

**ORDINANCE NO. 2354**

**AN ORDINANCE AMENDING CHAPTER 96 OF THE HERMISTON MUNICIPAL CODE**

WHEREAS, the City of Hermiston created Chapter 96 “Rules of Conduct for City Property” by Ordinance No. 2346 on April 10, 2023; and

WHEREAS, §96.05 allows for individuals to be excluded by the City Manager from city properties for violation of rules set forth in §96.04; and

WHEREAS, it has become necessary to amend §96.05 to allow City of Hermiston police officers the authority to exclude individuals from city property under certain situations; and

WHEREAS, originally under §96.06 there was no penalty for violation of an exclusion order and it is proposed to amend the subsection by making the penalty for violating an exclusion order be a Class A violation.

**THE CITY OF HERMISTON ORDAINS AS FOLLOWS:**

(New language is in red and underlined and repealed language has a line through it.)

**Section 1. Subsection 96.05(A) of the Hermiston Municipal Code is amended as follows:**

**96.05 CITY PROPERTY EXCLUSIONS.**

- (A) The exclusion procedures in this section shall be used for city property subject to the rules of conduct in § 96.04.
- (1) If a person violates any law or rule of conduct at city property described in § 96.04 while in or upon city property, any police officer or person-in-charge may eject and direct the person to leave the city property for a period of 24 hours.
  - (2) ~~In addition, †~~ The City Manager may issue an exclusion for any period of time up to one year from city property to any person who violates any rule of law or rule of conduct described in this chapter while in or upon city property.
  - (3) In addition, a police officer may exclude any person who violates any rule of law or rule of conduct described in this chapter while in or upon city property.
    - a. Exclusions issued by a police officer shall be effective for 30 days. A second exclusion issued within one year shall be effective for 90 days. Additional exclusions issued within one year of the second exclusion shall be effective for 180 days.

- (B) Notwithstanding this section, if public meetings of the City Council, or of city boards and commissions are held in a city property, an ejection from the public meeting must comply with the rules of order and procedure for the City Council. Any further exclusion from public meetings shall follow the procedure set forth in this chapter.
- (C) Before issuing an ejection or exclusion under this section, ~~the~~ a police officer or person-in-charge shall first give the person a warning and opportunity to desist from the violation of law or rule of conduct. An ejection or exclusion shall not be issued if the person promptly complies with the direction and desists from violating the law or rule of conduct. Notwithstanding the provisions of this section, no warning shall be required if the person is to be ejected or excluded for engaging in conduct that:
- (1) Is classified as a misdemeanor or felony crime.
  - (2) Otherwise involves a controlled substance or alcoholic beverage.
  - (3) Is conduct for which the person previously has been warned or excluded for committing in a public place.
- (D) In determining the appropriate length of exclusion under this section, the City Manager shall consider: the seriousness of the conduct that led to the exclusion; prior instances of violations of the rules of conduct at city property by the person to be excluded; the availability of alternative means for the person to conduct business with city officials and offices; and any other facts or circumstances that the person issuing the exclusion deems relevant.
- (E) The notice of exclusion shall be in writing, signed by the police officer or City Manager and served on the person excluded by a police officer. The notice shall identify the provision of law or rule of conduct the person has violated and contain a brief description of the offending conduct, the places of exclusion, and the start date and end date of the exclusion period. It shall contain a warning of consequences for failure to comply with the notice of exclusion and information concerning the right to appeal the exclusion.
- (F) A person receiving a notice of exclusion may appeal, in writing, to the Code Hearings Officer in accordance with Chapter [136](#) to have the notice of exclusion rescinded. Notwithstanding the provisions of Chapter [136](#), the appeal to the Code Hearings Officer shall be filed within five days of issuance of the notice of exclusion, unless extended by the Code Hearings Officer for good cause shown. The sworn statement of the police officer or person-in-charge who issued or requested the notice of exclusion shall be used as evidence on appeal, unless the appellant requests, in writing, the presence of the police officer or person-in-charge at the appeal hearing.

- (G) A person receiving a notice of exclusion may request a limited modification from the City Manager for the purpose of attending a City Council or other public meeting or conducting specific business with a city official or office located at a city property identified in the exclusion notice. The request must be in writing and must identify good cause for the desired modification. The City Manager may deny the request if the business with the city official or office may be conducted through alternate means or deferred until the exclusion period ends, or may deny the request on any reasonable basis. If modification is allowed, the City Manager may impose reasonable conditions for the limited entry and may include a requirement that the person arrange with the City Manager to be escorted into and out of the location where the meeting is to be held or the business is to be conducted.

**Section 2. Section 96.06 of the Hermiston Municipal Code is amended as follows:**

96.06 VIOLATION – ~~CRIMINAL TRESPASS~~ **PENALTY.**

No person shall enter or remain in any public place at any time during which there is in effect a notice of exclusion issued under this chapter excluding that person from that place. **Violation of an exclusion notice is a Class A violation.** A person who knowingly violates a notice of exclusion from public places under this chapter commits the crime of criminal trespass. (ORS [164.245](#))

**Section 4.** All other provisions of the Hermiston Municipal Code remain unchanged and in full effect.

**Section 5.** The City Recorder is hereby authorized to correct any scrivener’s errors and to conform the revisions to the Hermiston Municipal Code with appropriate numbering.

**Section 6. Effective Date.** This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by the Common Council this 22nd day of January 2024.

SIGNED by the Mayor this 22nd day of January 2024.

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Dr. David Drotzmann, Mayor

ATTEST:

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Lilly Alarcon-Strong, CMC City Recorder