



March 9, 2021

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Via email

Dear Mayor Satya Rhodes-Conway, Deputy Mayor Christie Baumel, and Madison Common Council:

I write on behalf of the National Homelessness Law Center (“Law Center”) to express concern regarding Madison’s clearance of the Temporary Park Encampment at McPike Park and to inform you that recent guidelines released by the Centers for Disease Control and Prevention (“CDC”) state that homeless encampments should not be evicted during the COVID-19 pandemic unless the city can offer individual housing units to people experiencing homelessness. See <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>. Fortunately, the Federal Emergency Management Agency (“FEMA”) has recently approved waivers of both its 30 day renewal and 25% match requirements, offering 100% reimbursement funding for the duration of the pandemic. See <https://nlihc.org/resource/fema-changes-policy-approve-non-congregate-shelter-reimbursement-duration-emergency>, <https://nlihc.org/resource/new-executive-order-addresses-urgent-health-and-housing-needs-people-experiencing>. **This means communities have no fiscal constraint to stop them from offering non-congregate shelter to people experiencing homelessness for the duration of the crisis.**

The Law Center is the only national legal advocacy organization dedicated solely to ending and preventing homelessness. We have published numerous reports, including *Tent City, USA: The Growth of America’s*

Homeless Encampments, and How Communities are Responding collecting best practices, model policies, and case studies from across the country on how to constructively address homeless encampments. See https://nlchp.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf.

Individual housing is necessary to curb the spread of the virus and to protect against avoidable hospitalization and death among both housed and unhoused people. The CDC guidelines state in part, “[i]f **individual housing** options are not available, allow people who are living unsheltered or in encampments to remain where they are. Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread.” As such, the CDC advises that **communities should not clear any encampments unless they can provide individual housing units for those displaced**. Otherwise, the CDC recommends that these individuals be allowed to remain where they are and be provided with necessary sanitation facilities. We recognize and appreciate that Dane County has partnered with several hotels to procure individual hotel rooms over this past year for many people experiencing homelessness or whom are otherwise at an increased risk of contracting COVID-19 or of experiencing worse COVID-19 outcomes. We are concerned that sweeping McPike Park impugns these great efforts by displacing a substantial number of people experiencing homelessness ineligible for or on the waiting list to receive one of these rooms.

FEMA issued a press release on February 3, 2021 describing its 100% cost-share. Once FEMA approves the request, they will fund the activity retroactively from January 2020 to September 30, 2021. FEMA will offer 100% reimbursement for “all work eligible under FEMA’s existing COVID-19 policies, including increasing medical capacity, non-congregate sheltering, and emergency feeding distribution.” Madison can *immediately* address *all* encampments in the city by offering hotel rooms to people experiencing homelessness for the duration of the crisis at *zero local cost*. Rather than spend any more money conducting sweeps, Madison should work to secure hotel rooms for people experiencing housing for the duration of the pandemic at no local cost and transition people experiencing homelessness to permanent housing.

According to the CDC, COVID-19 primarily spreads from person-to-person, between people within six feet of each other, and from droplets that are expelled when a person infected with COVID-19 coughs or sneezes. Recent reports indicate that homeless individuals infected by COVID-19 would be twice as likely to be hospitalized, two to four times as likely to require critical care, and two to three times as likely to die of COVID-19 as the general population. See https://endhomelessness.org/wp-content/uploads/2020/03/COVID-paper_clean-636pm.pdf. To prevent contracting and transmitting COVID-19, people are encouraged to wash their hands properly and frequently, avoid close contact with others, and to stay home if they are feeling sick.

For people experiencing homelessness, options for following CDC personal health recommendations are extremely limited since there are too few private housing and shelter options available, even as the pandemic persists. Congregate shelters are not necessarily equipped to truly safeguard against the spread of the virus. This is because congregate shelter settings do not allow for the recommended social distancing, air circulation, and sanitation necessary to stem the spread of the virus. In San Francisco, 144 residents in a single shelter were tested and five were found positive for COVID-19. Less than one week later, 92 of those residents tested positive for COVID-19, along with 10 shelter staff workers. See Colette Auerswald et al., *For the Good of Us All: Addressing the Needs of Our Unhoused Neighbors During the COVID-19 Pandemic* (2020), <https://publichealth.berkeley.edu/wp-content/uploads/2020/04/For-the-Good-of-Us-All-Report.pdf>. Displacing encampment residents from their private tents and vehicles – where they can self-isolate – to crowded congregate shelters will create a breeding ground for COVID-19 and rapidly increase the number of people requiring hospitalization and intensive care. Scattering persons with no plan whatsoever for rehousing also potentially increases exposure of both housed and unhoused residents alike. Thus, at a minimum, helping unhoused people to properly shelter in place – even if those shelters are tents or vehicles – will help to “flatten the curve,” decrease the demand for services from hospitals, and enable communities to lift shelter-in-place orders sooner than if people experiencing homelessness are not sheltered-in-place.

However, transitioning people into individual housing units, such as the many vacant hotel rooms now available, is the best practice and would ensure they would be able to effectively socially distance themselves and have access to adequate sanitation, as well as be easily accessible to health care and other service providers. As noted above, **FEMA is now providing 100% reimbursement for communities providing non-congregate shelter.** Communities are recommended to coordinate with local partners and “continue activities that protect people experiencing homelessness, including supporting continuity of homeless services, healthcare, behavioral health services, food pantries, and linkages to permanent housing.” CDC guidelines also specify that any individual experiencing homelessness who is diagnosed with COVID-19 should be provided with isolation housing so they can recover and not infect others.

It is our understanding that a FEMA regional administrator responded to Wisconsin on April 5, 2020 and conditionally approved reimbursement for non-congregate shelter. At the time, reimbursement was authorized for costs associated with sheltering individuals who tested positive for COVID-19, individuals who were exposed to COVID-19, and high-risk individuals. By definition, people experiencing homelessness are at an increased risk of contracting COVID-19 or experiencing worse COVID-19 outcomes because they are less able to self-isolate. This is a perfect opportunity to reapply for additional reauthorization to take advantage of FEMA’s expanded reimbursement policy so as to open funds to individually house all people experiencing homelessness for the duration of the pandemic at no local cost.

Madison can look to practices from other communities when crafting its response. For example, California is working to procure hotel and motel rooms to safely isolate people experiencing homelessness and reduce the risk of COVID-19 spread. See <https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/>. Washington, D.C. issued a moratorium on ticketing for emergency no parking violations and for expired license plates, inspection stickers, parking permits, and meters and prepared portable sanitation facilities. See https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/publication/attachments/DPW-COVID-19-ONE-PAGER_040720.pdf; and https://dhs.dc.gov/sites/default/files/dc/sites/dhs/page_content/attachments/COVID%20DHS%20Handwashing%20Stations_04032020%20%281%29.pdf. The costs associated with pursuing these or other practices as part of Madison’s response would be 100% eligible for reimbursement under the CARES Act and subsequent relief legislation and policy.

These approaches are necessary for the current crisis, but they are also best practice for the long term, from both a public health and fiscal policy perspective. We urge you to follow the CDC recommendations, as well as the Law Center’s Encampment Best Practices and Procedures found in the Tent City Report. Only by providing individual housing units will Madison stop this wasteful and harmful cycle and combat the spread of COVID-19 among people experiencing homelessness. This is not a matter of charity, but of public health that will not only benefit people experiencing homelessness, but the housed members of your community who will have hospital beds available to them when they need them, instead of having those beds unnecessarily occupied by people who were swept from encampments and subjected to increased risk of infection.

If you would like, we would be happy to work with you to develop and implement solutions that work for everyone. Please feel free to contact us at etars@nlchp.org or 202-638-2535 x. 120 with any questions or concerns.

Sincerely,



Eric S. Tars
Legal Director