

CITY OF SAN JOSE  
PARKS, RECREATION AND NEIGHBORHOOD SERVICES

SUBJECT: PRNS DIRECTOR ISSUED POLICY FOR SUSPENSION FROM A COMMUNITY FACILITY

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APPROVED:

EFFECTIVE DATE:  
REVISED DATE:

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In order to preserve the peace and provide the public safe opportunities to access Parks, Recreation and Neighborhood Services (PRNS) facilities, the PRNS Suspension Policy describes disruptive behavior guidelines that may be grounds for removal from, and denial of access to PRNS facilities and programs that are otherwise open to the public. This policy also includes the procedures for suspension and the suspended Participant's ability to request a hearing.

The Suspension Policy includes the following six parts:

1. Parks, Recreation and Neighborhood Services *Suspension Policy*
2. Parks, Recreation and Neighborhood Services *Notice of One-Day Suspension Form*
3. Parks, Recreation and Neighborhood Services *Notice of Multi-Day Suspension Form (pending Appeal Period)*
4. Parks, Recreation and Neighborhood Services *Notice of Immediate Multi-Day Suspension Form (for Safety or Emergency)*
5. Procedures to Request a Hearing including Form to Request a Hearing
6. Parks, Recreation and Neighborhood Services *Form Hearing Determination Letter*

**PARKS, RECREATION AND NEIGHBORHOOD SERVICES**  
**SUSPENSION POLICY**

It is the policy of the Director that all persons in Community Facilities shall abide by the Facility Rules and shall not engage in Disruptive Behaviors. Facility Rules and/or Disruptive Behaviors for PRNS-operated facilities shall be determined by the Director. The PRNS Suspension Policy contemplates a Three-Tiered Program of Suspensions, which may be used by City staff to address Disruptive Behavior. This policy also includes the procedures for suspension and the suspended Participant's right to a hearing. Nothing herein limits the Director's authority to limit access to areas that are not open to the public.

This policy is issued by the Director of Parks, Recreation and Neighborhood Services pursuant to San José Municipal Code Section 13.44.030. Compliance with the provisions of this Policy are required by San José Municipal Code Section 13.44.020.

**PROCEDURES:**

PRNS's goal is to be clear and equitable in the application of PRNS behavior rules and to provide a documented record of the enforcement of these rules.

**DEFINITIONS**

"Authorized PRNS staff members" for purposes of authorizing PRNS staff to issue a Suspension Notice, means Director of PRNS, and the following PRNS staff: Assistant Director, Deputy Directors, Division Managers, Superintendents, Parks and Zoo Managers, Family Park Manager, Recreation Supervisors, Parks Facility Supervisors, Maintenance Supervisors, Park Rangers Volunteer Program Coordinator and such other persons designated by the Director of PRNS. Nothing herein is intended to limit the ability of other PRNS staff to oversee and direct the use and operation of a Community Facility by the public.

"Business Days" means each weekday, other than days when City Hall is closed for business.

"Community Facility" means Community Centers operated by PRNS, and any other building or property operated by PRNS which the Director has identified as being covered by this policy.

"Director" means the Director of Parks, Recreation and Neighborhood Services (PRNS).

"Disruptive Behaviors" are behaviors identified on a list established by the Director for a particular Community Facility or Facilities that are disruptive to the operation of the Facility. Engaging in Disruptive Behavior is against the rules of the Facility and may result in suspension from the Facility.

"Hearing Officer" is design~~ated~~ed by the Director.

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"Participant" means any person who visits or otherwise enters a Community Facility.

"PRNS" means the City of San José Department of Parks, Recreation and Neighborhood Services.

## **LEVEL 1 - ONE-DAY SUSPENSION**

**Note: City Staff may at any time immediately discharge a Participant or any other person from a Community Facility, and call the San José Police Department to assist if the person is acting in a manner dangerous to or threatening to City staff, other customers or the general public.**

Some behavior may be disruptive enough to require a Participant to leave for the day or a portion of the day. In order to suspend a person(s) for a day or for the remainder of the current day, the following procedures shall occur:

1. PRNS staff should inform the Participant that they are engaging in disruptive behavior. PRNS staff should tell the Participant what the disruptive behavior is and the importance of abiding by the facility rules. The Participant should be advised that further violations of the posted or documented rules will not be tolerated and may result in their being asked to leave for the day. If a person engages in fighting or other behavior that impacts the safety of any person or the Community Facility, PRNS staff may call the police and/or issue an immediate One-Day Suspension from the Community Facility.
2. If the disruptive behavior continues after staff has informed the Participant of their disruptive behavior, PRNS staff may require the Participant to leave for the day by issuing a One-Day Suspension. If the Participant expresses to staff they feel that the treatment is unfair, the supervisor on duty may be called to hear the objection. The supervisor's decision will be final. A standard PRNS Incident Report will be filed by the PRNS staff member involved.
3. PRNS staff should document the One-Day Suspension on the "Notice of One-Day PRNS Suspension" form. As a courtesy, a copy of the Suspension Notice may be given to the suspended person – however delivery of the notice is not required if the person is otherwise informed of the suspension. A copy of the Notice of One-Day Suspension should be sent to the PRNS Administration.
4. No person may enter or remain on the premises during the period PRNS staff has suspended that person pursuant to a One-day Suspension. Without limitation of any other provision, failure to leave the premises may result in a citation by the San José Police Department and may result in further suspension action by the City.
5. PRNS staff is not limited to issuing only a single One-Day Suspension to a person if the person engages in subsequent Disruptive Behavior. If a person returns to the Community Facility on another day or days and engages in disruptive behavior, City staff may issue another One-Day Suspension and/or may issue a longer term Suspension, pursuant to this Policy.

**CITY OF SAN JOSE  
PARKS, RECREATION AND NEIGHBORHOOD SERVICES**

**NOTICE OF ONE-DAY SUSPENSION  
(TO BE COMPLETED BY PRNS STAFF)**

Name of Suspended Participant \_\_\_\_\_

Date of PRNS One-Day Suspension \_\_\_\_\_

**I have informed Participant that Participant's privileges to \_\_\_\_\_ (name of facility/facilities) have been suspended for the rest of the day and that Participant must leave the facility.**

Reason for suspension/description of incident:

\_\_\_\_\_  
\_\_\_\_\_

Prepared by:

Staff Name \_\_\_\_\_ Date \_\_\_\_\_

Position Title \_\_\_\_\_

Issuance of this Suspension Notice was approved by the following Authorized PRNS Staff:

\_\_\_\_\_

## **LEVEL 2 - MULTI-DAY SUSPENSION (PENDING APPEAL PERIOD)**

In some instances, repeated or excessively disruptive behaviors may require that the Participant be suspended for longer periods of time. Longer than one-day suspensions will be based on the severity of the behavior, or may be issued if a Participant continues to be disruptive after receiving one or more One-Day Suspensions.

1. Depending on the severity of the disruptive behavior, a longer than One-Day Suspension may be in effect for a minimum of one week and a maximum of twenty-six weeks (six months).

If a decision is made that the disruptive behavior warrants a suspension for more than the remainder of the day, staff should complete the “Notice of Multi-Day PRNS Suspension Subject to Appeal (“Multi-Day Suspension Notice”). This Multi-Day Suspension Notice may be issued at the same time as a One-Day Suspension if deemed appropriate by PRNS Authorized Staff. Staff should consult with the Authorized PRNS staff in preparing a Notice of Multi-Day Suspension.

2. A copy of the completed Multi-Day Suspension Notice should be delivered to the Participant after review and approval of the authorized PRNS staff, preferably by certified or registered mail or by personal delivery at the Community Facility. In the case of a minor (under the age of 18), PRNS will attempt to notify the parent or guardian and provide the parent or guardian with a copy of the completed document. The suspension shall be deemed delivered upon the earlier of (1) the date personally delivered to the Participant, (2) three calendar days after deposit in the regular mail for delivery to the last known address of Participant, or (3) the date of delivery by certified or registered mail at the last known address of the Participant.
3. Any Participant who is suspended for a Multi-Day Suspension is entitled to a hearing. To receive a hearing, the Participant must follow the directions below to Request a Hearing. In addition, the Participant must deliver a Request for a Hearing to City Hall, PRNS Administration located on the 9<sup>th</sup> floor, within five business days of the date of delivery of the Notice of Multi-Day Suspension. The Hearing Officer, the PRNS Director of Administrative Services, will hold a suspension hearing at City Hall, PRNS Administration Offices, or a mutually agreed upon facility. A parent or guardian must accompany a minor (under the age of 18) to the hearing.
4. A copy of the Multi-Day PRNS Suspension Notice form shall be kept at the location where the suspension occurred (preferably the original). Copies of the Multi-Day PRNS Suspension Notice should be made, and forwarded to, the Supervisor in charge of the location where the suspension took place and also to PRNS Administration. PRNS Administration staff should place the suspension record on shared files.
5. **If no appeal is filed in a timely manner or if the suspension is upheld after appeal, the person subject to a Multi-Day Suspension may not enter or remain on the premises of the Community Facility during the suspension period. Without limitation of any other provision, violation of a Multi-Day Suspension may result in citation by the San José Police Department and may result in further suspension action by the City.**

**CITY OF SAN JOSE  
PARKS, RECREATION AND NEIGHBORHOOD SERVICES**

**NOTICE OF MULTI-DAY SUSPENSION** -  
**PENDING APPEAL PERIOD**  
**(TO BE COMPLETED BY PRNS STAFF)**

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Name \_\_\_\_\_

Date of Notice of PRNS Suspension \_\_\_\_\_

**Your Participant privileges to \_\_\_\_\_ (name of facility/facilities) will be suspended commencing upon \_\_\_\_\_ for a period of \_\_\_\_\_ week(s).**

This means that you may not enter \_\_\_\_\_ (name of facility)

from \_\_\_\_\_ to \_\_\_\_\_. Your access to \_\_\_\_\_

will be restored on \_\_\_\_\_.

Reason for suspension/description of incident:

**If applicable - Personal Delivery:** I personally delivered this notice to the person listed above on \_\_\_\_\_ date.

\_\_\_\_\_  
Name of Person delivering Notice

**You have the right to a hearing.**

You may request a hearing to challenge this suspension. Your suspension will be withdrawn if a hearing officer determines that you did not engage in the behaviors listed on this form and that this suspension is unwarranted. To request a hearing, follow the directions set forth below to submit a Request for a Hearing within five (5) business days of the date of delivery of the Suspension Notice.

PRNS Administration       PRNS Facility       Shared Files       Other \_\_\_\_\_

**LEVEL 3 – IMMEDIATE MULTI-DAY SUSPENSION (SAFETY OR EMERGENCY SITUATION)**

The Director or other Authorized PRNS Staff may approve the immediate suspension of any Participant for more than one day with the Multi-Day Suspension, immediately effective prior to a Hearing if the Director or Authorized PRNS Staff reasonably believes that a **public safety or emergency situation exists**. Unless otherwise provided, the procedures regarding a Multi-Day Suspension Pending Appeal shall apply to an Immediate Multi-Day Suspension.

Depending on the severity of the disruptive behavior, an Immediate Multi-Day Suspension may be in effect for a minimum of one week and a maximum of twenty-six weeks (six months).

A “**Public Safety or Emergency Situation**,” as used in this Policy, means a situation which the Authorized PRNS Staff reasonably believes that the disruptive behavior constitutes a threat or danger to the life, safety, or health of City staff, any Participant or any other person, and that an Immediate Multi-Day Suspension is warranted.

If a Participant is suspended prior to a Hearing for more than one day pursuant to this policy, the Participant shall be notified of the Participant's ability to request a Hearing subsequent to the commencement of the Suspension. The Hearing shall be held within five business days of the delivery of the Suspension, unless the Participant waives this right or is physically unable to attend, in which case the Hearing shall be set at a mutually agreeable date and time.

**No person subject to an Immediate Multi-Day Suspension may enter or remain on the premises of a Community Facility during the suspension period. Without limitation of any other provision, violation of an Immediate Multi-Day Suspension may result in citation by the San José Police Department and may result in further suspension action by the City.**

**CITY OF SAN JOSE  
PARKS, RECREATION AND NEIGHBORHOOD SERVICES**

**NOTICE OF IMMEDIATE MULTI-DAY SUSPENSION**  
(TO BE COMPLETED BY PRNS STAFF)

Name \_\_\_\_\_

Date of Notice of PRNS Suspension \_\_\_\_\_

**Your Participant privileges to \_\_\_\_\_ (name of facility/facilities) are hereby suspended commencing upon the date of this Notice for a period of \_\_\_\_\_ week(s).**

This means that you may not enter \_\_\_\_\_ (name of facility) from the date of this Notice to \_\_\_\_\_. Your access to \_\_\_\_\_ will be restored on \_\_\_\_\_.

Public safety concerns and other factors and reasons for immediate suspension and description of incident:

If applicable - Personal Delivery: I personally delivered this Notice to the person listed above on \_\_\_\_\_ date.

\_\_\_\_\_  
Name of Person delivering Notice

**You have the right to a hearing.**

You may request a hearing to challenge this suspension. Your suspension will be withdrawn if a Hearing Officer determines that you did not engage in the behaviors listed on this form and that this suspension is unwarranted. To request a hearing, follow the directions to Request a Hearing and submit a Request for Hearing within five (5) business days of receiving the suspension.

PRNS Administration       PRNS Facility       Shared Files       Other \_\_\_\_\_

## **Procedures to Request a Hearing:**

**Complete and return the Request for Hearing form below or equivalent information.**

**If you would like a hearing, you must complete and submit a Request for Hearing within five (5) business days of the effective date of the Notice of Suspension listed above.** You must return this form to: Parks, Recreation and Neighborhood Services, Attention: Deputy Director of Administrative Services, Hearing Officer, 200 East Santa Clara Street, 9<sup>th</sup> Floor, San José, CA 95113.

### **Hearing Date:**

Once you have submitted the Request for Hearing, PRNS will send you a Notice by **registered or certified mail** that will provide you with the hearing date, time and location. This Notice will be mailed to you promptly after PRNS receives your Request for a Hearing. If you do not have an address, you must return to City Hall, PRNS Department (9<sup>th</sup> Floor) within five (5) business days of the date of delivery of your Request for Hearing, to pick up your Notice of Hearing date, time and place. Failure to pick up the Notice within five (5) business days shall be deemed waiver of the hearing.

### **Hearing Procedure:**

When you arrive for your hearing you will be provided the opportunity to present evidence or reasons why this suspension should be withdrawn. The suspension will be withdrawn if the Hearing Officer determines by a preponderance of the evidence that you did not engage in the behavior listed above under "Reason for Suspension," and that this suspension is unwarranted. A parent or guardian must accompany a minor (under the age of 18) to the hearing. You may be represented at the hearing by any person.

### **Hearing Determination:**

At the conclusion of the hearing the Hearing Officer will tell you whether the suspension will be withdrawn, reduced, or upheld. The Hearing Officer will tell you the factual reasons for his or her decision. Within five (5) business days of the date of your hearing, the Hearing Officer will mail you a hearing determination that will reiterate what you were told at the hearing. If you do not have a mailing address, you may return to City Hall, PRNS Department (9<sup>th</sup> floor) after five (5) business days to pick up a copy of the hearing determination. The hearing determination will include findings of fact in support of the decision. The Hearing Officer's determination is final.

**CITY OF SAN JOSE  
PARKS, RECREATION AND NEIGHBORHOOD SERVICES**

**REQUEST FOR HEARING REGARDING  
MULTI-DAY SUSPENSION**

Yes, I want to appeal this suspension.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date you received the suspension: \_\_\_\_\_

Length of suspension: \_\_\_\_\_

Suspension issued by: \_\_\_\_\_

Name of location: \_\_\_\_\_

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

Reason for appeal (optional):

You must return this form or an equivalent written document within five (5) business days of the date of the suspension to:

Parks, Recreation and Neighborhood Services  
Deputy Director of Administrative Services, Hearing Officer  
200 East Santa Clara Street, 9<sup>th</sup> Floor  
San José, CA 95113.

PRNS Administration

PRNS Facility

Shared Files

Other \_\_\_\_\_

**CITY OF SAN JOSE  
PARKS, RECREATION AND NEIGHBORHOOD SERVICES**

**NOTICE OF HEARING – MULTI-DAY SUSPENSION**

Dear \_\_\_\_\_:

A hearing regarding your Multi-Day Suspension shall be conducted at the following date, time and place:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Location and address: \_\_\_\_\_

\_\_\_\_\_

A parent or guardian must accompany a minor (under the age of 18) to the hearing.

Sincerely,

NAME:

TITLE:

DATE:

**CITY OF SAN JOSE  
PARKS, RECREATION AND NEIGHBORHOOD SERVICES**

**FORM HEARING DETERMINATION LETTER**

On \_\_\_\_\_, a hearing was held regarding the appeal of your Multi-Day PRNS Suspension from \_\_\_\_\_ facility. Present at the hearing were \_\_\_\_\_, \_\_\_\_\_, on behalf of PRNS and \_\_\_\_\_, on behalf of the appealing party. Pursuant to this hearing, the Hearing Officer made the following finding of facts: (include synopsis of the events that resulted in this suspension)

The hearing officer has determined that:

- A. Your appeal of suspension is hereby UPHELD or PARTIALLY UPHELD and your suspension is:
  - (i) \_\_\_\_\_dismissed entirely or;
  - (ii) \_\_\_\_\_modified as follows: \_\_\_\_\_
  
- B. Your Appeal of the Suspension is NOT UPHELD and the suspension shall go into effect for the period described in the Notice of Multi-Day Suspension.

APPEALS HEARING OFFICER

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

FOR CONVENIENCE PURPOSES

SAN JOSE MUNICIPAL CODE SECTIONS (as of October 2008)

**13.44.020 Rules and regulations - Compliance required.**

No person shall disobey or fail to observe any rule, regulation or lawful direction promulgated or made by the director of the department of recreation, parks and community services pursuant to the following authorization, of which such person has actual notice, however given, or of which reasonable notice has been given by appropriate sign or notice in a park.

**13.44.030 Rules and regulations.**

- A. The director is authorized to adopt rules and regulations governing the public's use of the city parks.
- B. The director shall consult with the parks and recreation commission regarding the adoption or amendment of the rules and regulations governing the parks.
- C. Nothing in this section is intended to limit the city council's ability to enact rules and regulations governing park use.