

## **ORDINANCE NO. 411**

### **ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH PLAINS, OREGON, ADOPTING CHAPTER 4.35 REGARDING EXCLUSION FROM CITY FACILITIES**

**WHEREAS**, the City Council believes it necessary to ensure that places the City maintains or controls such as the library or community center are available for use by patrons without a concern that lawful uses of those facilities may be disrupted as a result of unlawful and/or disorderly conduct by others;

**WHEREAS**, the City believes it both appropriate and necessary to create a process affording appropriate city staff the ability to issue exclusion notices from city owned, maintained or controlled facilities to individuals who engage in conduct that interferes with the appropriate use of those facilities

**NOW THEREFORE, BASED ON THE FOREGOING, THE CITY OF NORTH PLAINS ORDAINS AS FOLLOWS:**

**SECTION 1.** A new Chapter 4.35 (Exclusions from City Facilities) is hereby created to read as follows:

**4.35.010. Exclusion.**

- A. Any person engaging in conduct deemed to be disorderly conduct in either the first or second degree as defined by state statute while on or in a City Facility or in violation of any rule of conduct adopted by the city council relative to the use of that City Facility shall be subject to exclusion therefrom for a period of up to ninety (90) consecutive days.
- B. As used in the subsection (A) above, "City Facility" is the same thing as "Park, Community Buildings and Recreation Area" as that phrase is defined in 4.05.120.

**4.35.020. Authority to Issue Notice of Exclusion; Contents of Notice.**

- A. The Police Chief and/or City Manager are authorized to issue exclusion notices to individuals for conduct identified in 4.35.010. Either the Police Chief or City Manager may authorize other municipal personnel to issue exclusion notices consistent herewith. In addition, the Police Chief shall have the ability to authorize law enforcement personnel other than that employed by the City to enforce the terms of this Chapter.
- B. The exclusion notice shall:
  - 1. Succinctly describe the nature of the conduct giving rise to the exclusion;
  - 2. Cite the appropriate provision of state law or city rule that the conduct violates;
  - 3. The duration of the exclusion; and
  - 4. The date the exclusion commences.

The notice shall also describe the right to appeal provided in Section 4.35.030.

**4.35.030. Right to Appeal.**

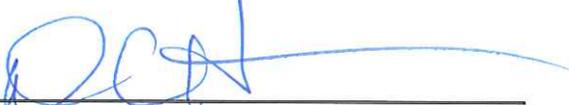
- A. The individual to whom an exclusion notice is issued shall have the right to appeal issuance of the exclusion notice. The appeal, to be effective shall be in writing and filed within five (5) calendar days of the notice's issuance. It shall be filed with either the Office of either the City Manager or Police Chief and contain the following information:
  - 1. Appellant's name;
  - 2. His or her address and a telephone number where he/she can be reached;
  - 3. A concise statement as to why issuance of the exclusion notice was in error; and
  - 4. Attach a copy of the notice of exclusion appealed from.
  
- B. A hearing on the appeal shall be had before a judge of the Justice Court with the hearing taking place no more than ten (10) calendar days after the filing of the appeal except in the event the court determines otherwise.
  
- C. The City has the burden to show by a preponderance of evidence that the exclusion is based on conduct described in 4.35.010.
  
- D. In the event no appeal is properly and timely filed, then the exclusion shall continue for the period set out in the notice, but shall not exceed ninety (90) days. In the event a person found in or on the property from which they were validly excluded, that person shall be subject to arrest for criminal trespass.

**4.35.040. Variances.**

Variances from the exclusion may be granted at any time during the exclusion period by either the Police Chief or City Manager in the event the individual subject to the exclusion has a reason deemed acceptable either by the City Manager or Police Chief for being on or in the City Facility. The Police Chief or City Manager may limit access to the City Facility to a specific time period and location.

**INTRODUCED** for first reading on the 5<sup>th</sup> day of November, 2012 for second reading and adoption on November 19, 2012.

**CITY OF NORTH PLAINS, OREGON**

By:   
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David Hatcher  
Mayor

ATTEST:

By:   
\_\_\_\_\_  
Martha DeBry  
City Manager/City Recorder