



Spokane Parks and Recreation Board Policy:

EXCLUSION FROM PARKS AND RECREATION AREAS

Committee Recommended Approval: June 5, 1996

Park Board Approval: June 13, 1996

Effective Date: June 13, 1996

Revision Date: Land Committee Recommended Approval April 1, 1998

Park Board Approval of Revised Policy: April 9, 1998

Effective Date: April 10, 1998

Revised Date: June 3rd, 2013 (Submitted by Jeffrey Bailey)

1.0 Purpose:

To update the April 10, 1998 Park Board policy regarding exclusion from Parks and Recreation areas and programs.

2.0 References/Authority:

Spokane City Charter Section 48 authorizes the **Park Board** to make rules and regulations for the use of parks and provide for the enforcement of such rules and regulations.

General Policy Authorizing Exclusion from City Property and Facilities:

Any person engaging in prohibited conduct while present on or in Park property may be directed to leave such property by a commissioned Law Enforcement official, or City employee or contracting officer authorized by the Director of Parks and Recreation to exclude. A person who has been directed to leave Park property will be given a written Notice of Exclusion as soon as possible under the circumstances, and cannot reenter the property until the exclusion period set forth in a Notice of Exclusion has expired.

3.0 **Definitions:**

3.0 Park property. As used in this Policy, Park property collectively includes Parks and Recreation areas and Park Programs.

3.1 Parks and Recreation areas mean all property owned by the Spokane Parks and Recreation Department including all facilities located thereon and includes real property or facilities managed by the Parks Department.

3.2 Park Programs means all recreational or other programs run by the Spokane Parks and Recreation Department.

3.3 Prohibited conduct means acts that violate the Spokane Municipal Code, or federal or state law, or park rules. Prohibited conduct also includes the use of words in such a manner that under the circumstances the use of such words is not constitutionally protected speech (i.e., true threats, etc.). 3.3 Director. Whenever the term "Director" is used in this Policy, the term includes the Director of the Spokane Department of Parks and Recreation or his designee.

3.4 Exclusion refers to suspension of the privilege to use, loiter, or otherwise be present on or in Parks and Recreation areas, or to spectate or participate in Park Programs for a specified period of time because the individual engaged in prohibited conduct therein.

4.0 **Procedures for Exclusion from Park property:**

Exclusion of persons from Park property:

4.1 Any person who is directed to leave Park property by an official authorized under this Policy because the person engaged in prohibited conduct while present on or in Park property will be personally served a written Notice of Exclusion, substantially in the form of Exhibit A attached, as soon as possible under the circumstances. The notice shall specify:

- a. The reason for exclusion.
- b. The Park property from which the person is excluded.
- c. The duration of the exclusion period.

The following guidelines shall be used in determining the duration period of exclusion for engaging in prohibited conduct:

1 The actual exclusion period imposed may be shorter or longer depending on the circumstances of each case.

2. Authorized personnel may impose an exclusion using the following guidelines:

Civil Infraction	1-15 days
Misdemeanor	15-30 days
Gross Misdemeanor	30-90 days
Felony	365 days

- d. The effective date of the exclusion.
- e. The appeal process.
- f. Provide the person an opportunity to respond within ten (10) calendar days of receiving the Notice of Exclusion.

4.2 The period of exclusion shall commence on the date and time written Notice of Exclusion is received. In most circumstances, this date will coincide with the date the person is verbally directed to leave for engaging in prohibited conduct on that date. Should circumstances interfere with the reasonable ability to personally serve the written Notice of Exclusion at the time one is verbally directed to leave, then the period of exclusion begins on the date and time the person is verbally directed to leave. Such verbal notice will include a description of the place and duration of exclusion, and notice that a written Notice of Exclusion documenting the terms of exclusion and explaining appeal rights will be mailed. The written Notice of Exclusion shall be mailed by placing the notice in the U.S. mail postage prepaid to the last known address of the person/s who is directed to leave. Receipt of such notice is presumed to have been accomplished three (3) days after mailing.

4.3 Any person who has been directed to leave cannot reenter Park property until the period of exclusion set forth in the notice has expired.

4.4 Failure to comply with a written Notice of Exclusion, or verbal notice of exclusion during the time frame when written notice has not yet been received, may be grounds for prosecution for criminal trespass.

5.0 **Appeal Procedure:**

- 5.1 No later than ten (10) days after commencement of the exclusion, an excluded person may appeal in writing to the Director of the Parks and Recreation Department for review of the exclusion. The appeal notice may include a written statement summarizing the reasons the exclusion is alleged to be invalid or improper. The appeal will be decided based on review of written materials submitted (“a written review appeal”) unless the appeal notice asks for an appeal review hearing. In most circumstances, the selected method of review will be conducted 14 days after receipt of the appeal notice, or as soon as practicable thereafter.
- 5.2 Within 14 days after receipt of the appeal notice from the excluded individual, the Director may ask the authorized city official who excluded the individual to provide a supplemental written incident report.
- 5.3 Written review appeal. Fourteen (14) days after receipt of the appeal notice, or as soon as possible thereafter, the Director will review the written materials submitted (including the Notice of Exclusion) to determine whether the Notice should be upheld, modified or terminated.
- 5.4 Hearing review appeal. If the appeal notice requests a appeal by hearing, then a hearing will be conducted fourteen (14) days after receipt of appeal notice or as soon as possible thereafter. The Director will conduct an appeal hearing wherein the excluded person and/or his witnesses may appear and be heard. At the hearing, written materials submitted (including the Notice of Exclusion) will also be considered. The authorized city official who excluded the individual from Park property need not be present. No record of the hearing is required. The Director will consider both oral statements and the written materials submitted to determine whether the Notice of Exclusion should be upheld, modified or terminated.
- 5.5 Evidentiary review standard. The prohibited conduct described in the Notice of Exclusion need only be proven by a preponderance of the evidence. The preponderance of the evidence standard is satisfied if the evidence demonstrates more likely than not that the excluded person in fact engaged in the prohibited conduct. If the Notice of Exclusion was issued because of the alleged violation of any criminal law, the excluded person need not be charged, tried, or convicted for such violation to satisfy this standard.
- 5.6 The Director will provide the excluded individual a written decision on review of the appealed Notice of Exclusion 10 days after either the written review appeal or appeal hearing is conducted.
- 5.7 A Notice of Exclusion remains in effect and is not suspended or stayed during the pendency of the appeal process.

See Notice of Exclusion form on following page

