IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF UMATILLA

LAURA THORNTON, ELIZABETH MARTIN, SARA SHAVER, WILYNDA WARDINSKI, and STACIE "LEE" EVENS Plaintiffs, v. CITY OF PENDLETON, Defendant.	No. COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF (ORS 195.530, *et seq.*; Uniform Declaratory Judgment Act, ORS 28.010 *et seq.*) CLAIM NOT SUBJECT TO MANDATORY ARBITRATION Filing fee, ORS 21.135: $281

For their complaint against the City of Pendleton, Plaintiffs hereby allege as follows:

INTRODUCTION

This case is about Pendleton's efforts to banish its unhoused residents from town. In 2020, Pendleton (hereinafter "the City") enacted Ordinance 3966, which authorized the Pendleton Police Department to ticket and exclude unhoused Pendletonians for "resting" on public property any time between 6:00 a.m. and 10:00 p.m. "Resting," in the context of the Ordinance, means "paus[ing] from exertion by stopping, sitting, lying, or sleeping." Earlier this year, the City enacted Ordinance 4023, which prohibits sleeping in "locations of city-owned improved property[.]"

By outlawing a basic human necessity – rest – twenty-four hours a day in most parts of the City, and fourteen hours each day in every part of the City, the City ensures that unhoused

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

residents can be charged with violations simply for existing. Once a person is cited for "resting," Ordinance 3966 authorizes what amounts to City-wide exclusion. If excluded people do not remove themselves from the City, they can be removed by Pendleton Police, as their inevitable presence on City property constitutes criminal trespass. The message is clear: people experiencing homelessness are not meant to remain here, and if they do not leave by their own volition, they can be forced out.

Plaintiffs Laura Thornton, Elizabeth Martin, Sara Shaver, Wilynda Wardinski, and Stacie "Lee" Evens bring this action to enjoin enforcement of the Ordinances as applied to homeless individuals because such application violates ORS 195.530 and Article I, sections 16 and 20 of the Oregon Constitution.

PARTIES

1.

Laura Thornton is and was at all relevant times involuntarily homeless and residing in the City of Pendleton.

2.

Elizabeth Martin is and was at all relevant times involuntarily homeless and residing in the City of Pendleton.

3.

Wilynda Wardinski is and was at all relevant times involuntarily homeless and residing in the City of Pendleton.

4.

Sara Shaver is and was at all relevant times involuntarily homeless and residing in the City of Pendleton.

5.

Lee Evens is and was at all relevant times involuntarily homeless and residing in the City of Pendleton.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

//

6.

Defendant City of Pendleton is a municipal corporation in the state of Oregon, located in Umatilla County. It is a local government entity.

JURISDICTION AND VENUE

7.

Oregon circuit courts are courts of general jurisdiction, with subject matter jurisdiction to hear any matter not otherwise reserved to another court's exclusive jurisdiction. Or. Const. Art. VII, § 9.

8.

The circuit court for Umatilla County has personal jurisdiction over the defendant, and venue in Umatilla County is proper, as the facts of the matter arise in Umatilla County and the defendant is located in Umatilla County. ORS 14.030; ORS 14.050; ORS 14.080; ORCP 4.

9.

An action to enforce certain rights of homeless people must specifically be brought in the "circuit court of the county in which the city that enacted the law is located." ORS 195.530(4).

FACTUAL ALLEGATIONS

10.

Like cities and towns across Oregon, Pendleton is experiencing a homelessness and housing crisis. The City does not have enough affordable or market-rate rental apartments. Many people in Pendleton are unhoused and forced to live outside. Though the exact number of homeless Pendletonians is unknown, during the winter of 2023, Neighbor 2 Neighbor – a local nonprofit serving homeless people in Pendleton – provided temporary shelter for 152 individuals.

11.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

Pendleton has one year-round emergency shelter: the Promise Inn. In addition to the Promise Inn, Neighbor 2 Neighbor operates a volunteer-run Warming Station and Day Center during extreme cold or heat. None of these locations, however, are open 24 hours per day. The Promise Inn requires guests to be off the premises between 9:00 a.m. and 5:00 p.m. The Warming Station is only open on nights when the risk of hypothermia is elevated. The Day Center is open during limited hours when temperatures fall below 0 degrees or rise above 100 degrees. Even when they are open, these locations have insufficient space to shelter every Pendletonian experiencing homelessness. The Promise Inn has 37 beds, and the Warming Station has room for up to 26 guests.

12.

On October 6, 2020, the City Attorney recommended that the City Council approve Ordinance 3966. The Ordinance, in its preamble, acknowledges that "there is not enough housing in Pendleton to meet the needs of the homeless, specifically their need to rest."

13.

Ordinance 3966 outlaws all resting on public property from 6:00 a.m. to 10:00 p.m. During nighttime hours, Ordinance 3966 purports to allow resting on public property other than parks, public ways, and pedestrian ways.

14.

Ordinance 3966 authorizes civil exclusion of individuals who are cited for probable cause of a crime, or for probable cause of a violation, such as resting. Pendleton may cite people for resting and in doing so, exclude them from all City public ways and pedestrian ways for 30 days. If excluded people are present in violation of their exclusion, Pendleton may exclude them for an additional year and charge them with criminal trespass.

15.

The City Councilors discussed potential issues with the proposed Ordinance. Councilor Innes objected to the limited hours during which resting would be permitted, noting that expanded

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

hours would be more humane, and that not allowing people to bed down amounts to cruel and unusual punishment.

16.

Councilor McDonald asked where people would be permitted to camp, noting that for the average person to understand such regulations, they would need to be clear.

17.

Then-Mayor Turner responded that the City would allow rest on public property "as long as you are gone by 6:00 a.m." In the morning, people experiencing homelessness would need to "pick everything up and move on."

18.

To Plaintiffs' knowledge, there was no answer to Councilor McDonald's question of where people would be permitted to shelter, and no discussion – other than then-Mayor Turner's mandate of daily removal – of where people experiencing homelessness would be able to exist during the day.

19.

The Council voted to adopt Ordinance 3966.

20.

Ordinance 3966 went into effect on November 6, 2020. On November 19, 2020, the City produced a "Right to Rest" map, purporting to illustrate where overnight resting would be permitted. At that time, approximately 60 properties were marked as permissible for resting.

21.

However, many of the designated areas were incompatible with resting. For example, some had structures on them, such as houses.

22.

The City Attorney told the East Oregonian that there would be "some areas in this map that will need further scrutiny and possible correction."

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

23.

Chief of Police Charles Byram told the East Oregonian, "If you think my officers are going to memorize these public areas, you would be sorely mistaken."

24.

Currently, five years after the distribution of the Right to Rest map, there remain locations designated as resting areas on the map that are deemed off-limits by the text of Ordinance 3966.

25.

For example, while Ordinance 3966 explicitly states that people may never rest upon pedestrian ways – defined to include sidewalks, walkways, and parking lots – the Right to Rest map designates the entire City Hall block as a place where people may rest overnight. This designation contravenes the text of the Ordinance: much of the block is made up of sidewalks, walkways, and parking lots.

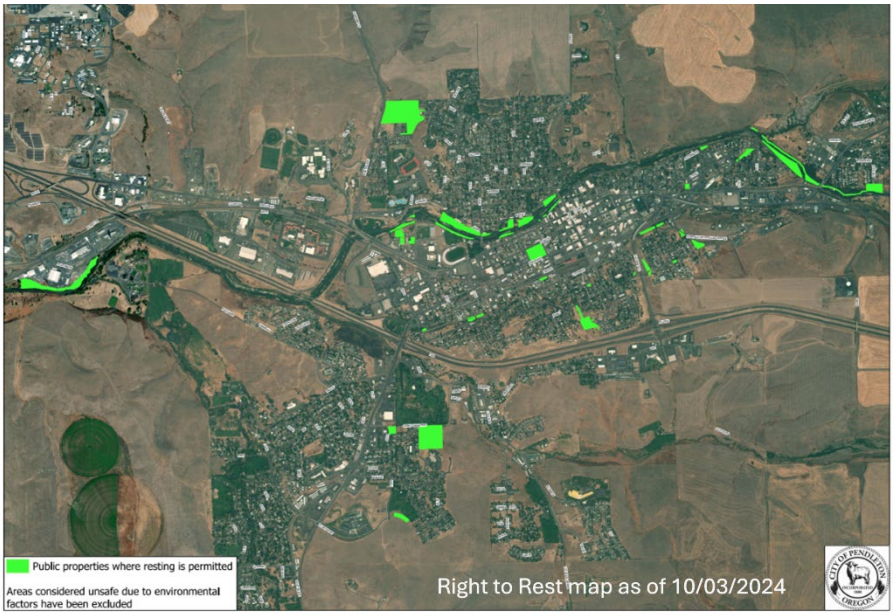
26.

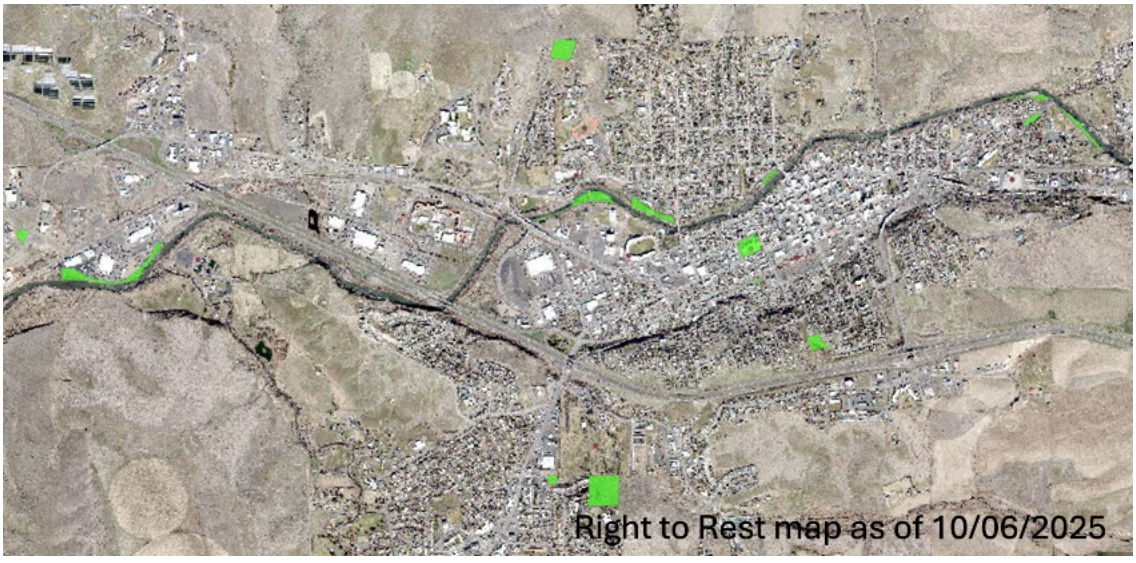
The map also portrays locations as available for overnight resting even when said locations are marked with "no trespassing" signs. The City's water reservoir and the land around it, for example, are marked as resting space. Yet the area is cordoned off by a gate and a "no trespassing" sign.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

27.

The City has also changed the map over the years. Specifically, the City has decreased the number of places where people may "rest" – without changing the text of the Ordinance 3966 to match the map, and without notifying Plaintiffs or other homeless Pendleton residents.





28.

In the two-year period between May 2023 and May 2025, Pendleton Police issued over 300 citations for "resting" to 176 individuals.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

29.

The City typically issues exclusion orders with tickets for "resting" violations.

30.

On May 20, 2025, the City Attorney recommended the approval of Ordinance 4023 to the Council, which would amend Ordinance 3409, Noncriminal Offenses.

31.

Ordinance 4023 prohibits sleeping within a public facility or building, and defines public facilities as "locations of city-owned improved property, which are constructed or maintained for both public and nonpublic specific municipal purposes and uses, including public buildings, restrooms, park improvements, and public bus stops, which includes bus shelters."

32.

Ordinance 4032 also bars people from "leav[ing] unattended or maintain[ing] in their presence personal property on a public way, walkway, sidewalk, bridge pathway, or street." "Personal Property" is defined to mean "tangible items greater than one cubic foot in size, other than signs, which are reasonably recognizable as belonging to individual persons and which have apparent utility or value."

33.

When asked whether police would issue a warning before enforcing Ordinance 4032, Police Chief Charlies Byram said they would not.

34.

When asked what would happen "when the homeless move out of City limits and into the Urban areas," Chief Byram's response, as summarized in the City's meeting minutes, was: "it is a game of moving the homeless from one place to another. It is a cat and mouse game and it's moving them around."

35.

The Council voted to adopt Ordinance 4032.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

36.

Plaintiffs Laura Thornton, Elizabeth Martin, Wilynda Wardinski, Sara Shaver, and Stacie "Lee" Evens are involuntarily homeless individuals residing in Pendleton.

37.

Ms. Thornton attended elementary, middle, and high school in Pendleton. She and her wife, Ms. Martin, are currently homeless. Ms. Martin has lived in Pendleton for about 25 years.

38.

Ms. Thornton and Ms. Martin have stayed at the Promise Inn when able to do so. The Inn requires guests to spend 30 days out of the shelter after each period of 90 days that they are in the shelter. Ms. Thornton and Ms. Martin have had to sleep outside in Pendleton during the times they have been unable to stay at the Inn.

39.

City police have given Ms. Thornton conflicting information about where she is permitted to rest. They have also given her conflicting information about where she is permitted to be in the City, now that she has received an exclusion order. Although Ordinance 3699 authorizes exclusion from public and pedestrian ways, her exclusion order states that she is banned from "all city property."

40.

Contrary to both the terms of the Ordinance and of her exclusion, police told her she could still be on City sidewalks. "That made [her] feel like the police could pick and choose where [she] could be."

41.

City police have issued Ms. Thornton and Ms. Martin multiple tickets for either resting or for criminal trespass II pursuant to exclusion order violations.

42.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

PPD Officer Williams issued Ms. Thornton one resting citation when she was sitting in a park with her friends during the day. When she went to court for her resting citation, "Officer Williams said the park is for hanging out, not for resting." Ms. Thornton felt blindsided; she thought "hanging out" was what she was doing.

43.

Ms. Martin and Ms. Thornton have previously slept in Right to Rest areas after being excluded from City property. Ms. Martin felt she had little other choice; she "didn't want to take [her] wife to a place that might not be safe." Because the Right to Rest areas are City property, police ticketed them for criminal trespass.

44.

The police have directed Ms. Martin and Ms. Thornton to go to Stepping Stones, a shelter in Hermiston.

45.

Ms. Wardinski is a lifelong resident of Oregon. Like Ms. Thornton and Ms. Martin, Ms. Wardinski has stayed at the Promise Inn when able to do so, and has slept outside between stays at the Inn.

46.

Even with the Right to Rest map, she is unsure of where she can sleep without risking citation. She feels forced to guess, and to hope police officers agree with her guess.

47.

When sleeping outside, Ms. Wardinski has experienced sleep deprivation and has been unable to use the restroom overnight due to the lack of bathrooms in the Right to Rest areas. She has often woken in the middle of the night, panicked that she may have slept past the permitted time of 6:00 a.m., and then been unable to go back to sleep for an hour or more. Most nights that she slept outside, she estimates she got around three hours of sleep.

48.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

On May 12, 2025, Ms. Wardinski packed up her belongings by 6:00 a.m. She sat down on the steps of a church to wait while her son and friend went to get food for breakfast.

49.

Around 6:30 a.m., a City police officer approached her. He asked why she was homeless at the age of 63. When Ms. Wardinski said she was working to get housing in Pendleton, he told her she could not get housing in Pendleton, that she was not wanted in Pendleton, and that she should go back to Hermiston.

50.

When driving her to the police station, the officer asked about Ms. Wardinski's son, who is also homeless. He said, "You see how we've now accumulated two new homeless people in Pendleton, when it's not needed . . . . You guys can sleep at the Promise Inn for like 90 days or whatever, the Salvation Army gives out food every day, so why would people leave? That's why we [have to] crack down. Any time it's jail, it's jail. There's no way around it. If you're not from here, there's no reason for you to be here. You don't need to stop in and hang out, because you just cause issues. So, it will be jail every time if we contact you somewhere trespassing. There's no way around it."

51.

Afraid of citation and exclusion, Ms. Wardinski tries to get up and relocate when she sees a police officer. She does not know what she would do if she got excluded, because the services she receives are in Pendleton.

52.

Ms. Shaver has been homeless off and on since she was 16 years old. City police have cited her on multiple occasions for resting on City property. She has also been excluded, and like Ms. Thornton, she has been excluded from all City property rather than City public ways and pedestrian ways.

53.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

In Ms. Shaver's experience, the City's rules around where homeless residents can sleep and rest are "always changing." The City has ticketed and excluded Ms. Shaver while doing her best to follow the City's rules, but not knowing which version of the rules a given officer will choose to enforce.

54.

Ms. Shaver does not know what she is permitted to do with her belongings, understanding that she is neither permitted to carry them with her, nor leave them in Right to Rest areas, nor stay and sit with them in Right to Rest areas.

55.

After being excluded, when Ms. Shaver wanted to go to a City park to walk her dog or meet with her children, she was told that she needed to call the police captain. She called multiple times, but never heard back.

56.

Ms. Evens has lived in Pendleton since 2020. She is currently homeless and lives in her truck.

57.

Ms. Evens has autoimmune conditions that make walking painful, as well as type 2 diabetes, which can cause weakness and trouble walking. The pain often prevents her from sleeping.

58.

She works as a caregiver and often works late at night.

59.

City police have cited and ticketed Ms. Evens for sleeping in her truck at Right to Rest areas past 6:00 a.m.

60.

She went to City Hall to ask for help, and understands the City to have told the police to allow her to sleep in her truck past 6:00 a.m. However, about a year later, she was cited again

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

for sleeping. Though no one had told Ms. Evens, there was a one-year limitation on the exception granted by City Hall.

61.

Ms. Evens went back to City Hall, and the City granted two additional months to her exception. However, she does not know when a police officer will know about her exception, or whether her exception will be extended in the future.

CLAIMS FOR RELIEF

Claim I: ORS 195.530

Objectively Unreasonable Regulation as to People Experiencing Homelessness

62.

Plaintiffs incorporate all preceding paragraphs.

63.

Any city or county law that "regulates the acts of sitting, lying, sleeping, or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time place and manner, with regards to persons experiencing homelessness." ORS 195.530(2).

64.

Oregon law vests people experiencing homelessness with the right to bring suit to protect their rights under this statute. ORS 195.530(4). Whether a city's regulation of sitting, lying, sleeping, or keeping warm and dry is "objectively reasonable" is "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).

65.

Ordinance 3966 violates ORS 195.530 by banning rest – a biological human necessity – anywhere on public property for fourteen hours per day.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

66.

Ordinance 3966 violates ORS 195.530 by limiting when people can sleep or shelter from the elements on public property to between the hours of 10:00 p.m. and 6:00 a.m.

67.

Ordinance 3966 and Ordinance 4032 violate ORS 195.530 by unreasonably restricting where people may rest to places that are too few, and that are defined inconsistently and ambiguously through its text and the City's implementing tool, the Right to Rest map.

68.

Ordinance 3966 and Ordinance 4032 violate ORS 195.530 by restricting where people may rest to places where people cannot engage in basic biological needs, namely, using the restroom.

69.

Ordinance 4032 violates ORS 195.530 by unreasonably limiting the size and quantity of total possessions that people may have in their presence on public ways and pedestrian ways.

70.

Ordinance 3966 violates ORS 195.530 by permitting geographically and temporally broad exclusions based on probable cause that a person has violated the restrictions on "resting."

71.

Pursuant to ORS 195.530(4), plaintiffs are entitled to declaratory and injunctive relief to enjoin enforcement of the Ordinance against them.

72.

Plaintiffs have no adequate remedy at law and are entitled to temporary and permanent injunctive relief prohibiting further enforcement of Ordinance 3966 Sec. 3(b), Sec. 5, and Sec. 7, as well as Ordinance 4032 Sec. 3(C)(2).

73.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

Plaintiffs are entitled to their reasonable attorney fees pursuant to ORS 195.530(6). None of the plaintiffs are seeking to vindicate an interest unique to them. At least 90 days before this action was filed, plaintiffs provided written notice to the City of an intent to bring this action. The notice provided the City with actual notice of the basis upon which the plaintiffs intended to challenge the Ordinance.

Claim II:

Uniform Declaratory Judgment Act, ORS 28.010 et seq., *Violation of Article I, section 20 of the Oregon Constitution*

74.

Plaintiffs incorporate all preceding paragraphs.

75.

Article I, section 20 of the Oregon Constitution prohibits laws "granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens."

76.

Resting on public property in Pendleton – standing on sidewalks, sitting on benches, and sitting in parks – is a privilege the City grants to people within its boundaries.

77.

In fact, the City invites people to rest on public property. For example, it invites people to participate in its "Movies in the Park" program, during which people sit in a City park and watch films together.

78.

Through the text and selective enforcement of Ordinance 3966, however, the City creates two classes of citizens: those (housed individuals) who have the privilege of resting on public property, and those (unhoused individuals) who do not.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

79.

For unhoused Pendletonians, resting on public property means risking citation and exclusion from the City.

80.

Ordinance 3966 violates Article I, section 20 of the Oregon Constitution because it classifies permission to "rest" on public property based on housing status. Housing status does not bear a reasonable relationship to the legislative purpose of protecting public health and safety.

81.

Ordinance 3966 violates Article I, section 20 of the Oregon Constitution because it classifies subjection to the civil exclusion scheme based on housing status. Housing status does not bear a reasonable relationship to the legislative purpose of protecting health and safety.

82.

Ordinance 3966 and Ordinance 4032 violate Article I, section 20 of the Oregon Constitution because they grant unfettered discretion to law enforcement agents as to whether someone is engaging in prohibited "resting."

83.

The City's "Right to Rest" map, its tool for implementing Ordinance 3966 and Ordinance 4032, violates Article I, section 20 of the Oregon Constitution. Its vagueness and inconsistency facilitate unfettered discretion to law enforcement agents as to whether a person is inside or outside of a permitted resting zone.

84.

Pendleton police have violated Article I, section 20 of the Oregon Constitution by enforcing the Ordinances unequally against Plaintiffs, as opposed to housed residents of Pendleton, without a defensible explanation.

85.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

Plaintiffs bring this claim pursuant to the Oregon Uniform Declaratory Judgments Act, ORS 28.010 *et seq.*, and are entitled to declaratory and injunctive relief to enjoin the City from enforcing these unconstitutional penalties against them.

Claim III:

Uniform Declaratory Judgment Act, ORS 28.010 et seq., *Violation of Article I, section 16 of the Oregon Constitution*

86.

Plaintiffs incorporate all preceding paragraphs.

87.

Article I, section 16 of the Oregon Constitution states, in part, "Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense."

88.

Ordinance 3966 authorizes civil exclusion from all public ways and pedestrian ways for 30 days upon conviction of a Class B or C misdemeanor, and 90 days upon conviction of a Class A misdemeanor. The Ordinance also authorizes 30-day exclusions when a person has been cited to appear in court based on probable cause of a crime or violation.

89.

For people who have been excluded based on conviction, exclusions may be extended by one year if additional offenses are committed within the period of exclusion. In all cases, a year may be added to the period of exclusion when there is probable cause to believe that the excluded person committed a subsequent felony, offense involving violence, criminal mischief, criminal trespass, or theft.

90.

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

The Ordinance violates Article I, section 16 of the Oregon Constitution because it imposes civil exclusion, a disproportionate penalty, upon plaintiffs for engaging in harmless conduct: standing, sitting, lying down, and sleeping.

91.

Plaintiffs bring this claim pursuant to the Oregon Uniform Declaratory Judgments Act, ORS 28.010 *et seq.*, and are entitled to declaratory and injunctive relief to enjoin the City from enforcing these unconstitutional penalties against them. Plaintiffs will serve the Attorney General with this complaint pursuant to ORS 28.110. Plaintiffs are therefore entitled to relief as prayed for below.

PRAYER FOR RELIEF

92.

In consideration of these violations of law, Plaintiffs hereby request that this Court grant the following relief:

a. a declaratory judgment stating that Pendleton's Ordinances 3966 and 4032 violate ORS 195.530 and are objectively unreasonable;
b. a declaratory judgment stating that Pendleton's Ordinances 3966 and 4032, and related practices, violate Article I, section 20 of the Oregon Constitution by:
    i. granting access to privileges or immunities based on housing status,
    ii. granting unfettered discretion to law enforcement officers, and/or
    iii. unequally enforcing the law against unhoused individuals without defensible explanation;
c. a declaratory judgment stating that Ordinance 3966 violates Article I, section 16 of the Oregon Constitution by imposing a disproportionate punishment;

Oregon Law Center
621 SW Morrison, Suite 1450
Portland, OR 97205
TEL 503-295-2760

d. a preliminary injunction and permanent injunction prohibiting the City from enforcing its current ordinances – Ordinance 3966 Sec. 3(b), Sec. 5; Ordinance 4032 Sec. 2(B)(1), Sec. 2(C)(2) – against Plaintiffs;

e. a permanent injunction prohibiting Pendleton from adopting new ordinances regulating camping or sleeping by homeless people that are not objectively reasonable;

f. an award of reasonable costs, expenses, and attorney's fees;

g. such other and further legal and equitable relief as this Court deems just and proper.

Dated this 22nd of October, 2025.

OREGON LAW CENTER

s/ Allison Nasson

Allison Nasson, OSB No. 243581
anasson@oregonlawcenter.org
621 SW Morrison, Suite 1450
Portland, OR 97205
Tel: 503.406.2279

s/ Emily Teplin Fox

Emily Teplin Fox, OSB No. 121720
efox@oregonlawcenter.org
Emily Rena-Dozier, OSB No. 134674
erena-dozier@oregonlawcenter.org
621 SW Morrison, Suite 1450
Portland, OR 97205
Tel: 503.406.2279

Of Attorneys for Plaintiffs