



## **Minutes of the Molalla City Council Meeting**

**Molalla Civic Center  
315 Kennel Ave., Molalla, OR 97038  
April 26, 2023**

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### **CALL TO ORDER**

The Molalla City Council Meeting of April 26, 2023 was called to order by Mayor Scott Keyser at 7:00pm.

### **COUNCIL ATTENDANCE**

Present: Mayor Scott Keyser, Council President Jody Newland, Councilor Terry Shankle, Councilor Crystal Robles, Councilor Eric Vermillion, and Councilor RaeLynn Botsford.

Absent: Councilor Leota Childress.

### **STAFF IN ATTENDANCE**

Mac Corthell, Community Development Director; Christie Teets, City Recorder.

Guests of Molalla City Council: County Commissioner Ben West, and Superintendent of MRSD, Tony Mann.

### **APPROVAL OF AGENDA**

Councilor President Newland requested that House Bill 3501 be added to General Discussion. Councilor Robles seconded the request. Motion passed 6-0, with all Councilors voting Aye.

### **CONSENT AGENDA**

- A. Work Session Meeting Minutes – April 12, 2023
- B. City Council Meeting Minutes – April 12, 2023

*A motion was made by Councilor Robles to approve the Consent Agenda, seconded by Council President Newland. Vote passed 6-0, with all Councilors voting Aye.*

### **EXECUTIVE SESSION ANNOUNCEMENT**

Mayor Keyser made the following statement: "Before regular session this evening, an executive session with Council was held pursuant to Oregon Public Record Law, ORS 192.660(2): (h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. This item will be discussed during the Ordinances & Resolutions section of tonight's meeting."

### **PRESENTATIONS, PROCLAMATIONS, CEREMONIES**

- A. Resolution Discussion with Commissioner Ben West

Commissioner West feels the Resolution is important to local government as we are the impacted communities. The anticipated result is to create a network of social leaders that begin to push back and begin to assert what needs to be done, to call out the issues after millions of dollars have been spent with our communities still being overrun with addicted individuals experiencing homelessness. Mr. West feels the focus should be on recovery-first model opposed to a housing-first model.

Clackamas County is the third largest county in the State of Oregon. He acknowledged that Molalla has been impacted by homelessness, addiction and mental health issues, without receiving resources from County or State funding. He offered discussion with Council and is willing to collaborate.

City Recorder Teets asked questions on behalf of Councilor Childress. One question was "do you plan to eliminate the Housing First model?" Commissioner West explained that it is not just about housing, stating that people can overdose outdoors as well as they can within four walls. He stated that it's about creating a continuum of care that helps meet the needs of people that helps get them recovered. It is a fact that people need housing, however it is expensive and not working. He feels the resolutions purpose will help people recover, in order to find proper housing. Ms. Teets asked a follow-up question of "where will funds come from for the treatment you recommend?" Commissioner West explained that funding comes from several areas, what they



are working on is how to get the funding to Molalla. He spoke to the difficulties that Boise v. Martin poses through House Bill 3115, with the ultimate goal being recovery focused.

Council President Newland asked that if the intent was to go away of the Housing First model, would the money be put towards mental health and addiction recovery treatment. Mr. West stated that was the intention, specifically helping with recovery as the main goal, so that we no longer have individuals languishing in our streets.

Council President Newland disagreed that the word 'cure' in the fifth paragraph of the resolution should be described in mental illness issues. She felt that some people with mental illness are brilliant and should not feel the need to be fixed, but to be accepted as who they are. Commissioner West clarified that the resolution is using the word cure to mental illness that is created by addiction, not other mental illnesses.

Mr. West feels that we can no longer turn a blind eye to addiction related mental health issues that we are surrounded by. He feels it is a form of palative core.

Council President Newland questioned the statistics that are mentioned in the resolution and where the data originated. Commissioner West explained that some work was provided by the UCLA Policy Lab. A robust study was performed on the percentage of homelessness, addiction, and mental illness and how those things interect. Oregon is now experiencing these items on a larger scale. He acknowledged that he received mutltiple phone calls regarding the issues in Molalla, and knows that the numbers in Molalla are higher than most rural cities, and the resolution proposed speaks to all of the items. He felt it was important to keep the resolution somewhat broad, as many counties in Oregon are now adopting it.

Councilor Robles inquired if the data collected provided numbers on how many homeless individuals are accepting the help that is needed. Mr. West explained that outreach is a very important item that is taking place in Clackamas County. He feels the approach in Portland of providing a safe place for people to use drugs in not an answer to the issue, but perpetuating the issue even more. Councilor Robles asked about long-term sustainability for the program he is proposing through the proposed resolution. Commissioner West replied that elections matter, and that the Clackamas County Commissioners are committed to making it a priority for our County.

Mayor Keyser consulted with Council and the decision was made to hold a Work Session regarding this resolution in the coming weeks. Commissioner West thanked Council for their time, and was invited to join the remainder of the meeting at the Council dais.

[For the complete video account of the discussion with Commissioner West, please go to YouTube](#)  
"Molalla City Council Meetings – April 26, 2023, minutes 3:40-37:50"

#### **B. Teacher of the Year Recognition**

Councilor Vermillion presented the 2023 Pamplin Media Teacher of the Year, Andrea Isfeld, 5<sup>th</sup> Grade teacher at Molalla Elementary School. He congratulated her on her success and recognized her accomplishment. Superintendent of Molalla River School District, Tony Mann was grateful for the opportunity to highlight an educator, and thanked all MRSD staff for a job well done.

#### **C. OLCC License Request – Casa De Caldos**

***A motion was made by Councilor Botsford to approve the OLCC License request for Casa De Caldos, seconded by Councilor Vermillion. Vote passed 6-0, with all Councilors voting Aye.***

#### **D. OLCC License Request – Fire Foods Company**

***A motion was made by Councilor Vermillion to approve the OLCC License request for Fire Foods, seconded by Councilor Botsford. Vote passed 6-0, with all Councilors voting Aye.***

#### **E. OLCC License Request – Outlaw Saloon**

***A motion was made by Council Vermillion to approve the OLCC License request for Outlaw Saloon, seconded by Councilor Robles. Vote passed 6-0, with all Councilors voting Aye.***



## **PUBLIC COMMENT**

**Jacob Giberson, Molalla resident**, shared his experience of losing his mother due to mental illness. He supports the resolution that Commissioner West has presented and hopes Council considers passing it. He stated that he was a volunteer with Molalla HOPE in past years, and wanted to speak on behalf of the good things that the Center provides to the community.

**Char Pennie, Molalla resident**, wanted to ask Commissioner West to clarify his statement about 'curing' mental illness. Mr. West reiterated that the point of the proposed resolution was to attempt to cure mental health illnesses due to addiction.

**Kristy Hodgkinson, Molalla resident**, proposed an alternative for the homeless encampment site proposed in the upcoming public camping ordinance. Ms. Hodgkinson suggested that the lease with Molalla HOPE be terminated and the building be used for offices by the Police Department.

**Landon Hodgkinson, Molalla resident**, read his statement to Council requesting that the homeless encampment not be placed at Clark Park, due to his concerns of needles and lack of safety for children to play.

**Donielle Lowry, Molalla resident**, requested Council make a motion to end the lease with Molalla HOPE due to ongoing issues. Ms. Lowry also asked Council to request that Councilor Childress resign her position as City Council, as an ethics violation towards her is pending.

*Mayor Keyser paused Public Comment to read a message to the audience regarding the draft public camping ordinance, House Bill 3115, and the issues the City is facing. (message included in these meeting minutes)*

**Patricia Torsen, Molalla resident**, thanked Commissioner West for his presentation. Ms. Torsen is concerned about the homeless crisis and the safety of our children.

**Rick Gano, Molalla resident**, Aquatic Center Board President, concerned with a homeless encampment being housed at Clark Park. Mr. Gano requested the consideration of Council.

**Gary Hopkins, Molalla resident**, is concerned about the safety of student athletes on the fields that have drug paraphernalia being left by homeless individuals. Mr. Hopkins is also concerned about the ethics violation of Councilor Childress, and recommends her resigning as Council. Mr. Hopkins was also in concurrence that Molalla HOPE be closed as a warming shelter.

**Cindy May, Molalla resident**, supported the statements by Kristy and Landon Hodgkinson.

Mayor Keyser invited Mr. Joe Hererra to speak in front of Council. Mr. Hererra raises concerns about multi-family housing and prefers single residential homes.

**Randy Baker, Molalla resident**, tried to explain the difference between the drug culture and the homeless culture, as he has experienced these issues in his life. Mr. Baker has called the non-emergency police line multiple times, reporting activity. Mr. Baker thanked Commissioner West for his presentation and explanation of the proposed resolution.

City Recorder Teets informed Council that she had received multiple public comment submissions for this evening's meeting. Council concurred that it was important for the emails to be read into the record. City Recorder Teets read each submission to Council and the audience. Submissions were from Molalla residents Nicole McConnell, Mindy Holeman, Ashley Mason, Kelli Bartholomew, Jodi Dix, Jana & Haylee Rasmussen, and Heidi Caldwell. (all submissions are included in these meeting minutes)

Council President Newland made the following statement to the audience: "I had a chance to meet with Councilor Childress last night, and I want you guys to know she has filed with the Oregon government ethics commission. They have 60 days to complete their preliminary review phase, and she is awaiting that decision. I honestly see this as a similar situation to Mayor Keyser's investigation, although they're different. We have processes in place in our country that assume innocence until proven otherwise, and we need to give them a chance to work. In our current culture, we seem to want to try people on social media first, and we're not willing to wait. This may have been similar to those who were tarred and feathered in the early days of our country. As much as I encourage our Mayor and all of our Council to just let certain comments roll off your back, be a duck, right? The fact is we are human and sometimes words hurt. I just ask everyone to please be patient as we are waiting for final results. Thank you."



Mayor Keyser announced a ten-minute recess, from 8:40-8:50pm.

## **PUBLIC HEARINGS**

None.

## **ORDINANCES AND RESOLUTIONS**

- A. Resolution No. 2023-07: Authorizing a Fee in Lieu of Transportation System Improvements for Toliver Estates (Corthell)

Community Development Director Corthell presented the staff report to Council regarding the proposed resolution. This item was discussed during Executive Session, where Council agreed to make a decision at this at Regular Session. Mr. Corthell provided Council with options available.

**Sandy McLeod, Molalla resident**, spoke to the Council regarding she and her husband, Loren's property. Ms. McLeod was astounded that she and her husband were not informed of the resolution being brought to Council this evening. She requested that Council not approved the resolution until each parties attorney have had a chance to work this out.

Mr. Corthell explained that McLeod's attorney submitted a letter offering \$84,599 fee in lieu. Council has the opportunity to accept the offer, reject it, or table the decision for a later date. Mr. Corthell stated that the attorney's had worked through the issue, which is how an offer was presented to Council.

*A motion was made by Councilor Botsford to approve Resolution No. 2023-07, amending the amount to \$84,599, seconded by Councilor Shankle. Vote passed 4-2. Councilors voting Aye: Councilor Vermillion, Councilor Shankle, Councilor Botsford, and Mayor Keyser. Voting Nay: Council President Newland and Councilor Robles.*

## **GENERAL BUSINESS**

- A. Molalla HOPE, LLC. Announcement (Teets)

City Recorder Teets reported to Council that Molalla HOPE Executive Director Childress requested that the closure message regarding the Warming Center be provided to Council in its entirety. Ms. Teets informed Council that the complete message is provided to them in their packet. It is also available online.

- B. House Bill 3501 Discussion

Council President Newland brought House Bill 3501 that is currently in legislature to the attention of Council members. The main message of HB 3501 is to allow public camping in any areas of a city, including public rights-of-way. It would inhibit time, place, and manner content from cities ordinances. Council President Newland requested that Council as a whole create a message to send to our State Representative.

Commissioner West stated that a Clackamas County Board meeting will be held the next day and that he will ask the Board as a whole to review the House Bill. He feels that it is a threat and attack on communities.

*Post script: Notification was received from House Representatives on May 1, 2023 that this Bill is dead.*

## **STAFF COMMUNICATION**

- City Recorder Teets had no report.
- Community Development Director Corthell shared that the monthly Community Development report will be available later in the week.

## **COUNCIL COMMUNICATION**

- Councilor Vermillion announced MRSD Board Meeting and Summer School dates. He thanked everyone that participated in the Town Hall meeting. Councilor Vermillion made a statement regarding the concerns of the homeless population in Molalla.
- Councilor Shankle announced the City Wide Clean-Up Day that is taking place on April 28<sup>th</sup> – 29<sup>th</sup>.
- Council President Newland acknowledged Landon Hodgkinson as the youngest public comment speaker that Council has had, and thanked him for attending the meeting. Council President Newland thanked all of the attendees and appreciated their comments. She also announced the upcoming Parks CPC meetings.



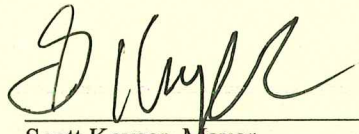
- Councilor Robles gave a report on the current Library activities. She thanked the audience members for their participation in the meeting and for providing public comment.
- Councilor Botsford shared that the Chamber of Commerce is trying to determine a theme for this years Grand Parade. She invited anyone with ideas to contact the Chamber.
- Mayor Keyser announced Loyalty Days at the Molalla Fire Department on Monday, May 1<sup>st</sup>. Mayor Keyser also shared that on Friday, May 5<sup>th</sup>, he will be presenting a report to Legislature for funding of our new Wastewater Treatment Plant.

For the good of the order, Councilor Newland announced paving on Shirley Street, in hopes that people could avoid that area.

For the complete video account of the City Council Meeting, please go to YouTube  
“Molalla City Council Meetings – April 26, 2023”

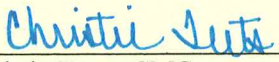
**ADJOURN**

Mayor Keyser adjourned the meeting at 9:16pm.

  
\_\_\_\_\_  
Scott Keyser, Mayor

5/10/23  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Christie Teets, CMC  
City Recorder



Kristy Hodgkinson of Molalla

Tonight I want to speak not only of my own opinions but also that of a group of Molalla residents that are either not able to attend tonight or aren't comfortable speaking in public. I will provide a list of those residents to the council as well.

Over the last two months I have heard the city council ask the residents of Molalla to come up with a good alternative to using our city parks as a place to provide the mandated Camping area that the State of Oregon is requiring.

It is also my understanding that the city may terminate Molalla Hope's lease of the warming center if the city has an alternative need for the building or property.

I propose the city terminate the lease and use the building for temporary office space for the Molalla Police Department. Their current building is insufficient. This would provide them with more space to have individual desks.

Terminating the lease would also make the fenced area behind the building become available. We could then use that area as the location for the homeless encampment site. The area is already fenced and gated. That means we could unlock it only during the designated camping time and lock it during the day. Which helps us to ensure our children could not get access to the area. Having the area next to a building that is also occupied by the police department would discourage any illegal happenings. It is also located in an easy to access area for the police if an incident arises. This not only is for the safety of the community but is also good for the safety of the homeless. The fire department is also located close by for easy access to medical services. The gravel area would be much easier to keep clean compared to any of the parks or other fields being looked at for consideration. Being on gravel instead of a grassy area also reduces the chance of fires to be started.

Another positive aspect of this proposal is that the police would then have a stronger presence for our youth that use the neighboring skate park. This would help give them a better sense of safety while using the park.

This not only would solve two of our cities current issues. It would also end Leota Chidress involvement with a city owned building while she is under investigation for a ethics violation.

I would like to ask the council to consider making a motion to end the lease on the warming center at tonight's meeting.

At this time I would like to ask that anyone who feels I am also speaking on their behalf and is in favor of this idea please stand in recognition.

Thank you so much for your time and for allowing me to speak.



List of people in support of Kristy Hodgkinson's speech.

Belinda Simmons  
Jodi Houser  
Nicole Jung  
Mary Beth Pearson  
Kristina Christopherson  
Leona Jones  
Kimberly Adams  
Sandy Jones  
Haley Lowrie  
Jodi Dix  
Victoria Roggensack  
Monica Chance  
Susan Robbins  
Randy Baker  
Elizabeth Holmes  
Lisa Runyan  
Theresa Manning  
Steve Woodward  
Lynetter Boutelle  
Katie Derrick  
Carmon Prettyman  
Cory Adlard  
Dusty Willman  
Lynda McDonald-Lay  
Carmon Coy  
Char Pennie  
David Potts  
Nichole McConnell  
Kim Gredvig  
Lacey Sandquist  
Nicholas Taylor  
Andrea Nordahl  
Kenneth Powell  
Ashley Bentley  
Adam Bany  
John Leek  
Melissa Leek  
Jennifer Blair  
Robert Roggensack  
Paige Lantz  
Katie Hartle  
Violet Kuehl



Dustin Kuehl  
Jennifer Jaspers  
Dustin Gresham  
Laurinda Nealeigh  
Brandon Nealeigh  
Debra Moehnke  
David Moehnke  
Matthew Calhoon  
Sarah Moehnke  
Noelle Brown  
Melissa Dowe  
Tara Martin  
Andy Foskett  
Tammy Bauer



Hello my name is Landon Hodgkinson. I live on Shirley st. Just a few houses down from Clarke Park.

For the last 5 years I have enjoyed making memories at Clarke park.

I walk or ride my scooter to and from the park. We have played with my stomp rocket in the grass, went to the vintage market, and national night out. I play on the equipment and enjoy riding my scooter on the new paths through the park.

I have worries if the homeless are allowed to sleep at Clarke Park.

I worry the park will no longer stay pretty.

I worry the homeless people won't follow the rules.

I worry I won't be able to have fun riding my scooter or play at the park anymore. Because they may leave drugs, needles, and trash behind.

I worry having the homeless area at the park or Bohlander field will cause the homeless to walk in front of my house all of the time. Which would mean I couldn't play safely in my front yard anymore.

Please help me to keep making memories and keep Clarke park safe.

**From:** [Jana Rasmussen](#)  
**To:** [City Recorder](#)  
**Subject:** homeless situation  
**Date:** Wednesday, April 26, 2023 4:01:05 PM

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I want to comment in regards to the homeless situation. As someone who homeschools and is active in our community I wish to have my families voice heard.

We are against having a camping spot as we have seen how it is in other cities. Also we walk town with our kids and the park and the amount of things we are finding evidence of drug use. Most don't let us sit at the picnic tables to have a picnic as they are laying across them and have their belongings strung out on them. some looking and smelling really bad. We enjoy a picnic table for eating or doing learning. My daughter has been talked to , approached and made uncomfortable by a handful of them as well. maybe bolander field parking lot while the rodeo is not going on is a good spot . But please do not have it in or near our parks.

I have to cut this short so it will be in, in time.

Jana & Haylee



Before we get started I'd like to take a moment to address an issue of extreme importance to many of you in the audience, many folks watching at home, and certainly to this Council. I am referring to the Public Camping Ordinance dictated to us by House Bill 3115.

I am excited to see the community mobilizing behind this and any other issue, it is the American way, but also want to provide some insight on how you all can help us in our roles as community decision makers on this issue. City staff has produced a packet of information regarding the camping ordinance and homelessness in public spaces. There are paper copies available here tonight, City Staff will be posting them on the Did You Know page of the Molalla Current tomorrow, and they will also be available at City Hall and the Civic Center moving forward for those who may lack computer access or skills.

The reason we have pieced together this information is so that folks can understand the problem space we're working in and help us as your elected decision makers by providing community feedback, suggestions, and insights that are tethered to reality. We would all like cart Blanche to legislate as we desire on this issue and many others, but the laws of the United States and the State of Oregon supersede our authority to do so in this and many other situations. With that said, there are a lot of creative minds in Molalla and we as a Council want and need your input on how we should move forward, but we need realistic suggestions; not that all of those we've received to date are unrealistic. So, please grab a packet or read up on the Current so that you are fully aware of the limitations, requirements, and timelines involved; this will help you and us by receiving community feedback that also reconciles the space in which we are forced to operate. Thank you!"

**From:** [nichole mcconnell](#)  
**To:** [Scott Keyser](#); [Jody Newland](#); [Eric Vermillion](#); [Terry Shankle](#); [Leota Childress](#); [Rae-Lynn Botsford](#); [Crystal Robles](#); [Dan Huff](#); [Christie Teets](#)  
**Subject:** Designated camping ordinance  
**Date:** Monday, April 24, 2023 8:03:13 PM

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Dear Mayor and Council,

I'll share my story with you as I have on Facebook. As it's a relevant concern for me and my neighbors. I am very much against Bohlander being a designated camp. My children wouldn't be safe in thier own backyard. And this beautiful space is essentially used as a backyard to all the surrounding neighborhoods. And if proposing a fenced area is supposed to keep us safe, well you're not going to be able to lock them in like animals. They are going to roam as they please.

Thank you for reading this.

As I've heard comments from the Mayor, it seems he's pushing for Bohlander field as the homeless camp.

In July of 2021, it was my son's birthday, my mother-in-law and her other half, who's a retired fireman, were in our living room when he noticed a young man who looked like a street person was sitting in the field, then trying to stomp out a fire he started from a cigarette. The four of us were out there immediately with shovels and carrying out buckets of water and it still grew this large in minutes. Luckily it wasn't a windy day. We did call the fire department and they doused it completely.

What could have happened if we weren't home? This was when we had a water restriction, so our backyard was bone dry also. This fire could easily spread to homes. I understand this is always a risk, but if the city is proposing the homeless to sleep there, it's adding to that risk. Especially when they'll be there during the night and Homeowners are helpless. I know they said no fires are allowed, but it only takes a lighter or cigarette butt.

Every summer this field is extremely dry.  
See photo





**From:** [nichole.mcconnell](#)  
**To:** [Scott Keyser](#); [Jody Newland](#); [Terry Shankle](#); [Crystal Robles](#); [Leota Childress](#); [Eric Vermillion](#); [Rae-Lynn Botsford](#)  
**Cc:** [Dan Huff](#); [Christie Teets](#)  
**Subject:** Resolution from Ben West  
**Date:** Tuesday, April 25, 2023 3:05:31 PM

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At this time I do not support this resolution and I would hope you get community feedback and details first before voting yes.

I really have no idea what it truly means, it sounds good on the outside, but will the City have more obligation to provide services. Does it mean opening a full-time shelter that anyone from the entire County can come. Will it open a can of worms? Why is the County coming to Molalla with this? Why not take it to a larger City and see how it works for them first? A full-time shelter and recovery center should be located in OC, Clackamas or Gladstone area, where there is multiple services, Hospitals, emergency care and tri-met services. Especially if it's funded by the County.

Perhaps they should rethink their vote on project turn key.

Also, why should Molalla accept the fee in lieu of the Toliver Estate improvements? What is the reason they won't fulfill their obligation?

Thank you,  
Nichole



**From:** [Leota Childress](#)  
**To:** [Dan Huff](#); [Christie Teets](#)  
**Subject:** Fw: Homeless Camp  
**Date:** Wednesday, April 26, 2023 12:08:31 AM

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Leota Childress  
*City Councilor*  
City of Molalla  
503.829.6855

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**From:** Mindy Holeman <[mindy@grandviewcares.com](mailto:mindy@grandviewcares.com)>  
**Sent:** Tuesday, April 25, 2023 5:24 PM  
**To:** Leota Childress  
**Subject:** Homeless Camp

Dear Sirs,

As a resident of Molalla, I'm appalled that I am just now finding out that this is a mandatory homeless encampment coming to our small town. We do not have the finances or the resources to make this happen. Not only have we seen an increase in homelessness, but drugs. Our small town is not large enough, nor do we have the resources to accommodate such an influx of homelessness. This is going to make our property taxes go up and property value go down. As it is, we have a drug house on our street! I live on June Dr. The police have done nothing about it. Vagrants and druggies are pedaling up and down my street casing houses and rooting through our trash! Just the other day, a man on drugs was talking to himself and screaming on the corner.. and this is what you are bringing to our small family town!? You should be ashamed of yourselves! This is unacceptable! Please be warned... if any of you vote this in, I will personally petition for your removal and make sure you are not re-elected. You have a responsibility to protect our community.. being paid by the state to relocate people from Portland is not protection. It's disgusting and needs to stop!

A Sincerely Concerned Citizen,

Mindy Holeman

**From:** [nichole.mcconnell](#)  
**To:** [Dan Huff](#); [Scott Keyser](#); [Jody Newland](#); [Terry Shankle](#); [Leota Childress](#); [Crystal Robles](#); [Rae-Lynn Botsford](#); [Eric Vermillion](#)  
**Cc:** [Christie Teets](#)  
**Subject:** Camping Ordinance  
**Date:** Wednesday, April 26, 2023 9:32:35 AM

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Dear Mayor, Council and Mr. Huff,

I think my biggest fear is this narrative of "picking" a spot and placing that burden in one neighborhood, rather than it being shared as a community. The City doesn't have to choose a place for a camp, they just need to enforce rules around it. Which is what the first draft of the ordinance was. So unless there is a property that is away from residential neighborhoods, there should be no designated camp. Picking a spot in a neighborhood Park or field and erecting a fenced area is just giving permission for their own space and possibly creating problems where there were once none. The idea of a fenced area is not going to protect anyone but them. They could still leave unwanted items or trash anywhere they travel to and from. And the thought of picking one place to make it easier for the City to clean up or for the police to patrol, well we don't pay taxes to make their lives easier, quite the opposite. They exist to better our community. I can understand banning camping at Fox Park and certain localized areas. But the property of the warming center should not be exempt. And if the operation of the warming center has created so much havoc, which the PD should be able to confirm, then shut it down.

Thanks again for listening.

Nichole



**From:** [Ashley Mason](#)  
**To:** [City Recorder](#)  
**Subject:** City Council Meeting 4/26/2023 support email  
**Date:** Wednesday, April 26, 2023 10:24:19 AM

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We - Benjamin and Ashley Mason, property owners in the Bear Creek community want to add our supportive votes to the below listed plan to be proposed by Kristy Hodgkinson at the city council meeting tonight 4/26/2023.

Hello friends and fellow community members,

I am proposing an idea at this weeks city council meeting. It will solve a few issues our city is facing. There is a clause in the warming center's lease. It states that if the city needs the building for another use the city can terminate the lease.

I propose that the city end the lease. They could use the building to provide our police department with much needed office/desk space. Something they are in desperate need of while they are awaiting their new building. We could also use the gravel fenced in area behind the building to fulfill the need of a designated camping area for the homeless. This would provide a small fenced, well lit, gated, and easily patrolled area. It would also provide the skate park with more police patrol.

**From:** [Leota Childress](#)  
**To:** [Kelli Bartholomew](#); [Dan Huff](#); [Christie Teets](#)  
**Subject:** Re: Designated Homeless encampment - Molalla  
**Date:** Wednesday, April 26, 2023 12:50:51 PM

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Ms. Bartholomew, thank you for sharing your views on homeless camping.

I have copied City Manager Huff and City Recorder Teets to be sure that your comments are in the records.

Leota Childress  
*City Councilor*  
City of Molalla  
503.829.6855

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**From:** Kelli Bartholomew <kelli@aiyanaaesthetics.com>  
**Sent:** Wednesday, April 26, 2023 12:06:12 PM  
**To:** Leota Childress  
**Subject:** Designated Homeless encampment - Molalla

Councilor Childress,

As a business in downtown Molalla we want to speak out against this designated homeless encampment as a detriment to our growth and vitality. We are finally recovering from COVID and our beautiful city is beginning to thrive again. If this initiative happens, we fear for the security, safety and well being of the downtown area and the City of Molalla as a whole. It is clear as to the effects of housing the homeless as we look at our neighboring City of Portland. The devastation is unbelievable and to accept this as Molallas future is unacceptable. I hope you will put our City first and take a stand against this outrageous mistake.

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Kelli Bartholomew  
AIYANA Aesthetics / Practice Manager  
[kelli@aiyanaaesthetics.com](mailto:kelli@aiyanaaesthetics.com)  
(503) 882-0007



**From:** [Heidi Caldwell](#)  
**To:** [City Recorder](#)  
**Subject:** Public comment for City Council  
**Date:** Wednesday, April 26, 2023 2:37:27 PM

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Public comments for tonight's meeting. Please read into record.

Kind regards,  
Heidi Caldwell

Council Members,

Now knowing Councilor Childress has financial gain from her non-profit, Molalla Hope, I'm curious how a conflict of interest does not exist when she is allowed to take part and vote on things such as approval of the cities budget. I'm sure if the call logs for the police department are analyzed we would find that a significant increase of police activity is taking part at or because of her non-profit. A non-profit she collects an income from. In fact, I'm sure the non-profit calls for and uses police services. Yet, Councilor Childress has been a decision maker over the police departments budget for years. Correct me if I'm wrong, but has she ever announced a conflict of interest during these meetings?

It's clear to me it's time for Councilor Childress to make a choice between being a council member or working for her non-profit, too many conflicts exist for her to effectively lead our city.

Mr. Keyser, you are also complacent in this. And from what you have admitted on social media, a bold faced liar. By all accounts from an email Councilor Childress sent today, you brought this issue forth March 13th, 2023. However, while retaliating against a private citizen sharing conversations she had with you in November of 2021, you yourself, in your own words, indicated this citizen brought the concern forward to you in February of 2021, 9 months previously. If I need to remind you, this was directly after you posted a video pretending to have been shocked by all of this revelation and "only recently finding out".

You sir sat on this information for two years. Sat at the dias during the April 27, 2022 Council discussion and still said nothing. Had you brought this information forward when you were made aware of it, it could have been acted upon then. Molalla Hope is a 501(3)(c), their financial records are required to be disclosed when requested making your claim of the city just discovering it recently indicative of you hiding relevant information in an ethics issue. Unless now you want to claim city staff are lazy and didn't do their jobs for two years to protect yourself? You have zero integrity and you are the one who should not be trusted.

Scott Keyser you have made a mockery of this small town by your continued antics and lies. You too should step down.

Heidi Caldwell



**From:** [Jodi Dix](#)  
**To:** [City Recorder](#)  
**Subject:** Molalla homeless issues  
**Date:** Wednesday, April 26, 2023 3:59:01 PM

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Hi,

My name is Jodi Dix and I 'm sending this to you because I'm very concerned about the homeless issues in our town of Molalla. The drugs and thief's are out of control. I feel the warming center needs to be shut down it's drawing so many homeless people to our town and we don't feel safe anymore. Use the space for something that will benefit our town. Police space, kids fun activities, DARE program etc... I don't feel that Leota should be on the city council anymore or the head of the warming center. She is doing a poor job at running the warming center when all you see are drug deals, homeless doing drugs and causing big fights with each other. This is horrible to see our town like this! I have lived here 47 years and have never seen anything like this.

I would also like to recommend Rotary Park for a place for the homeless. There's no play structures there. It can be easily patrolled. More lighting would be nice. Leota did say there is only 15 or so of them. There's plenty of room there. You do have my permission to read this at the city council meeting tonight.

Thank you,  
Jodi Dix  
Sent from my iPhone

**From:** [Dan Huff](#)  
**To:** [Christie Teets](#); [Suzanne Baughman](#); [Chris Long](#); [Bobby Call](#); [Mac Corthell](#)  
**Subject:** FW: Warming Center Notice  
**Date:** Friday, April 14, 2023 12:23:24 PM

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FYI

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**From:** Leota Childress <molallahope@gmail.com>  
**Sent:** Friday, April 14, 2023 12:17 PM  
**To:** Dan Huff <dhuff@cityofmolalla.com>  
**Subject:** Warming Center Notice

City Manager Huff,

The Warming Center, managed by Molalla HOPE, Inc., has reached the maximum number of allowable nights to operate under the agreement with the Molalla Fire Department. Therefore, regardless of the weather, it will not be open again this winter season.

**Furthermore, due to conditions beyond our control, all service operations at the Center will cease until at least June 1 *unless we open due to extreme heat*.** There will be no laundry services, weekly meals, or drug recovery/housing programs available at 209 Kennel Ave. Management is saddened to have to take these steps. The majority of our clients are being denied services because of a few bad apples over whom none of us have control.

While we believe there is a need for a portable toilet available for the entire community, we have learned that it is being mis-used by people at the skatepark and the homeless population and has become detrimental to the livability of the area, so it is being removed.

Our **Closed Do Not Trespass** signs will be posted today.

It has been a long and arduous season for you and us, with the worst winter in ten years. We were open 109 nights and 24 days and that added to the visibility of the homeless population with more folks coming in from their camps near Molalla. Plus, we have had to contend with a small but vociferous number of opponents in town who continue to stir the pot of discontent and spread untruths.

Let us all look forward to calmer seas ahead.

Best Regards,  
*Leota R Childress*  
*Executive Director*  
*Molalla HOPE Inc*

# House Bill 3501

Sponsored by Representative CHAICHI; Representative PHAM K

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes Oregon Right to Rest Act. Makes violation unlawful practice enforceable by Commissioner of Bureau of Labor and Industries or by civil action.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to rights of persons experiencing homelessness; creating new provisions; amending ORS 659A.885; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Sections 2 to 6 of this 2023 Act are added to and made a part of ORS chapter 659A.

**SECTION 2.** Sections 3 to 6 of this 2023 Act shall be known and may be cited as the Oregon Right to Rest Act.

**SECTION 3.** (1) The Legislative Assembly finds that:

(a) Many persons in Oregon have experienced homelessness as a result of economic hardship, a shortage of safe and affordable housing, the inability to obtain gainful employment and a disintegrating social safety net system; and

(b) Decriminalization of rest allows local governments to redirect resources from local law enforcement activities to activities that address the root causes of homelessness and poverty.

(2) It is declared to be the public policy of Oregon to guarantee persons experiencing homelessness participation in the social and economic life of this state, remunerative employment, use of and free movement within public spaces, participation in and receipt of the benefits of the services, programs and activities of state government and local governments and housing accommodations of the person's choice, without discrimination.

**SECTION 4.** As used in sections 3 to 6 of this 2023 Act:

(1) "Harassment" means a knowing and willful course of conduct directed at a person experiencing homelessness that a reasonable person would consider as seriously alarming, tormenting or terrorizing of the person experiencing homelessness.

(2) "Housing status" means the residential status of a person experiencing homelessness.

(3) "Local government" has the meaning given that term in ORS 174.116.

(4) "Motor vehicle" has the meaning given that term in ORS 801.360.

(5)(a) "Persons experiencing homelessness" means persons who lack, or are perceived to lack, a fixed, regular and adequate nighttime residence.

(b) "Persons experiencing homelessness" includes persons who:

(A) Share the housing of other persons due to loss of housing, economic hardship or a

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in boldfaced type.



similar reason;

(B) Live in motels, hotels, trailer parks or campgrounds due to the lack of alternative adequate accommodations;

(C) Live in emergency or transitional shelters;

(D) Are abandoned in hospitals;

(E) Are awaiting foster care placement;

(F) Have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(G) Live in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations or similar settings; or

(H) Are migratory and otherwise experiencing homelessness as described in this subsection.

(6)(a) "Public space" means any property that is owned, in whole or in part, by state government or a local government, or upon which there is an easement for public use, and that is held open to the public.

(b) "Public space" includes but is not limited to plazas, courtyards, parking lots, sidewalks, public transportation facilities and services, public buildings and parks.

(c) "Public space" does not mean a private business establishment.

(7) "Recreational vehicle" has the meaning given that term in ORS 650.300.

(8) "Rest" means the state of sleeping or not moving or the state of holding certain postures that include but are not limited to sitting, standing, leaning, kneeling, squatting or lying on the ground or other surface.

(9) "State government" has the meaning given that term in ORS 174.111.

**SECTION 5.** (1) In enacting sections 3 to 6 of this 2023 Act, it is the intent of the Legislative Assembly that:

(a) Persons experiencing homelessness be permitted to use public spaces in the same manner as any other person without discrimination based on their housing status;

(b) A person experiencing homelessness has a privacy interest and a reasonable expectation of privacy in any property belonging to the person, regardless of whether the property is located in a public space; and

(c) Every person in this state, including persons experiencing homelessness, have the rights set forth in subsection (2) of this section to be exercised without being subject to harassment, citation or arrest by law enforcement officers, public or private security personnel or employees of local governments.

(2) Notwithstanding any other law or regulation of state government or local government, a person experiencing homelessness has the following rights:

(a) To use and move freely in public spaces without discrimination and time limitations that are based on housing status.

(b) To rest in public spaces and seek protection from adverse weather conditions that are unsuitable for human exposure in a manner that does not obstruct human or vehicle traffic.

(c) To eat, share, accept or give food in any public space in which having food is not prohibited.

(d) To pray, meditate, worship or practice religion in public spaces without discrimination based on housing status.

(e) To occupy a motor vehicle or a recreational vehicle provided that the vehicle is legally

1 parked on public property or on private property with the permission of the private property  
2 owner.

3 (3) Subsection (2) of this section does not apply if the public space is closed to the general  
4 public or requires a fee for entry. When this subsection applies, and it is legal and reasonable  
5 to do so, law enforcement or local officials shall clearly designate and provide an appropriate  
6 alternative place for persons experiencing homelessness to rest without time limitations in  
7 the near vicinity.

8 (4) An affirmative defense is available to a person experiencing homelessness to a civil  
9 or criminal charge related to use of public spaces that the person was exercising the rights  
10 set forth in this section.

11 **SECTION 6.** (1) It is an unlawful practice for any person to deny, refuse, restrict or  
12 withhold from a person experiencing homelessness any of the rights listed in section 5 of this  
13 2023 Act.

14 (2) Complaints alleging an unlawful practice under this section may be filed by the  
15 aggrieved person, or by a person lawfully acting on behalf of the aggrieved person, with the  
16 Commissioner of the Bureau of Labor and Industries in the manner provided by ORS  
17 659A.820. The commissioner shall enforce this section in the manner provided in this chapter  
18 regarding other unlawful practices.

19 (3) Violation of this section subjects the violator to the civil remedies and penalties pro-  
20 vided in this chapter.

21 **SECTION 7.** ORS 659A.885, as amended by section 7, chapter 99, Oregon Laws 2022, is amended  
22 to read:

23 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-  
24 section (2) of this section may file a civil action in circuit court. In any action under this subsection,  
25 the court may order injunctive relief and any other equitable relief that may be appropriate, in-  
26 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A  
27 court may order back pay in an action under this subsection only for the two-year period imme-  
28 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau  
29 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-  
30 year period immediately preceding the filing of the action. In any action under this subsection, the  
31 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
32 cept as provided in subsection (3) of this section:

33 (a) The judge shall determine the facts in an action under this subsection; and

34 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall  
35 review the judgment pursuant to the standard established by ORS 19.415 (3).

36 (2) An action may be brought under subsection (1) of this section alleging a violation of:

37 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,  
38 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,  
39 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to  
40 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,  
41 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,  
42 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.370 or 659A.421 or section 5,  
43 chapter 99, Oregon Laws 2022, or **section 6 of this 2023 Act**; or

44 (b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

45 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,



1 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,  
2 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,  
3 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

4 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,  
5 compensatory damages or \$200, whichever is greater, and punitive damages;

6 (b) At the request of any party, the action shall be tried to a jury;

7 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-  
8 ment pursuant to the standard established by ORS 19.415 (1); and

9 (d) Any attorney fee agreement shall be subject to approval by the court.

10 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-  
11 olation of ORS 652.220, the court may award punitive damages if:

12 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted  
13 with malice or acted with willful and wanton misconduct; or

14 (b) An employer was previously adjudicated in a proceeding under this section or under ORS  
15 659A.850 for a violation of ORS 652.220.

16 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or  
17 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-  
18 tion, compensatory damages or \$200, whichever is greater.

19 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574  
20 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this  
21 section, compensatory damages or \$250, whichever is greater.

22 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,  
23 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil  
24 penalty in the amount of \$720.

25 (8) Any individual against whom any distinction, discrimination or restriction on account of  
26 race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age,  
27 if the individual is 18 years of age or older, has been made by any place of public accommodation,  
28 as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any  
29 person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action  
30 against the operator or manager of the place, the employee or person acting on behalf of the place  
31 or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an  
32 action under this subsection:

33 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,  
34 compensatory and punitive damages;

35 (b) The operator or manager of the place of public accommodation, the employee or person  
36 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all  
37 damages awarded in the action;

38 (c) At the request of any party, the action shall be tried to a jury;

39 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

40 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-  
41 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable  
42 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;  
43 and

44 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the  
45 judgment pursuant to the standard established by ORS 19.415 (1).



(9) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same manner as a person or group of persons may file a civil action under this section. In a civil action filed under this subsection, the court may assess against the respondent, in addition to the relief authorized under subsections (1) and (3) of this section, a civil penalty:

(a) In an amount not exceeding \$50,000 for a first violation; and

(b) In an amount not exceeding \$100,000 for any subsequent violation.

(10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action. The court may award reasonable attorney fees and expert witness fees incurred by a defendant that prevails in the action if the court determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(a) "Aggrieved person" includes a person who believes that the person:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the action if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal.

**(12) In any action under subsection (1) of this section alleging a violation of section 6 of this 2023 Act, the court may award, in addition to the relief authorized under subsection (1) of this section:**

**(a) Compensatory damages or \$1,000 per violation, whichever is greater; and**

**(b) A civil penalty in the amount of \$1,000.**

**SECTION 8.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019, section 13, chapter 701, Oregon Laws 2019, section 45, chapter 367, Oregon Laws 2021, and section 8, chapter 99, Oregon Laws 2022, is amended to read:

659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in subsection (2) of this section may file a civil action in circuit court. In any action under this subsection, the court may order injunctive relief and any other equitable relief that may be appropriate, including but not limited to reinstatement or the hiring of employees with or without back pay. A court may order back pay in an action under this subsection only for the two-year period immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-year period immediately preceding the filing of the action. In any action under this subsection, the court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-

cept as provided in subsection (3) of this section:

(a) The judge shall determine the facts in an action under this subsection; and

(b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (3).

(2) An action may be brought under subsection (1) of this section alleging a violation of:

(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 or section 5, chapter 99, Oregon Laws 2022, or **section 6 of this 2023 Act**; or

(b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater, and punitive damages;

(b) At the request of any party, the action shall be tried to a jury;

(c) Upon appeal of any judgment finding a violation, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1); and

(d) Any attorney fee agreement shall be subject to approval by the court.

(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a violation of ORS 652.220, the court may award punitive damages if:

(a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted with malice or acted with willful and wanton misconduct; or

(b) An employer was previously adjudicated in a proceeding under this section or under ORS 659A.850 for a violation of ORS 652.220.

(5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$200, whichever is greater.

(6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

(7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092, the court may award, in addition to the relief authorized under subsection (1) of this section, a civil penalty in the amount of \$720.

(8) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action against the operator or manager of the place, the employee or person acting on behalf of the place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an



1 action under this subsection:

2 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,  
3 compensatory and punitive damages;

4 (b) The operator or manager of the place of public accommodation, the employee or person  
5 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all  
6 damages awarded in the action;

7 (c) At the request of any party, the action shall be tried to a jury;

8 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

9 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-  
10 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable  
11 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;  
12 and

13 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the  
14 judgment pursuant to the standard established by ORS 19.415 (1).

15 (9) When the commissioner or the Attorney General has reasonable cause to believe that a  
16 person or group of persons is engaged in a pattern or practice of resistance to the rights protected  
17 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied  
18 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner  
19 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same  
20 manner as a person or group of persons may file a civil action under this section. In a civil action  
21 filed under this subsection, the court may assess against the respondent, in addition to the relief  
22 authorized under subsections (1) and (3) of this section, a civil penalty:

23 (a) In an amount not exceeding \$50,000 for a first violation; and

24 (b) In an amount not exceeding \$100,000 for any subsequent violation.

25 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or  
26 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing  
27 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to  
28 the commissioner if the commissioner prevails in the action. The court may award reasonable at-  
29 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court  
30 determines that the commissioner had no objectively reasonable basis for asserting the claim or for  
31 appealing an adverse decision of the trial court.

32 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145  
33 or 659A.421 or discrimination under federal housing law:

34 (a) "Aggrieved person" includes a person who believes that the person:

35 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

36 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to  
37 occur.

38 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of  
39 right in the action. The Attorney General may intervene in the action if the Attorney General cer-  
40 tifies that the case is of general public importance. The court may allow an intervenor prevailing  
41 party costs and reasonable attorney fees at trial and on appeal.

42 **(12) In any action under subsection (1) of this section alleging a violation of section 6 of**  
43 **this 2023 Act, the court may award, in addition to the relief authorized under subsection (1)**  
44 **of this section:**

45 **(a) Compensatory damages or \$1,000 per violation, whichever is greater; and**



1       **(b) A civil penalty in the amount of \$1,000.**

2       **SECTION 9.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section  
3       6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,  
4       Oregon Laws 2019, section 58, chapter 700, Oregon Laws 2019, section 13, chapter 701, Oregon Laws  
5       2019, section 46, chapter 367, Oregon Laws 2021, and section 9, chapter 99, Oregon Laws 2022, is  
6       amended to read:

7       659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-  
8       section (2) of this section may file a civil action in circuit court. In any action under this subsection,  
9       the court may order injunctive relief and any other equitable relief that may be appropriate, in-  
10      cluding but not limited to reinstatement or the hiring of employees with or without back pay. A  
11      court may order back pay in an action under this subsection only for the two-year period imme-  
12      diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau  
13      of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-  
14      year period immediately preceding the filing of the action. In any action under this subsection, the  
15      court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
16      cept as provided in subsection (3) of this section:

17      (a) The judge shall determine the facts in an action under this subsection; and

18      (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall  
19      review the judgment pursuant to the standard established by ORS 19.415 (3).

20      (2) An action may be brought under subsection (1) of this section alleging a violation of:

21      (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,  
22      652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 657B.060 and  
23      657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088,  
24      659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,  
25      659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,  
26      659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or  
27      659A.421 or section 5, chapter 99, Oregon Laws 2022, **or section 6 of this 2023 Act**; or

28      (b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

29      (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,  
30      243.323, 652.220, 652.355, 653.547, 653.549, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040,  
31      659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228,  
32      659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or  
33      659A.421:

34      (a) The court may award, in addition to the relief authorized under subsection (1) of this section,  
35      compensatory damages or \$200, whichever is greater, and punitive damages;

36      (b) At the request of any party, the action shall be tried to a jury;

37      (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-  
38      ment pursuant to the standard established by ORS 19.415 (1); and

39      (d) Any attorney fee agreement shall be subject to approval by the court.

40      (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-  
41      olation of ORS 652.220, the court may award punitive damages if:

42      (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted  
43      with malice or acted with willful and wanton misconduct; or

44      (b) An employer was previously adjudicated in a proceeding under this section or under ORS  
45      659A.850 for a violation of ORS 652.220.

1 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or  
2 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-  
3 tion, compensatory damages or \$200, whichever is greater.

4 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574  
5 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this  
6 section, compensatory damages or \$250, whichever is greater.

7 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,  
8 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil  
9 penalty in the amount of \$720.

10 (8) Any individual against whom any distinction, discrimination or restriction on account of  
11 race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age,  
12 if the individual is 18 years of age or older, has been made by any place of public accommodation,  
13 as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any  
14 person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action  
15 against the operator or manager of the place, the employee or person acting on behalf of the place  
16 or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an  
17 action under this subsection:

18 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,  
19 compensatory and punitive damages;

20 (b) The operator or manager of the place of public accommodation, the employee or person  
21 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all  
22 damages awarded in the action;

23 (c) At the request of any party, the action shall be tried to a jury;

24 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

25 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-  
26 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable  
27 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;  
28 and

29 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the  
30 judgment pursuant to the standard established by ORS 19.415 (1).

31 (9) When the commissioner or the Attorney General has reasonable cause to believe that a  
32 person or group of persons is engaged in a pattern or practice of resistance to the rights protected  
33 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied  
34 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner  
35 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same  
36 manner as a person or group of persons may file a civil action under this section. In a civil action  
37 filed under this subsection, the court may assess against the respondent, in addition to the relief  
38 authorized under subsections (1) and (3) of this section, a civil penalty:

39 (a) In an amount not exceeding \$50,000 for a first violation; and

40 (b) In an amount not exceeding \$100,000 for any subsequent violation.

41 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or  
42 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing  
43 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to  
44 the commissioner if the commissioner prevails in the action. The court may award reasonable at-  
45 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court



determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(a) "Aggrieved person" includes a person who believes that the person:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the action if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal.

**(12) In any action under subsection (1) of this section alleging a violation of section 6 of this 2023 Act, the court may award, in addition to the relief authorized under subsection (1) of this section:**

**(a) Compensatory damages or \$1,000 per violation, whichever is greater; and**

**(b) A civil penalty in the amount of \$1,000.**

**SECTION 10. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.**