File #: 62645, **Version:** 1

Fiscal Note

No City appropriation required.

Title

Allowing for the temporary establishment and regulation of a tiny house village at 1901 Aberg Avenue, in order to provide additional shelter to the increasing number of Madison residents experiencing homelessness during the COVID-19 pandemic and the coldest and most dangerous months of the year.

Body

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, 2020; and,

WHEREAS, since that time, the city, state, country and the world have continued to battle the spread of COVID-19 and its many impacts; and,

WHEREAS, as of October 14, 2020, there have been 11,803 confirmed cases of COVID-19 and 46 related deaths in Dane County; and,

WHEREAS, the well-documented recent surge in COVID-19 cases in Wisconsin and Dane County is alarming, with Dane County now seeing an average of 139 people a day test positive for COVID-19; and

WHEREAS, COVID-19 has come with unprecedented challenges to Madison, including to its residents, economy, and the provision of city services; and

WHEREAS, Madison residents experiencing homelessness have been hit particularly hard by the COVID-19 pandemic, and the number of residents, particularly men, needing emergency shelter is expected to continue to rise due, in part, to:

- The loss of the use of so-called “vulnerable population” hotels, paid for with federal funds, that are currently sheltering about 130 men, many of whom would continue to require shelter services when funding to support them in the hotels is no longer available;
- The onset of colder weather which will make unsheltered homelessness less feasible. At present an estimated 200 people are camping or sleeping in cars, the vast majority of which are men;
- The depletion of rental assistance resources, and the scheduled end-of-year expiration of the federal moratorium on evictions; and,

WHEREAS, this shelter shortage is expected to continue throughout winter, leaving many individuals currently experiencing homelessness without shelter during the most extreme weather and dangerous time of the year; and,

WHEREAS, while it is difficult to make precise predictions, at least one source predicts a possible 45% rise in homelessness and those needing shelter as a result of the COVID-19 pandemic; and,

WHEREAS, Madison does not currently have enough shelter space to accommodate this growing need, and this shortage is expected to continue unless and until the city is able to identify strategies and resources for providing it; and,

WHEREAS, pursuant to 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, conflagaration, 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), the Common Council may promulgate and serve such orders, rules and regulations related to the conduct of persons and the use of property as shall be necessary to protect the public's health and safety and protect lives and property…"; and,

WHEREAS, the Common Council has taken numerous actions pursuant to the above authority throughout the COVID-19 pandemic to combat the impacts of COVID-19 on the community, including recently passing a resolution extending the City's Streatery Program to allow restaurants and bars the ability to continue seating customers outside while indoor capacities remain limited by Public Health Madison Dane County (PHMDC) Order; and,

WHEREAS, the City's Zoning Code currently prohibits camping citywide and only allows Portable Shelter Missions and other similar shelter uses in certain districts and under certain conditions; and,

WHEREAS, Occupy Madison, Inc. operates a tiny house village located at 304 N. 3rd Street (hereinafter referred to as "OM1") which was approved as a Planned Development under the City's Zoning Code on May 6, 2014 and has operated consistent and in compliance with its approval since that date; and,

WHEREAS, Occupy Madison, Inc. is interested in temporarily operating a similar tiny house village at 1901 Aberg Avenue (hereinafter referred to as "OM2") in order to address the impending challenges associated with homelessness in the COVID-19 pandemic; and,

WHEREAS, Occupy Madison, Inc. anticipates that OM2 will be able to provide up to thirty (30) camping style Conestoga shelters that will, among other things, include electric heat and provide shelter during the COVID-19 pandemic; and,

WHEREAS, the current zoning of 1901 Aberg Avenue does not allow the property to be used for a tiny house village and there is not enough time for Occupy Madison, Inc. or any other operator to apply for and receive Planned Development zoning for this property prior to the onset of winter; and,

WHEREAS, temporarily allowing a tiny house village at 1901 Aberg Avenue without a lengthy approval process and with reasonable regulations will aid the City's efforts to provide shelter to the increasing number of Madison residents likely to experience homelessness this winter.

NOW THEREFORE BE IT RESOLVED that the combination of COVID-19, homelessness, and the impending winter months have created an emergency that will potentially leave many Madison residents experiencing homelessness without shelter during the coldest and most dangerous months of the year; and,

NOW THEREFORE BE IT FURTHER RESOLVED that this Resolution orders and temporarily allows the establishment of a tiny house village at 1901 Aberg Avenue for purposes of providing additional shelter to Madison residents experiencing homelessness during the coldest and most dangerous months of the year; and,

NOW THEREFORE BE IT FURTHER RESOLVED that this Resolution also establishes the following rules and regulations that will apply to the temporary tiny house village at 1901 Aberg Avenue:

- Occupy Madison, Inc. must provide a 20-foot wide fire lane located in accordance with the fire code as approved by the Madison Fire Department.

- Occupy Madison, Inc. must provide and locate fire extinguishers as approved by the Madison Fire Department.

- Occupy Madison, Inc. shall ensure that each sleeping unit must contain a working smoke alarm.

- If the sleeping units are heated with electric heat, no Carbon Monoxide (CO) detectors are required. If the sleeping units are heated with any other heat source, Occupy Madison, Inc. shall ensure that CO detectors are provided in each sleeping unit.

- If the property is secured by a perimeter fence, the operator must provide the Madison Fire Department with an approved key vault to allow 24/7 access.

- If the property contains a fire ring, the fire ring must be located fifteen (15) feet from all combustibles, buildings, and property lines, and must be covered with a spark arrestor.

- Occupy Madison, Inc. shall provide and regularly empty dumpsters for solid waste disposal, trash and recycling.

- Occupy Madison, Inc. shall ensure that city water is provided from inside the existing principal structure on the property in compliance with building codes.

- Occupy Madison, Inc. shall ensure that the existing principal structure on the property provides at least three (3) women's toilets (3 stools) and three (3) men's toilets (2 stools and 1 urinal). There shall be no on-site compostable or camping toilets. If necessary, porta-potties may be used to satisfy this requirement while permanent facilities are under construction but must be removed as soon as permanent facilities are available. Occupy Madison, Inc. must ensure that construction begins as soon as possible.

- Occupy Madison, Inc. shall ensure that the existing principal structure on the property includes functioning handwashing sinks.

- Occupy Madison, Inc. shall ensure that the existing principal structure on the property includes at least one (1) shower for every ten (10) occupants of the tiny house village.

- Occupy Madison, Inc. shall ensure a minimum of ten (10) feet between tiny houses.

- Occupy Madison, Inc. shall ensure there is an emergency telephone accessible at all times for all occupants of the tiny house village.

- Occupy Madison, Inc. shall ensure there is an appropriate registration process for on-site occupants.

- Occupy Madison, Inc. shall ensure that no alcohol or drugs are consumed or possessed on the premises of 1901 Aberg Avenue during its temporary use as a tiny house village.

- Occupy Madison, Inc. shall submit a site plan and operational plan to the Zoning Administrator showing compliance with all of the above requirements. The site plan and operational plan must be approved prior to placing any sleeping units on the property.

- Occupy Madison, Inc. shall ensure that the site complies with all other relevant and applicable

ordinances and statutory requirements, including applicable building code, health code, and fire code regulations.

NOW THEREFORE BE IT FURTHER RESOLVED, that if Occupy Madison, Inc. establishes a temporary use on the property at 1901 Aberg Avenue pursuant to this Resolution, then the Madison Fire Department, Public Health Madison Dane County, and the Building Inspection Department shall be allowed to inspect the property in order to ensure initial and continued compliance with the above regulations; and,

NOW THEREFORE BE IT FURTHER RESOLVED, that the Madison Fire Department, Public Health Madison Dane County, and the Building Inspection Department may as necessary modify the above rules and regulations; and,

NOW THEREFORE BE IT FURTHER RESOLVED, that the above rules and regulations are enforceable by the Madison Fire Department, Public Health Madison Dane County, and Building Inspection Department and citations may be issued, if necessary to achieve compliance with the above regulations, utilizing bail deposits established in M.G.O. § 1.08(3)(b); and,

NOW THEREFORE BE IT FURTHER RESOLVED, that failure to follow the rules and regulations of this temporary approval could result in the Common Council ending this temporary approval at any time by passing a subsequent Resolution; and,

NOW THEREFORE BE IT FINALLY RESOLVED, that this Resolution and any approvals allowed pursuant to it will expire on June 1, 2021, and any further use of the property at 1901 Aberg Avenue as a tiny house village will require permanent zoning approval using all of the regular city processes and procedures.