

ORDINANCE NO. 2410

AN ORDINANCE ESTABLISHING RULES OF CONDUCT FOR THE WOODBURN PUBLIC LIBRARY; PROVIDING FOR ENFORCEMENT PROCEDURES; AND DECLARING AN EMERGENCY.

[Whereas clauses.]

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. In addition to other measures provided by law, any peace officer, as defined by ORS 133.005(3) or any City of Woodburn Code Enforcement Officer may exclude any person from the premises of the Woodburn Public Library as provided in this Ordinance.

Section 2. No person shall enter or remain on the premises of the Woodburn Public Library at any time after a Notice of Exclusion issued under this Ordinance is in effect.

Section 3. A Notice of Exclusion issued under this Ordinance shall be for thirty (30) days. If the person to be excluded has been excluded from the premises of the Woodburn Public Library at any time, within two years before the date of the present exclusion, the exclusion shall be for ninety (90) days. If the person to be excluded has been excluded from the Woodburn Public Library on two or more occasions within two years before the date of the present exclusion, the exclusion shall be for one-hundred eighty (180) days.

Section 4. When there is reasonable cause to believe that a person has committed any of the following acts on the premises of the Woodburn Public Library, a Notice of Exclusion shall be issued and the person shall be directed to leave the library without first being give a warning:

- (A) Any activity that would constitute a violation of any federal or state criminal law.
- (B) Engaging in sexual conduct, as defined under ORS 167.060.
- (C) Possessing or consuming any alcoholic beverages.
- (D) Possessing or consuming any controlled substances in violation of ORS Chapter 475.

Section 5. When there is reasonable cause to believe that a person has committed any of the following acts on the premises of the Woodburn Public Library, a Notice of Exclusion shall be issued only after the person has first been given a warning and a reasonable opportunity to desist from the violation:

(A) Engaging in conduct that unreasonably disrupts or interferes with the normal operation of the library, or disturbs library staff or patrons. This conduct includes but is not limited to abusive or threatening language or gestures, conduct that creates unreasonable noise, or conduct that consists of loud or boisterous physical behavior.

(B) Using library materials, equipment, furniture, fixtures or buildings in a manner inconsistent with the customary use thereof; or in a destructive, abusive or potentially damaging manner, or in a manner likely to cause personal injury to the actor or others.

(C) Soliciting, petitioning, distributing written materials or canvassing for political, charitable or religious purposes.

(D) Interfering with the free passage of library staff or patrons, including but limited to, placing objects such as bicycles, skateboards, backpacks or other items in a manner that interferes with free passage.

(E) Operating roller skates, skateboards or other similar devices.

(F) Smoking or other use of tobacco.

(G) Bringing an animal into the library, except a Seeing Eye or Hearing Ear dog, or other animal trained to assist a person with a disability.

(H) Improperly using library restrooms, including but not limited to, bathing, shaving, washing hair and changing clothes.

(I) Using personal electronic equipment at a volume that disturbs others, including but not limited to, pagers, stereos, televisions and cellular phones.

(J) Failing to leave the library at closing time.

(K) Eating or drinking except as expressly allowed by the Library Director in the course of a library-approved event.

Section 6. Where there is reasonable cause to believe that a person has committed any of the following acts, the person may be directed to leave the premises of the Woodburn Public Library until the problem is corrected:

(A) Not wearing shoes or other footwear.

(B) Not wearing a shirt or other covering of the upper body.

Section 7. A Notice of Exclusion under this Ordinance shall specify the date the exclusion is to commence, the term of the exclusion, the provision of law that the person violated, and a brief description of the offending conduct. It shall be signed by the issuing party. The Notice of Exclusion shall provide information concerning the right to appeal the notice and to apply for a temporary waiver from the effects of the notice

warning of consequences for failure to comply shall be prominently displayed on the notice.

Section 8. Notices of Exclusion shall take effect immediately except that if a timely appeal is filed under this Ordinance, the effectiveness of the exclusion shall be stayed pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of the exclusion shall become effective immediately upon issuance of the Woodburn Municipal Court decision, unless the Court sets a later effective date.

Section 9. A person receiving a Notice of Exclusion may appeal to the Woodburn Municipal Court to have the notice rescinded or the exclusion period shortened. In order to be timely, an appeal must be filed within five (5) days of receipt of the Notice of Exclusion.

(A) The appeal need not be in any particular form, but should substantially comply with the following requirements:

- (i) Be in writing
- (ii) Identify the date, time, and place of the exclusion
- (iii) Identify the name and address of the appealing party
- (iv) Identify the official who issued the exclusion
- (v) Contain a concise statement as to why the Notice of

Exclusion was issued in error

(B) A copy of the appeal shall be served on the City Attorney.

(C) An appeal hearing shall be conducted by the Woodburn Municipal Court and a decision on the appeal shall be made by the Court within ten (10) days after the appeal is filed.

(D) At the appeal hearing the City and any interested parties shall have the right to present evidence and witnesses and be heard. After due consideration of pertinent information and testimony the Court shall issue a written decision. The decision of the Court shall be final.

Section 10. At any time within the exclusion period, a person receiving a Notice of Exclusion may apply in writing to the City Administrator for a temporary waiver from the effects of the notice for good cause shown. In exercising discretion under this section, the City Administrator shall consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be on the premises of the Woodburn Public Library during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the City Administrator determines to be relevant to the determination of whether or not to grant a waiver. The decision of the City Administrator to grant or deny, in whole or in part, a waiver under this section is committed to the discretion of the City Administrator, and is not subject to appeal or review.

Section 11. [Emergency clause.]

Passed by the Council September 25, 2006 and approved by the Mayor September 27, 2006.