



August 18, 2025

Eric Mitton, City Attorney
City Hall- Second Floor Room 260
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Medford, Oregon 97501
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Re: Medford, Oregon Homeless Exclusion Zones and Jail “Lodging”

Dear: Mr. Mitton:

I 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.

This letter concerns the City of Medford’s “lodging” of individuals accused of violating Medford’s recently expanded civil exclusion ordinance (Medford, Oregon Municipal Code § 5.256) at Jackson County Jail without due process..

Since 2017, the city of Medford has enforced “exclusion zones,” areas of the city’s downtown core from which certain individuals may be excluded for a period of 90 days. These exclusion zones were expanded to new parts of the city in a law passed by the Medford City Council in September 2024. In addition to expanding the footprint of the exclusion zones, the law allows police to (1) issue an exclusion order after an individual is accused of a single criminal offense (§ 5.256(1)); and (2) arrest said individual on sight if the individual is found within the exclusion zone during the exclusion period (§ 5.256(3)(a)). The law increased the penalty for violating an exclusion order from a violation to a misdemeanor. 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’s exclusion zone schemes are extremely concerning.

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*, 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.*

Medford’s practice of arresting individuals for alleged exclusion zone violations and 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 Medford 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 Medford Municipal § 5.256(3)(a), there are numerous exceptions that allow an “excluded” individual to lawfully pass through an exclusion zone during an exclusion period. (Also see Ashland’s law. § 10.120.030-040). 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. While Medford provides an appeals process, because the notice takes effect upon issuance and could lead to arrest and detention soon thereafter, the process lacks constitutionally adequate procedures.

Not only does Medford’s 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 Medford’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 or jsalois@homelesslaw.org.

Sincerely,



Eric Tars
Senior Policy Director

John Salois
Youth Shelter and Housing Attorney