



Office of the Mayor

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May 6, 2020

EMERGENCY ORDER #2

Order to Support Safe Outdoor Space Practices for People Experiencing Unsheltered Homelessness

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 recommend 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.

NOW THEREFORE, based upon the foregoing, I hereby order that:

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 Emergency Order #2 shall be presented to the Common Council for approval or modification at the Council meeting of May 19, 2020, under the resolution introduced by title only on May 5, 2020, Legistar No. 60412.

/s/Satya Rhodes-Conway

Satya Rhodes-Conway

Mayor