

RESOLUTION NO. 3059

A RESOLUTION OF THE CITY OF WILSONVILLE APPROVING A CIVIL EXCLUSION POLICY FOR CITY FACILITIES.

WHEREAS, Wilsonville Code (WC) 10.540 provides broad authority for the City to issue a civil exclusion against an individual who violates any Code provisions, ordinances, or criminal or traffic laws while on City property; and

WHEREAS, WC 10.540 establishes a minimum exclusion period of 30 days; and

WHEREAS, there is currently no Code provision that establishes the parameters for a shorter exclusion period; and

WHEREAS, ongoing disruptive conduct in City facilities that may not be explicitly prohibited in City Code or ordinances should be subject to an exclusion policy; and

WHEREAS, when individuals engage in disruptive or prohibited conduct in a City facility, the City should have a policy that addresses exclusions in other City facilities; and

WHEREAS, City employees should have authority to issue exclusions without involvement of law enforcement when an individual is disruptive but not engaging in criminal conduct.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. Findings. The above-stated recitals are incorporated as findings, along with the staff report accompanying this Resolution.

Section 2. The Civil Exclusion Policy attached hereto and incorporated by reference herein as **Exhibit A** is approved as the City of Wilsonville Exclusion Policy.

Section 3. Effective Date. This Resolution is effective beginning July 1, 2023.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 19th day of June, 2023, and filed with the Wilsonville City Recorder this date.

DocuSigned by:

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JULIE FITZGERALD, MAYOR

ATTEST:

DocuSigned by:
Kimberly Veliz
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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Linville	Yes
Councilor Berry	Yes
Councilor Dunwell	Yes

EXHIBIT:

A. City of Wilsonville Civil Exclusion Policy

City of Wilsonville’s Civil Exclusion Policy
Effective July 1, 2023

Exclusion Generally:

The following conduct is prohibited on the City of Wilsonville’s property as authorized by the City Manager. Wilsonville Code (WC) 10.540. “City Property” means any property, including but not limited to parks, greenways, libraries, buildings, parking lots, or other land or physical structures owned by the City, but excluding City-owned sidewalks and rights-of-way. Persons who violate rules outlined below (“Conduct Violations”) may be subject to the penalties set forth herein.

Engaging in more than one of the Conduct Violations 1-21 below or any Conduct Violations listed in rules 22-43 may be cause for immediate exclusion as well as criminal penalty. Engaging in: (a) one or more of the Conduct Violations on different City Properties within the same day or within a previously imposed exclusion period; (b) more than one of the Conduct Violations 1-21 below; (c) any Conduct Violations listed in rules 22-43; or (d) demonstrating intentional or willful disregard of patrons, employees, or City Property when engaging in Conduct Violation(s) or when receiving compliance instructions from City employees or Excluding Officers may be cause for exclusion from all City Property for a period of one day to one year, dependent on the number and severity of the Conduct Violation(s). An “Excluding Officer” is defined as any police officer or City employee who is authorized by the City Manager to issue exclusions. An Excluding Officer may issue exclusions for durations up to and including the number of days stated for an offense.

Repeat Offenses:

Individuals who repeatedly engage in Conduct Violations after having been previously excluded for Conduct Violations will face longer exclusions. Repeat offenders need not violate the same rule, nor violate rules in the same facility, to be subject to stricter enforcement and may not be warned that their conduct is inappropriate before being excluded.

Exclusion Regarding Criminal Conduct:

The City of Wilsonville may issue a civil exclusion in addition to any criminal penalties, orders, or exclusions issued by law enforcement and/or courts.

Written Notice:

Written notice signed by the Excluding Officer shall be given to any person excluded from any City Property when the exclusion period is longer than the remainder of the day. Excluding Officers will attempt to provide written notice to the fullest extent possible at the time of issuing the exclusion. If an individual has left the City Property before the notice may be provided to the individual, the Excluding Officer will provide the notice as soon as reasonably possible thereafter. The notice shall specify: (a) the date of the exclusion's issuance; (b) length of exclusion; (c) City Property from which the person is excluded; (d) identify the Conduct Violation(s) the person has violated and shall contain a brief description of the offending conduct; (e) inform the excluded person of the right to appeal, including the time limit and the place of delivering the appeal; (f) inform the excluded person of the right to petition for a waiver of all or any portion of the exclusion; and (g) the consequences for failure to comply shall be prominently displayed on the notice.

Appeal Procedure:

A person receiving such notice of exclusion may appeal the exclusion to either: (1) the Wilsonville City Manager; or (2) the Wilsonville Municipal Court. The appellant is prohibited from appealing to both the City Manager and the Wilsonville Municipal Court. If an individual submits an appeal to both, whichever receives the appeal first will consider the appeal and the other appeal will be summarily dismissed. If an appeal is submitted simultaneously to both, the appeal will be considered by the City Manager and the appeal to the Municipal Court will be summarily dismissed without a hearing.

Appeal to City Manager:

If an individual elects to appeal to the City Manager, the appellant must submit, in writing, to the City Manager, not later than seven (7) days after the exclusion or issuance of the exclusion notice (if provided after the beginning of the exclusion period), the following information: (a) appellant's name, contact information (address, telephone number, email, and any other information as a means to contact the individual); (b) the exclusion the appellant is appealing; and (c) appellant's reason(s) why the exclusion should be rescinded. The written appeal must be submitted by at least one of the following means: (a) hand-delivery at Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon 97070; (b) email to: Administration@ci.wilsonville.or.us; or (c) first-class mail to City of Wilsonville,

attention: City Manager, 29799 SW Town Center Loop East, Wilsonville, Oregon 97070. For appeals sent via first-class mail, the appellant bears the responsibility to ensure the appeal is received by the City within the seven-day appeal period. Any untimely appeals will be summarily dismissed without further consideration.

For all timely submitted appeals, the City Manager will decide whether to uphold, rescind, or modify the exclusion not later than two (2) Business Days after receipt of the appeal. For clarity, the day the appeal is submitted does not count toward the two-Business-Day period. "Business Day" means any day Wilsonville City Hall is open to transact business.

The City Manager will rescind the exclusion upon a showing that: (1) it was more likely than not that the excluded individual did not commit the Conduct Violation(s); (2) extenuating circumstances warrant reducing or dismissing the exclusion order; or (3) the excluded individual was engaged in the lawful exercise of any right or privilege guaranteed under the United States Constitution, Constitution of the State of Oregon, or any other law. The City Manager may seek evidence from the Excluding Officer to aid in the City Manager's decision. The City Manager's decision will be provided to the email and/or mailing address provided by the individual.

Appeal to Municipal Court:

If an individual elects to appeal to the Wilsonville Municipal Court, the appellant must submit, in writing, to the Municipal Court, not later than seven (7) days after the exclusion or issuance of the exclusion notice (if provided after the beginning of the exclusion period), the following information: (a) appellant's name, contact information (address, telephone number, email, and any other information as a means to contact the individual); and (b) the exclusion the appellant is appealing. An evidentiary hearing shall be held at the next regularly scheduled session of the Wilsonville Municipal Court. The Excluding Officer will be provided the opportunity to attend the hearing and to present evidence to support issuing the exclusion. The excluded individual may request, in writing, setting forth the reason therefor, that the hearing be postponed, and the Municipal Court shall grant such a postponement upon a showing of necessity. The Municipal Court shall dismiss the exclusion upon a showing that: (1) it was more likely than not that the excluded individual did not commit the Conduct Violation(s); (2) extenuating circumstances warrant reducing or dismissing the exclusion order; or (3) the

excluded individual was engaged in the lawful exercise of any right or privilege guaranteed under the United States Constitution, Constitution of the State of Oregon, or any other law.

Writ of Review:

The decision of the City Manager or the Municipal Court may be reviewed via a writ of review process provided in ORS 34.010 through 34.102.

Exclusions during an Election:

To ensure eligible voters are not excluded, a maximum of two hours shall be permitted to anyone issued a notice of exclusion in order to participate in an election facilitated on City property.

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Tier 1: Disruptive Personal Conduct						
Consequences (Exclusion Period)						
#	Violation	1st Violation	2nd Violation	3rd Violation	4th Violation	5th Violation
1	Excessive odor, either because of poor personal hygiene or excessive cologne/perfume	Asked to leave until resolved	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
2	Disruptive cell phone use	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
3	Loud Noises, including but not limited to shouting, snoring, and impermissible audio equipment use	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days

4	Disregarding the direction of facility staff	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
5	Verbal or written abuse directed toward staff or patrons	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
6	Behavior that endangers other Patrons and/or Staff	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
7	Solicitation of any kind, except in dedicated areas	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
8	Use of Tobacco, Cigarettes, e-cigarettes, or Vape Pens	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days

9	Leaving Personal Items unattended	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
10	Disruptive eating (consuming food that is loud or messy, more than a quick tidy snack)	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for One Week	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
11	Leaving trash or food waste in the facility (except in designated garbage receptacles)	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
12	Entering or remaining on facility premises with belongings that cannot be carried in a single trip and stored under a chair or table without disturbing others	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
13	Using restrooms for bathing, washing hair, shaving, washing laundry, or other improper use	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days

14	Significantly rearranging or moving furniture or materials without returning them.	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
15	Laying on the floor for the purpose of sleeping	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
16	Bringing animals into the facility (Except Service Animals)	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
17	Skateboarding in a prohibited area (Wilsonville City Code 10.420)	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
18	Using rooms, materials, and/or furniture for purposes for which they are not intended	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days

19	Any other Disruptive behavior defined as conduct that interferes with: (a) Normal facility operations; and/or (b) Staff's ability to do their job; and/ or Another patron's ability to use a facility.	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
Tier 2: Disruptive Property Violations						
Consequences (Exclusion Period)						
#	Violation	1st Violation	2nd Violation	3rd Violation	4th Violation	5th Violation
20	Blocking access to Facility Services	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days
21	Inflicting damage to City facility or a facility's property	Warning Given; and if Continued, Exclusion for Remainder of Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion 180 days

Tier 3: Criminal Violations						
Consequences (Exclusion Period)						
#	Violation	1st Violation	2nd Violation	3rd Violation	4th Violation	5th Violation
22	Refusing to leave the facility when asked to do so	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
23	Harassment of staff or other Patrons	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
24	Intoxication: Including exhibiting any signs of or being under the influence; being under the influence of any controlled substance listed in Schedules I-V of the Controlled Substances Act, 21 U.S.C. §812 (ORS 475; Wilsonville City Code 10.300)	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
25	Selling or Distributing of Cannabis, Alcohol or any illegal substances; smoking or using any cannabis products that are prohibited from use on City Property or in City facilities.	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days

26	Engaging in Conduct that is classified as theft such as taking, appropriating, or withholding property from a patron or a city facility. (ORS 164.055)	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
27	Engaging in disorderly conduct by intentionally causing public inconvenience or alarm, pulling a fire alarm when there is no emergency, circulating a knowingly false report, inciting a riot. (ORS 166.023; ORS 166.715)	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
28	Engaging in Sexual Conduct including but not limited to indecent exposure or physical contact through clothing for sexual gratification or disregarding another person's reasonable expectation of privacy. (ORS 167.060; ORS 163.070)	Immediate Exclusion for 30 Days with No Warning	Excluded for 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days	If within two years before the date of the present exclusion, 1 year.
29	Attempting to bribe a public servant/employee with the intent to assert influence. (ORS 162)	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days

30	Engaging in Conduct including: (1) Homicide (2) Assault and Related Offenses (3) Kidnapping and Related Offenses (4) Coercion (5) Sexual Offenses (6) Invasion of Privacy (7) Stalking (ORS 163)	Immediate Exclusion for 30 Days with No Warning	Excluded for 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days	If within two years before the date of the present exclusion, 1 year.
31	Engaging in conduct such as extortion, money laundering, arson, criminal mischief, graffiti, littering or other criminal offenses regarding the destruction of city property. (ORS 164)	Immediate Exclusion for 30 Days with No Warning	Excluded for 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days	If within two years before the date of the present exclusion, 1 year
32	Engaging in Conduct that is fraudulent or deceptive such as forgery, fraudulent use of a credit card, falsifying a record, misrepresentation of age, misrepresentation of identity. (ORS 165)	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
33	Possession of a firearm, destructive device, ammunition, or body armor on city property. (Not applicable to persons licensed to carry a concealed handgun)(ORS 166.370(3)(g))	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
34	Engaging in Conduct that is abusive of animals, creates a hazard, obscene, promotes gambling, or prostitution (ORS 167)	Immediate Exclusion for 30 Days with No Warning	Excluded for 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days	If within two years before the date of the present exclusion, 1 year

35	<p>Conduct in which a person below the age of 21 years old attempts to purchase, acquire, or possess any form of alcoholic liquor.</p> <p>(Wilsonville City Code 10.130)</p>	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
36	<p>Allow a dog to be off leash or at large in any public street, park, or other city facility unless it is a designated area for off leash animals, or the dog is a service animal. The owner is responsible for all fecal matter collection and any behaviors of the animal.</p> <p>(Wilsonville City Code 10.220;10.240)</p>	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
37	<p>Engaging in conduct that harms or kills birds or any animal without consent in the form of a written motion from the City Council approving/designating such animal as a nuisance.</p> <p>(Wilsonville City Code 10.230)</p>	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
38	<p>Engaging in conduct in which a person requests an immediate donation of money or any other gratuity from another person, and includes seeking donations:</p> <p>(a) By vocal appeal or for music, singing, or other street performance; (b) When the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.</p> <p>(Wilsonville City Code 10.310)</p>	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days

39	Spitting upon a public sidewalk or street, or in a public facility, except in receptacles designated for that purpose. Urinating or defecating in public unless it is in an appropriately designated bathroom facility. (Wilsonville City Code 10.350)	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
40	Engaging in conduct of destroying or injuring any property of the City. (Wilsonville City Code 10.350)	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
41	Intentionally defacing or tearing down any notice, bulletin, or sign before its date of expiration; or posting of any unauthorized posters. (Wilsonville City Code 10.390)	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
42	Engaging in conduct of jumping, climbing, or diving from the public pilings at the boat dock or swimming dock at the Wilsonville Memorial Park or Boone's Ferry Park. (Wilsonville City Code 10.425)	Immediate Exclusion for 7 Days with No Warning	Excluded for 30 Days	Excluded For 60 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days
43	Promoting an individual to commit any of the offenses specifically prohibited in the City code. (Wilsonville City Code 10.510)	Immediate Exclusion, with No Warning, for the Remainder of the Day	Excluded for 7 Days	Excluded For 30 Days	If within two years before the date of the present exclusion, 90 days	If within two years before the date of the present exclusion, 180 days