the license is not renewed by December 31, the licensee may not buy, purchase, sell, trade, broker, barter, transport or participate in any activity authorized by the license until it is renewed. Wildlife held pursuant to the license must be lawfully disposed of within 60 days of expiration if the license is not renewed.
- B. All licensees required to renew their licenses annually must submit an annual report prior to license renewal that identifies all animals by species on the facility by species, number, and sex; and any required USDA or DOW tag number or tattoo.
- C. All facilities authorized to possess animals from the families *Canidae*, *Felidae* or *Ursidae* must submit an updated facility contingency plan as required in #1102. The contingency plan shall be reviewed upon renewal of a license and updated as necessary, including but not limited to, the current number of animals held from these three families.

- D. A renewal application submitted by any facility authorized to possess animals from the families *Canidae*, *Felidae* or *Ursidae* will not be approved unless the financial assurance requirements in #1102 remain in effect.
- EE. All commercial park licensees must certify that they maintain their commercial status based on the criteria listed in #1105.
- EF. All Wildlife Sanctuary licensees must certify that they maintain their nonprofit status as specified in #1105.
- EG. Non-compliance with the provisions of applicable statutes and these regulations is subject to revocation of the license in accordance with provisions of 24-4-104 C.R.S. and 33-6-106 C.R.S. If the license is revoked, the owner or his agent shall lawfully dispose of all wildlife held pursuant to the license within 60 days of license revocation. If a licensee is convicted of 18-9-202 C.R.S., cruelty to/neglect of animals, the license shall be revoked.
- FH. Renewal of a license is contingent upon the licensee's compliance with relevant state statutes, federal regulations, and the provisions of these regulations.

BASIS AND PURPOSE STATEMENT

The Division has recently been asked by state and local government agencies as well as various non-governmental entities how the Division would respond should a facility containing animals from the families Canidae, Felidae or Ursidae, or more commonly wolves, big cats (African lions, tigers, etc.) and bears become abandoned. As the legislatively mandated licensing entity for these facilities, the Division has expressed concerns about animal welfare and public safety in the event a facility holding animals from one of these three families is abandoned or otherwise forced to close and immediately dispose of its animals. In order to prepare for this contingency, regulations have been passed requiring facilities holding animals from these three families to submit a contingency plan and generally accepted financial assurance sufficient to ensure implementation of the plan prior to further licensure by the Division.

After various discussions between industry representatives and the Division, it was agreed to add the term "other financial assurance acceptable to the Division." While the norm is expected to be providing financial assurances as listed in the regulation (ie - irrevocable letter of credit, surety bond or closure insurance), all parties involved in the discussions felt it was important to allow for other financial mechanisms not originally considered which would provide the same assurance and would be mutually acceptable to the Division and the licensee. These forms of financial assurance may include collective or cooperative bonding which is expressly agreed upon by the licensee and the Division.

The statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Wildlife Act, §§ 33-1-101 to 33-6-209, C.R.S., specifically including, but not limited to: §§ 33-1-101, 102, 104, 105, 106-108, 115, and 121; §§ 33-2-104, 105, 106, and 107; § 33-3-104; §§ 33-4-101, 102, 102.5, 103, 116, 116.5, 117, and 119; § 33-5.5-102; and §§ 33-6-107, 109, 112, 113, 113.5, 114, 114.5, 117, 119, 120, 121, 124, 127, 128, 129, 131, 205, 206, 207, and 208.

EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE NOVEMBER 1, 2007 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 13th DAY OF SEPTEMBER, 2007.

**Approved:
Thomas M. Burke
Chairman**

**Attest:
Robert W. Bray
Secretary**