

October 3, 2024

Mark Bartholomew, Interim City Attorney  
City of Grants Pass  
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Grants Pass, OR 97526

Warren Hensman, Chief of Police  
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Via email: [mbartholomew@grantspassoregon.gov](mailto:mbartholomew@grantspassoregon.gov); [whensman@grantspassoregon.gov](mailto:whensman@grantspassoregon.gov);  
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RE: Grants Pass Homeless Camping Ordinance; Notice Under ORS 195.530

Mr. Bartholomew, Chief Hensman:

I write on behalf of Disability Rights Oregon, regarding Grants Pass's policy on homeless camps. Disability Rights Oregon is the statewide Protection and Advocacy System for the State of Oregon. We are designated by Federal law to protect the rights of people with disabilities around the state, including the rights of people with intellectual and developmental disabilities, people with mental illnesses, and people with other disabilities. 42 USC 15043; 45 CFR 1326.21; 42 USC 10805; 42 CFR 41.51; 29 USC 794e; ORS 192.517. I had previously written to you on September 13, 2024, to address the needs of homeless people with disabilities.

Following the litigation at the Supreme Court this year, Grants Pass created a new policy on camping. The city ordinance generally provides that the City Council may designate specific sites where camping is permitted and that: "Where the temporary placement of camping materials is authorized, an individual that has placed camping materials on City property must relocate according to the time limitations set forth for that location." Grants Pass City Code 5.61.030(C).

Since that time, the Grants Pass City Council has issued new resolutions at every bi-weekly council session, redefining 1) where camping is permitted and 2) for how long. In the most recent resolution, the city council designated two otherwise unused lots as appropriate for camping and authorized people to live there for up to seven days. After seven days, the campers are required to move. Since the two designated campsites are the only ones a person could legally occupy, the only place for a person to go, as long as they have not found

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permanent housing after seven days, is to the other campsite. In other words, current Grants Pass policy contemplates homeless campers being forced to move from one camp to another, every week, indefinitely, until someone finds permanent housing or leaves the city.

In my September 13 letter, I noted that numerous campers have disabilities that make these routine moves effectively impossible and asked the city to grant reasonable accommodations to them. I also asked to discuss these issues with you, contacting both of you by phone and email numerous times without response. I appeared at a City Council meeting on September 18 and shared my letter with the City Council.

The following day, I got a call from Mr. Bartholomew acknowledging my letter but declining to discuss the substance of the issues I raised. Mr. Bartholomew told me that he personally thought anyone getting arrested was “unlikely,” but said that whether an arrest happened was up to the officer’s discretion. I asked about the reasonable accommodation process and was told that he could not comment on whether or under what circumstances reasonable accommodation requests would be recognized. I asked if I could participate in the discussions about Grants Pass’ policies and was told their discussions were “internal” and that I would not be allowed to discuss how people with disabilities were affected.

Grants Pass continues to cite and fine people in wheelchairs, people with one leg, people with serious medical conditions, and people who, for a number of disability-related reasons, are physically unable to move all their belongings almost a mile from one campsite to another every week. These people are told by police that their reasonable accommodation letters are not going to be considered. These people with serious disabilities are being fined and threatened with arrest for having disabilities and for having no home.

I would hope that all of us could agree that we cannot arrest our way out of the complex problems of homelessness, housing scarcity, and poverty. A citation doesn’t find anyone a home. I would also hope that we could agree that citing, arresting, and putting people in jail because of their disabilities is not a good use of the limited criminal justice resources of the city or the County. Engaging in a constructive process, oriented around the realities of the resources available and the requirements of the law, presents a useful and appropriate way forward.

### **Notice Under ORS 195.530**

According to Oregon law, any “city or county law” regulating camping or other basic activities outside “must be objectively reasonable as to time, place and manner with regards to people experiencing homelessness.” ORS 195.530(2). Objective reasonability shall be “determined based on the totality of the circumstances, including but not limited to, the impact of the law on persons experiencing homelessness.” ORS 195.530(5).

Grants Pass City Code is not objectively reasonable in terms of the time, place, or manner of camping. The City Code, in fact, does not afford *any* permissible time, place, or manner for

camping, nor any objectively measurable criteria for assigning such a time, place, or manner limitation. Instead, the Code provides that the time, place, and manner for camping shall be imposed on an *ad hoc* basis, changing every time the City Council issues a new resolution. Grants Pass City Code 5.61.030(B) & (C).

In practice, the “impact of the law on persons experiencing homelessness” generally has been to require campers to move pointlessly from one place designated as appropriate for camping to another place designated as appropriate for camping, and then back again every week (previously, the City Council had designated a window of 72 hours before moving). Requiring such frequent and circular moves has the effect, not of vindicating some important city interest in sanitation or safety, but to make it as unpleasant as possible for people who are homeless to remain in Grants Pass.

The “impact of the law on persons experiencing homelessness” has been even worse for people with disabilities. Because the city code does not discuss any impact of a person’s disability, Grants Pass police have cited and threatened people with disabilities with arrest for failure to remove themselves and their property in accordance with the city code. Grants Pass City Code 5.61.010(F) (requiring a person to relocate means requiring them to both the “individual and the individual’s personal property off of City property, or to a different authorized City property”).

According to Mr. Bartholomew, the authority to arrest any individual and to consider any accommodation is vested in the discretion of the individual officer who happens to be in contact with the individual. That process reflects subjective consideration, not objectively reasonable criteria.

Oregon law also allows a concerned party to provide a 90-day written notice to the governing body of the city, articulating its concerns about the basis for their complaint. ORS195.530(6). This letter is intended as a notice under that section, on behalf of Disability Rights Oregon and Oregonians with disabilities who are their constituents.

In addition to these issues outlined above, the City’s policy and practices violate the ADA, the Rehabilitation Act, and the Fair Housing Act, because the City discriminates against people with disabilities who are unable to or cannot safely physically move themselves and their belongings over long distances. The City also refuses to consider or grant reasonable accommodations, which violates federal nondiscrimination law. Similarly, the City’s practice is to refuse reasonable accommodations in the process for challenging a citation, which must be initiated within 48 hours. Cumulatively, the City’s practices as a whole violate federal nondiscrimination law.

My intent in noticing you of our concerns in this form is to attempt again to open a dialogue with the City, not to rush to the courtroom. The City has so far been unwilling to listen to people with disabilities. People with disabilities deserve to be part of this conversation. I hope in the next 90 days that we can settle on a more effective policy that protects the rights of

people with disabilities.

If you have any questions about this letter, please call me at (503)243-2081 x-223 or contact me at [tstenson@droregon.org](mailto:tstenson@droregon.org). I am happy to discuss it further.

Sincerely,

Thomas Stenson  
Deputy Legal Director  
Disability Rights Oregon

Cc: Mayor Sara Bristol, via email  
Members of Grants Pass City Council, via email