



Office of the Common Council Council President Shiva Bidar

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July 25, 2019

Dear Neighbors,

As you may know, petitions have been circulated and submitted to the City to request 2-Hour Residential Permit Parking On School Days for the 400 and 500 blocks of Virginia Terrace, with ten signatures. The petition for the 400 block is currently signed by 14 out of 27 residents and the one for the 500 block by 10 out of 12 residents. Bill Putnam, from the City Parking Division, and I have received numerous emails and phone calls both in support of and in opposition to the 2-Hour Residential Permit Parking On School Day restriction. We both agree that the petition for the 400 block is one of, if not the most, contentious one we have experienced.

The ordinance (Attachment A) allows for a public hearing to take place and for the City Transportation Commission to make a final determination. The provision in the ordinance was designed with exactly this type of situation in mind. Thus, we will be holding a public hearing at 6:00 p.m. on Wednesday, August 14, 2019, at the Madison Municipal Building, 215 Martin Luther King Jr., Blvd, Room 215. Please note that the Commission will not be making its recommendation that same night. It will most likely do so at its September 11, 2019, meeting. Members of the public are invited to address the Transportation Commission. If you cannot attend, contact Patrick McGuigan at 267-8751 or PMcGuigan@cityofmadison.com. You will be receiving a public hearing notice postcard in addition to this letter.

Given the questions I have been asked by a number of you, please see the items below:

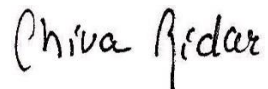
- 1) What are all the possible options for parking? See attached document that Mr. Putnam has created summarizing some potential options and their pros and cons. (Attachment B)
- 2) Can we create a commuter parking pass? See attached memo from the City Attorney's Office. In summary, "Under the current state law and local ordinance, the City does not have legal authority to extend parking privileges to commuters as part of a residential permit parking program." (Attachment C)

I also want to specifically address one of the main issues that has been brought up: the narrowing of the street in the winter. The proposed parking restrictions will in no way address this issue. As I have communicated through the neighborhood listservs and newsletter, there are proposed changes in parking regulations coming to this entire area in late fall, including expanding the Clean Streets/Clean Lakes program and Snow Emergency Zone. The Clean Streets/Clean Lakes program creates no parking on the street for a four hour window one day a week allowing snow plows to access the curb and clear the street, thus preventing the narrowing of the street in the winter. It has worked very successfully in many areas of the city, including areas of the Regent Neighborhood. The implementation of the Clean Streets/Clean Lakes program and the extension of the Snow Emergency Zone are being proposed completely independent from, and will not be affected by, the decision on the petitions submitted for the 400 and 500 blocks of Virginia Terrace.

Lastly, and importantly, I want to clearly state that I am neither in favor of nor opposed to the petitions. Actually, the ordinance does not give any authority to the district alder to make a decision regarding this type of parking restriction. What I am interested in is providing all the residents of these blocks with complete information, having a transparent public process through the public hearing, and allowing the Transportation Committee to make a recommendation as charged by the ordinance.

I know this is an issue that many of you feel very passionately about. I appreciate your patience and engagement.

Best,

A handwritten signature in black ink that reads "Shiva Bidar". The signature is written in a cursive, flowing style.

Shiva Bidar
Alder, District 5
Common Council President

Attachment A

City of Madison General Ordinance Chapter 12.138:

(4) **Area and Street Designation and Eligibility** . The designated area boundaries, for purposes of administration and enforcement, should generally coincide with natural boundaries and/or Aldermanic Districts where feasible. A residential street shall be deemed eligible for designation as a residential permit parking street if it meets all of the following criteria:

(a) At least one side or fifty percent (50%) of each block for which residential parking is requested must be in a district zoned Residential (Subchapter 28C, MGO), Downtown Residential 1 (Sec. 28.078, MGO), or Downtown Residential 2 (Sec. 28.079, MGO). When at least one side or fifty percent (50%) of a block is in a district zoned Urban Mixed Use (Sec. 28.076, MGO), the block may be considered eligible, provided fifty percent (50%) of the parcels on the block have residential classifications, as determined by the City Assessor's Office.

(b) Each street and block for which residential parking is requested must have more dwelling units and/or lodging rooms in lodging houses than legal off-street parking spaces, except for single family dwelling units.

(c) On streets that have unrestricted parking, a majority of the on-street parking spaces must be occupied by commuter vehicles a majority of the time between 8:00 a.m. and 6:00 p.m. except Sundays and holidays. This requirement will be deemed satisfied if the street already has time limit parking restrictions that have been in place for at least one year.

(d) Residents of the street and block shall be petitioned, and a majority of such residents, more than fifty percent (50%), must desire residential permit parking and be willing to pay the cost of the residential permit parking program.

(e) Residents of the street and block in Subdivision (d) above shall elect to designate their block as either "resident parking only" or "in excess of posted time limits."

(5) **Parking Manager Authority** . In lieu of the petition process eligibility requirements outlined in Subsections (4)(d) and (4)(e), the Parking Manager may, after meeting the eligibility requirements outlined in Subsections (4)(a)—(c), choose to designate a residential street eligible if all of the following occur:

(a) The Parking Manager makes a reasonable assessment that designating the street or block a residential permit parking street promotes the purpose of this ordinance.

(b) The Parking Manager consults with, or obtains feedback from, an active neighborhood association, if any, representing the street and block in question.

(c) The alder(s), for the aldermanic district(s) within which the street and block is located, agrees with the designation.

(6) **Withdrawal of Designation** . The withdrawal of the designation of a street as a residential permit parking street shall not occur until at least twelve (12) months from the date of designation. All designation withdrawals are subject to the approval of the Transportation Commission through public hearing, as outlined in Subsections (7)(b) and (c). A change in the election made in Subsection (4)(e) shall also only be made at the request of more than fifty percent (50%) of the residents of the block.

(7) **Public Hearing** .

(a) The Parking Manager and/or alder(s) for the aldermanic district(s) within which a street and block is located may request a public hearing and the approval of the Transportation Commission of the eligibility determination of a street meeting all criteria in either Subsection (4) or Subsection (5).

(b) A public hearing shall be held by the Transportation Commission only after due notice has been published in a newspaper of general circulation throughout the City. The notice shall clearly state the purpose of the hearing, the exact location of said residential streets under consideration for permit parking or withdrawal, and the reasons why such streets are being proposed for designation as residential permit parking streets or withdrawal. During such hearing, any interested person shall be entitled to appear and be heard.

(c) At the public hearing, the Parking Manager shall recommend by report to the Transportation Commission, based on the record of his or her investigation, whether or not to designate the street under consideration as a residential permit parking street or to retain or remove the designation in the case of an established residential permit parking street. Within sixty (60) days following the receipt of the report, the Transportation Commission shall approve or disapprove the recommendation of the Parking Manager.

Attachment B: Potential parking options for 400 and 500 blocks of Virginia Terrace
Document created by Bill Putnam, City of Madison Parking Division- July 2019

Option	Description	Pros/Cons
A	No change. The only restrictions are the standard winter alternate side parking requirement and 48 hour street storage limit.	Pros: Familiar, residents understand how the current parking works. Cons: During winters, frequent heavy snows can result in the useful width of the street narrowing, making it difficult for large vehicles such as Refuse and Recycling, Fire, and emergency vehicles to traverse street.
B	2-Hour Residential Permit Parking (RP3) On School Days. This is the current petition, and would limit parking for the general public to 2 hours between 8 am and 6 pm on school days. There would be no hourly time limit restriction when school is not in session. Residents are eligible to purchase a Residential Parking Permit which allows them to park in excess of the 2 hour restriction, though other requirements such as the 48 hour street storage and winter alternate side parking restriction would still apply. Permits cost \$42 per vehicle and are valid from September 1 through the following August 31 and are non-prorated and non-refundable. Permit fees are subject to change.	Pros: Provides relief from commuter vehicles so residents have more parking available. Cons: Residents must purchase a permit to park for longer than 2 hours on-street on school days. There are no visitor or guest permits so guests and visitors must observe the 2 hour limit or park on another street that does not have an hourly time limit restriction. During winters, frequent heavy snows can result in the useful width of the street narrowing, making it difficult for large vehicles such as Refuse and Recycling, Fire, and emergency vehicles to traverse street.
C	Residential Permit Only (RPO) On School Days. This restricts half of a block face to residents with a valid residential parking permit between 8 am and 6 pm on school days. The other half of the block face is unrestricted. Residents are eligible to purchase a Residential Parking Permit which allows them to park in the restricted area, though other requirements such as the 48 hour street storage and winter alternate side parking restriction would still apply. Permits cost \$42 per vehicle and are valid from September 1 through the following August 31 and are non-prorated and non-refundable. Permit fees are subject to change.	Pros: Provides relief from commuter vehicles in the Permit Only portion of the block. Cons: Residents must purchase a permit to park in the restricted area. Residents must agree on which portion of the block is permit only and which is unrestricted. There are no visitor or guest permits so guests and visitors cannot park in the permit-only area between 8 am and 6 pm on school days. Commuter vehicles may occupy most of the unrestricted parking spaces, which further limits parking availability for guests and visitors. Vehicles may be parked closer to driveways on the portion of the block where parking is allowed due to the loss of available parking, making it more difficult for residents to get into and out of their driveways. During winters, frequent heavy snows can result in the useful width of the street narrowing, making it difficult for large vehicles such as Refuse and Recycling, Fire, and emergency vehicles to traverse street.

D	No Parking on one side.	<p>Pros: Provides more street width, especially in winter.</p> <p>Cons: Clearing snow on the side where parking is allowed can be very difficult.</p> <p>Traffic speeds may increase due to the more open feel of the street.</p> <p>Less parking is available, so fewer parking spaces may be available for residents assuming a similar amount of commuter vehicle parking as there is currently.</p> <p>Vehicles may be parked closer to driveways on the side where parking is allowed due to the loss of available parking, making it more difficult for residents to get into and out of their driveways.</p> <p>Residents must agree on which side of the street parking is to be prohibited.</p>
E	No Parking on one side part time, e.g. 8 am – 6 pm	<p>Pros: Provides more street width, especially in winter.</p> <p>Cons: Traffic speeds may increase due to the more open feel of the street.</p> <p>Less parking is available, so fewer parking spaces may be available for residents assuming a similar amount of commuter vehicle parking as there is currently.</p> <p>Vehicles may be parked closer to driveways on the side where parking is allowed due to the loss of available parking, making it more difficult for residents to get into and out of their driveways.</p> <p>Residents must agree on which side of the street parking is to be prohibited.</p> <p>Residents have a smaller window of time to move their vehicle from one side of the street to the other when alternate side parking rules are in effect.</p>
F	No Parking on north end of block, one or both sides.	<p>Pros: Provides more available street width for vehicles at the north end of the block, as this area has a slight curve which narrows the usable width.</p> <p>Limits impact of parking loss.</p> <p>Cons: Some loss of available parking.</p>

Note that there are proposed changes in parking regulations coming to this entire area in late Fall, including expanding the clean streets/clean lakes program and snow emergency zone. The clean streets/clean lakes program creates a no parking on the street for a 4 hour window one day a week allowing snow plows to access the curb and clear the street, preventing the narrowing of the street in the winter (the narrowing of the street in the winter has been an concern raised by residents.) It has worked very successfully in many areas.

Attachment C

CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511

To: Alder Shiva Bidar
From: Brittany Wilson, Assistant City Attorney
RE: Ability to Permit Commuters in Residential Parking Program
Date: July 17, 2019

Question Presented: Does the City's current residential parking permit ordinance allow parking permits for commuters?

Short Answer: No.

Question Presented: Does state law on residential parking privileges allow cities to issue parking permits for commuters?

Short Answer: No.

Review of Residential Parking Permit Program (RP3)

The City's residential parking permit program (RP3) in Madison General Ordinance 12.138 is based on the authority granted the City through state statute. In particular, Wis. Stat. § 349.13(1g) and 349.13(1k)(a), respectively, provide:

... local authorities...may authorize persons whose residences abut a highway in a zone where the time of parking is limited by official signs, pavement markings, or parking meters to park their vehicles in the highway zone without regard to the time limits posted.

"...a local authority...may authorize persons whose residences abut a highway in a zone where parking is prohibited by official signs, guests of such persons, and commercial enterprises providing services to such persons to park their vehicles in the highway zone without regard to the posted prohibitions."

Notably, Wis. Stat. § 349.13(1g) authorizes municipalities to allow residents to park without regard to posted time limits, while Wis. Stat. § 349.13(1k)(a) authorizes municipalities to allow residents to park without regard to posted prohibitions.

The City further grants residents authority to park on "Commuter Parking Impacted" streets. MGO 12.138(1). Current City ordinance allows permit holders to park, "1) in excess of

the posted time limits on specifically designated streets within certain designated areas between the hours of 8:00 a.m. and 6:00 p.m. or 2) in locations designated for resident parking only between the hours of 8:00 a.m. and 6:00 p.m.” MGO 12.138(1).

In addition to statutory requirements, the Equal Protection Clause requires that distinctions drawn by a residential parking program ordinance must “rationally promote the regulation's objectives.” *Cty. Bd. of Arlington Cty., Va. v. Richards*, 434 U.S. 5, 7 (1977). Currently, the City's stated purpose or objective for MGO 12.138 is as follows:

Purpose . The purpose of this provision is to establish a mechanism whereby area residents will be afforded an opportunity for the limited storing of vehicles on public streets to the partial exclusion of commuter vehicles. It is intended that this residential parking Ordinance will reduce automobile commuting and its accompanying energy waste and air pollution, reduce the total vehicle miles of travel in the affected area, and alleviate traffic congestion, illegal parking, and related health and safety hazards.

In addition, this ordinance is designed to promote the use of off-street parking by residents of the property instead of by commuters, to aid in the enforcement of parking regulations by requiring payment or court appearance for outstanding parking citations before issuance of a permit. MGO 12.138(2).

Any proposed changes to the current residential parking permit ordinance must be consistent with the authority granted the City in Wis. Stat. § 349.13(1g) and (1k)(a). Additionally, any proposed changes to the current program must rationally promote the current, stated objectives of the ordinance or the ordinance must be redrafted to promote a different legitimate objective within the confines of the authority granted the City under state statute.

City's Residential Parking Permit Ordinance

Based on the current, local ordinance, the City cannot provide residential parking permits to commuters. The clearly stated purpose of the ordinance is to afford parking to residents “to the partial exclusion of commuter vehicles” and to “promote the use of off-street parking by residents of the property instead of by commuters MGO 12.138(2). MGO 12.138(3)(b) defines "commuter vehicle" as a “motor vehicle parked in a residential area by a person not a resident thereof.”

To apply that purpose in practice, the City will only issue a permit to a resident if they have their motor vehicle registered to their place of residence within the area for which a parking permit is sought, or they certify that they keep the vehicle at the address for which the permit is sought. MGO 12.138(8)(a). Therefore, the City's current ordinance does not contemplate issuing permits to commuters.

State Law on Residential Parking Privileges for Commuters

Based on the current state law, the City cannot provide residential parking permits to commuters even if the City chose to amend its current ordinance. State law gives cities specific authority to extend parking privileges to “persons whose residences abut a highway” or “guests of such persons” or “commercial enterprises providing services to such persons.” Wis. Stat. § 349.13(1g) and (1k)(a). State statute does not define neither “guest” nor “commercial enterprise” so the ordinary meanings of those words apply. See Wis. Stat. §§ 349.01(1), 340.01; *Garcia v. Mazda Motor of Am., Inc.*, 2004 WI 93, ¶ 14, 273 Wis. 2d 612, 682 N.W.2d 365 (citations omitted). Considering the ordinary meanings of those words, neither would apply to a commuter to the area for work not hired by a resident nor for a commuter in the area for any other purpose short of visiting a resident.

Moreover, it is important to consider the interplay between the state law and the City’s ordinance. If an RP3 area allows residents to park in excess of time restrictions, Wis. Stat. § 349.13(1g) applies. This subsection does not authorize a “guest” program for time-restricted areas. Therefore, there is no statutory authority for the City to allow *anyone* other than residents to have a permit granting exceptions to the time limitations.

Alternatively, if an RP3 area is designated for “resident parking only,” Wis. Stat. § 349.13(1k)(a) applies. While this subsection gives municipalities the option to incorporate a program for guests or companies providing services to residents in areas normally limited to resident parking only, the City’s ordinance currently does not allow this and extensive redrafting would be necessary to accomplish this task. Again, even redrafting the ordinance would not allow permits for a commuter to the area for work not hired by a resident nor for a commuter in the area for any other purpose short of visiting a resident.

Conclusion and Considerations

Under the current state law and local ordinance, the City does not have legal authority to extend parking privileges to commuters as part of a residential permit parking program. The City would need to consider creative options outside of the residential permit parking program to attempt to achieve this purpose. In doing so, the City must consider the interplay between any new signage and law with the current RP3 ordinance, as not to undermine the current, stated purpose of excluding commuters to the benefit of residents. A potential redrafting of the RP3 ordinance may be necessary. Additional considerations include, but are not limited to, changes to designated RP3 parking areas, capacity assessments in light of the possible presence of both resident and commuter vehicles, evaluating City Parking Enforcement’s ability to staff and regulate alternative parking arrangements, equally treating similarly situated commuters, and the legitimate objective served by any change in the RP3 law.