

***The following is a verbatim response from City of Spokane Councilmember Lili Navarrete to the Downtown Spokane Partnership's formal opposition of ORD-C36549, emailed to DSP President & CEO, Emilie Cameron.***

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Hello Emilie,

Thank you for reaching out, we greatly value the feedback we've been receiving from you and all our constituents and stakeholders. It's important that we start this conversation from a point of mutual understanding; the understanding that no person's human rights or dignities should be infringed upon for any reason, including their housing status. It sounds like we can all agree on that. We can also agree that the questions raised in your letter are legitimate ones that deserve a response. Confusion about the implications of **any** new piece of legislation is almost inevitable. If there's anything I've learned from my time at this job, it's that! However, that alone doesn't make it not worth pursuing. We've been doing our best on our end to address questions, concerns and misconceptions about this ordinance, so I appreciate the opportunity to help the DSP understand what this ordinance is and what it isn't. See my answers to your questions in red below:

- Is the City attempting to pre-emptively address this issue or has it received complaints of violations that are occurring related to hiring of individuals experiencing homelessness?

The ordinance originated as a resolution presented to the City Council by the Spokane Human Rights Commission in October of 2023. Many of the people who had a hand in drafting the resolution are human rights advocates with lived experience. They work closely with our homeless population through street outreach, shelter services, etc. and many of them have experienced homelessness themselves. **The resolution was in response to incidents that they've either directly experienced, seen, or heard about through their work.** These incidents include discrimination in employment and hiring, housing, use of public spaces, use of public services and more. We saw the opportunity to draft meaningful legislation based on the Commission's resolution and this ordinance is the result. Incidentally, we did not include every request in the Commission's resolution, and excluded matters the city has no control over, such as health care and voting rights.

- If the basic rights enumerated in the ordinance already exist under anti-discrimination employment law, how does this ordinance change the application in the City of Spokane?

The basic rights enumerated in the ordinance **do not** currently exist under anti-discrimination employment law. While there are laws preventing discriminatory employment practices, these laws don't currently extend to those experiencing homelessness. Right now, it's perfectly legal in Spokane for an employer to say, "I don't hire homeless people". This ordinance would change that.

- What is the fiscal analysis of implementing this ordinance? And to enforce its provisions?

The ordinance doesn't have a direct fiscal element. It doesn't commit any city, state, or federal funds to any new program or allocation of city resources. Enforcing its provisions will fall on the Office of Civil Rights, Equity and Inclusion, which is already tasked to resolve complaints of discrimination that do not fall under the jurisdiction of state or federal agencies. The ordinance incorporates the existing complaint process outlined in SMC 18.01.050 and directs that complaints of discrimination under the ordinance follow that process.

- Can a private party bring civil action because of this ordinance?

Technically, no, but it is important to be very clear about the term “civil action.” The current municipal code provides that complaints of discrimination first go through a dispute resolution process, following the initial investigation. If not otherwise resolved through dispute resolution they may be referred to the city prosecutor’s office for possible filing of a “civil infraction.” If the complaint is dismissed by the Office of Civil Rights, Equity and Inclusion (or the investigation third party), the complainant has the opportunity to appeal that dismissal first to the hearing examiner and then to Superior Court. This process would be the same for complaints of discrimination relating to housing status.

- How will I know if a person is homeless?

No one is expected to know whether a person is homeless or not. The issue arises when a person is made aware of the fact that someone is homeless and discriminates against that individual because of it. For instance, a customer’s housing status is completely irrelevant if the customer has no shoes on, is being a nuisance or is under the influence of drugs or alcohol. In other words, if the customer is violating any laws or policies of the establishment, the business owner has every right to remove that person. However, if a business owner refuses to attend to a prospective customer who is not otherwise disruptive and never has been, that customer might have a legitimate claim that they were discriminated against solely because of their housing status. In any case, **the burden of proof is on the complainant**. The individual making the complaint must prove that the person accused of discrimination knew that they were homeless and discriminated against them because of it.

In case I missed the mark and the question you were asking was more “what does it mean to be homeless”, we define “housing status” in the ordinance as “the status of having or not having a fixed or regular residence, including the status of being homeless or unhoused, living on the streets, in a shelter, or in a temporary residence.” The definition of “housing status” was slightly updated in my most recent amendment, which has not been adopted and is pending legal review, to mean “the status of having or not having a fixed or regular residence, including, but not limited to, the status of being homeless or unhoused, living on the streets, living in an automobile or in a shelter or a temporary residence” in order to be more encompassing of circumstances we can’t foresee.

- How will this affect no trespass orders, or the ability to request new orders, if the person is homeless?

It is important to remember that an individual’s unhoused status does not equate to a license to violate other laws. Therefore, this ordinance will have no effect on trespass orders or the ability to request new orders. A person who has been trespassed will remain trespassed regardless of their housing status. However, it is important to distinguish between activities on private property and activities in a space that is generally open to the public. For the most part, property owners can decide who is or is not allowed on their property. Technically, a property owner does not need any reason ( “lawful” or otherwise) to exclude an individual from private property that is generally not open to the public. That property owner, however, cannot trespass someone from their business **solely** because of that person’s race, religion, gender, etc. This ordinance would add housing status to that exception.

- How will this affect the cleanup/removal of abandoned personal belongings if believed to be left behind by a person that is homeless?

This will have no effect on the cleanup/removal of abandoned personal belongings, even if they are believed to have been left behind by a person that is homeless.

- How will this affect the ability of law enforcement to enforce city ordinances that maintain clean, clear and safe public spaces like unlawful camping or sit-lie?

This will have no effect on the ability of law enforcement to enforce city ordinances like unlawful camping or sit-lie. **Laws ensuring that a person is free from discrimination based on their housing status do not equate to a license to violate other laws of general applicability.**

- How could this effect enforcement of prohibitions of public drug use, if that person is homeless? Or, quality-of-life ordinances like noise amplification?

This will have no effect on quality-of-life ordinances or prohibitions of public drug use. Again, this ordinance does not make illegal activity suddenly legal just because a person is homeless. A helpful analogy is how current laws against discrimination operate. Current laws prohibit discrimination based on race or color in a variety of contexts. No one asserts these current laws amount to a license to violate criminal codes, or that race or color is a defense to a charge of doing drugs in public. Similarly, a homeless individual consuming illegal drugs in public does not get a pass simply because that person is homeless.

I sincerely hope this clears some things up for everyone. Please feel free to share my response with your board of directors, members, and anyone else who you think might be interested. Our intention is not to burden business owners or other law-abiding citizens, and I honestly don't believe this ordinance does that. This is a response to a need in our city that came to us and we perceive to be legitimate. We simply believe that it's wrong to discriminate against someone based on their housing status. I also know and want to acknowledge that we can be doing more for the business owners and other law-abiding folks in our community. Whether or not this ordinance passes, we're more than happy to collaborate with the DSP, as we did with the SHRC, to see how we can make Spokane a more welcoming city for everyone.

Thank you for your time, please let me know if you have any other questions or concerns. We'll be in touch!

*Lili Navarrete*

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