

Exhibit A

20.12.265 Park Exclusions.

- A.** To ensure compliance with rules and regulations governing the behavior, conduct or activity of users at Parks and to provide for a safe environment for the Bureau's operations, and in addition to any other remedy or right of action allowed by law, ejections and exclusions from Parks are authorized in accordance with this Section.

Nothing in this Section shall be construed to authorize the ejection or exclusion of a person for lawfully exercising free speech rights or other rights protected by the Oregon or United States Constitutions. However, a person lawfully exercising these protected rights but who commits an act that is not protected can be subject to ejection or exclusion as provided by this Section.

- B.** For the purposes of this Section, the following definitions apply:
1. **Disruptive Activity.** Disruptive Activity is behavior, conduct or activity that obstructs, disrupts or interferes with the operation or business being conducted by the City, or authorized users, or other permitted activities at a Park.
 2. **Ejection.** An ejection is an order given by an authorized Park Officer directing a person to immediately leave a Park and not to return for the remainder of the day.
 3. **Exclusion.** An exclusion is an order made by an authorized Park Officer prohibiting a person from entering or remaining at a Park for a specified period of time.
 4. **Park Violation.** Park Violation is behavior, conduct or activity at a Park that would constitute a violation of:
 - a. Federal, state or local law.
 - b. Provisions of the Code applicable to Parks, including but not limited to Title 11, Title 14, Title 16, and Title 20.
 - c. Any rule or regulation applicable to Parks.
 - d. Any ordinance or regulation adopted by the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) governing any Tri-Met facility in a Park.
 5. **Park Facility.** A Park Facility is a facility, building or improved area of a Park where the Bureau engages in business and operational functions at Park Facility, and entry or admission to the Park Facility serves proprietary, revenue or other business purposes.
- C.** Park Officer Authorized to Eject or Exclude.
1. Any Park Officer may issue an ejection to a person who engages in a Disruptive Activity or a Park Violation and direct that person to

immediately leave the Park for the remainder of the day.

2. The following Park Officers are authorized to issue an exclusion to a person who engages in a Disruptive Activity or a Park Violation:
 - a. Any peace officer as defined by Oregon law and any reserve officer of the Portland Police Bureau.
 - b. Any Park Ranger.
 - c. Any Health and Safety Manager for the Bureau, or their designee.
 - d. Any Division Manager for the Bureau, or their designee

D. Oral Warning.

1. A Park Officer shall attempt to give a person who may be subject to an ejection or exclusion under this Section an oral warning and a reasonable opportunity to stop engaging in the Disruptive Activity or Park Violation; provided, however, failure to give an actual oral warning does not nullify the effectiveness or enforceability of an ejection or exclusion.
2. A Park Officer is not required to attempt to give an oral warning before issuing an ejection or exclusion where the behavior, conduct or activity constitutes one or more of the following:
 - a. A felony, misdemeanor, or motor vehicle offense.
 - b. A violation of Chapter 14A.40, 14A.50 or 14A.60.
 - c. Dangerous or threatening behavior. Behavior is dangerous or threatening if a reasonable person, exposed to or experiencing such behavior could believe that the person would be in imminent danger of physical harm. Actual bodily injury to a person is not required. The belief of a person engaging in self-harming behavior is not deemed reasonable.

E. Length of Exclusion.

1. Except as provided below in Subsection E.2, the length of exclusion from a Park shall be for 30 days, unless:
 - a. The person to be excluded has also been excluded previously from any Park for any reason within three years before the date of the present exclusion, then the exclusion shall be for 90 days.
 - b. The person to be excluded has also been excluded previously from any Parks for any reason on two or more occasions within 3 years before the date of the present exclusion, then the exclusion shall be for 180 days.
2. The length of exclusion shall be:
 - a. For 60 days if the Disruptive Activity or Park Violation giving rise to the present exclusion:
 - (1) Constitutes child abuse under ORS Chapter 419B, elder

abuse under Chapter ORS 124, or abuse of adults with mental illness or development disabilities under ORS Chapter 430, that may trigger mandatory reporting by a Park Officer or a "public or private official" under the mandatory reporting statutes;

- (2) Constitutes any offenses against persons under ORS Chapter 163;
 - (3) Constitutes intimidation under ORS 166.155 or ORS 166.165; or
 - (4) Results in property damage to a Park of \$1,000 or more.
- b. For 120 days if the person to be excluded for a reason described in Subsection E.2.a has also been issued an exclusion for any reason previously from any Park within three years before the date of the present exclusion.
 - c. For 270 days if the person to be excluded for a reason described in Subsection E.2.a has also been excluded from any Parks for any reason on two or more occasions within three years before the date of the present exclusion.
- F.** Except as otherwise provided in this Subsection, the place of exclusion shall be the Park where the Disruptive Activity or Park Violation occurred.
- If the Disruptive Activity or Park Violation giving rise to the exclusion occurred at a Park Facility under Subsection I. and is a violation under Subsection E.2.a.(1) or Subsection E.2.a.(2), the place of exclusion may include one or more Park Facilities.
- A Park Officer may use reasonable discretion to determine multiple Park Facilities for the exclusion and that determination is not subject to appeal to the Code Hearings Officer.
- G.** The notice of exclusion shall be in writing and signed by the Park Officer issuing the exclusion. The notice shall include:
1. The date, length and place(s) of the exclusion.
 2. Specification of whether Disruptive Activity or Park Violation serves as the basis for the exclusion, and if applicable the provision of law the person has violated.
 3. A brief description of the Disruptive Activity or Park Violation.
 4. Information on the right to appeal.
 5. A warning of consequences for failure to comply.
- H.** A person receiving a notice of exclusion may appeal, in writing, to the Code Hearings Officer in accordance with the provisions of Title 22 of this Code to have the exclusion rescinded. The appeal to the Code Hearings Officer must be filed within 5 days of issuance of the notice of exclusion unless an extension is

granted by the Code Hearings Officer for good cause shown.

- I. If an appeal of the exclusion is timely filed under this Section, the effectiveness of the exclusion is stayed pending the outcome of the appeal except as indicated herein. If the exclusion is affirmed, the remaining period of exclusion shall be effective immediately upon the issuance of the Hearings Officer's decision, unless the Hearings Officer specifies a later effective date. The stay in this Subsection does not apply to the following Park Facilities:
1. Any community center, or arts and cultural building. Examples include but are not limited to Matt Dishman Community Center, East Portland Community Center, Community Music Center and Interstate Firehouse Cultural Center.
 2. An outdoor swimming pool and its fenced area. Examples include but are not limited to Creston, Grant, Montavilla, Penninsula, Pier, Sellwood and Wilson Outdoor Pools.
 3. Any golf course and all portions of the real property designated as part of the identified golf course.
 4. Portland International Raceway and all portions of the real property designated as part of the raceway complex.
 5. A public garden where an admission fee may be charged. Examples include but are not limited to: Crystal Springs Rhododendron Garden; Japanese Garden in Washington Park; and Lan Su Chinese Garden.
 6. Any other facility, building or improved area satisfying the definition of Park Facility in Subsection B.5. Inclusion of an additional Parks Facility for the purposes of this Subsection I shall made by the Director with the concurrence of the Commissioner in Charge. The Director will file with the Auditor in the Portland Policy Documents repository the additional facility designated as a Park Facility within two business days after the designation becomes effective
- J. The Code Hearings Officer shall uphold the exclusion if, upon the Code Hearings Officer's de novo review, the preponderance of evidence admissible under the provisions of Title 22 of this Code that, more likely than not, the person in fact committed the violation for which the person was excluded, and if the exclusion is otherwise in accordance with law. The Code Hearings Officer may rely upon any evidence that a reasonable person would rely upon in making an important decision or conducting personal business, including hearsay deemed reliable by the Code Hearings Officer. Sworn statements of the Park Officer issuing the notice of exclusion shall be admissible evidence on appeal, unless the appellant requests in writing the presence of the Park Officer at the appeal hearing.
- K. If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal (or pending judicial review, should a court stay the exclusion), the stayed exclusion shall be counted in determining the appropriate length of the subsequent exclusion under Subsection E. If the predicate exclusion is set aside, the term of the subsequent exclusion shall be reduced, as if the predicate

exclusion had not been issued. If multiple exclusions issued to a single person are simultaneously stayed pending appeal, the effective periods of those which are affirmed shall run consecutively.

- L. At any time after the time for an appeal has elapsed, or after an appeal has been decided by the Code Hearings Officer, the excluded person may request a modification of the exclusion in writing to the Commissioner.
1. A request for modification of the exclusion must specify good reason and identify the modification desired.
 2. The Commissioner may consider the seriousness of the Disruptive Activity or Park Violation for which the person has been excluded, prior incidents of violations that may have resulted in ejections or exclusions, the nature and scope of disruption to City operations due to the person's violations, the particular need of the person to be in the Park during some or all of the period of exclusion such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criteria the Commissioner determines to be relevant to the determination of whether or not to grant a modification.
 3. The Commissioner has the sole discretion to grant or deny a request for modification of an issued exclusion, in whole or in part, and the decision is not subject to appeal or review.
 4. Nothing in this Section requires the Commissioner to grant the request for modification.
 5. If the Commissioner grants a modification under this paragraph, the Commissioner shall promptly notify the Portland Police Bureau's Records Division and the Parks Director of the modification decision.