

Clackamas County Sheriff's Office

EXCLUSION PROGRAM

The Clackamas County Sheriff's Office offers the Exclusion Program as a resource to private property owners, businesses, and publicly owned properties within the jurisdiction of Clackamas County's authority. It is designed to help us partner with the community in promoting safer more livable environments.



The Exclusion Program allows a property owner to authorize sworn officers of the Clackamas County Sheriff's Office to act on behalf of the private property owner, business, or public entity to enforce Oregon trespass laws as established and articulated in the Criminal Code of Oregon. The program applies when a property owner or person in charge is not present at the time of an incident, or after hours. It also may apply when a person refuses to leave after being asked, or poses a threat to residents, staff, or others present. Any law enforcement action to enforce trespass laws is at the discretion of the responding law enforcement officer.

Where an Exclusion Program agreement has been entered into between a property owner and the Sheriff's Office, and the property is a multi-family living situation (i.e.: apartments, group homes), Oregon landlord tenant laws may apply to any tenants and their guests lawfully on the property. For questions regarding landlord tenant laws, in Clackamas County please contact the Housing Rights and Resources Program at 503-650-5750.

Please direct any questions you may have regarding this program to the office of the Exclusion Program Manager, Officer Sara McClurg: 503-785-5077.

Agreement Responsibilities and Expectations

To ensure a successful outcome when using this program the following responsibilities and expectations will be adhered to during the agreement term:

Clackamas County Sheriff's Office

- When a deputy responds to a participating property, and has reasonable suspicion to believe the person being contacted meets the criteria for exclusion, the deputy is authorized to act on the property owner's behalf and direct the person to leave the premises.
- The deputy may issue a notice of exclusion from the property to each person in violation.
- The property owner or person in charge will be provided a notice of the exclusion.
- The Sheriff's Office will keep a record of the exclusion.

Property Owner or Public Entity

- For residential communities, the property owner will provide notice to tenants that common areas are under the authority of the landlord.
- The property owner or person in charge will maintain a file or record of all persons excluded from the property and make the information available to employees or residents.
- The property owner or person in charge will notify the Sheriff's Office of the appeal requests made by excluded persons. The Sheriff's Office Exclusion Program Manager will be made aware of the outcome of said appeal within 48-hours of the ruling or negotiated results by phone, followed by a letter of confirmation. The letter should be mailed to the attention of the Exclusion Program Manager at 2223 Kaen Rd, Oregon City OR 97045.
- The property owner or person in charge will notify the Exclusion Program Manager of any exceptions granted an excluded person in writing.

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Trespass Criteria

ORS164.245 and 164.255

Any non-resident of private property or person on business property or publicly owned property will be directed to leave and may be barred from returning to the premises under the following circumstances. Any person who fails to leave the property after being directed to do so, or returns after being given such direction, will be subject to arrest and prosecution for Criminal Trespass under ORS 164.245 or 164.255.

General Criteria for Exclusion from Properties

- Makes unreasonable noise;
- Engages in fighting or violent, tumultuous, or threatening behavior;
- Engages in activity which constitutes a criminal offense;
- Damages, defaces, or destroys property belonging to the property owner, business, or public;
- Litters on the property;
- Drives in a careless or reckless manner on the property;
- Consumes or possesses an open container of any alcoholic beverage or uses marijuana in the common areas;
- Violates the State Curfew Statute 419c.680;
- Camps, urinates, or otherwise remains on the property without a discernable legitimate purpose;
- The subject enters and/or remains on the property/premises and interferes with the rights, comfort, or conveniences of the owner, tenants, patrons, and/or guests.

Additionally, Specific to Publicly Owned Property, including Parks

- The subject enters and/or remains on the property/premises and interferes with the rights, comfort, or conveniences of the park host, park host's family member, park patrol, or Clackamas County employee;
- The subject is in and/or upon the property/premises when the publicly owned property is closed and the individual is not otherwise authorized to be there;
- Violates any State law, County ordinance, or Motor Vehicle Code.

Additionally, Specific to Business Property

- The subject is in and/or upon the property/premises when the business located there is closed and the individual is not otherwise authorized to be on the property.



DEFINITIONS FOR ORS 164.205 to 164.270

As used in ORS 164.205 (Definitions for ORS 164.205 to 164.270) to 164.270 (Closure of premises to motor-propelled vehicles), except as the context requires otherwise:

- (1) "Building," in addition to its ordinary meaning, includes any booth, vehicle, boat, aircraft or other structure adapted for overnight accommodation of persons or for carrying on business therein. Where a building consists of separate units, including, but not limited to, separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building.
- (2) "Dwelling" means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.
- (3) "Enter or remain unlawfully" means:
 - a. To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public and when the entrant is not otherwise licensed or privileged to do so;
 - b. To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge;
 - c. To enter premises that are open to the public after being lawfully directed not to enter the premises; or
 - d. To enter or remain in a motor vehicle when the entrant is not authorized to do so.
- (4) "Open to the public" means premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.
- (5) "Person in charge" means a person, a representative or employee of the person who has lawful control of premises by ownership, tenancy, official position or other legal relationship. "Person in charge" includes, but is not limited to the person, or holder of a position, designated as the person or position-holder in charge by the Governor, board, commission or governing body of any political subdivision of this state.
- (6) "Premises" includes any building and any real property, whether privately or publicly owned. [1971 c.743 §135; 1983 c.740 §33; 1999 c.1040 §10; 2003 c.444 §1; 2015 c.10 §1]

CRIMINAL TRESPASS IN THE FIRST DEGREE: ORS 164.255

- (7) A person commits the crime of criminal trespass in the first degree if the person:
 - a. Enters or remains unlawfully in a dwelling;
 - b. Having been denied future entry to a building pursuant to a merchant's notice of trespass, reenters the building during hours when the building is open to the public with the intent to commit theft therein;
 - c. Enters or remains unlawfully upon railroad yards, tracks, bridges, or rights of way; or
 - d. Enters or remains unlawfully in or upon premises that have been determined to be not fit for use under ORS 453.855 (purpose) to 453.912 (governmental immunity from liability).
- (8) Subsection (1)(d) of this section does not apply to the owner of record of the premises if:
 - a. The owner notifies the law enforcement agency having jurisdiction over the premises that the owner intends to enter the premises;
 - b. The owner enters or remains on the premises for the purpose of inspecting or decontaminating the premises or lawfully removing items from the premises; and
 - c. The owner has not been arrested for, charged with or convicted of a criminal offense that contributed to the determination that the premises are not fit for use.
- (9) Criminal trespass in the first degree is a Class A misdemeanor. [1971 c.743 §140; 1993 c.680 §23; 1999 c.837 §1; 2001 c.386 §1; 2003 c.527 §1]

CRIMINAL TRESPASS IN THE SECOND DEGREE: ORS 164.245

- (1) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully in a motor vehicle or in or upon premises.
- (2) Criminal trespass in the second degree is a Class C misdemeanor. [1971 c.743 §139; 1999 c.1040 §9]

(www.oregonlegislature.gov/bills_laws/ods/ORS164)