

WHEREAS, on March 31, 2020, the Common Council adopted RES-20-00286 (File No. 60077), declaring a state of emergency due to COVID-19 in the City of Madison pursuant to Wis. Stat. § 323.11 and MGO Sec. 3.19. The declaration of this state of emergency expired on June 2, 2020; and,

WHEREAS, pursuant to the powers granted under this emergency declaration, on May 6, 2020, Mayor Rhodes-Conway issued Emergency Order #2 (the “TPE Order”), authorizing the designation of temporary permissible encampments (TPEs) on certain City property where those persons experiencing unsheltered homelessness could temporarily reside, consistent with Center for Disease Control (CDC) interim guidance on the issue. This emergency order was confirmed by the Council on January 5, 2021 in RES-21-00036 (File No. 60414). Under the TPE Order, the enforcement of certain City Ordinances was suspended within these encampments. However, as of June 2, 2021, with the expiration of all local public health orders and emergency declarations related to the COVID-19 pandemic, the TPE Order has largely expired, and no new TPEs may be authorized under those emergency powers; and,

WHEREAS, a TPE was created at Reindahl Park under the TPE Order in 2020. Following the procedures outlined in the Order, that TPE was revoked in May 2021 and efforts were begun to identify alternatives for campers and close the Reindahl Park encampment. However, the Common Council objected to the closure and instructed City staff to delay enforcement actions until a suitable, alternative site or sites for persons staying there could be identified; and,

WHEREAS, staff have identified a first alternative site, a City-owned parcel located at 3202 Dairy Drive, that generally met criteria used in conducting the site search, which addressed such factors as space considerations, suitability for camping, access to transit and proximity to food sources; and,

WHEREAS, on July 6, 2021, the Common Council passed RES-21-00487 (File No. 65935), which allocated funds provided to the City from the federal government under the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Funds, \$2 million of which were budgeted to provide unsheltered homeless support and can be used to establish and operate a licensed campsite for this population at 3202 Dairy Drive; and,

WHEREAS, in a July 16, 2021 report to the Common Council on the use of ARPA funds (File No. 66453) City staff stated “funds provided in [the proposal for unsheltered homeless support] are intended for use to support one or more strategies for people currently living outdoors. Money could be used for such things as purchasing property for use as an encampment; installing basic services like running water, bathrooms or electricity; establishing “tiny homes” or similar structures for use by campers; and paying for on-site staff to support and monitor an encampment site,” and that any proposal for the use of funds would be detailed in a resolution presented to the Common Council for its approval; and,

WHEREAS, the proposed temporary use of 3202 Dairy Drive by persons experiencing homelessness would bring it under the definition of a “campground” under Wisconsin State Administrative Rule ATCP 79 and make it subject to the provisions of that rule, and require the issuance of a campground license by Public Health of Madison & Dane County (PHMDC); and,

WHEREAS, planning and improvement of the site for this purpose by the City would also likely require the review and approval of the Urban Design Commission under MGO Sec. 33.24(4)(d), which review could further delay the development and availability of the site for this vulnerable population; and,

WHEREAS, the City of Madison's Zoning Code does not currently allow campgrounds in the City, although it does allow "Portable Shelter Missions" in certain districts provided they are established and operated by non-profit organizations or religious institutions; and,

WHEREAS, an ordinance has been introduced (Legistar File No. 66792) to amend Section 28.151 of the Madison General Ordinance and allow a governmental entity to establish a portable shelter mission as a permitted accessory use in all zoning districts, which ordinance is scheduled to be taken up by the Council at its August 31, 2021 meeting; and,

WHEREAS, even if the pending ordinance is adopted by the Council, it would be months before zoning approval for a portable shelter mission at 3202 Dairy Drive could be obtained and the site could be properly licensed as a campground by PHMDC; and,

WHEREAS, the health and safety conditions at the Reindahl Park encampment have markedly deteriorated during the course of the summer as the number of persons using the site has grown substantially, and that growth has contributed to increasing levels of tension and conflict among campers as well as between campers and other park users and neighborhood residents; and,

WHEREAS, City-supported outreach service providers who support campers at Reindahl have advised City staff that the number of people using that encampment makes it increasingly difficult to provide effective services; and,

WHEREAS, during the Reindahl encampment's existence, there has been a substantial increase in calls for City services at the park, including for emergency response services, numerous reports of personal injury and property damage, and a worsening of sanitary conditions, all of which threaten the health and safety of the occupants of the encampment, other park users, the neighborhood residents, service providers, and emergency responders; and,

WHEREAS, the rising numbers of COVID-19 cases and the prevalence of the Delta variant in Dane County continue to raise public health concerns about the risk of transmission of the virus in the community, particularly among populations, like those experiencing homelessness, with low rates of vaccination; and,

WHEREAS, the current conditions at the Reindahl Park encampment do not generally meet the Center for Disease Control (CDC) interim guidance for supporting persons experiencing unsheltered homelessness during the pandemic; and,

WHEREAS, the spread of the Delta variant in Dane County and added challenges of supporting unsheltered persons that will emerge in colder weather months adds urgency to the need for alternatives to the encampment at Reindahl Park; and,

WHEREAS, over the past ten years, there has been a 15% increase in the population of Dane County and affordable housing is in extremely short supply, and hotels used for COVID respite are increasingly being returned to normal usage; and,

WHEREAS, pursuant to Wis. Stat. § 343.11 and M.G.O. § 3.19(1), the Common Council is empowered to declare, by ordinance or resolution, an emergency existing within the City whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil commotion, acts of God, and including conditions, without

limitation because of enumeration, which impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital services of the City; and,

WHEREAS, pursuant to M.G.O. § 3.19(2), the emergency power of the Common Council includes the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, welfare and good order of the city in the emergency; and,

WHEREAS, pursuant to M.G.O. § 3.19(1) and M.G.O. § 3.20(7), during the period of the declared emergency the Common Council may promulgate and serve such orders, rules and regulations related to the conduct of persons and the use of property, including the temporary suspension of ordinances, as shall be necessary to protect the public's health and safety and protect lives and property; and,

WHEREAS, the Mayor and the Common Council have taken numerous actions pursuant to the above authority throughout the COVID-19 pandemic to combat the impacts of COVID-19 on the community; and,

WHEREAS, in order to establish, before winter, safe and more suitable temporary alternatives to accommodate the occupants of the Reindahl Park encampment, the first of which will be located on City-owned property at 3202 Dairy Drive, it is necessary to declare a public emergency related to the Reindahl Park encampment and to suspend the operation of certain ordinances applicable to 3202 Dairy Drive until such time as the City's ordinances may be changed, zoning approval may be obtained, site improvements may be installed, and that site may be properly licensed by PHMDC as a campground.

NOW, THEREFORE, BE IT RESOLVED that the Common Council, pursuant to the authority granted to it under Wis. Stat. § 323.11 and M.G.O. §3.19(1), deems that the following conditions, the combination of ongoing threats associated with COVID-19, the current conditions at Reindahl Park, the inadequacy of accommodations to support persons experiencing unsheltered homelessness in the community, and the added risks to this population that will accompany winter, constitute conditions that impair the vital services or critical systems of the City, and thereby declare a public emergency at Reindahl Park and 3202 Dairy Drive; and,

BE IT FURTHER RESOLVED that the Mayor and the Council, by adoption of this Resolution, orders and temporarily allows steps to be taken to prepare the property located at 3202 Dairy Drive to a condition that will eventually meet relevant state and local regulatory standards for campgrounds and that will provide safer and more sanitary conditions for about 30 persons experiencing unsheltered homelessness, with the goal of bringing the encampment at Reindahl Park to a close; and,

BE IT FURTHER RESOVLED that during the period of this declared emergency, City zoning and campground related ordinances do not apply to 3202 Dairy Drive, provided City staff are making ongoing efforts to obtain the necessary approvals and licenses to eventually operate a campground at the site or have a third party operate said site; and,

BE IT FURTHER RESOLVED that, due to the emergency conditions that exist and the urgent need for prompt development of the site, the development of the 3202 Dairy Drive site is exempt from Urban Design Commission review under MGO Sec. 33.24 during the period of the declared emergency; and,

BE IT FURTHER RESOLVED that this emergency declaration will expire on December 31, 2021, and any further use of the property at 3202 Dairy Drive as a temporary campground will require permanent zoning approval using all of the regular city processes and procedures, and a campground license issued by Public Health Madison Dane County; and,

BE IT FURTHER RESOLVED that the \$2 million of previously budgeted ARPA funds (RES-21-00487) for unsheltered homeless support will be used to develop and operate the site. Project plans and the total cost is currently being developed and will include both one-time capital and ongoing operating expenses. Funds will primarily be used for the following activities: 1) prepare the site to function as a campground (e.g. level the site, install utilities); 2) build or purchase temporary shelter structures; 3) public works contract(s) if needed for paving and fencing or other infrastructure needs; and 4) contract with a local social service provider to provide onsite management and operational support to the site once it is occupied; and,

BE IT FURTHER RESOLVED that, pursuant to MGO Sec. 4.26(4)(c), the Finance Director, or designee, and department/division heads may make emergency purchases of goods and services, and the Finance Director/designee may sign contracts for goods and services in any dollar amount if necessitated by an emergency, subject to budget authority. Any emergency service contract totaling \$50,000 or more shall be promptly reported to the Common Council. Staff intend to invoke this process for the purchase of goods, supplies and services as described above, as well as change order(s) or new contract(s) using public bidding process required by local or federal law for the public construction portions of the project, in compliance with the federal rules for the use of ARPA funding, which also allows expedited noncompetitive procurement in response to an emergency; and

BE IT FURTHER RESOLVED that the Mayor and the Council direct City staff to work with campers currently using the Reindahl Park encampment and outreach service providers to facilitate the movement of campers from Reindahl to the Dairy Drive site; and,

BE IT FURTHER RESOLVED that the Mayor and the Council directs City staff to identify a possible second campground location which could serve an additional 30 persons, with priority given to any persons who may remain at Reindahl Park. If a suitable second site is located during the period of this emergency, the provisions of this declaration applicable to 3202 Dairy Drive shall extend to this second site as well; and,

BE IT FURTHER RESOLVED, that as the goal of these actions is to provide current occupants of the Reindahl Park encampment with improved, safe, and lawful temporary accommodations elsewhere, movements of campers to the new site(s) will be combined with efforts to prevent new campers from moving into Reindahl Park and to close that site; and,

BE IT FURTHER RESOLVED that the Mayor and the Council direct City staff including Fire, MPD, Parks, Streets and Parking Enforcement to work with campers currently using the Reindahl Park encampment and outreach service providers to develop, agree and implement a safety plan by and submit to Council by September 21, 2021 that focuses on the safety and well-being of campers and other users, and can help bring an end to the use of Reindahl Park as an encampment; and,

BE IT FINALLY RESOLVED that this emergency declaration shall expire on December 31, 2021, during which time the emergency conditions are likely to exist.