

**8.18.140 Exclusion.**

Any law enforcement officer of the city of Lynden may exclude from a Lynden city public park anyone within a city park who:

- A. Violates any provision of or within this chapter; or
- B. Violates any park rules as defined in this chapter; or
- C. Violates any provision of the City of Lynden Municipal Code or Revised Code of Washington.

The subject need not be charged, tried or convicted of any crime or infraction in order for any exclusion notice to be issued or effective. The exclusion may be based upon observation by the law enforcement officer or upon civilian reports that would be ordinarily relied upon by the law enforcement officer in determination of probable cause. At the time of exclusion of the individual from the public park, the law enforcement officer shall deliver to that individual an exclusion notice. (Ord. 16-10 § 1 (part), 2016: Ord. 11-09 § 1 (part), 2011: Ord. 07-022 § 1, 2007. Formerly 8.18.160)

**8.18.145 Duration of exclusion.**

- A. If the subject has not been excluded from any city park by an exclusion notice issued within one year prior to the violation and the current violation is not a felony offense or an offense involving possession or use of weapons or controlled substances, then the subject may be excluded from all city parks for a period of thirty days from the date of the exclusion notice.
- B. If the subject has been issued only one prior exclusion notice within one year prior to the violation and neither the current violation nor the previous violation is a felony or an offense involving possession or use of weapons or controlled substances, then the subject may be excluded from all city parks for a period of ninety days from the date of the exclusion notice.
- C. If the subject has been issued two prior exclusion notices within one year prior to the violation and neither the current violation nor the previous violations are a felony or an offense involving possession or use of weapons or controlled substances, then the subject may be excluded from all city parks for a period of 6 months from the date of the exclusion notice.
- D. If the subject has been issued three prior exclusion notices within one year prior to the violation and neither the current violation nor the previous violations are a felony or an offense involving possession or use of weapons

or controlled substances, then the subject may be excluded from all city parks for a period of One Year from the date of the exclusion notice.

E. If the subject has committed a felony offense, or an offense involving possession or use of weapons or controlled substances, the subject may be excluded from all city parks for a period of One Year from the date of the exclusion notice.

F. If the subject returns to any city park during the time of exclusion, he/she will be subject to arrest and prosecution for criminal trespass.

The aforementioned exclusion notice rules are summarized below:

Type of Offense	First	Second	Third	Fourth
Park Rules Violation; LMC Violation or Misdemeanor offense	30 days	90 days	6 Months	1 Year
Felony/Weapons/Drugs	1 Year			

(Ord. 16-10 § 1 (part), 2016; Ord. 11-09 § 1 (part), 2011; Ord. 07-022 § 2, 2007. Formerly 8.18.165)

**8.18.150 Notice and appeal.**

A. The exclusion notice shall be in writing and shall contain the date of issuance. The exclusion notice shall specify the length and places of exclusion. It shall be signed by the issuing individual. Warning of the consequences for failure to comply shall be prominently displayed on the notice.

B. Only the park hearings officer, and only after a hearing, may shorten or rescind an exclusion notice.

C. A subject receiving an exclusion notice longer than 30 days may seek a hearing before the park hearings officer to have the exclusion notice shortened or rescinded. The request for a hearing shall be delivered to the park hearings officer's office no later than ten days after the issuance date of the exclusion notice. The request for a hearing shall be in writing and shall be accompanied by a copy of the notice on which the hearing is sought. The hearing should occur within fourteen days after the park hearings officer

receives the request. The park hearings officer shall take reasonable steps to notify the subject of the date, time and place of the hearing.

D. At the hearing, the violation must be proven by a preponderance of the evidence in order to uphold the exclusion notice. If the notice was issued because of the alleged violation of any criminal law, the offender need not be charged, tried or convicted for the exclusion notice to be upheld. The notice establishes a prima facie case that the subject committed the violation as described. The park hearings officer shall consider a sworn report or a declaration under penalty of perjury as authorized by RCW [9A.72.080](#), written by the issuer, without further evidentiary foundation. The park hearings officer may consider information that would not be admissible under the evidence rules in a court of law but which the examiner considers relevant and trustworthy.

E. If the violation is proven, the exclusion notice shall be upheld; but upon good cause shown, the examiner may shorten the duration of the exclusion. If the violation is not proven the examiner shall rescind the exclusion. If the exclusion is rescinded it shall not be considered a prior exclusion.

F. The decision of a park hearings officer is final. A subject seeking judicial review of the examiner's finding must file an application for a writ of review in the Whatcom County superior court within fourteen days of the date of that decision.

G. The exclusion shall remain in effect during the pending of any administrative or judicial proceeding.

H. When excluding a person under the age of thirteen, a reasonable effort will be made by the person issuing the exclusion to notify the parents/guardian of the exclusion. (Ord. 16-10 § 1 (part), 2016: Ord. 11-09 § 1 (part), 2011: Ord. 07-022 § 3, 2007. Formerly 8.18.170)

**8.18.155 Park hearings officer.**

The city manager shall appoint a park hearings officer who shall conduct a hearing if an appeal is filed pursuant to LMC [8.18.150](#). The park hearings officer shall have the authority to issue subpoenas to compel attendance. (Ord. 16-10 § 1 (part), 2016: Ord. 11-09 § 1 (part), 2011: Ord. 07-022 § 4, 2007. Formerly 8.18.175)