



MID-MINNESOTA LEGAL AID

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Duluth City Council
Via direct email to Councilmembers

RE: Proposed City Ordinance 24-030-O

Dear Councilmembers:

We urge you to reject the proposed city ordinance targeted at people who are homeless or, at the very least, study the matter further before taking such a harsh and ineffective step.

Mid-Minnesota Legal Aid is home to the Minnesota Disability Law Center. MMLA is the designated Protection and Advocacy agency for the state of Minnesota. As such, MMLA's responsibilities include pursuing administrative, legal, and other appropriate remedies to ensure the protection of individuals with disabilities throughout Minnesota. Our services for people with disabilities extend statewide. We have served residents of Duluth and have maintained an office in the City of Duluth for a long time. We represent thousands of Minnesota families each year. We have represented numerous people who were homeless at the time of our representation. According to Minnesota data, at least a quarter of people who are living in temporary outdoor spaces have disabilities.

The proposed ordinance will punish people for engaging in the most basic human need—the need to sleep. As Justice Sotomayor wrote in dissent to the U.S. Supreme Court's decision in *Johnson v. Grants Pass*, sleep is not sanctionable conduct, it is a biological necessity.

Criminalization of homelessness does not work. It does not build more housing. It does not build more shelters or make existing shelters easier to access. Making our neighbors who are homeless into criminals will only exacerbate the problem. Most already struggle to find housing. Criminal records, especially for the stigmatizing crimes created by this proposal, will make it only harder.

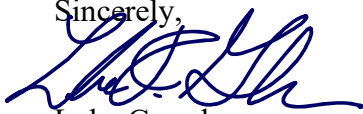
The supposed limitations in the proposed ordinance will not lessen its impact and may create new community problems. Section 34-46(e)(2) proposes to limit criminal enforcement to situations in which people have been first warned about the use of the ordinance. But at that point, the harm will often have already been done. This ordinance will give people more reasons to avoid law enforcement. If they see officers coming, they will be more likely to hide or run away. They will be less likely to report criminal activity.

The ordinance fails to soften its impact by directing police to connect people who are homeless with shelter services. Shelter access is complicated. The ordinance acknowledges this implicitly by referencing the possibility that people may be unwelcome at some shelters. Shelter availability changes by the minute. Some shelters are limited by gender and family status. Some people worry they will face former abusive partners or other dangerous individuals if they access a particular shelter. Some have current partners or family members who rely on their assistance; such relationships cannot be safely broken up for shelters that do not allow partners to stay together. And there are many more factors that may make a supposedly open shelter effectively unavailable to a particular person on a particular night. The City of Duluth cannot expect police to manage that system. Especially when the consequences include criminal stigmatization.

Besides the policy problems with the proposal, the ordinance likely violates the law. Some reporting suggests such ordinances are legal in the wake of *Johnson v. Grants Pass*. But that decision merely addressed the Eighth Amendment to the federal constitution. The proposal on its face likely violates the Minnesota Constitution. As applied to individuals, it likely violates the Americans with Disabilities Act and the Minnesota Human Rights Act.

Councilmembers, please do not turn your neighbors into criminals. Use the energy that drives this proposal toward solutions that directly address homelessness.

Sincerely,



Luke Grundman
Litigation Director
Mid-Minnesota Legal Aid