

ORDINANCE NO. 1110

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE SECTION 12.24 REGARDING CITY PARKS BY ADDING SECTION 12.24.060 ENTITLED "TRESPASS AND EXCLUSION FROM PARKS" AND SECTION 12.24.065 ENTITLED "APPEAL"; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council believes it is necessary to create a procedure to exclude people from City Parks when they violate Park rules and regulations and provide a procedure for appeal of an exclusion notice, now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. CMC 12.24 is amended to add section 12.24.060 entitled "Trespass and Exclusion from Parks" and section 12.24.065 entitled "Appeal" as follows:

Section 12.24.060 Trespass and Exclusion from Parks.

In addition to other measures provided for violation of this Code, or any of the laws of the State of Oregon, any peace officer, as defined by ORS 133.005(3), as amended, or any park official or employee may exclude any person who violates any provision of this Code, any City ordinance, any laws of the State of Oregon or any rule or regulation duly made and issued by the Parks Department or by the City Council from any City Park for a period of not more than 30 days.

A. Written notice shall be given to any person excluded from any City Park. Such notice shall specify the dates and places of exclusion. It shall be signed by the issuing party. Warning of consequences for failure to comply shall be prominently displayed on the notice.

B. A person receiving such notice may appeal to the Municipal Judge in accordance with section 12.24.065 of this chapter to have the written notice rescinded or the period shortened. The appeal must be filed within five (5) days of receipt of the exclusion notice, unless extended by the Municipal Judge for good cause shown.

C. At any time within the 30 days, a person receiving an exclusion notice may apply in writing to the Parks Director for a temporary waiver from the effects of the notice for good reason.

Section 12.24.065 Appeal.

A. Appeal of an exclusion notice shall be to the Municipal Judge.

B. Initiation of an appeal of an exclusion notice shall be filed within 5 days from the date of the exclusion notice with the Municipal Court clerk. The Municipal Judge may waive this requirement for good cause shown.

C. The request for an appeal hearing shall be in writing and shall contain either a copy of, or a full and complete description of, the notice of exclusion and a statement of the grounds upon which it is contended that the decision to exclude is invalid, unauthorized or otherwise improper.

D. Upon receipt of a request for an appeal hearing, the Municipal Court clerk shall schedule a hearing before the Judge within 14 days after receipt of such request. Notice of the hearing time and date shall be given to the person requesting the hearing and to the person issuing the exclusion notice.

E. At the hearing, the Judge may determine the matter without hearing upon the record. The Judge may sustain, reverse or modify the exclusion notice appealed from in his/her judgment.

F. The determination of the Municipal Judge is a quasi-judicial decision and is not appealable to the City Council: appeals from any determination by the Municipal Judge shall be by writ of review to the Circuit Court of Clackamas County, Oregon as provided in ORS 34.010-34.100.

Section 2. In as much as it is in the best interest of the citizens of Canby to implement this ordinance as soon as possible, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, January 15, 2003, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, February 5, 2003, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

Chaunee Seifried
Chaunee Seifried
City Recorder - Pro Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 5th day of February, 2003, by the following vote:

YEAS 6

NAYS 0

Melody Thompson
Melody Thompson, Mayor

ATTEST:

Chaunee Seifried
Chaunee Seifried, City Recorder - Pro Tem

Notice of Exclusion From City of Canby Parks

Case No. _____
NAME: _____ <div style="display: flex; justify-content: space-between; font-size: small;"> (LAST) (FIRST) (MIDDLE) </div>
ADDRESS: _____ <div style="display: flex; justify-content: space-between; font-size: small;"> (STREET) (CITY) (STATE) (ZIP) </div>
CAD#: _____ SEX: _____ RACE: _____ DOB: _____ HT: _____ WT: _____ HAIR: _____ EYES: _____
ID / LICENSE # _____ STATE: _____ SSN: _____
NAME OF <u>PARK</u> / <u>OR</u> / <u>ADDRESS</u> OF THE PROPERTY WHERE OCCURRED: _____

Exclusion

On the ____ day of _____, 20__ at approximately _____am/pm, while in or upon a City of Canby Park, you violated the following State Statute, City Ordinance, and/or Rule of Conduct for the Property: (List the ORS Statute or City Ordinance number, and/or the title of the State Statute, City Ordinance, or Rule of Conduct for the City Park.)

Starting today, you are excluded from remaining in or upon, or entering in or upon, the City of Canby Parks listed below for a time period of:

- 30 Days For All Exclusions From City of Canby Parks**
 During the Next 30 Days You Are Excluded From the Following City Park or Parks:
- | | |
|---|---|
| <input type="checkbox"/> Canby Community Park | <input type="checkbox"/> Locust Street Park |
| <input type="checkbox"/> Maple Street Park | <input type="checkbox"/> Skate Park |
| <input type="checkbox"/> Wait Park | <input type="checkbox"/> Other _____ |

Exclusion from the above listed properties means that you are not allowed to enter in or upon any part of the property. This includes all areas of the property which are open to the public such as recessed doorways, parking areas, alcoves, stairwells, lobbies, elevators, etc.

Warning

If you enter or remain in or upon the area of areas checked above during the time period checked above, you will be subject to arrest for Criminal Trespass in the Second Degree.

Appeal Rights

- You may appeal this exclusion by filing an appeal with the Municipal Judge, 122 N. Holly Street, Canby, Oregon 97013. Your appeal must be in writing and must be filed within **five calendar days** of receipt of this exclusion notice, and must be accompanied by a copy of this notice.
- Unless you request the presence of the issuing person at the appeal hearing, the Hearings Officer will use the issuing person's sworn statement as evidence at the hearing in lieu of that person's testimony.

Issuing Person (print full name)	DPSST #	Agency Name/Precinct	Date of issuance
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