



Legislation Text

File #: 62393, **Version:** 2

Emergency Order #2, issued on May 6, 2020, permits City staff to create temporary permissible encampments (TPEs) in parks and greenways to which City ordinances that prohibit camping would not apply. This order was intended to align with Centers for Disease Control and Prevention guidance, which recommended that municipalities refrain from breaking up TPEs, and instead encourage sanitation and social distancing at TPEs. Since this Emergency Order, three TPEs have been created. Homeless individuals have also continued to reside unlawfully in encampments outside of TPEs.

The proposed resolution requires City staff to prioritize identification of individuals experiencing unsheltered homelessness, and make efforts to connect them with suitable housing. Once an individual is offered an alternate legal housing option, they would no longer be permitted to use the TPE. Within 30 days of this resolution's adoption, the Community Development Division must prepare a report for the Council that: (1) assesses the extent of the impact of camping sites on the City's parks, (2) outlines existing housing options for those experiencing unsheltered homelessness, (3) identifies financial and physical resources that may be available to assist the homeless, (4) looks for a near and long-term solution to emergency shelter needs to take the burden off of the Warner Park Community Recreation Center, and (5) suggests options that may be pursued by the City and its partners to better provide for this population.

No additional appropriation is required.

SUBSTITUTE. Directing City Staff to Address Encampments in the City Parks and to Investigate Other Temporary Housing Options for the Unsheltered Homeless Population.

The City has multiple ordinances that make it unlawful for persons to camp overnight or reside in the City's parks, including the following:

- Section 7.53, which adopts by reference Wis. Admin Code Ch ATCP 79 and the provisions therein that require the issuance of a campground license and certain standards to be met when land is designed, maintained, intended or used for the purposes of providing campsites offered with or without charge for temporary overnight sleeping accommodations. The City has no such campground licenses for its parks.
- Section 8.21, which sets park closure hours across the City's park system (generally from 10 p.m. to 4 a.m.) and makes it unlawful to be in or remain in a park after hours, except under some specific conditions that do not apply to those experiencing unsheltered homelessness.
- Section 8.265, which makes it unlawful for any person to lodge, live in for a time or take habitation in a City park.
- Section 8.40(5)(e), which prohibits camping in conservation parks.
- Chapter 28, the City's zoning code, where campgrounds are not a permitted or conditional use in the Park and Recreation zoning district.

Enforcement efforts to prevent short and long-term camping in the City's numerous parks by those experiencing unsheltered homelessness has historically been challenging. Efforts have been made to involve

community support providers and other outreach programs in order to assist these individuals in finding safer and more humane housing. However, despite these efforts, some individuals remain in the unlawful encampments, which not only is contrary to the ordinances, but may impact the public's ability to use and enjoy the parks themselves. In addition, City parks are not constructed with designated campgrounds nor are they intended for short or long-term occupancy. Thus, individuals camping on lawns and in wooded areas may adversely affect the park itself. Also, most park restroom facilities close nightly and will be closing seasonally this fall as they are not designed to be operated year-round and lack basic heating to protect plumbing fixtures. A lack of available sanitation options presents a public health hazard.

At the commencement of the COVID-19 pandemic, the Centers for Disease Control (CDC) issued guidance for how local municipalities should address populations experiencing unsheltered homelessness during the pandemic. The CDC recommended that, where community spread was occurring, municipalities should refrain from breaking up encampments, encourage social distancing between and within the encampments, provide restrooms and cleaning stations, and perform outreach to the communities.

In response to this guidance and ongoing community spread of COVID-19 in Madison and Dane County, the Mayor, based upon the authority granted by RES-20-00286 (Legistar File No. 60077), issued Emergency Order #2 on May 6, 2020. Under this order, City staff were authorized to create temporary permissible encampments (TPEs) within City parks and greenways in which the City's ordinances against camping would not apply. The resolution affirming this emergency order (Legistar File No. 60412) was introduced on May 19, 2020 but has not yet been acted upon by the Common Council. Under RES-20-00286, the Common Council is to affirm, rescind or amend any of the COVID-19 related emergency orders issued by the Mayor.

Since the issuance of Emergency Order #2, few only three TPEs have actually been created (one in Reindahl Park and two in Starkweather Creek greenways). Many unsheltered persons experiencing homelessness continue to reside outside of the TPEs and instead continue to reside in unpermitted areas. As an example, encampments in McPike Park have continued to grow in size, even though no site in that Park has been designated as a TPE due to the park itself not meeting the qualifications set forth in Emergency Order #2, and there remain numerous unlawful encampments in the park system. Many of those residing in the City's parks and greenways during the pandemic have not complied with the Mayor's Order or the TPE program. In addition, some encampments have become substantial behavioral concerns, with increased volumes of police calls and news reports of violence. In September alone, there was a serious arson event at an unlawful encampment at James Madison Park that led to property damage to personal property and the City's shelter, and there was a homicide of a homeless person in Reindahl Park (outside fo the TPE). Alders have been receiving complaints from neighborhood residents that some parks are no longer welcoming to the community due to the encampments and the behavior of some of those within them. Based upon the Park Division's experience, it can take a decade or more to restore the public's confidence in the safety of a park after reports of violence and disturbances at the park. ~~The current situation is untenable.~~

Overlooking and encouraging encampments in the park system should not be substitute for the City and the community providing those experiencing unsheltered homelessness with humane housing options, even during the ongoing pandemic, and particularly as winter approaches. The City and Dane County have made available alternate temporary housing for this population, including providing hotel rooms and opening shelter space at the Warner Park Community Recreation Center. This population should be encouraged to take advantage of other housing options rather than take up residence in the City's parks, which are not suitable to be used for such purposes, particularly during winter. However, as long as the City does not enforce its ordinances in the parks while also not providing those experiencing unsheltered homelessness with other housing options, this population may continue to find that residing unlawfully in the parks is acceptable, even though other more humane housing options are available to them.

NOW THEREFORE BE IT HEREBY RESOLVED that Emergency Order #2 is hereby rescinded; and,

NOW THEREFORE BE IT FURTHER HEREBY RESOLVED that City staff are directed to enforce the City's ordinances regarding camping in the City's parks to break up encampments, prioritizing enforcement actions against those encampments where there are police calls for service; service prioritize the identification of individuals and families experiencing unsheltered homelessness and connect them with services with the direct intent of identifying and securing suitable shelter; and,

BE IT FURTHER RESOLVED that, when breaking up encampments, City staff will work with Dane County and local community outreach providers to assist the occupants of the encampments in obtaining support and other, more humane housing options pursuant to Emergency Order #2, individuals and families will only be allowed to camp in designated TPE sites; and,

BE IT FURTHER RESOLVED that, once an individual has been offered an alternate legal housing option they will no longer be able to utilize a TPE site; and,

BE IT FINALLY RESOLVED that, within thirty (30) days of the adoption of this resolution, Community Development Division City staff shall prepare a report for the Council that assesses the extent of the impact of camping sites on the City's parks, that details existing housing options for those experiencing unsheltered homelessness, identifies financial and physical resources that may be available to assist the homeless, looks for a near and long-term solution to emergency shelter needs to take the burden off of the Warner Park Community Recreation Center, which may lack insufficient capacity to continue to serve this role, and suggests options that may be pursued by the City and its partners now and in the future to better provide for this vulnerable population, both during and after the ongoing pandemic.