

Body to Legistar File No. 60412

WHEREAS, on March 17, 2020, Public Health Madison & Dane County announced that community spread of COVID-19 was occurring in Dane County, with the first confirmed community death being reported on March 25; and,

WHEREAS, on March 23, 2020, Mayor Rhodes-Conway issued a Proclamation of Emergency due to COVID-19, which Proclamation was ratified by the Common Council on March 31, 2020 by RES-20-00286 and will continue to be in effect until June 2, 2020; and,

WHEREAS, under the City's emergency proclamation, the Mayor may, after consultation with the City Attorney, issue orders to suspend the operation of, amend, create, or adopt city policies or ordinances, and suspend enforcement actions, that are not in conflict with existing state or federal laws, in order to mitigate the effects of the coronavirus pandemic on city workers, residents of, and businesses within the City of Madison, including the power to take such actions as are appropriate to protect the health, safety and welfare of the City and its residents; and,

WHEREAS, on March 26, the Mayor issued the first Emergency Order pursuant to the Emergency Proclamation, providing for the modification of a number of ordinances or policies, which were subsequently approved or modified by the Common Council;

WHEREAS, as of May 5, 2020, there have been 8,566 confirmed cases and 353 deaths from COVID-19 in Wisconsin, with 443 confirmed cases and 22 deaths in Dane County; and,

WHEREAS, individuals experiencing homelessness during the COVID-19 pandemic and public health emergencies have needed public assistance to secure areas where it is possible to observe proper social distancing, however there remain some individuals who are not using such resources and are instead taking temporary shelter or residency in City parks, greenways and other City lands; and,

WHEREAS, the Centers for Disease Control (the CDC) has issued interim guidance on dealing with populations experiencing unsheltered homelessness (sleeping outside or in places not meant for human habitation) during the COVID-19 pandemic (<https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>). The CDC recognizes that this is a population at risk for COVID-19 infection where there is risk of community spread of the disease, such as in Dane County. The CDC has recommended that, during community spread of COVID-19, in dealing with such populations:

- Encampments should not be broken up;
- That persons staying in encampments should be encouraged to set up their tents/sleeping quarters with at least 12 feet by 12 feet of sleeping space per person;

- That nearby restroom facilities with running water are open 24 hours a day, and that there is hand hygiene materials (soap and paper towels) available;
- If restroom facilities are not available, access to portable latrines with handwashing facilities should be available for encampments of more than 10 people; and,
- Straightforward communications should be provided to the encampments about COVID-19, proper social distancing recommendations, and health and hygiene recommendations to protect themselves from infection.

WHEREAS, while it is against City ordinance and policy to be present in City parks overnight, to camp in parks (including conservation parks), or to take shelter in or reside in City greenways or on other City lands, during the term of the COVID-19 public health emergencies, it is in the City's interest, as recommended by the CDC, to allow certain encampments in City parks and greenways to remain in place to protect the inhabitants of these encampments and the community from further spread of the disease; and,

WHEREAS, on May 6, 2020, Mayor Rhodes-Conway issued Emergency Order #2, authorizing the designation of temporary permissible encampments on certain City property and the non-enforcement of certain City Ordinances within these encampments, under specified conditions, to provide a COVID-19 response to those experiencing unsheltered homelessness during the ongoing pandemic.

NOW THEREFORE BE IT RESOLVED that Emergency Order #2 is confirmed; and,

BE IT FURTHER RESOLVED that the use of City property by those experiencing unsheltered homelessness during the COVID-19 pandemic is authorized on and subject to the following conditions:

1. The Operations Section Chief of the City's Emergency Operations Center, or the Deputy Operations Section Chief, may designate specified areas within City parks and greenways where temporary permissible encampments (TPEs) will be allowed during the City's declared COVID-19 public health emergency. Criteria for TPE approval shall include the following:
 - a. The proposed TPE site is located at least 500 feet from any residential property;
 - b. The proposed TPE site is not in a flood plain or other low lying area susceptible to flooding, or otherwise in a location that is deemed unsafe;
 - c. The proposed TPE is accessible via public property or right of way;
 - d. The proposed TPE is accessible for delivery, servicing and removal of portable toilets, hand washing stations, and trash containers;
 - e. The usable area of the site is sufficient to enable its users to practice recommended social distancing protocols (12 feet by 12 feet per person);

- f. The presence of an encampment on or near City-owned land or associated facilities (e.g., park shelters), or its use as a TPE will not prevent, disrupt or interfere with their intended public use;
 - g. The use of city-owned land as a TPE will not prevent City staff from performing normal maintenance or upkeep of the site and/or its facilities; and,
 - h. The site is not located in an environmentally sensitive area.
- 2. In designated TPEs, during the City's declared COVID-19 public health emergency, the following ordinances shall not be enforced:
 - a. Section 7.53: A campground license shall not be required for a TPE.
 - b. Section 8.21: Park closure hours shall not be enforced against occupants of an encampment or service providers.
 - c. Section 8.265: The prohibition on lodging in parks shall not be enforced against occupants of a permissible encampment.
 - d. Section 8.40: The prohibition on camping in conservation parks shall not be enforced against occupants of a permissible encampment.
 - e. Chapter 28: Any provision of the City's zoning code which might otherwise prohibit the TPE shall not be enforced.
- 3. The Mayor, in consultation with Public Health Madison and Dane County (PHMDC) and the Community Development Division, may revoke a TPE designation when any one of the following occurs:
 - a. The Director of PHMDC determines that a COVID-19 public health emergency no longer exists;
 - b. The continued use of the TPE no longer serves the health and safety of its users or the community;
 - c. The site is no longer suitable as a TPE;
 - d. The users of a TPE engage in illegal and/or unsafe behaviors or continued use of the TPE is deemed disruptive to neighboring residents or otherwise makes the area unavailable or unsafe for its intended public uses; or,
 - e. Members of TPE have violated City of Madison Parks Behavioral Policy and have been removed from the TPE.

4. Upon revocation of a TPE, occupants of a TPE shall have up to five (5) days to remove themselves and any items from the location, after which the City may enforce the above ordinances and proceed under Section 8.44, the City's Lost and Abandoned Property ordinance.
5. This attached Policy Statement shall be used in application of this Emergency Resolution.
6. This Emergency Resolution will remain in effect until the Mayor ends the TPEs pursuant to this Resolution, or until the Common Council takes further action, whichever occurs first.

COVID-19 Response: Policy Statement on Supporting Safe Outdoor Space Practices for People Experiencing Unsheltered Homelessness

Background

The City of Madison's primary goal is to ensure that people experiencing homelessness have safe accommodations. Since the onset of the current public health crisis, local officials and service providers have collaborated to expand and improve short-term shelter accommodations with an eye toward more safely serving shelter users. Accordingly, we strongly encourage those without housing to utilize these resources. A variety of different settings is available depending on an individual's particular circumstances:

- Persons who have tested positive for COVID-19 infection, or who exhibit symptoms generally associated with COVID-19 (fever, or new onset cough or shortness of breath), will, depending on the severity of their symptoms, be referred to a hospital or a medical respite hotel until their conditions improve.
- Persons who meet higher risk criteria - older adults, and people of any age who have certain underlying medical conditions (heart or lung disease, diabetes, weakened immune systems) that put them at greater risk if they are exposed to COVID-19 infection, will be placed in a local hotel.
- Persons who do not fit either of the above descriptions can use overnight shelters operated by Porchlight (single men) and the Salvation Army (single women and families).

There will, however, be instances in which people may be unable to use shelter resources, or may elect not to use them. In Madison and elsewhere, some turn to camping on vacant properties or in parks, often in violation of local ordinances. The Centers for Disease Control (CDC) has advised against disrupting such encampments during community spread of COVID-19 because doing so can cause people to disperse throughout the community, break connections with service providers, and increase the risk for transmitting the virus. Instead, the CDC recommends that localities try to support encampments and connect them to services. Consistent with that advice, City staff have formulated temporary policies to guide the response to unsheltered homelessness during the coronavirus pandemic.

To enhance public safety and reduce the threat of transmission of COVID-19, the City will temporarily curtail its active enforcement of ordinances that limit or restrict overnight stays on City properties in favor of applying the policies described below. That does not mean, however, that those ordinances are waived, nor is it intended to grant any person the right to stay on private property without the owner's consent, or on City property, in circumstances not consistent with the policy's guidelines. In its application of the policy, the City will attempt to support conditions and practices that promote public health and safety. The temporary policy is outlined below.

Designation of Temporary Permissible Encampments (TPE)

In accordance with the following guidelines, the Operations Section Chief of the City's

Emergency Operations Center may act to designate locations on or within City parks and greenways for which temporary permissible encampments (TPEs) will not be disturbed.

- The proposed TPE site is located at least 500 feet from any residential property;
- The proposed TPE site is not in a flood plain or other low lying area susceptible to flooding, or otherwise in a location that is deemed unsafe;
- The proposed TPE is accessible via public property or right of way;
- The proposed TPE is accessible for delivery, servicing and removal of portable toilets, hand washing stations, and trash containers;
- The usable area of the site is sufficient to enable its users to practice recommended social distancing protocols (12 feet by 12 feet per person);
- The presence of an encampment on or near City-owned land or associated facilities (e.g.. park shelters), or its use as a TPE will not prevent, disrupt or interfere with their intended public use;
- The use of city-owned land as a TPE will not prevent City staff from performing normal maintenance or upkeep of the site and/or its facilities;
- The site is not located in an environmentally sensitive area.

The City will not allow encampments that do not substantially conform to these guidelines and, in instances where persons are using non-conforming sites, may assist them in finding alternative locations.

Temporary Services at TPE Sites

The City, where feasible, may support TPE sites with the following temporary facilities and services:

- Portable toilets and hand washing stations at encampments where people lack access to restroom facilities.
- Trash containers and collection.
- Regular visits by outreach workers to facilitate referrals to housing or shelter, provision of wellness checks, dissemination of COVID-19 educational materials, and distribution of basic supplies and hygiene kits.

Users of designated TPEs are subject to the City of Madison Parks Behavioral Policy (Attachment A) and, in the event of violations, may be prohibited from using TPEs.

Termination of TPE Designation

The Mayor, in consultation with Public Health Madison and Dane County (PHMDC) and the Community Development Division, may revoke a TPE designation when any one of the following occurs:

- The Director of PHMDC determines that a COVID-19 public health emergency no longer exists; or
- The continued use of the TPE no longer serves the health and safety of its users or the community; or
- The site is no longer suitable as a TPE; or

- The users of a TPE engage in illegal and/or unsafe behaviors or continued use of the TPE is deemed disruptive to neighboring residents or otherwise makes the area unavailable or unsafe for its intended public uses; or
- Members of TPE have violated City of Madison Parks Behavioral Policy and have been removed from the TPE.

A decision to deny or revoke a TPE designation is not subject to appeal. Upon such a decision, the City shall notify outreach staff so they can work with TPE users to secure alternative shelter. The City shall post a notice at the TPE site providing users with five (5) calendar days' notice to vacate the site. Any personal property remaining on site after 5 days shall be considered lost/abandoned property and handled per Madison General Ordinances Sec. 8.44.

Communications Plan

Develop a communications strategy to inform the public and respond to questions that might arise.

- Provide a description and rationale of the policy to alders and advise them of locations in their districts designated as TPEs.
- Consult and collaborate with law enforcement and Parks staff to ensure a clear understanding and application of the policy.
- Create a reporting system for outreach workers to provide regular updates regarding the size, concerns, and needs at encampments
- Create a point of contact within the City to respond to questions or concerns about encampments.
- Notify residents of the need for City of Madison to support encampments and this population.
- Provide encampment users with pertinent information about rules, responsibilities and available services.

Assessment of Needs

Maintain contact with campsites with the goal of helping to meet ongoing needs.

- Regularly monitor and assess the needs of campers - in conjunction with outreach workers, redeployed City staff or Madison Police Dept.
- Perform ongoing assessments of campers, including screening to detect COVID-19-related symptoms, to facilitate referrals to appropriate shelter settings.
- Help meet basic needs- food, water and safety supplies.

Staffing and Resources

Prioritize efforts to connect campers to housing and services network.

- Expand the number of outreach workers in the field.
- Ensure people are connected to the Coordinated Entry system.

- Determine availability and feasibility of resources to support placement into permanent housing.

Orderly Removal of Encampments

Prepare strategies to clean-up campsites and return them to former/intended uses.

- Develop clear guidance describing the process to be followed when TPE authorizations end.
- Provide persons a reasonable amount of time to access other housing or shelter accommodations.
- Work with other service providers to help address non-compliance issues or overcome reluctance to access available housing or shelter options.