

**City of Willamina
Staff Report
FOR THE CITY COUNCIL MEETING OF OCTOBER 12, 2021**

TO: MAYOR AND CITY COUNCIL

FROM: KENNA L. WEST, CITY MANAGER

**SUBJECT: ORDINANCE NO. 689 – AN ORDINANCE AMENDING CHAPTER 133
OF THE WILLAMINA MUNICIPAL CODE**

ISSUE

Shall the City Council adopt Ordinance No. 689 amending Chapter 133 to add Section 133.21 authorizing exclusion of those violating state and/or city regulations, laws, or ordinances from City facilities or properties?

RECOMMENDATION:

Adopt Ordinance No. 689 amending Chapter 133 to add Section 133.21 authorizing exclusion of those violating state and/or city regulations, laws, or ordinances from from City facilities or properties.

SUMMARY AND BACKGROUND

Historically, the City Council of the City of Willamina has requested that city management address drug related conduct, illegal conduct, and other illicit or disallowed conduct promptly in order to keep our children and community safe and secure.

The City of Willamina senior contract deputy brought to the attention of city management that there has been an increase in drug related conduct, illegal conduct, and other illicit or disallowed conduct taking place on City properties including our Parks. At this time the only action that can be taken by our Deputies or Code Enforcement personnel is to issue a citation for such conduct. There have been multiple situations where the person receiving the citation simply leaves for the day, but then returns within a few days and performs those activities for which they were previously cited. By adopting Ordinance 689, the City Council will provide the Deputies, Code Enforcement Officer, or authorized persons the ability to exclude an offender from City properties and Parks for up to 90 days and to enforce that exclusion.

FACTS AND FINDINGS

1. Historically, the City Council has requested city management to promptly address drug related conduct, illegal conduct, and other illicit or disallowed

conduct promptly in order to keep our children and community safe and secure.

2. The City of Willamina senior contract deputy brought to the attention of city management the recent increase in drug related conduct, illegal conduct, and other illicit or disallowed conduct taking place on City properties including our Parks.
3. To address this issue, city management proposes the adoption of Ordinance No. 689 that amends the Willamina Municipal Code to provide the Deputies and Code Enforcement Officer, and others, the ability to exclude those who violate the Ordinance from City properties and Parks for up to 90 days.

Proposed Motion: I move that the City Council adopt Ordinance No. 689 amending the City of Willamina Municipal Code by first reading it into the record in full and then by title.

Kenna L. West

Kenna L. West, City Manager

Attachments: Ordinance No. 689

ORDINANCE NO. 689

**AN ORDINANCE AMENDING CHAPTER 133 OF
THE WILLAMINA MUNICIPAL CODE**

WHEREAS, Willamina Municipal Code Chapter 133 relates to offenses against property, including trespass; and

WHEREAS, the contract deputies assigned to the City of Willamina have noted a significant increase in criminal conduct under state law or conduct in violation of the Willamina Code of Ordinance occurring on the City's properties and in the City's parks.

NOW, THEREFORE, THE CITY OF WILLAMINA ORDAINS AS FOLLOWS:

Section 1: Additions

§ 133.21 EXCLUSION FROM CITY FACILITY OR PROPERTY

(A) **EXCLUSION AUTHORITY.** In addition to any other remedy or penalty provided by this code or state law, an Enforcement Officer, including but not limited to the Sheriff's Department and the City of Willamina Community Support and Code Enforcement Officer, or any person specifically authorized by the City Manager, may exclude any individual from city parks, recreational areas, city-owned or leased properties, or city-sponsored events for a period of up to 90 days based upon a substantial objective belief by the Officer (or person authorized) that the individual has engaged in:

- (1) Conduct made criminal as either a misdemeanor or felony under state law; or
- (2) Conduct in violation of this code; or
- (3) Conduct in violation of any "rules of conduct" that may be adopted by Council resolution.

(B) An exclusion issued under the provisions of Subsection A above shall take effect upon issuance of the Notice of Exclusion and remains for the period set out therein subject only to an appeal consistent with that described in Subsection D below.

(C) **EXCLUSION NOTICE.** The Notice of Exclusion shall include:

- (1) The provision of state law, city code, or rule of conduct violated;
- (2) The place(s) of exclusion;
- (3) The start date and end date of the exclusion period;
- (4) Prominently display a warning of the consequences for failure to comply with the exclusion as described in Subsection E, below; and
- (5) A statement that the excluded person has the right to file a written appeal with the City of Willamina Municipal Court within five business days of the issuance date of the Notice of Exclusion and request an appeal hearing to have the exclusion rescinded or the exclusion period shortened.

(D) APPEAL OF EXCLUSION. A person receiving a Notice of Exclusion under Subsection (A) through (C) above, may file a written appeal with the City of Willamina Municipal Court within five business days of the issuance of the Notice to have the exclusion rescinded or the exclusion period shortened.

(1) The written appeal shall contain:

- (a) Appellant's name;
- (b) Appellant's mailing address and contact information;
- (c) A concise statement of the basis on which the decision to exclude is invalid, unauthorized, or otherwise improper; and
- (d) A copy of the Notice of Exclusion.

(2) The Municipal Court shall set a date and time for the appeal hearing not less than seven days nor more than 21 days after the receipt of a properly and timely filed appeal. The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the appellant or city for good cause.

(3) If an appeal of the exclusion is timely filed under Subsection D above, the notice automatically stays the exclusion period until the Municipal Court issues a decision on the appeal.

(4) The city has the burden to show by a preponderance of evidence that the exclusion is warranted given the totality of the circumstances.

(5) The City of Willamina Municipal Court shall issue the Court's determination in writing and provide a copy to the city and appellant.

(E) PENALTY.

(1) Unless otherwise excluded, violation of any provision of this title is punishable by a fine of \$300 for each offense or violation thereof.

(2) No person shall enter or remain in any public place at any time during which there is in effect a Notice of Exclusion issued under Subsection A through C above. A person who knowingly violates a Notice of Exclusion commits the crime of criminal trespass.

Section 2: Severability

The Sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs, or clauses.

Section 3: Codification

Provisions of this Ordinance shall be incorporated into the City Code and the word "Ordinance" may be changed to "code", "article", "section", "chapter", or other word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any "Whereas" clauses and boilerplate provisions (i.e. Section 2) need not be

codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

Section 4: Effective Date

This ordinance shall become effective thirty (30) days after adoption.

The foregoing Ordinance No. 689 was first read into the record in full and then by title and passed by a unanimous vote of all council members in attendance in accordance with Chapter VIII, Section 30-31 of the City Charter on the 12th day of October, 2021

PASSED and ADOPTED this 12th day of October 2021, by the following votes:

Councilor Baller: aye

Councilor Johnson: aye

Councilor McKnight: aye

Councilor Skyberg: aye

Councilor Wilson: aye

Councilor Wooden: aye



Robert Burr

Robert Burr, Mayor

ATTEST:

Bridget Meneley

Bridget Meneley, Deputy City Recorder