

Policy and Procedure

Subject: Removal and Suspension from Entry To and Use of All Park Facilities		Page: 1 of 3
Section: B Item: 30	Approved: April 9, 2020	Authority: Park Board

A. Purpose

To formalize the process for removal and suspension of persons from entry to and use of all park facilities ("Park Facilities") owned or operated by the City of Fort Wayne Parks and Recreation Department ("Parks Department") in the City of Fort Wayne, Indiana and Allen County, Indiana (collectively, the "Park Facilities").

A. Policy

In accordance with authority established in Ind. Code § 36-10-4 et seq., and Fort Wayne City Code Chapter 97.03, an individual may be asked to leave, may be removed from and/or may be suspended from the Park Facilities for engaging in conduct that may include, but is not limited to:

- B-1 Actions or behavior which violate the United States Code;
- B-2 Actions or behavior which violate the Indiana Code;
- B-3 Actions or behavior which violate the Indiana Administrative Code;
- B-4 Actions or behavior which violate the Fort Wayne City Code;
- B-5 Actions or behavior which violate the policies, rules and regulations adopted from time to time by Parks Department or the City of Fort Wayne Board of Park Commissioners ("Park Commissioners"), unless such individual has been issued the appropriate permit;
- B-6 Aggressive or violent actions or behavior;
- B-7 Actions or behavior that unreasonably disrupts the activities of other users of park facilities;
- B-8 Actions or behavior that unreasonably interferes with other persons' ability to use park facilities;
- B-9 Actions or behavior which causes or creates a risk of causing injury to persons within park facilities;
- B-10 Actions or behavior which causes or creates a risk of causing damage to park facilities; or
- B-11 Actions or behavior which constitutes a public nuisance.

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B. Authority to Remove/Suspend.

Law Enforcement Officers (as defined in the Indiana Code) shall be authorized to ask individuals to leave, be removed or be issued a Notice of Suspension (“Notice”) from the Park Facilities.

C. Notice of Suspension

An individual may not be suspended from entering or using Park Facilities unless or until he/she receives a Notice pursuant to the following process:

- D-1 The Notice shall be served in writing by personal service or by prepaid, United States certified mail.
- D-2 The Notice shall state the reason for the suspension, the date upon which the suspension commences, the length of the suspension, the consequence of failing to observe the suspension and the process by which an individual may appeal the suspension.
- D-3 The Notice shall be signed and dated by the Parks Department Director or his/her appointed designee, including Law Enforcement Officers.

D. Appeal of Suspension.

Any individual who receives a Notice has the right to appeal said suspension. All appeals shall comply with the following requirements:

- E-1 Each appeal shall be in writing on a form provided by the Fort Wayne Police Department.
- E-2 All appeals shall be submitted to the Park Commissioners through the Fort Wayne Police Department Records Division (“Records Division”) within ten (10) days following receipt of the Notice. The date of receipt of the Notice is the date upon which the suspended individual is personally served or the date on which the certified mail receipt for the Notice is signed.
- E-3 Upon receipt of a written appeal, the Park Commissioners shall notify the City of Fort Wayne Law Department to set the appeal for hearing before an administrative law judge.
- E-4 The individual filing the appeal shall receive written notice of the date, time and location of the appeal hearing from the Records Division at the time the appeal is filed.
- E-5 Each suspension shall remain in effect while an appeal is pending; during which time period the suspended individual shall be prohibited from entering or using the Park Facilities.

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E. Suspension Hearing.

All appeal hearings on suspensions shall be open to the public and otherwise comply with the Indiana Open Door Law.

F-1 Any individual challenging his/her suspension may present his/her defense in support of the appeal on his/her own behalf or through his/her representative.

F-2 Any individual appealing his/her suspension shall be entitled to a minimum of ten (10) minutes to present his/her defense to the administrative law judge

F-3 Any individual appealing his/her suspension shall be entitled to present evidence, documents and witnesses in support of his/her position at the appeal hearing.

F-4 Upon conclusion of the appeal hearing, the administrative law judge shall issue written findings of fact either upholding or overturning the suspension. Said findings of fact shall be made available to the individual appealing the suspension.

F. Maximum Length of Suspension.

No suspension shall exceed a period of six (6) months.

G. Criminal Trespass

Entry into or use of any of the Park Facilities by a person suspended in accordance with this Policy or whose appeal is pending shall subject such individual to arrest for criminal trespass in accordance with Ind. Code § 35-43-2-2.