



## Free WiFi Terms of Use

By clicking your acceptance or by accessing or using this service, you represent that you are a patron of Bend Metro Park and Recreation District (BMPRD) and acknowledge that you have read all the terms and conditions of this agreement, understand them, and agree to be legally bound by them. If you are not a patron of BMPRD and/or do not agree to this Agreement, you may not use or access this Service.

This is a legal agreement ("Agreement") between you and the BMPRD governing your access to and use of this WiFi Service (the "Service). For purposes of you using this Service, the BMPRD will assume (and by using this Service you warrant) that either you have legal capacity to enter into this Agreement (i.e., that you are of sufficient age and mental capacity or are otherwise entitled to be legally bound in contract), or that your parent(s) or legal guardian(s) have consented to your use of this Service and accept this Agreement on your behalf. For all purposes of this Agreement, the BMPRD will include its board, staff, officers, directors, volunteers, agents and employees when engaged in business or activities of, for or on behalf of the BMPRD.

**CONSENT TO MONITORING:** THE BMPRD RESERVES THE RIGHT TO, AND YOU ACKNOWLEDGE AND CONSENT THAT THE BMPRD MAY (BUT IS NOT REQUIRED TO) MONITOR YOUR COMMUNICATIONS AND ACTIVITIES VIA THIS SERVICE (INCLUDING THEIR CONTENT) DURING TRANSMISSION AND IN CONNECTION WITH USE OF THIS SERVICE, AND MAY DISCLOSE ANY SUCH INFORMATION FOR PURPOSES OF ENSURING YOUR COMPLIANCE WITH THIS AGREEMENT, APPLICABLE LAW, COOPERATING WITH LEGAL AUTHORITIES, AND OTHERWISE PROTECTING THE RIGHTS, PROPERTY AND INTERESTS OF THE BMPRD.

**AUTHORIZED USE OF THIS SERVICE:** You agree that you are authorized to use this Service solely while you are a patron of BMPRD, subject to the terms and conditions of this Agreement. You agree that your use of this service is a patron privilege and not a right. You agree that you are fully responsible for your activities while using this Service (including for any content, information and other materials you access or transmit via this Service), and that you shall bear all risks regarding use of this Service. You agree not to use this Service to engage in any prohibited conduct. Broadly stated, prohibited conduct is any conduct that is unlawful, infringing, tortious or that is harmful (or puts at risk) to BMPRD or any other party or property; that violates another party's intellectual property, privacy or other rights; or that otherwise interferes with the operation, use or enjoyment of any service, system or other property.

**INDEMNIFICATION:** You agree to indemnify, defend, and hold harmless the BMPRD and its respective officers, directors, employees, agents, and volunteers from and against any and all claims, actions, demands, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees, resulting from your breach of any provision of this Agreement or otherwise arising in any way out of your use of this Service. The BMPRD reserves the right to take exclusive control and defense of any such claim otherwise subject to indemnification by you, in which event you will cooperate fully with the BMPRD in asserting any available defenses.

**CONSEQUENCES OF UNAUTHORIZED USE:** Without limiting any other available right or remedy, the BMPRD reserves the right to, and you agree that the BMPRD shall have the right, to: (i) take such actions as it deems, in its sole discretion, to be appropriate to protect against violations of this Agreement or abuse of this Service and to otherwise protect its interests (e.g., removing offending material, temporary or permanent filtering, blocking access, and suspending or terminating service), and (ii) investigate immediately and involve and cooperate with appropriate authorities regarding any illegal or unauthorized activities involving this Service or activities that may be or are suspected to be illegal or unauthorized. You agree that you will be liable to the BMPRD for any damages incurred or amounts that the BMPRD becomes liable for or that are required to be paid by BMPRD that arise out of or are related to your violation of this Agreement, including, without limitation, costs, fees and damages paid to third parties, cost of repairs or replacements, and reasonable attorneys' fees and costs of enforcement. Any illegal or unauthorized use or suspected use will be reported to appropriate authorities.

**YOU ARE RESPONSIBLE FOR YOUR SECURITY AND PRIVACY:** Although privacy and security are important to the BMPRD, you understand and agree that you shall have no expectation of privacy or security in your use of this Service. There are privacy and security risks associated with wireless communications and the Internet generally. You acknowledge that the BMPRD makes no assurance that your communications or activities will be or will remain private or secure, and agree that the BMPRD assumes no responsibility in that regard. You agree that you, and not the BMPRD, are solely responsible for your own privacy and security in using this Service, and for implementing any protections you deem to be appropriate to protect and secure your privacy, and your activities, hardware, software and systems.

**DISCLAIMER OF WARRANTY:** YOU ACKNOWLEDGE AND AGREE THAT THIS SERVICE IS PROVIDED SOLELY AS A CONVENIENCE TO PATRONS OF BMPRD, "AS IS", "WITH ALL FAULTS", AND "AS AVAILABLE". YOU FURTHER ACKNOWLEDGE AND AGREE THAT THE BMPRD DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS,

IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTIES: (i) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, WORKMANLIKE EFFORT, QUALITY, ACCURACY, TIMELINESS, COMPLETENESS, TITLE, QUIET ENJOYMENT, NO ENCUMBRANCES, NO LIENS, OR SYSTEM INTEGRATION; OR (ii) THAT ACCESS TO OR USE OF THIS SERVICE OR ANY PART THEREOF WILL BE UNINTERRUPTED, ERROR OR DEFECT FREE, FREE OF VIRUSES OR OTHER HARMFUL CODE, OR SECURE, OR THAT PROBLEMS WILL BE CORRECTED, EVEN IF THE BMPRD IS ON NOTICE OF SUCH PROBLEMS. YOU AGREE THAT THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE OF THIS AGREEMENT; NO MARKETING, ADVERTISEMENT, LISTING, WEB SITE CONTENT, ADVICE OR INFORMATION GIVEN BY THE BMPRD OR ITS EMPLOYEES SHALL CREATE ANY WARRANTY. IF APPLICABLE LAW DOES NOT ALLOW THE EXCLUSION OF SOME OR ALL OF THE ABOVE IMPLIED WARRANTIES, YOU AGREE THAT THE ABOVE EXCLUSIONS WILL APPLY TO YOU TO THE EXTENT ALLOWED BY APPLICABLE LAW.

The Internet contains a variety of materials and information that may be offensive to you. You agree that you assume full responsibility and risk for your use of this Service and the Internet, and that you are solely responsible for evaluating the suitability, appropriateness or legality of any informational content or other materials you may encounter online. The BMPRD may, but need not, provide screening of certain materials. Software products that enable screening of particular materials and information are commercially available and widely advertised in public media, including on the Internet.

LIMITATION OF LIABILITY: (a) YOU ACKNOWLEDGE AND AGREE THAT THIS SERVICE IS PROVIDED AS A PATRON PRIVILEGE SOLELY FOR YOUR CONVENIENCE AND DOES NOT IMPOSE LIABILITY OF ANY KIND OR IN ANY AMOUNT ON THE BMPRD OR OTHERWISE IN PRIVITY WITH THE BMPRD INCLUDING WITHOUT LIMITATION, LIABILITY FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF BUSINESS, BUSINESS INTERRUPTION, LOSS OF DATA, OR OTHER SIMILAR DAMAGES) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THIS SERVICE; EVEN IF THE BMPRD IS ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. (b) YOU FURTHER AGREE THAT IF FOR ANY OTHER REASON ANY OF THE FOREGOING LIMITATIONS OF LIABILITY IS HELD TO FAIL OF ITS ESSENTIAL PURPOSE OR IS OTHERWISE DEEMED TO BE UNENFORCEABLE, THEN THE MAXIMUM AGGREGATE, CUMULATIVE LIABILITY OF THE BMPRD, ARISING OUT OF OR RELATED TO THIS AGREEMENT AND THIS SERVICE, SHALL NOT EXCEED YOUR DIRECT DAMAGES, IF ANY, UP TO FIFTY DOLLARS (\$50). (c) YOU AGREE THAT THE LIMITATIONS IN THIS SECTION SHALL BE DEEMED TO APPLY TO ALL CAUSES OF ACTION AND ALL LEGAL THEORIES, WITHOUT REGARD TO WHETHER THE DAMAGES ARISE FROM: (i) BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR OTHER TORTS, (ii) ANY STATUTE, LAW, RULE OR REGULATION, OR (iii) ANY OTHER CAUSE OF ACTION, HOWEVER STATED.

TERMINATION OF SERVICE; UPDATES TO THIS AGREEMENT: You agree that the BMPRD may, at any time and for any reason, change, terminate, limit or suspend this Service (in whole or in part) or your access to this Service. Upon any termination, your rights to use this Service will immediately cease. The BMPRD also reserves the right to update or revise this Agreement at any time without prior notice, and you agree that the BMPRD may do so. Your continued use of this Service following an update to this Agreement signifies your acceptance of its revised terms.

MISCELLANEOUS: You agree that this Agreement and your use of this Service shall be governed by the laws of the State of Oregon, without regard to conflicts of laws principles, and the BMPRD shall have at all times the right to seek any injunctive or equitable relief available to it under applicable laws without the necessity of a bond or surety. You agree that the exclusive jurisdiction for all controversies or claims shall be the federal and state courts in the State of Oregon in Deschutes County, and you agree that such courts will have personal jurisdiction over you in such matters. You agree that this Agreement is solely between you and the BMPRD. You agree that any action you bring that arises from or relates to this Service must be initiated within one year from the relevant date of your access to this Service, and that no cause of action may be brought after that time. You agree that if any provision(s) of this Agreement is determined to be invalid or unenforceable under applicable law, such provision(s) will be deemed superseded by a valid, enforceable provision that most closely serves the intent of the original provision and the remainder of this Agreement will continue to have legal effect. You agree that this Agreement constitutes the entire or contemporaneous agreements between you and the BMPRD regarding its subject matter. You agree that any notices given by you to the BMPRD must be given via certified mail to The BMPRD at: 799 SW Columbia Street, Bend, Oregon 97702.



**Bend Park & Recreation**  
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