

**A BILL FOR AN ORDINANCE AMENDING SECTION) ORDINANCE BILL NO. 2016-11
12.14.040 OF THE LEBANON MUNICIPAL CODE)
REGARDING EXCLUSION FROM CITY PARKS FOR)
VIOLATION OF THE LEBANON MUNICIPAL CODE) ORDINANCE NO. 2880
AND DECLARING AN EMERGENCY)**

WHEREAS, LMC 12.14.040 provides for exclusion from parks and public facilities for individuals who violate certain laws of the City of Lebanon or the state while in a Lebanon park or public facility; and

WHEREAS, the City Council has heard the report of the Lebanon City Attorney and the Lebanon Police Chief and comments from staff; and

WHEREAS, the City Council hereby finds that a person who violates any Lebanon Municipal Ordinance or law of the state of Oregon while in a public park or public facility should be excluded from the park or public facility for a period of 30 days; and

WHEREAS, the City Council finds that an exclusion order should be extended for an additional 180 days if a person who is excluded violates the exclusion notice by entering a city park or public facility; or an additional 365 days if a person violates the laws of the City of Lebanon or the State in a City Park or Public Facility while an exclusion order is in place; and

WHEREAS, the City Council finds that such an exclusion order should be authorized if issued by a police officer or any designee of the Chief of Police.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. Lebanon Municipal Code Section 12.14.040, Exclusion of persons from parks and public facilities, is hereby amended to read as follows:


- A. If a police officer has probable cause to believe that a person has violated any section of the Lebanon Municipal Code, or any laws of the state of Oregon, while in a public park or public facility, a police officer or designee of the Chief of Police may exclude that person from any or all parks or public facilities for a period of not more than thirty days in accordance with the following procedure:
1. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take effect immediately upon the giving of the notice.
 2. The notice shall prominently specify the beginning and ending dates of the exclusion period.
 3. The notice shall prominently display a trespass warning describing the potential consequences of unlawful behavior after receipt of an exclusion notice and for entering a park or public place during the exclusion period.
 4. At any time within the exclusion period, a person having received a notice may apply in writing to the Chief of Police, or his designee, for a temporary waiver from the exclusion for good reason shown.

5. At any time within the exclusion period, if an individual violates the exclusion order by entering a city park or public facility, the exclusion order should be extended for an additional 180 days.
 6. At any time within the exclusion period, if an individual violates the laws of the City of Lebanon or the State in a City Park or Public Facility the exclusion order should be extended for an additional 365 days.
- B. Any person receiving an exclusion notice may appeal the issuance of such notice by appealing to the City Manager in a form provided for that purpose. Such written notice shall be delivered within three business days from the date of its issuance to the City Manager's Office. The City Manager shall conduct a due process hearing on the appeal within ten business days after receipt of the notice. At such hearing, the City Manager shall offer an opportunity for the appellant to offer evidence. The Chief of Police may appear at such hearing to provide evidence, or may supply the City Manager with any written reports concerning the reason for the exclusion order. The Oregon Rules of Evidence shall not apply at such hearing, but the City Manager may rely upon such evidence as is allowed in administrative proceedings under Chapter 183 of the Oregon Revised Statutes.
 - C. After hearing such evidence as may be offered, the City Manager may modify, affirm or reverse the decision of the Chief of Police as to any exclusion order made. Notice of such decision shall be sent to the appellant, in writing, at the address given by the appellant for such purpose. The decision of the City Manager shall be made within five business days of the hearing.
 - D. The decision of the City Manager shall be final and not appealable by the Chief of Police or by the appellant.
 - E. The exclusion order shall remain in effect pending the decision of the City Manager.

Section 2. Because the exclusion of individuals from parks and public facilities who violate certain laws within the City is necessary for the peace, health and safety of the people of the city of Lebanon, an emergency is declared to exist, and this ordinance is effective upon its passage by the City Council.

Passed by the Lebanon City Council and executed by the Mayor on this 25th day of May, 2016 by a vote of 6 yeas and 0 nays.

CITY OF LEBANON, OREGON



 Paul R. Aziz, Mayor
 Bob Elliott, Council President

ATTESTED BY:



 Linda Kaser, City Clerk