

# TITLE 10

## SPECIAL ORDINANCES, REGULATIONS, RULES, POLICIES, AND BARGAINING AGREEMENTS

### SUBTITLE 3 — POLICIES

#### POLICY 39

#### EXCLUSION FROM COUNTY OWNED PROPERTY AND FROM CONTACTING THE COUNTY BY TELEPHONE

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#### 39.100 Purpose

In furtherance of maintaining a safe environment for public employees and visitors, and pursuant to the powers and authority of Linn County Board of Commissioners, the following policy addresses: 1) the exclusion of persons from County Property, and 2) the prohibition of harassing or annoying telephone calls to County Personnel.

[Adopted 14-407 eff 12/9/14; amd 2020-047 eff 03/31/20]

#### 39.150 Definitions

(A) "**Aggressive panhandling**" means solicitation of money from the occupants of County Property through coercive or menacing actions.

(B) "**Board**" means the Linn County Board of Commissioners.

(C) "**County**" means Linn County.

(D) "**County Property**" means any building, and the grounds directly adjacent to each such building, owned or under the control of the County.

(E) "**Department Head**" means the person to whom the Board has given the responsibility of administering a department of Linn County government.

(F) "**Elected Officials**" means any of the following, individually or collectively: the Linn County Commissioners, the Assessor, the Clerk, the District Attorney, the Sheriff, the Surveyor, the Treasurer, and Justices of the Peace.

(G) "**Non-motorized vehicle**" means equipment of any shape or form that depends on non-motorized means for propulsion, including, but not limited to, skateboards, bicycles, scooters, roller skates, roller blades, sleds, or coasters.

[Adopted 2020-047 eff 03/31/20]

#### 39.200 Exclusion from County Property

(A) A person is subject to immediate exclusion from County Property if that person is observed to be engaged in any of the following:

(1) Disorderly, riotous, violent, and/or threatening conduct, including unlawful assembly;

(2) Unreasonably loud, boisterous, or disruptive behavior;

- (3) Disruption of lawful meetings or events;
- (4) Obstruction of access to government services;
- (5) Interference in government business;
- (6) Abusive language or gestures ;
- (7) Degrading the appearance of County Property, including, but not limited to, depositing waste, defacing property, or spitting;
- (8) Refusal to obey a lawful directive of a County employee or official;
- (9) Unlawful possession of an open container of alcoholic beverage;
- (10) Use of marijuana;
- (11) Smoking in non-designated areas;
- (12) Aggressive panhandling;
- (13) Unlawful use of a non-motorized vehicle on County Property;
- (14) Violation of a state or local law;
- (15) Violation of County policies intended to maintain a safe orderly and efficient work environment in public buildings;
- (16) Conduct that is otherwise disruptive to the efficient functioning of the County's government affairs.

(B) Before issuing an exclusion under this section, the person authorized to exclude individuals from County Property shall first give the person a warning and opportunity to desist from the conduct or behavior. An exclusion shall not be issued if the person promptly complies with the direction and desists from conduct or behavior. Notwithstanding the provisions of this subsection (C), no warning shall be required if the person is to be excluded for engaging in conduct that has resulted in injury to any person or damage to any County Property.

(C) Elected Officials and County Department Heads, or their designee(s), have the authority to issue exclusion orders.

(D) If a person to whom an exclusion order is directed remains or returns to excluded County Property without complying with LCP 39.500(B), that person may be subject to arrest for criminal trespass.

(E) For the purpose of this LCP 39.200, the County department in charge of security in and on County Property is the Linn County Sheriff's Office or designee(s).

[Adopted 14-407 eff 12/9/14; amd 2020-047 eff 03/31/20]

### **39.210 Exclusion Order Form**

(A) All exclusion orders must be in writing and shall state the basis for the order, the County Property to which the exclusion applies, and the appeal information. The form of such an exclusion order must substantially comply, in form and content, with Appendix 1.

(B) The order must be served personally on the person to be excluded or by certified and regular mail. If the order is to be served by certified and regular mail, it must be postmarked within ten (10) business days of the offensive behavior or conduct.

(C) The exclusion order must be kept on file by the issuing department during the term of the exclusion. The party issuing the exclusion order must:

(1) Provide copies of the order to all County Department Heads, Elected Officials, and the Sheriff's Civil Division; and

(2) File a copy of the exclusion order with the Linn County Clerk in accordance with LCP 39.600.

(D) The exclusion will remain in effect for the period specified in the order unless modified or rescinded upon appeal.

[Adopted 2020-047 eff 03/31/20]

### **39.300 Telephonic Harassment of County Phone Numbers**

(A) County Department Heads and Elected Officials, and any designees thereto, shall have the authority to forbid persons from calling County telephone numbers if the person intentionally harasses a County department or office, including, but not limited to, engaging in the following telephonic behavior:

- (1) Riotous, violent, or threatening language;
- (2) Abusive language; or
- (3) Lewd, indecent, or obscene comments.

(B) Nothing in this LCP 39.300 shall be construed to limit or prohibit the ability of the District Attorney to charge individuals with Telephonic Harassment pursuant to ORS 166.090.

(C) A telephonic prohibition order forbidding a person from calling County telephone numbers must substantially comply, in form and content, with Appendix 2. The order shall be served personally or by certified and regular mail if a mailing address is available.

(D) The party issuing the telephonic prohibition order must file a copy of the order with the Linn County Clerk in accordance with LCP 39.600.

[Adopted 14-407 eff 12/9/14; amd 2020-047 eff 03/31/20]

### **39.400 Appeal**

(A) Any exclusion order from County Property, or a telephonic prohibition order forbidding calling County telephone numbers, may be appealed by filing a notice of appeal no later than five (5) business days after being served with the exclusion order or telephonic prohibition order, as applicable. If a person accepts certified mailing, the date of acceptance of the mailing shall serve as the date of service for calculation of the appeal period. If a person rejects certified mailing, the date of rejection of the mailing shall serve as the date of service for calculation of the appeal period. The notice of appeal shall be mailed to:

County Administrative Officer  
Linn County  
P.O. Box 100  
Albany, Oregon 97321

The notice of appeal will be considered timely only if postmarked or received within the five (5) day period.

(B) The County Administrative Officer shall arrange for a hearing on the issue of the exclusion order or telephonic prohibition order. The hearing shall take place in front of the County Administrative Officer or designee within five (5) business days of receiving the notice of appeal, so long as the County Administrative Officer or designee has no personal involvement in the matter.

(C) During the hearing, the County Administrative Officer or designee shall consider any evidence and/or justifications the issuing Department Head or Elected Official deems as relevant. This may include oral and/or written testimony, including affidavits or declarations from any involved persons, including hearsay deemed reliable by the County Administrative Officer. The appellant may present evidence and/or submit testimony at the hearing in order to contest the validity of the exclusion or telephonic prohibition.

(D) The County Administrative Officer shall uphold the exclusion or telephonic prohibition if, upon the County Administrative Officer's de novo review, the preponderance of evidence indicates that, more likely than not, the person in fact committed the violation for which the person was excluded, and if the exclusion is otherwise in accordance with law. The County Administrative Officer or designee is the sole judge as to whether or not an exclusion order or telephonic prohibition order is consistent with this Policy 39 or any other applicable law.

(E) The County Administrative Officer or designee shall issue a written decision within five (5) business days of the hearing date. Such decision shall be final.

Adopted 14-407 eff 12/9/14; amd 2020-047 eff 03/31/20]

### **39.500 Length of exclusion or telephonic prohibition; exception for Necessary Official Business**

(A) A person in violation of this policy may be excluded or prohibited from telephonic contact for a period of up to six (6) months. The length of exclusion or telephonic prohibition is dependent upon the following factors:

- (1) Collective number of prior violations;
- (2) Severity of behavior; and
- (3) Nature of the County business affected.

(B) During the exclusion period, the person may only enter a specific County Property, with prior notice to the County, to conduct Necessary Official Business during normal County business

hours. For the purposes of this subsection (B), Necessary Official Business means:

- (1) An appearance for a legal matter; or
- (2) A prearranged and verifiable meeting with a County employee or official.

(C) During the period of telephonic prohibition, the person may only call the prohibited telephonic number to conduct Necessary Official Business during normal County business hours. For the purposes of this subsection (C), Necessary Official Business means a prearranged and verifiable discussion with a County employee or official that is limited in scope and duration.

[Adopted 2020-047 eff 03/31/20]

### **39.600 Filing and recording exclusion and telephonic prohibition orders with the Clerk**

(A) A copy of the exclusion or telephonic prohibition order shall be filed with the Linn County Clerk's Office. When the Clerk accepts an order for filing, the Clerk shall affix a unique, controlled number to the order that conforms to the following format:

*Exclusion Order No. YY-*nnn**

or

*Telephonic Prohibition Order No. YY-*nnn**

("YY" represents the last two digits of the year in which the exclusion order was issued and "nnn" is the Clerk's control number for that particular exclusion order.)

(B) The Clerk shall record an exclusion order in the commissioners' journal.

[Adopted 2020-047 eff 03/31/20]

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### **Statutory References and Other Authorities:**

ORS 166.090; ORS 164.255

### **Legislative History of Policy 39:**

Adopted 2014-407 eff 12/9/14

Amendments to 2014-407:

#1 2020-047 eff 03/31/20

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# **APPENDIX 1: EXCLUSION ORDER**



LINN COUNTY EXCLUSION ORDER

Order No. \_\_\_\_\_

Name: \_\_\_\_\_ Sex: \_\_\_\_\_ DOB: \_\_\_\_\_ Phone: \_\_\_\_\_
Last First Middle

Address: \_\_\_\_\_
Number Street City State Zip Code

On: \_\_\_\_\_ at: \_\_\_\_\_ a.m. p.m. you were witnessed engaging in the following conduct and/or behaviors:
Date Time

- Disorderly, riotous, violent, and/or threatening conduct, including unlawful assembly
Unreasonably loud, boisterous, or disruptive behavior
Disruption of lawful meetings or events
Obstruction of access to government services
Interference in government business
Abusive language or gestures
Degrading the appearance of County Property, including depositing waste, defacing property, or spitting
Refusal to obey a lawful directive of a County employee or official
Consumption and/or possession of an open container of alcoholic beverages
Use of marijuana
Smoking in non-designated areas
Aggressive panhandling
Unlawful use of a non-motorized vehicle on County Property
Violation of a state or local law
Violation of County policies intended to maintain a safe orderly and efficient work environment in public buildings
Conduct that is otherwise disruptive to the efficient functioning of the County's government affairs

Additional clarification: \_\_\_\_\_

Because of your actions noted above, it is the decision of:

Name Title Department

to exclude you from entering and being upon the following County Property pursuant to Linn County Policy 39:

- Linn County Courthouse
Armory Building
Courthouse Annex
Willamette Health Center
Other:
Sweet Home Health Department Office
Lebanon Health Department Office
Washington Street Building
Sheriff's Office/Jail
Justice of the Peace Offices
Road Department Building
Linn County Parks/Recreational Areas
ALL COUNTY PROPERTY

This document shall serve as your Notice of Exclusion. You are hereby formally excluded from the premises checked above for a period of: 1 day 30 days 3 months 6 months

You may only enter a premises checked above to conduct Necessary Official Business during normal business hours. "Necessary Official Business" is defined as either: 1) an appearance for a legal matter; or 2) a prearranged and verifiable meeting with a County employee or official. If during your exclusion period you need to conduct Necessary Official Business upon any County Property from which you are excluded, you must notify the County of your presence prior to entry. Notification can be provided to the following County representative(s):

- For business at the Lebanon Health Department Office, the Willamette Health Center, the Sweet Home Health Department Office, or the Washington Street Building, please notify Todd Noble, Linn County Health Administrator, at (541) 967-3888.
For business at the Linn County Courthouse, Courthouse Annex, Armory Building, or Justice of the Peace Offices, please notify Jeff Schrader, LCSO Civil Division, at (541) 967-3907.
For business at the Sheriff's Office/Jail, please notify Paul Timm, Linn County Undersheriff, at (541) 967-3950.
For business at any Road Department Building, please notify Wayne Mink, Linn County Roadmaster at (541) 967-3919.
For business at any Linn County Park, please notify Brian Carroll, Parks & Recreation Director, at (541) 967-3971.
For all other County Properties, please notify Jeff Schrader, LCSO Civil Division, at (541) 967-3907

This exclusion has been recorded and will be kept on file during the term of this exclusion. Failure to comply with this Exclusion Order may result in your arrest for criminal trespass. This exclusion will remain in effect for the specified period unless it is changed or rescinded because of an appeal. To appeal this exclusion, see the appeal information provided on the back of this Order.

This Exclusion Order shall expire on: \_\_\_\_\_ at: \_\_\_\_\_ a.m. p.m.
Date Time

Authorized Signature: \_\_\_\_\_

## **HOW TO APPEAL AN ORDER OF EXCLUSION**

Any exclusion from Linn County Property may be appealed by filing a notice of appeal within five (5) business days from the date of the Order. If an appeal is properly filed, this exclusion will be stayed while the appeal is pending.

The written notice of appeal shall be mailed to the County Administrative Officer at the following address:

Linn County Administrative Officer  
Linn County Courthouse  
P.O. Box 100  
Albany, Oregon 97321

The notice of appeal will be considered timely only if received or postmarked within the five-day period.

Upon receipt of a notice of appeal, the County Administrative Officer will arrange for a hearing on the issue. The hearing shall take place in front of the County Administrative Officer or designee within five (5) business days of receiving the notice of appeal, so long as the County Administrative Officer or designee has no personal involvement in the matter.

During the hearing, the County Administrative Officer or designee shall consider all evidence and/or justifications the issuing Department Head or Elected Official deems as relevant. This may include oral and/or written testimony, including affidavits or declarations from any involved persons. The appellant may present evidence and/or submit testimony at the hearing in order to contest the validity of the exclusion. The County Administrative Officer is the sole judge as to whether or not the exclusion order is consistent with Linn County Policy 39 or any other applicable law.

The County Administrative Officer or designee shall issue a written decision within five (5) days of the hearing date. Such decision shall be final.

**APPENDIX 2: TELEPHONIC  
PROHIBITION ORDER**



Order No. \_\_\_\_\_

LINN COUNTY TELEPHONIC PROHIBITION ORDER

Name: \_\_\_\_\_ Sex: \_\_\_\_\_ DOB: \_\_\_\_\_
Last First Middle

Phone: \_\_\_\_\_ Address (if known): \_\_\_\_\_
Number Street City State Zip Code

On: \_\_\_\_\_ at: \_\_\_\_\_ a.m. p.m. you were reported to have committed telephonic harassment
Date Time
of \_\_\_\_\_, a phone number for the \_\_\_\_\_
Phone Number County Department

You were found to have engaged in the following harassing telephonic behavior:

- Riotous, violent, or threatening language
Abusive language
Lewd, indecent, or obscene comments
Other:

Additional Clarification: \_\_\_\_\_

Because of your actions noted above, it is the decision of:

Name Title Department

to forbid you from calling the following County Department(s) pursuant to Linn County Policy 39:

- Animal Control Business Development Circuit Court Clerk's Office Commissioners' Office
County Attorney District Attorney Extension Services Fair & Expo General Services
GIS Health Services Justice Courts Juvenile Department Law Library
Medical Examiner Parks & Rec. Planning & Building Property Management Roads Department
Sheriff's Office Surveyor Tax & Assessment Treasurer Veteran Services
Victim Services Other:

This document shall serve as your Notice of Prohibition against Calling County Telephones. You are hereby formally excluded from calling the above-checked Department(s) for a period of: 1 day 30 days 3 months 6 months

You may only call the above-checked County Department(s) to conduct Necessary Official Business during normal business hours. "Necessary Official Business" is defined as a prearranged and verifiable discussion with a County employee or official that is limited in scope and duration

This prohibition has been recorded with the Clerk's Office and will be kept on file during the term of this exclusion. Failure to comply with this Telephonic Prohibition Order may result in your prosecution for Telephonic Harassment pursuant to ORS 166.090. Please be advised, Telephonic Harassment is a class B misdemeanor. This exclusion will remain in effect for the specified period unless it is changed or rescinded because of an appeal. To appeal this exclusion, see the appeal information provided on the back of this Order.

This Telephonic Prohibition Order shall expire on: \_\_\_\_\_ at: \_\_\_\_\_ a.m. p.m.
Date Time

Authorized Signature: \_\_\_\_\_

## **HOW TO APPEAL A TELEPHONIC PROHIBITION ORDER**

An Order forbidding telephonic contact may be appealed by filing a notice of appeal within five (5) business days from the date of the Order. If an appeal is properly filed, this order will be stayed while the appeal is pending.

The written notice of appeal shall be mailed to the County Administrative Officer at the following address:

Linn County Administrative Officer  
Linn County Courthouse  
P.O. Box 100  
Albany, Oregon 97321

The notice of appeal will be considered timely only if received or postmarked within the five-day period.

Upon receipt of a notice of appeal, the County Administrative Officer will arrange for a hearing on the issue. The hearing shall take place in front of the County Administrative Officer or designee within five (5) business days of receiving the notice of appeal, so long as the County Administrative Officer or designee has no personal involvement in the matter.

During the hearing, the County Administrative Officer or designee shall consider all evidence and/or justifications the issuing Department Head or Elected Official deems as relevant. This may include oral and/or written testimony, including affidavits or declarations from any involved persons. The appellant may present evidence and/or submit testimony at the hearing in order to contest the validity of the telephonic prohibition. The County Administrative Officer is the sole judge as to whether or not a telephonic prohibition order is consistent with Linn County Policy 39 or any other applicable law.

The County Administrative Officer or designee shall issue a written decision within five (5) days of the hearing date. Such decision shall be final.