

BEND PARK & RECREATION DISTRICT

ORDINANCE 14

RULES AND REGULATIONS

Table of Contents

Article 1 Preamble	2
Article 2 Definitions	2
Article 3 General Conduct Rules	3
Article 4 Waters and Waterways	5
Article 5 Displays	5
Article 6 Weapons, Hunting, and Fireworks	5
Article 7 Animals.....	6
Article 8 Vehicles	6
Article 9 Restrooms.....	7
Article 10 Specific Recreational Activities.....	8
Article 11 Business Operations, Leafletting, and Organized Events	9
Article 12 Permits	9
Article 13 Closures.....	9
Article 14 Enforcement of Rules and Regulations.....	10
Article 15 Exclusions.....	11
Article 16 Appeals.....	12
Article 17 Miscellaneous.....	14

Date Adopted: _____

ARTICLE 1. PREAMBLE

- 1.1 Bend Park and Recreation District is an Oregon special district authorized to provide park and recreation services by ORS 266.410. The District Board of Directors, in accordance with ORS 266.410(7)(b), has adopted the following rules and regulations to ensure that Bend's park and recreation system remains inviting for residents' and visitors' safe use and enjoyment. These rules and regulations apply to and shall be enforced at all properties owned or managed by District.
- 1.2 Through these rules and regulations, District aims to promote and protect the health, welfare and safety of all patrons at District properties.
- 1.3 District strives to be a responsible steward of public resources by preserving the system's health and integrity from overuse and abuse to ensure that future generations have access to the same exemplary park system that Bend enjoys today.
- 1.4 District wants everyone to feel welcome and invited into environments where all individuals are treated with respect and dignity and hold those responsible when these essential tenets are violated.

ARTICLE 2. DEFINITIONS

- 2.1 "Assistance Animal" has the meaning assigned to that term in ORS 659A.143.
- 2.2 "Campsite" means a place where any bedding, sleeping bag or other material used for bedding purposes or any tent or other shelter is placed for the purpose of maintaining a temporary place to live or sleep.
- 2.3 "Caregiver" is a person who provides care for a person who needs help such as a child, person with disabilities or older adult. Caregivers can be family members, friends, neighbors or professionals.
- 2.4 "Chair of the Exclusion Appeals Panel" means the returning member from the most recent prior second appeal hearing, whose role is to issue written decisions of second appeals from the Exclusion Appeals Panel.
- 2.5 "City" means the City of Bend.
- 2.6 "Decisionmaker" means the deciding person or Panel at the applicable level of the appeals process as further described in Articles 16.5 and 16.6.
- 2.7 "District" means Bend Park and Recreation District.
- 2.8 "District Facility" means any building, structure or improved property leased, managed, owned or operated by the District.
- 2.9 "District Park" means any neighborhood park, community park, regional park, special use park, plaza, trail, path, athletic field, sports complex or undeveloped property leased, managed, owned or operated by the District.
- 2.10 "District Program" means any recreational program, activity or special event sponsored by the District.

- 2.11 “District Property” means all real and personal property owned or in which the District has a property interest, including as an easement holder, or over which the District has a management responsibility.
- 2.12 “District Waters” means all rivers, streams, ponds, irrigation sources and other waters and waterways: (a) located on District Property; or (b) over which the District has management authority pursuant to a public easement or other agreement.
- 2.13 “Ejection” means a directive that a person temporarily (i.e., for the remainder of the day or less) leave District Property.
- 2.14 “Enforcement Officer” means any peace officer, park steward, executive director, or a designee, or any other person with authority to enforce these Rules.
- 2.15 “Exclusion” means an order excluding a person from all or a portion of District Parks, Facilities and Programs pursuant to Article 15 of these Rules.
- 2.16 “Exclusion Appeals Panel” means the appeal Decisionmaker as further defined in Article 16.6.
- 2.17 “Excluded Person” means a person who is denied access to or barred from all or part of District Property for a length of time.
- 2.18 “Executive Director” means District’s Executive Director, who has been appointed and designated by the Board of Directors as the District’s chief executive officer. Unless otherwise stated, for the purposes of these Rules Executive Director includes an Enforcement Officer.
- 2.19 “Fireworks” has the meaning assigned to that term in ORS 480.111(7).
- 2.20 “Gender identity” means an individual’s gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.
- 2.21 “Notice of Exclusion” means a notice issued pursuant to Article 15 of these Rules excluding an individual from all or part of District Property, Parks, Facilities or Programs for a period of time.
- 2.22 “Owner” means an animal’s legal owner or handler.
- 2.23 “Rolling Device” means a bicycle, skateboard, scooter, inline skates, e-bike, e-scooter or other electric micromobility device that uses wheels for movement.
- 2.24 “Rules” means these District rules and regulations.
- 2.25 “Smoking Instrument” has the meaning assigned to that term in OAR 333-015-0030(23).
- 2.26 “Inhalant Delivery System” has the meaning assigned to that term in OAR 333-015-0030(14)(a).
- 2.27 “Weapon” has the meaning given that term in ORS 166.360(10).
- 2.28 “Wildlife” means animals, including mammals and birds, that are neither human nor domesticated, excluding fish.

ARTICLE 3. GENERAL CONDUCT RULES

- 3.1 District Property shall be used in accordance with these Rules and all applicable city, county, state or federal laws, ordinances and regulations. Criminal activity on District Property will be reported to the Bend Police Department or Deschutes County Sheriff's Office. Violations of these Rules are subject to enforcement by an Enforcement Officer.
- 3.2 Without limiting the generality of Article 3.1, while on District Property, no person shall:
- A. Discriminate against, disturb, disrupt, harass or otherwise endanger the comfort, health, peace or safety of another person, including by engaging in any behavior that is threatening, intimidating, abusive or harassing of others.
 - B. Disobey a site-specific code of conduct, any posted signs and notices, or any reasonable written directive of the Enforcement Officer.
 - C. Disobey any reasonable verbal directive or request of the Enforcement Officer based on District policies or during an emergency.
 - D. Possess or consume alcoholic beverages without a permit.
 - E. Damage, remove, tamper with, modify or deface District Property, including vegetation, dirt, equipment and rocks, except in designated play areas.
 - F. Litter or otherwise deposit or abandon any garbage, waste or other materials except in receptacles specifically provided for such purposes. Garbage, yard debris and other refuse shall not be brought on to District Property for disposal.
 - G. Sleep overnight or establish a Campsite on District Property. The Campsite owner or occupant will either be notified to remove the Campsite or the camping materials will be removed in accordance with state law.
 - H. Connect to District utilities for personal use.
 - I. Walk, stand, sit, climb on, or jump from any monument, statue, building, fountain, railing, fence, roof or other structure not intended for that purpose.
 - J. Use a Smoking Instrument or Inhalant Delivery System of any kind on District Property.
 - K. Create or maintain any open flame, to include charcoal barbeques. Portable propane camp stoves and gas barbeques are permitted to the extent that they are operated in a safe manner and do not damage District Property or present a fire danger.
- 3.3 The Executive Director has authority to implement these Rules as follows:
- A. The Executive Director may adopt a location-specific code of conduct when necessary to interpret or clarify these Rules or to protect the health, welfare and safety of all persons or property at a District Park or District Facility. The Executive Director's authority to adopt a location-specific code of conduct may not be delegated.

- B. The Executive Director may grant exceptions to any of these Rules in a permit or lease issued pursuant to Article 12.

ARTICLE 4. WATERS AND WATERWAYS

- 4.1 All District Waters shall be accessed at designated locations and used in accordance with applicable Oregon State Marine Board rules and regulations.
- 4.2 No person shall anchor or tie watercraft to any bridges, structures or landforms located in or adjacent to District Waters.
- 4.3 No person shall bathe, wash clothing or other materials, or clean fish in District Waters.
- 4.4 No person shall jump, dive or otherwise propel themselves or any other person or object into District Waters from any tree, bridge or other structure.
- 4.5 No person shall use surfboard or bodyboard leashes while surfing in the Bend Whitewater Park.
- 4.6 No person shall possess glass containers while in, on or around District Waters.
- 4.7 No person shall disregard temporary or permanent closures for riparian repair and restoration.

ARTICLE 5. DISPLAYS

- 5.1 No person shall display sexually explicit material, as defined by Oregon law, in view of minors.
- 5.2 No person or group, whether or not engaging in an authorized event, shall display or perform sexually explicit artwork, artwork that is threatening or incites violence, or other obscene material in a manner that reasonably might interfere with other persons' enjoyment of District Property.
- 5.3 Artwork, displays or performances shall be located so as to minimize disturbance to those wishing to avoid such displays or performances, minimize congestion, and promote the flow of foot traffic through District Properties.
- 5.4 No unattended or staked signs may be placed on District Property.

ARTICLE 6. WEAPONS, HUNTING AND FIREWORKS

- 6.1 No person shall possess a loaded firearm on District Property within City limits except in accordance with state and federal law.
- 6.2 No person shall fire or discharge any weapon which acts by force of an explosive on District Property within Deschutes County limits except in accordance with Deschutes County Code 9.08.040.
- 6.3 No person shall possess a loaded or unloaded firearm, firearm replica or any other instrument used as a dangerous weapon while in or on a public building as defined in ORS 166.360(9), except as permitted by ORS 166.370.
- 6.4 No person shall use a Weapon while on District Property except as authorized pursuant to state law.

- 6.5 Fishing is permitted on District Property consistent with state law, to include state licensing requirements described in ORS Chapter 497.
- 6.6 No person shall hunt, trap or remove any Wildlife from District Property.
- 6.7 No person shall possess or use Fireworks or other explosives on District Property unless express written permission is granted by Executive Director and the State Fire Marshall.

ARTICLE 7. ANIMALS

- 7.1 Feeding waterfowl and other Wildlife is prohibited.
- 7.2 No person shall damage, harm, injure, molest or otherwise disturb any Wildlife or Wildlife dwelling.
- 7.3 Horses and other stock animals are prohibited.
- 7.4 An animal's Owner is responsible and liable for the animal's actions. An animal or its Owner may be excluded from District Property for failure to abide by District Rules, including for harm threatened or caused by Owner's animal.
- 7.5 A dog's Owner shall maintain control of the dog by securely holding onto a physical leash (not an electronic control device) that is attached to the dog, except when in a designated off-leash area. The leash must be no longer than 15 feet in length. Dogs may not be secured to a stationary object and left unattended.
- 7.6 Owners shall promptly pick up and dispose of animal waste in proper receptacles. Bags containing animal waste shall not be left unattended to be removed later.
- 7.7 An animal's Owner shall not allow the animal to: (a) harass, threaten, injure or fight with a person or another animal for any reason; or (b) damage District Property or another person's property, including by digging or burrowing.
- 7.8 Any dog that has a set of permanent canine teeth or that is six months of age or older, whichever comes first, must be licensed and current in vaccinations in accordance with state and county law. A dog's Owner shall be found in violation of this rule if the dog is not wearing its collar and tag.
- 7.9 Dogs are not permitted in ponds on District Property.
- 7.10 Owners shall comply with all site-specific rules and guidelines posted at off-leash dog areas.
- 7.11 Only Assistance Animals are allowed in District Facilities.

ARTICLE 8. VEHICLES

- 8.1 All vehicles must be operated in accordance with the Oregon Vehicle Code while on District Property. This Article shall be interpreted in concordance with Oregon Vehicle Code.
- 8.2 No person shall operate a motor vehicle, bicycle, electric-assisted bicycle or other Rolling Device in a manner that endangers or would be likely to endanger any person or property.

- 8.3 No person on a bicycle, electric-assisted bicycles or other Rolling Devices shall fail to yield the right of way to all pedestrians, fail to give an audible warning before overtaking and passing a pedestrian, or operate an electric-assisted bicycle on a sidewalk in violation of ORS 814.410.
- 8.4 Motor vehicles, including electric-assisted bicycles with throttles, are prohibited except in roadways and parking areas designated for motor vehicles, except as otherwise allowed by state law, these Rules or applicable permit. The foregoing shall not apply to District or public safety vehicles.
- 8.5 Bicycles, pedal-assist electric-assisted bicycles and other Rolling Devices are permitted on pedestrian trails and pathways unless prohibited by the Executive Director to ensure the safety of District users.
- 8.6 Except where expressly permitted, such as at skate and bike parks, bicycles, electric-assisted bicycles, or other Rolling Devices are not permitted on any plazas, retaining walls, furniture, stairs, handrails, sports fields, swimming pools, sports courts, playgrounds, off-leash areas, recreation facilities, areas reserved for special events, and other areas as prohibited by site-specific rules.
- 8.7 Bicycles, electric-assisted bicycles, or other Rolling Devices may only be locked to designated bicycle racks, and not to trees, benches or other amenities not designated for that purpose.
- 8.8 Motor vehicles shall only be parked in designated parking spaces, and shall not be parked on vegetated areas including, but not limited to, grass, shrubbery, or other landscaping not intended for parking. Parking lots on District Property shall be used strictly in accordance with posted site-specific rules, such as those designating loading zones, time limits, spaces for District staff only, and handicapped spots.
- 8.9 No person shall use District parking spaces except while they are lawfully using District Property.
- 8.10 No vehicle may be parked on District property between 10:00 p.m. and 5:00 a.m., except during District Program or Facility operating hours; or in parking lots as otherwise posted (e.g., designated sunrise to sunset hours).
- 8.11 Vehicles parked on District Property in violation of these Rules or state law may be towed in accordance with state law.
- 8.12 No person shall drive a motor vehicle or a combination of motor vehicles in a manner that impedes or blocks the normal and reasonable movement of traffic.

ARTICLE 9. RESTROOMS

- 9.1 Park restrooms and portable toilets are to be used for their intended purposes of the promotion of personal hygiene, hand washing and elimination of human waste.
- 9.2 Individual restrooms, changing rooms and restroom stalls are not to be occupied by more than one person and for no longer than 10 minutes, except for those with a disability or who are accompanied by a Caregiver.
- 9.3 Facility locker rooms are provided only to clean one's body and to store personal belongings for the time when the facility user is inside the building.

- 9.4 Any person over the age of six must use the restroom, locker room or changing room that corresponds to their gender identity. Nongendered restrooms, locker rooms and changing rooms are available to all users. Persons may request reasonable accommodation from District staff as needed.
- 9.5 No person shall use a cell phone, camera, recording device or other photographic equipment inside a restroom facility, locker room or changing area.
- 9.6 No person shall urinate or defecate on District Property except in restroom toilets or portable toilets.
- 9.7 Persons must abide by posted restroom hours.
- 9.8 Restrooms and portable toilets shall not be used to store belongings.

ARTICLE 10. SPECIFIC RECREATIONAL ACTIVITIES

- 10.1 The use of metal detectors is prohibited on District Property.
- 10.2 Slacklines, hammocks and similar devices are permitted to the extent that their use is consistent with District Rules, site-specific rules, and respectful of persons and property. Guidelines are available on District's website or by contacting Park Stewards.
- 10.3 Geocaching/letterboxing is permitted to the extent that the activity is consistent with District Rules, site-specific rules, and respectful of persons and property. Guidelines are available on District's website or by contacting Park Stewards.
- 10.4 Activities involving the use of airborne projectiles that may harm people or property are prohibited. This prohibition includes, without limitation, golfing, archery, discus, javelin, shotput and model rockets.
- 10.5 Unmanned aerial vehicles (e.g., drones) and other remote-controlled devices are permitted to the extent that they do not endanger the comfort, health, peace, or safety of others or cause harm to District Property. To the extent permitted by applicable law, the Executive Director may prohibit the use of an unmanned aerial vehicle on District Property that endangers persons or property. Such devices shall be operated in accordance with state and federal law and such guidelines as may be adopted by the Executive Director. Guidelines are available on District's website or by contacting Park Stewards.
- 10.6 No person shall intentionally tether, launch or land a hot air balloon, paraglider, hang glider, parachute or other similar device on District Property.

ARTICLE 11. BUSINESS OPERATIONS AND ORGANIZED EVENTS

- 11.1 Business Operations on District Property require a permit obtained through District reservation system as described in the Business Operations in Parks and Facilities Policy. Business activities are defined to include concession sales, equipment rental, instructional activities, or other programmed activities under the organization, direction, or supervision of an individual or organization including:

- A. Operating a fixed or mobile concession; or
 - B. Soliciting, selling, offering for sale, peddling, hawking, advertising or vending any goods or services; or
 - C. Displaying commercial advertisements, leafleting, signs, or business cards on facility bulletin boards or elsewhere on District Property.
- 11.2 No person shall organize, conduct or participate in any organized event or other scheduled activity that is publicly advertised without prior authorization from the Executive Director. An organized event or other scheduled activity that is publicly advertised on District Property requires a reservation obtained through the District reservation system as described in the Event Rentals in Parks Policy.

ARTICLE 12. PERMITS

- 12.1 The Executive Director shall have the authority to issue permits or to grant exceptions or waivers to any of the terms of these Rules for certain events and activities and in cases where District Property is leased to a third party to operate.
- 12.2 Permit-holders shall keep the permit on their person at all times while engaging in the permitted activity.
- 12.3 Permit-holders must abide by all District Rules unless granted an exception or waiver by the terms of the permit. Permit-holders are required to abide by all permit conditions at all times.
- 12.4 Permit-holders shall be liable for any loss, damage, or injury to any person or property caused by a permit-holder's use of District Property pursuant to the permit.
- 12.5 The Executive Director has the authority to revoke a permit upon finding of a violation of any of these Rules, laws, or other authority, or, in his or her sole discretion, to promote safety and welfare in the District.

ARTICLE 13. CLOSURES

- 13.1 District Property is closed to the public from 10:00 p.m. until 5:00 a.m. except during District Program or Facility operating hours, as otherwise posted, or as authorized by the Executive Director. Parking lots at Shevlin Park, Sawyer Park, Riley Ranch Nature Reserve, and others as designated by the Executive Director are closed from sunset until sunrise. It shall be unlawful to enter or remain on District Property during closed hours, except:
- A. A person may enter upon a closed District Property for a reasonable amount of time to retrieve their personal property or vehicle; or
 - B. Pedestrians or bicyclists may travel through District Property on designated trails or walkways to destinations outside of District Property; or
 - C. By permit.
- 13.2 The Executive Director may close or limit the use of District Property to ensure the safety and security of people and property or to curtail misuse or Rules violations.

- 13.3 No person shall refuse an order to evacuate District Property in case of an emergency.

ARTICLE 14. ENFORCEMENT OF RULES AND REGULATIONS

- 14.1 Nothing in this section shall be constituted to authorize the Ejection or Exclusion of person for lawfully exercising free speech rights or other rights protected by the state or federal constitutions. A person lawfully exercising these protected rights but who commits an act that is not protected can be subject to Ejection or Exclusion as provided for in this section.
- 14.2 The Enforcement Officer is vested with authority to enforce these Rules and to take the following action:
- A. Issue Ejections, citations or Exclusions as provided by these Rules to any person who violates any provision of the District Rules; or
 - B. Refuse entrance to a District Facility or Program, or to require a person to leave a District Property, Facility or Program.
- 14.3 No person shall refuse to leave any District Property, Facility or Program after being directed to leave by an Enforcement Officer. Entering or remaining unlawfully in or upon District Property may subject a person to Exclusion or arrest and prosecution for criminal trespass.
- 14.4 Any Enforcement Officer may protect the safety or health of the public or protect District Property. This authority includes actions that temporarily:
- A. Permit or limit specific activities or uses in designated portion of a District Property;
 - B. Designate a location within a District Property for a single use to avoid conflicts between users;
 - C. Restrict access to or close a portion of a District Property; or
 - D. Exclude a person from District Property.
- 14.5 No person shall interfere with any Enforcement Officer enforcing these Rules. Interference with an Enforcement Officer may result in Exclusion.
- 14.6 Pursuant to ORS 266.450, violation of these Rules is punishable by Exclusion; or a misdemeanor punishable by a fine not to exceed \$100 or imprisonment not to exceed five days, or both.
- 14.7 Action to impose punishment shall be brought in the name of the District in any court having jurisdiction of misdemeanors under state law. The action shall be brought in the County in which the District, or greater portion of the area of the District, is located pursuant to ORS 198.600(2).

ARTICLE 15. EXCLUSIONS

- 15.1 ORS 266.410(8) established the authority for District to exclude a person for violations of any District Rule.
- 15.2 An Enforcement Officer may direct any person to temporarily leave District Property (i.e., an Ejection) for a minor violation, disruptive conduct or violation of these Rules, city or county code or state law, or in emergency situations where the person needs to leave the area, for their safety

or the safety of others, for the remainder of the day. An Ejection does not constitute a formal Exclusion as defined in this policy and this policy does not require that the Ejection be in writing.

- 15.3 An Enforcement Officer may exclude a person from District Property, subject to state law, for any of the following:
 - A. Violation of District Rule;
 - B. The person is subject to civil exclusion from District Property pursuant to Bend Municipal Code 5.40.010 et seq.; or
 - C. As ordered by a court of law.
- 15.4 If an Excluded Person violates a written Exclusion, local law enforcement may be called and the person may be arrested for criminal trespass.
- 15.5 Exclusions are effective as of the date indicated in the Notice of Exclusion.
- 15.6 An Enforcement Officer may exclude any person who violates any provision of District Rules from any District Facility, Program or Property. There are four classes of Exclusion based on the severity, frequency and number of violations as stated below, or other mitigation or enhancement factors, such as compliance with Enforcement Officers' directives, likelihood of recurrent violations, or risk to persons' safety. Additional information gathered after the initial exclusion decision may result in a modification that increases or decreases the longer length of exclusion.
- 15.7 Class 1 Exclusion: The length of Exclusion from District Property shall be 30 days for:
 - A. Violations resulting in minimal impact on persons and property.
- 15.8 Class 2 Exclusion: The length of Exclusion shall be between 31 and 90 days for:
 - A. Multiple violations supporting the Exclusion or repeated Class 1 Violation with minimal impact to people and property;
 - B. Violation of a Class 1 Exclusion; or
 - C. Failure to comply with an Enforcement Officer's directives.
- 15.9 Class 3 Exclusion: The length of Exclusion shall be between 91 and 180 days for:
 - A. Violations significantly impacting persons or property, such as threatening language, vandalism, theft or threat of bodily harm to another person;
 - B. Behavior that evidences criminal activity;
 - C. Violation of Class 2 Exclusion; or
 - D. Failure to comply with Enforcement Officers' directives.
- 15.10 Class 4 Exclusion: The length of Exclusion shall be between 181 days and one year for:
 - A. Activity that is the basis for serious criminal charges;
 - B. Actual violence or harm to people or property;

- C. Evidence of bias crime as described by ORS 147.380; or
 - D. Failure to comply with Enforcement Officers' directives.
- 15.11 The places to which an Exclusion applies shall be determined based on the nature of the violation and the interest of protecting persons and District Property and shall be in the sole discretion of the Enforcement Officer.
- 15.12 The Enforcement Officer issuing the Exclusion shall fill out and sign the Notice of Exclusion using the District's approved form. The Enforcement Officer shall make a reasonable attempt to deliver the Notice of Exclusion to the Excluded Person. A refusal to accept delivery where actual notice has occurred shall not exempt the Excluded Person from the Exclusion. The Notice of Exclusion shall contain the following:
- A. The date of the violation, start date of the Exclusion, length of Exclusion, place of Exclusion, and the class of Exclusion;
 - B. Information on the right to an appeal and how to request an appeal; and
 - C. A warning of the consequence for failure to comply.

ARTICLE 16. APPEALS

- 16.1 Timeline and Notice:
- A. The Excluded Person must postmark or send via email a written appeal within 10 calendar days of the effective date of the Notice of Exclusion to appeal the Exclusion. Appeals must be addressed or delivered to: District Office, Attention: Park Stewards, 799 SW Columbia Street Bend, OR 97702 or emailed to exclusions@bendparksandrec.org.
 - B. The Decisionmaker must issue a written decision upholding, overturning or modifying the Exclusion within 30 days of the Decisionmaker's receipt of the written appeal.
 - C. If the appeal contains a request that the Exclusion be stayed pending appeal, the Decisionmaker must issue a response within 10 days of the Decisionmaker's receipt of the written appeal containing the request for the stay.
- 16.2 Content of Request for Appeal: The request for appeal must contain a statement setting forth the reasons that the Exclusion is invalid or otherwise improper, any evidence the appellant believes will be useful to the Decisionmaker in making a decision, a current address, and email or telephone number in order to be notified of the decision, and, if a stay is requested, any reasons the Exclusion should be stayed pending appeal. The appellant may request to participate in the hearing by telephone or by video.
- 16.3 Evidence on Appeal:
- A. On appeal, the Decisionmaker shall consider: if the preponderance of evidence (i.e., more than likely not) shows that the person committed the violation for which the person was excluded; the seriousness of the Rules violation for which the person has been excluded, including whether the conduct rose to criminal conduct; prior incidences of violation; the

impact of the violation on persons and property; any mitigating factors; and any other criteria the Decisionmaker determines to be relevant.

- B. The Decisionmaker may rely upon any evidence that a reasonable person would deem as appropriate, including testimony from the Enforcement Officer who issued the Exclusion, witnesses, and from the Excluded Person. Evidence may be presented in person, via telephone, video, email, or letter at the discretion of the person providing the evidence.
- 16.4 Review of Stay of Exclusion: In reviewing the stay of an Exclusion pending appeal, the Decisionmaker shall consider all of the criteria described in Article 16.3 as well as any reason that the Excluded Person may need to be in a District Property pending appeal.
- 16.5 Appeal Decisionmaker:
- A. Class 1 Exclusions are appealed to the Park Steward Manager, if the Exclusion is issued by an Enforcement Officer other than the Park Steward Manager. In the event the Park Steward Manager issues the Notice of Exclusion, then the appeal shall be heard by the Community Engagement Director.
 - B. Class 2, 3, and 4 Exclusions are appealed to the Exclusion Appeals Panel.
- 16.6 Exclusion Appeal Panel: The Exclusion Appeals Panel shall consist of three District employees who are not Park Stewards, Enforcement Officers, or employees directly employed by the department to which the appeal applies. There shall be one returning member from the most recent appeals panel hearing. The carryover member will serve as the Chair of the Exclusion Appeals Panel and shall write its final decision. In the event that no carryover members are available, the panel shall be comprised of available staff, who shall elect a member from amongst themselves to serve as the Chair. Exclusion Appeals Panel members shall not serve on more than two consecutive appeal panels. The decision of the Exclusion Appeals Panel shall be by a majority vote.
- 16.7 Written Decision: The Decisionmaker shall issue a written decision per the timeline described in Article 16.1. The decision shall either uphold the Exclusion, overturn the Exclusion, or modify the Exclusion by shortening the Exclusion period or limiting the places the Exclusion affects.

ARTICLE 17. INTERPRETATION; SEVERABILITY; CORRECTIONS

All pronouns contained in these Rules and any variations of such pronouns will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the applicable context may require. The singular includes the plural, and the plural includes the singular. The word “or” is not exclusive. The words “include,” “includes” and “including” are not limiting. Any reference to a particular law, statute, rule, regulation, code or resolution includes the law, statute, rule, regulation, code or resolution now in force or as later amended. The provisions of these Rules are declared to be severable. If any section, subsection, sentence, clause or portion of these Rules is for any reason held invalid, unenforceable or unconstitutional, such invalid, unenforceable or unconstitutional section, subsection, sentence, clause or portion will (a) yield to a construction permitting enforcement these Rules to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, or constitutionality of the remaining portions of these Rules. These Rules may be corrected at any time by resolution of the Board to cure editorial or clerical errors, or to comply with applicable law.