



August 18, 2025

Ashland City Council council@ashland.or.us
Johann Pietila, City Attorney Legal_division@ashlandoregon.gov

Re: Ashland, Oregon Homeless Exclusion Zones and Jail “Lodging”

Dear Councilors and Mr. Pietila:

We write on behalf of the National Homelessness Law Center (“NHLC” or “Law Center”). The Law Center is a national legal advocacy organization dedicated solely to solving homelessness. We have over 35 years of experience in policy advocacy, public education, and impact litigation. We urge the Council to vote “no” on the proposed expansion of the city’s Enhanced Law Enforcement Area (“ELEA”) and to cease the practice of “lodging” individuals charged with violations in the county jail.

The city of Ashland has had exclusion zones in the downtown area for the last 12 years (§ 10.120.010), and recently expanded its Enforced Law Enforcement Area (ELEA) to the east side of Ashland in January. Under Ashland’s law, a person must be cited or convicted three times for quality-of-life offenses (§ 10.120.020) such as noise, scattering rubbish, open containers, etc. before an exclusion order is granted, after which a person may be subject to mandatory arrest for a persistent violation. § 10.120.030-040. Further, Ashland is seeking to make it much easier to arrest those in violation, lowering the bar to just one arrest or violation, what is becoming known as the “[Medford Model](#).”¹ Furthermore, individuals accused of violating an exclusion order are arrested and frequently “lodged” at Jackson County Jail without any court process. We have grave concerns that anyone who has received an exclusion order will be subject to criminal penalties or deprived of liberty without the due process the United States Constitution requires.

The breadth and punitive nature of Medford and Ashland’s exclusion zone schemes are already extremely concerning, and the potential for Ashland to copy the “[Medford Model](#)” to make it even easier to expel homeless individuals from the ELEA is even more troubling.

Communities must respect the liberty rights of unhoused community members. The freedom to exist in public spaces is a private liberty interest protected by the United States Constitution. *Bates v. Town of Cavendish*, 735 F. Supp. 3d 479, 502 (D. Vt. 2024). “[T]here is more than a sheer possibility” that an individual who has been excluded from public areas by an exclusion order, arrested for an alleged violation of the exclusion order, and subsequently “lodged” in county jail has “been deprived of a constitutionally protected liberty interest.” *Catron v. City of St. Petersburg*,

¹ Since 2017, the city of Medford has enforced “exclusion zones,” which were expanded in September 2024 both geographically and substantively: now the law allows police to (1) issue an exclusion order after an individual is accused of a single criminal offense (§ 5.256(1)); (2) arrest said individual on sight if the individual is found within the exclusion zone during the exclusion period (§ 5.256(3)(a)) and “lodge” them at Jackson County Jail without any court process; and (3) increased the penalty for violating an exclusion order from a violation to a misdemeanor.

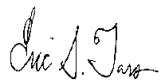
658 F.3d 1260, 1266 (11th Cir. 2011). “Common justice requires that no man shall be condemned in his person or property without notice and an opportunity to make his defence.” *Berkeley Homeless Union v. City of Berkeley*, No. 25-cv-01414-EMC, 2025 U.S. Dist. LEXIS 107425, at *3 (N.D. Cal. June 5, 2025) (quoting *Baldwin v. Hale*, 68 U.S. 223, 233, 17 L. Ed. 531 (1863)). “Safeguarding due process is imperative for all, but particularly important for the unhoused.” *Id.*

Ashland’s practice of arresting individuals for alleged exclusion zone violations and allegedly “lodging” them in Jackson County Jail fails to satisfy the due process requirements of the Fourteenth Amendment to the United States Constitution. Under the *Mathews* test, courts consider three factors when assessing a potential due process violation: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976). While the city of Ashland has an interest “in discouraging unlawful activity and in maintaining a safe and orderly environment on its property,” this interest is outweighed by the first and second *Mathews* factors. *See Catron*, 658 F.3d at 1267. Affected individuals have a “private liberty interest in lawfully visiting city property that is open to the public” and not being “lodged” (*i.e.*, detained) in county jail. *See id.* Furthermore, the risk of erroneous deprivation is significant. First, an exclusion notice typically takes effect immediately. As detailed in Ashland’s law. § 10.120.030-040), there are numerous exceptions that allow an “excluded” individual to lawfully pass through an exclusion zone during an exclusion period. However, individuals are being arrested on sight and detained in Jackson County Jail without an opportunity to dispute their arrest. Second, the underlying exclusion notice may also have been issued in error. These notices typically take effect immediately and could lead to arrest and detention soon thereafter. The Ashland law and process lacks constitutionally adequate procedures.

Not only does Ashland enforcement of exclusion zones present a grave risk of constitutional violations, but it could also have devastating consequences with respect to unhoused individuals’ belongings, including essential documents, identification, valuable possessions, and items necessary for daily survival, which are often left unattended during their detention. “For many of us, the loss of our personal effects may pose a minor inconvenience. However, . . . the loss can be devastating for the homeless.” *See Lavan v. City of Los Angeles*, 693 F.3d 1022, 1032 (9th Cir. 2012) (quoting *Pottinger v. City of Miami*, 810 F. Supp. 1551, 1559 (S.D. Fla.1992)).

NHLC and our local partners are open to discussing changes to the city of Ashland’s exclusion zone laws and enforcement procedures to ensure that all residents are afforded the protections of the United States Constitution. Please contact us at etars@homelesslaw.org and jsalois@homelesslaw.org. We urge the Council to vote no on any proposed expansion and instead to repeal this unconstitutional and harmful policy.

Sincerely,



Eric Tars
Senior Policy Director

John A. Salois
Youth Shelter and Housing Attorney