

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

MEMORANDUM

TO: City of Madison Common Council

FROM: Brittany Wilson, Assistant City Attorney

DATE: April 9, 2020

RE: Substitute Resolution Suspending Parking Regulations under M.G.O. 12.122 (Legistar File No. 60139)

In her Emergency Order dated March 26, 2020, the Mayor temporarily suspended the enforcement of M.G.O. § 12.122, which requires Chapter 12 restrictions on parking, stopping, or leaving a vehicle standing to apply at all times subject only to a few enumerated exceptions. The stated purpose of the Mayor's Order was "to allow local restaurants to provide take-out food to customers through curbside pick-up." As such, the corresponding Resolution contains similar language. The Substitute Resolution expands the City officials who may suspend the Chapter 12 restrictions as well as expands the purposes that may support the suspension. The purpose of this memorandum is to provide background for the Mayor's original Order and the Substitute Resolution, provide examples of actions the Parking Division has taken, and, to the extent possible, identify the fiscal impact of those actions.

BACKGROUND

The majority of City parking restrictions are set forth in Chapter 12 of the Madison General Ordinances. Madison General Ordinance § 12.122(1)(a) provides that Chapter 12 restrictions "shall" apply at all times when indicated by official signs, subject only to less restrictive time limitations set forth within Chapter 12 or except as provided in Wisconsin Statute § 346.50. In turn, Wisconsin Statute § 346.50 outlines exceptions to the prohibitions on stopping or leaving a vehicle standing when, broadly speaking:

- (1) a vehicle becomes disabled while on a highway,
- (2) the stopping of a vehicle is necessary to avoid conflict with other traffic, or is necessary to comply with traffic regulations, a traffic officer, or a traffic sign/signal,
- (3) the vehicle is a public utility, a telecommunications carrier, or a rural electric cooperative, and
- (4) vehicles are used by a physically disabled person bearing special registration plates or a special identification card.

Wis. Stat. § 346.50(1)-(3m). The Mayor's Emergency Order Number 1 temporarily allows the City Traffic Engineer to suspend enforcement of the parking, stopping, and/or standing restrictions outlined in Chapter 12, as deemed appropriate "to allow local restaurants to provide take-out food to customers through curbside pick-up." The

exceptions set forth in Wis. Stat. § 346.50 continue to apply under the Mayor's Emergency Order Number 1.

The Substitute Resolution allows either the City Department of Transportation (DOT) Parking Division Manager or Traffic Engineer to suspend enforcement of § 12.122(1)(a). The Substitute Resolution also expands the purposes for which City Officials may suspend Chapter 12 restrictions beyond just allowing curbside pickup for grocery stores and restaurants. Additional reasons for suspension include “[facilitating] individual compliance with orders to remain home, [supporting] continued business operations through employees working remotely from home, and [serving] other purposes to mitigate COVID-19-related community and public health impacts. . .” Each purpose will be discussed in turn.

The Mayor's Original Order

Many of the current Chapter 12 restrictions on parking, stopping and/or standing apply in areas adjacent to local restaurants and grocery stores. In particular, on-street meter restrictions, “No Parking” restrictions, and “No Stopping, Standing, or Parking” restrictions are located next to these establishments. On March 24, 2020, the Governor of Wisconsin issued Emergency Order Number 12, which required Nonessential Businesses to close. Yet, pursuant to the same Order, grocery stores could remain open provided the stores followed Social Distancing Requirements and restaurants could remain open provided they conducted only pickup and delivery services. Strictly enforcing all Chapter 12 restrictions thereby inhibits the ability of affected grocery stores and restaurants to provide pickup services to patrons in compliance with the Order. Patrons may avoid an establishment due to limited parking or a concern for parking tickets if noncompliant.

In addition, the following provisions within Chapter 12 set forth parking rates or fees that “shall” be charged in a variety of circumstances:

- (1) M.G.O. 12.145(3)(a)-(e) (on-street metered parking rates), and
- (2) M.G.O. 12.1425(3)(b)1.-3. (meter hood fees).

The Mayor's Emergency Order Number 1 temporarily allows the City Traffic Engineer to suspend imposition of these rates and permit fees, provided the City Traffic Engineer deems it appropriate to do so.

The Substitute Resolution

Many of the current Chapter 12 restrictions on parking, stopping and/or standing apply in areas adjacent to residences, many of which do not have off-street parking. In particular, clean streets and clean lakes restrictions (M.G.O. § 12.1339), 2-hour time restrictions (M.G.O. § 12.137), 1-hour time restrictions (M.G.O. § 12.134), and residential parking restrictions on commuter parking impacted streets, commonly known as RP3 and RPO program restrictions (M.G.O. § 12.138), are located in residential areas. The Governor's Emergency Order #12 orders individuals to remain home and allows Nonessential Businesses to continue operations if employees are exclusively performing

activities at their own home. As such, strictly enforcing all Chapter 12 restrictions inhibits the ability of individuals to comply with the Governor's Order to remain home and/or to work from home, should their Nonessential Business employers permit them to do so. Individuals may leave their homes and move their vehicles on a regular basis out of concern for parking tickets if noncompliant.

WHY THIS AUTHORITY IS NECESSARY

The Mayor's Original Order

The Mayor's Emergency Order Number 1 serves to help the local economy. Pursuant to the Governor's Emergency Order Number 12, restaurants have been forced to close all dine-in areas in their establishments resulting in financial hardship for these businesses and their staff. Carry-out services remain the only revenue stream for restaurants. Likewise, the Governor's Emergency Order Number 12 requires individuals to stay at home, subject to enumerated exceptions. The mandate to remain home has led to increased demand for pickup services from grocery stores.

Beginning on March 22, 2020, the Parking Division has assisted local restaurants by issuing temporary loading zone parking restrictions adjacent to the affected businesses. This has provided restaurant patrons with short-term parking in front of the affected businesses for pickup services. Affected businesses can acquire a temporary loading zone by request only. The Parking Division and Traffic Engineering departments then review the needs of the affected businesses. Once these departments approve a request, parking field staff post temporary signage or a meter hood (at applicable on-street metered spaces) to create the loading zone areas. The departments then forward the locations and timeframes for the temporary suspensions to the parking enforcement team. Parking enforcement then enforces the loading zones to ensure turnover in the available parking spaces. To date, the City has not assessed a fee to the affected businesses for the creation of these temporary loading zones.

While the City Departments' efforts have been worthwhile, many restaurants located adjacent to parking, stopping, and/or standing restrictions have not requested a temporary loading zone. Even if all applicable restaurants and grocery stores did so, there are limited staff resources to temporarily change all parking signage for this purpose. As such, it is more efficient and effective to issue press releases, post on City websites, and have the affected businesses convey to the public the changes in parking enforcement. This allows all affected restaurants and grocery stores to benefit from these changes.

In addition, the Mayor's Order Number 1 provides relief to individual members of the public who may bear a financial burden during this difficult time. As a result of the Governor's Emergency Order Number 12, which required Nonessential Businesses to close, many individuals are now unemployed or working limited hours. Suspending additional parking fees and rates reduces customers' expenses who frequent the affected businesses. Likewise, alleviating parking restrictions allows service workers in the affected businesses to access their jobs when needed.

The Substitute Resolution

The expanded authority embodied in the Substitute Resolution also serves to help the local economy. Pursuant to the Governor's Emergency Order Number 12, Nonessential Businesses have been forced to cease all activities at Wisconsin facilities, but may, if possible, allow operations to continue by virtue of employees working from home. Many businesses will face financial hardship as a result of closures of physical facilities and facilitating working at home minimizes further hardship for these businesses. By suspending restrictions on parking, stopping and/or standing, businesses will face reduced operational and financial difficulties. Employees of these businesses will be able to continue working for their employers uninterrupted during the course of the day, while businesses will be able to continue operations, albeit limited, as a result.

Additionally, the expanded authority within the Substitute Resolution helps limit the spread of COVID-19. The Governor's Emergency Order Number 12 requires individuals to remain at home and cease all nonessential travel. The current restrictions on parking, stopping, and/or standing directly conflict with the duties of individuals to comply with that Order. Vehicle owners living in residential areas that abut parking, stopping and/or standing restrictions, who have no off-street parking options, must park on the street during this time. Limiting individual travel limits exposure to COVID-19.

ACTIONS TAKEN THUS FAR BY CITY OFFICIALS

On April 2, 2020, the DOT Parking Division issued a press release informing the public that "[a]ll on-street meters, Residential Permit Only restrictions, 1-hour and 2-hour time-limit restrictions in non-metered areas, and Street sweeping and Clean Streets-Clean Lakes program parking restrictions are temporarily suspended through Sunday, April 26th, unless otherwise noticed." The Parking Division selected April 26th as the expiration date of the press release to allow for the issuance of a subsequent press release, as appropriate, following the Common Council meeting on April 21, 2020.

In conjunction with the authority granted by the Mayor's Emergency Order in numbered paragraph 8 (See Resolution, Legistar File No. 60121), suspending enforcement of M.G.O. § 33.56(5), the Parking Division has also suspended related parking fees for on-street metered areas or meter hoods.

FISCAL IMPACT

The coronavirus pandemic, and the resulting Governor's Emergency Orders and Mayor's Emergency Proclamation have profoundly impacted travel, rendering it difficult to estimate the fiscal impact of Mayor's Emergency Order Number 1. Traffic engineering data depicts that traffic volume has dropped by approximately fifty-five percent compared to the usual rate for this time of year. Consequently, vehicles also remain parked in residential areas more often and for longer periods of time. The figures that follow are based on regular demand in prior years. Even assuming that parking regulations, fees and rates, and enforcement remained constant during this time, there would be a significant overall reduction in revenue attributed to the coronavirus pandemic, estimated to be more than a fifty percent loss.

In light of the foregoing considerations, the estimated fiscal impact, *per month*, is as follows:

(1) Parking Division Rates & Fees:

- a. On-Street Meter Rate Revenue = \$200,000 (based on a three-year monthly average), of which approximately \$70,000 is due to the decision to suspend meter fees and approximately \$130,000 is due to reduced demand associated with the crisis.
- b. Meter Hood Fee Revenue = \$26,000 (based on a three-year monthly average), all of which is due to the decision to suspend meter hood fees.

(2) Parking Enforcement Ticket Revenue:

- a. Expired Meter¹ and Overtime Tickets² = \$78,000 (based on the monthly average of \$393,445 for April through August, 2019), of which approximately \$26,000 is due to the decision to suspend meter fees and enforcement and about \$52,000 is due to reduced demand associated with the crisis.
- b. Clean Streets-Clean Lakes Program Tickets³ = \$134,000 (based on the monthly average of \$535,580 for April through August, 2019), of which approximately \$34,000 is due to the decision to suspend enforcement and \$100,000 is due to increased⁴ demand associated with the crisis.
- c. Time Restricted (2-hour and 1-hour) Tickets⁵ = \$84,000 (based on the monthly average of \$337,730 for April through August, 2019), of which approximately \$21,000 is due to the decision to suspend enforcement and \$63,000 is due to increased⁶ demand associated with the crisis.

Therefore, the total estimated fiscal impact, per month, is a revenue loss of \$522,000, as compared to a time period with regular demand. Of this, \$177,000 is due to the decision to suspend meter fees and enforcement, and the remaining \$345,000 is due to changes in parking demand associated with the crisis.

1 Expired meter tickets are written pursuant to M.G.O. § 12.145 (1)(a).

2 Overtime tickets are written pursuant to M.G.O. § 12.145(1)(b).

3 Clean Streets-Clean Lakes Program tickets are written pursuant to M.G.O. § 12.1339(1).

4 Since these restrictions are located in residential areas, demand would increase with more individuals remaining at home.

5 Two-hour time restricted tickets are written pursuant to M.G.O. § 12.137, and one-hour restricted tickets are written pursuant to M.G.O. § 12.134.

6 Since these restrictions are located in residential areas, demand would increase with more individuals remaining at home.