



CITY OF BEND

CODE OF CONDUCT FOR CITY PROPERTY

Policy No. 2023-5

Bend Code Chapter 1.30.005 provides for “City Manager Authority to Adopt Administrative Regulations, Policies and Guidelines.” All regulations, policies and guidelines adopted by the City Manager shall be consistent with the City of Bend Charter, the Bend Code, and council ordinances.

The following policy conforms to the above stated standards.

Authorized by City Manager:

DocuSigned by:
Eric King
409FF33EB4E64D3...

Eric King, City Manager

Dated: 3/7/2023

Reviewed by Legal Counsel:

DocuSigned by:
Mary Winters
8B6252FA6CD44F1...

Mary Winters, City Attorney

Dated: 3/7/2023



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I. PURPOSE

This purpose of this Policy for Code of Conduct for City Property is to:

1. Maintain an environment that promotes orderly administrative and business operations, and to take reasonable and prudent actions to protect the health, welfare, and safety of all persons on or at City Property.
2. Prevent and prohibit conduct that threatens harm to individuals or public interests or interferes with the City's ability to serve the public.
3. Provide fair warning of the nature of the conduct that would subject a person to removal from City Property.

II. SCOPE

This Policy applies to all City Property except where specific rules of conduct or prohibitions have been adopted or designated for real property the City owns, has a property interest in, or has property management responsibilities for, including during Council, Committee, Commission, or Board meetings.

III. DEFINITIONS

- A. "Authorized Person" means:
 1. The City Manager;
 2. The Facilities Director; or
 3. Any sworn peace officer as defined by Oregon law.
- B. "Business day" means Monday through Friday, excluding holidays described in ORS 187.010.
- C. "City" means the City of Bend.
- D. "City building" means any building owned, rented, leased, or occupied by the City of Bend. City building does not mean a building owned by the City but leased to a third-party.
- E. "City Property" includes all real property, land, and public facilities owned, leased to the City, controlled, or managed by the City including City parking lots or parking structures, but excluding City owned or managed rights-of-way.
- F. "Variance" means permission from the City to enter and remain on City Property for a limited purpose.

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IV. RULES OF CONDUCT ON CITY PROPERTY

While on City Property:

- A. No person shall engage in any activity that would constitute a violation of any federal, state, or local law or regulation.
- B. No person shall deface, damage, or destroy City Property or City-owned personal property.
- C. No person shall physically injure another person.
- D. No person shall physically or verbally threaten another person.
- E. No person shall enter, attempt to enter, or remain in any area of City Property designated as secured, restricted, or that is not open to members of the public, unless such person has authorization from a City employee.
- F. No person shall engage in conduct that unreasonably disrupts or interferes with normal operations of City business or engage in conduct that unreasonably disturbs customers or employees of the City, including conduct that creates unreasonable noise.
- G. No person shall interfere or obstruct the free passage of other individuals on City Property, including but not limited to placing objects that impede free passage.

V. REMOVAL FROM CITY PROPERTY

- A. The removal procedures in this Section shall be used for City Property subject to the Rules of Conduct listed above. If a person violates any of the Rules of Conduct on City Property described in Section IV, an Authorized Person may order a person be removed from City Property and not return before 8 a.m. the following day.
- B. In the event a person's conduct violates any of the Rules of Conduct on City Property described in Section IV and constitutes an imminent threat to public or employee safety, the City Manager, in consultation with the Chief of Police, may order a person be removed from City Property for a period of up to seven (7) days. The City Manager must cite articulable facts that form the basis for the finding of an imminent threat and to justify the length of the removal on the written notice described in Section VII. Any order removing a person for longer than 24 hours is subject to the appeal and variance procedures set forth in this Policy.
- C. An Authorized Person should use their reasonable discretion to first identify a less restrictive response before resorting to removal, which may include offering to call or calling Deschutes County Stabilization Center, Deschutes County Mobile Crisis Team, or another service provider in the event a person is having a mental health incident or where otherwise appropriate under the circumstances. In the event of a medical emergency, the Authorized Person will immediately call 9-1-1 or another

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appropriate emergency responder.

D. An Authorized Person is a "Person in Charge" as that term is defined in ORS 164.205(5). The authority granted to an Authorized Person by this Policy is in addition to, and not in lieu of, any other authority granted under applicable law.

E. A removal order only applies to the specific City Property on which the violation occurs.

VI. PROTECTED ACTIVITY

A. Persons who are not violating any of the Rules of Conduct described in Section IV may remain on City Property during business hours or when the City Property is otherwise open to the public.

B. Nothing in the Policy authorizes the removal of any person lawfully exercising free speech or other rights protected by the state and federal constitutions if the person is not violating a Rule of Conduct in Section IV. However, a person may be subject to removal from City Property if they commit an act that violates a Rule of Conduct in Section IV and is an act not protected by the state and federal constitutions.

C. An Authorized Person will confer with the City Attorney as necessary to determine whether a person's actions or speech are protected by the federal or state constitutions.

VII. PROCEDURES FOR REMOVAL FROM CITY PROPERTY

A. **Warning; Exception.** Before issuing a removal order under this Policy, an Authorized Person shall first give the person a warning and reasonable opportunity to stop the violation. No Authorized Person shall issue a removal order if the person promptly complies with the warning and desists from the violation. However, an Authorized Person may issue a removal order without a warning if the person's conduct constitutes a crime, results in a physical injury to any person; or results in damage to any property, whether or not owned by the City.

B. **Written Notice.** The Authorized Person shall provide written notice in the form attached hereto as Exhibit B to any person removed from City Property under this Policy.

1. The written notice is sufficient if it includes:
 - a. The date, location, and termination date of the removal;
 - b. The law or rule of conduct that the person violated;
 - c. A brief description of the conduct;
 - d. The signature of the Authorized Person; and

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- e. Explanation of consequences for failing to comply with the written notice and a succinct description of the appeal process.

2. In the event the written notice of removal is for a period longer than 24 hours, the Authorized Person shall notify the Records Division of the City of Bend Police Department about the removal by providing a copy of the written notice to the Records Division.

C. Trespass. A person may be subject to trespass as authorized by Oregon law if that person remains on City Property after an Authorized Person provides a warning and written notice to leave as required by this Policy, or if the person returns to the same City Property in violation of the terms of the written notice.

VIII. RIGHT TO APPEAL

A. A person who has received written notice of removal from City Property for a period longer than 24 hours may request a written hearing to contest the removal. The written appeal must include any evidence supporting the basis for the appeal.

B. The person shall submit a written appeal to the Facilities Director within (1) business day of receiving the written notice. The written appeal shall include any evidence supporting the appeal. If a person is unable to submit a written appeal, the City will provide a reasonable accommodation as required by law.

IX. HEARING PROCEDURE

A. If a written appeal is timely filed, the Facilities Director, in consultation with the City Attorney, as may be necessary, (the "Hearing Officer"), will review (1) the written appeal and any evidence supporting the appeal, and (2) a written statement provided by the City Manager and any evidence supporting the removal. Such written statement provided by the City Manager must be submitted to the Hearing Officer within one (1) business day following submission of the written notice of appeal.

B. After reviewing the written statements and evidence presented by both sides, the Hearings Officer shall decide whether the removal is valid or invalid. A written decision shall be rendered within three (3) business days following submission of all written statements and supporting evidence.

1. If the Hearings Officer decides that the removal is valid, the Hearings Officer will uphold the removal.

2. If the Hearings Officer decide that the removal was invalid, the Hearing Officers will rescind the removal and provide the person with documentation of the rescission. The City shall have no liability in the event the Hearing Officer rescinds the removal.

3. The Hearings Officer may, but is not required, to issue a written

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decision explaining their rationale for the determination on appeal.

C. The Hearings Officer shall notify the Records Division of the City of Bend Police Department of the decision of the Hearings Officers within 72 hours of the hearing.

D. The decision of the Hearings Officer is final and may not be appealed.

X. VARIANCE; EXCEPTION TO VARIANCE

A. Except as provided in Subsection D below, at any time within the period of removal, a person who has received a written notice of removal may make a written request for a variance from the Facilities Director. The person must show good cause for the requested variance.

B. If the Facilities Director grants a variance, the Facilities Director shall provide the person with written documentation of the variance which includes the time, duration, location, and purpose of the variance. The person provided the variance shall bring the written documentation to the City Property where they have been removed and shall present it to City staff if requested.

C. In deciding whether to grant a variance under this section, the Facilities Director shall consider:

1. The seriousness of the violation for which the person has been excluded; and
2. The particular need of the person to be on City Property during some or all of the period of removal.

D. The Facility Director's decision to grant or deny the variance, in whole or in part, is final.

E. A person who has been excluded does not need to request a variance to either attend a public meeting or make a required court appearance, provided they notify the Authorized Person orally or in writing that they will be on City Property during the period of removal for such purpose.



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NOTICE OF REMOVAL FROM CITY PROPERTY

Name: _____

Date, time, and location of incident: _____

Brief description of conduct: _____

Policy provision(s) violated: _____

Date, duration and location of removal: _____

Authorized Person

Printed Name: _____

Date: _____