

NATIONAL LAW CENTER  
ON HOMELESSNESS & POVERTY

---

November 7, 2019

Mayor Robert Mielke, Robert.Mielke@ci.wausau.wi.us  
City Attorney Anne Jacobson, anne.jacobson@ci.wausau.wi.us  
Councilmembers Lisa Rasmussen, lisa.rasmussen2@ci.wausau.wi.us  
Dawn Herbst, Dawn.Herbst@ci.wausau.wi.us  
Becky McElhaney, Becky.Mcelhaney@ci.wausau.wi.us  
Patrick Peckham, Patrick.Peckham@ci.wausau.wi.us  
Michael Martens, Michael.Martens@ci.wausau.wi.us  
David E. Nutting, Dave.Nutting@ci.wausau.wi.us  
Tom Neal, Tom.Neal@ci.wausau.wi.us  
Gary Gisselman, Gary.Gisselman@ci.wausau.wi.us  
Linda Lawrence, Linda.Lawrence@ci.wausau.wi.us  
Mary Thao, Mary.Thao@ci.wausau.wi.us  
Dennis Smith, Dennis.Smith@ci.wausau.wi.us  
Via email

Dear Mayor, City Attorney and Councilors:

I write on behalf of the National Law Center on Homelessness & Poverty (“Law Center”) to urge you to **oppose or amend, the proposed Wausau Municipal Code Section 10.48.121 Trespassing on parking meter lot or ramp (“Proposed Ordinance”)**. The Proposed Ordinance makes it illegal to “enter, remain in or upon, loiter, stand, sit, lie, trespass, or otherwise occupy any parking meter lot or ramp” except for parking related purposes, as well as to “remain within or on a motor vehicle within a parking meter lot or ramp except for the period of time reasonably necessary to park such vehicle or to prepare such vehicle to leave the parking meter lot or ramp.” It imposes a \$50 fine for violations. I understand that the proposed ordinance applies to both public and private meter lots and ramps. Based on comments from the Office of the City Attorney, I understand that the Proposed Ordinance is motivated in part by complaints about people sleeping in ramp stairwells.

The Law Center is the nation’s only legal advocacy organization dedicated solely to ending and preventing homelessness, with more than 25 years of experience in policy advocacy, public education, and impact litigation. In 2017, the Law Center published *Tent City, USA: The Growth of America’s Homeless Encampments, and How Communities are Responding* (“Tent City Report”), collecting data on 187 cities’ policy responses to encampments, along with best practices, model policies, and case studies from across the country. The Tent City Report is available at [https://nlchp.org/wp-content/uploads/2018/10/Tent\\_City\\_USA\\_2017.pdf](https://nlchp.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf). Additionally, since 1991, the Law Center has documented the dramatic increase in laws nationwide that punish homeless people for performing harmless, life-sustaining activities in public places, as well as the negative consequences of those discriminatory measures. The Law Center’s 2016 Report addressing this issue, *Housing Not Handcuffs: The Criminalization of Homelessness in U.S. Cities* (“Housing Not Handcuffs Report”), is available at <https://www.nlchp.org/documents/Housing-Not-Handcuffs>. The Law Center’s reports demonstrate that laws such as the Proposed Ordinance do not address the underlying causes of homelessness, and instead injure homeless persons’ rights and waste taxpayer resources.

We all share the goal of not having homeless persons sleep in parking lots and vehicles—but the best, most cost-effective, and permanent way to achieve that is to ensure that all who are unsheltered are able to access adequate, alternative housing. The Proposed Ordinance fails to address where these people will be able to seek shelter if not in the targeted parking lots and vehicles? The lack of plan or requirement to house or adequately shelter the displaced persons means they are merely dispersed to different public spaces. Thus, we are concerned that the Proposed Ordinance merely provides procedures and cover for pursuing ineffective and expensive punishment strategies, rather than constructive solutions that can actually end homelessness in the city.

Because people experiencing homelessness are not on the street by choice but because they lack choices, punishment serves no constructive purpose. Instead, unaffordable fines such as the \$50 fine in the Proposed Ordinance make it more difficult for people to exit homelessness and get back on their feet. Homeless persons usually cannot pay fines, and because they often miss notices to appear in court due to a lack of permanent address, those fines frequently turn into a bench warrant and a criminal arrest. As stated by the Department of Justice in the context of its argument regarding an anti-camping ordinance in *Bell v. Boise*, but equally applicable here:

Criminalizing public sleeping in cities with insufficient housing and support for homeless individuals does not improve public safety outcomes or reduce the factors that contribute to homelessness... Issuing citations for public sleeping forces individuals into the criminal justice system and creates additional obstacles to overcoming homelessness. Criminal records can create barriers to employment and participation in permanent, supportive housing programs. Convictions under these municipal ordinances can also lead to lengthy jail sentences based on the ordinance violation itself, or the inability to pay fines and fees associated with the ordinance violation... Finally, pursuing charges against individuals for sleeping in public imposes further burdens on scarce public defender, judicial, and carceral resources. Thus, criminalizing homelessness is both unconstitutional and misguided public policy, leading to worse outcomes for people who are homeless and for their communities.

*Bell v. Boise, et. al.*, 1:09-cv-540-REB, Statement of Interest of the United States (Aug. 6, 2015).

While the cost of the Proposed Ordinance can be easily overlooked, each person fined under the ordinance will burden the city's law enforcement system. Numerous studies have shown that communities actually save money by providing housing and services to those in need, rather than saddling them with fines, fees and arrest records and cycling them through the expensive jail system. *See Housing Not Handcuffs Report* above. The Economic Roundtable of Homelessness in Los Angeles found that housing reduced average monthly spending by 41% per person, even after including the cost of providing housing.

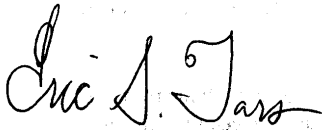
Further, the Proposed Ordinance may spur litigation, which would be an additional fiscal cost to the city. Similar ordinances in other municipalities nationwide have prompted lawsuits. Based on our observations, 57% of lawsuits brought against municipalities for anti-sleeping or anti-camping ordinances between 2014 and 2017 resulted in decisions favorable to the homeless plaintiffs. *See National Law Center on Homelessness and Poverty, Housing Not Handcuffs: A Litigation Manual* (2017) available at <https://www.nlchp.org/documents/Housing-Not-Handcuffs-Litigation-Manual>.

We suggest the best way to address the problem is by removing the need for people to sleep in parking lots and vehicles in the first place, by providing adequate housing and services, rather than making it harder for people to exit homelessness due to civil and criminal penalties. Any “solution” which does not meet the actual needs of those living in these parking lots and vehicles—including where they can find a

safe place to be, day and night—will result in those individuals needing to improvise their own solutions, and most likely, the city will not like those solutions any more than they like the current ones. We hope you will draw on our experience and make use of the Law Center’s Encampment Best Practices and Procedures in Section 3 and the appendices of the Tent City Report.

In an era of record poverty, prolonged unemployment, and a shrinking stock of affordable housing, sensible and cost-effective policies are needed—not ineffective measures that waste precious taxpayer dollars. The Law Center urges you to vote “no” on the Proposed Ordinance. If you are truly concerned about the presence of homeless in parking lots and ramps, the best way to address the problem is by removing the need for people to shelter themselves in public in the first place, by providing adequate housing and services. Our reports document numerous case studies of constructive alternatives. If the City would like, we would be happy to work with you to implement solutions that work for everyone. Please feel free to contact me at [etars@nlchp.org](mailto:etars@nlchp.org) or 202-638-2535 x. 120.

Sincerely,

A handwritten signature in black ink that reads "Eric S. Tars". The signature is written in a cursive, flowing style.

Eric S. Tars  
Legal Director