



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Master

**File Number: 79504**

**File ID:** 79504

**File Type:** Ordinance

**Status:** Report of Officer

**Version:** 2

**Reference:**

**Controlling Body:** CITY-COUNTY  
HOMELESS  
ISSUES  
COMMITTEE

**File Created Date :** 08/22/2023

**File Name:** Repeal Trespass Related to Sleeping

**Final Action:**

**Title:** SUBSTITUTE: Amending Section 23.07(2), repealing Section 23.07(6) of the Madison General Ordinances related to trespassing and amending Section 23.07(13) and 1.08(3) of the Madison General Ordinances to remove associated references.

**Notes:** 6788RepealTrespassSleep-SUB

**Sponsors:** Yannette Figueroa Cole, Juliana R. Bennett And  
Marsha A. Rummel

**Effective Date:**

**Attachments:** 79504 Body-Version 2, Written public comments,  
RegistrantsReport-PriorMeetings-5.45pm, 79504  
Body-Version 1, 79504 Version 1

**Enactment Number:**

**Author:** Amber R. McReynolds

**Hearing Date:**

**Entered by:** mglaeser@cityofmadison.com

**Published Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office	08/22/2023	Referred for Introduction				
	<b>Action Text:</b>	This Ordinance was Referred for Introduction					
	<b>Notes:</b>	City County Homeless Issues Committee (9/18/23), Common Council (10/3/23)					
1	COMMON COUNCIL	09/05/2023	Referred	CITY-COUNTY HOMELESS ISSUES COMMITTEE		09/18/2023	
	<b>Action Text:</b>	This Ordinance was Referred to the CITY-COUNTY HOMELESS ISSUES COMMITTEE					
1	CITY-COUNTY HOMELESS ISSUES COMMITTEE	09/18/2023	RECOMMEND TO COUNCIL TO ADOPT WITH THE FOLLOWING RECOMMENDATIO NS - REPORT OF OFFICER				Pass

**Action Text:** Adler Marsha Rummel and Alder Figueroa-Cole presented agenda item 79504.

A motion was made by Linda Ketcham and seconded by Sarah Smith for the City County Homeless Issues Community to make a recommendation to support repealing Section 23.07 of the Madison General Ordinances and amending Section 23.07 (13) and 1.08(3) of the Madison General Ordinances to remove associated references.

Motion passed by roll call vote.

**Notes:** Motion to recommend support of repealing passed by the following vote: [6:1]: (AYE: Doolan, Smith, Wright, Jordan, Kamp, Ketcham; NO: Harris; ABSTAIN: Williams)

Absent: 1 Deja Mays

Ayes: 6 Katherine S. Kamp; Michele Doolan; Jacob Wright; Sarah Smith; Takisha Jordan and Linda J. Ketcham

Noes: 1 Justine Harris

Abstentions: 1 Ulysses Williams

Excused: 2 Nasra Wehelie and Dina Nina Martinez-Rutherford

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**Text of Legislative File 79504**

**Fiscal Note**

No citations from this section of the ordinance have been issued in the past ten (10) years. No fiscal impact is anticipated with repeal.

**Title**

SUBSTITUTE: Amending Section 23.07(2), repealing Section 23.07(6) of the Madison General Ordinances related to trespassing and amending Section 23.07(13) and 1.08(3) of the Madison General Ordinances to remove associated references.

**Body**

~~DRAFTER'S ANALYSIS: This repeals MGO 23.07(6)(a) and (b), subsections which focused on trespassing regarding sleeping or possessing items related to sleeping on the property of others. These subsections of the trespass ordinance have not been enforced for at least ten (10) years.~~

The substitute repeals MGO 23.07(6)(a) and (b), subsections of the trespassing ordinance which focused specifically on the behavior of sleeping or possessing items related to sleeping while trespassing. The general trespassing subsection for all behavior including sleeping remains in subsection (2). The substitute proposes amending subsection (2) to clarify that in addition to an owner or occupant, an individual authorized by an owner or occupant can also give notice to a potential trespasser that they must not enter or remain on the premises. This proposed amendment clarifies that owners or occupants may authorize police or others to give notice to trespassers. The substitute also updates the Drafter's Analysis.

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Please see Legistar File No. 79504 Body-Version 2 in Attachments.

CITY OF MADISON, WISCONSIN

A SUBSTITUTE  
ORDINANCE \_\_\_\_\_

PRESENTED  
REFERRAL(S)

September 5, 2023  
City County Homeless Issues  
Committee (9/18/23), Common  
Council (10/3/23)

SUBSTITUTE: Amending Section 23.07(2), repealing Section 23.07(6) of the Madison General Ordinances related to trespassing and amending Section 23.07(13) and 1.08(3) of the Madison General Ordinances to remove associated references.

79504

Drafted by: Amber R. McReynolds

Date: October 19, 2023

SPONSOR(S): Alders Figueroa Cole,  
Bennett, Currie,  
Govindrajan, **Martinez-  
Rutherford**, Rummel

DRAFTER'S ANALYSIS: ~~This repeals MGO 23.07(6)(a) and (b), subsections which focused on trespassing regarding sleeping or possessing items related to sleeping on the property of others. These subsections of the trespass ordinance have not been enforced for at least ten (10) years.~~

The substitute repeals MGO 23.07(6)(a) and (b), subsections of the trespassing ordinance which focused specifically on the behavior of sleeping or possessing items related to sleeping while trespassing. The general trespassing subsection for all behavior including sleeping remains in subsection (2). The substitute proposes amending subsection (2) to clarify that in addition to an owner or occupant, an individual authorized by an owner or occupant can also give notice to a potential trespasser that they must not enter or remain on the premises. This proposed amendment clarifies that owners or occupants may authorize police or others to give notice to trespassers. The substitute also updates the Drafter's Analysis.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (2) of Section 23.07 entitled "Unlawful Trespass" of the Madison General Ordinances is amended as follows:

"(2) It shall be unlawful for any person to enter or remain on any property of another or to enter or remain in any building of another after having been notified by the owner or occupant or an individual authorized by the owner or occupant not to enter or remain on such premises."

Approved as to form:

42. Subsection (6) of Section 23.07 entitled "Unlawful Trespass" of the Madison General Ordinances is repealed and reserved for future use.

23. Subsection (13) of Section 23.07 entitled "Unlawful Trespass" of the Madison General Ordinances is amended as follows:

"(13) Any person violating any of the provisions of Subsections (1), (2) or (11) of this section shall be subject to a forfeiture of up to five hundred dollars (\$500); any person violating any provision of Subsection (3), (9) or (10) of this section shall be subject to a forfeiture of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000); any person violating any provision of Subsection (4) or (8) of this section shall be subject to a forfeiture of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200); and any person violating any of the provisions of Subsections (5) or ~~(6)~~ or (7) of this section shall be subject to a forfeiture of not more than three hundred dollars (\$300)."

34. Table within Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations and Complaints for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

Offense	Ord. No./Adopted Statute No.	Deposit
Possess/consume alcohol beverages on private property prohibited.	23.07(5)	\$200
<del>Sleeping on private property without permission prohibited.</del>	<del>23.07(6)</del>	<del>\$200</del>
Trespassing on railroad right-of-way.	23.07(7)(a)	\$25

EDITOR'S NOTES:

Subsection (6) of Section 23.07 entitled "Unlawful Trespass" of the Madison General Ordinances currently reads as follows:

"(6)(a) No person shall sleep, lie down or take temporary habitation on the property of another without the permission of a person lawfully upon the premises.

(b) No person shall possess or use items commonly associated with sleeping or habitation, including but not exclusively, beds, mattresses, sleeping bags, bedrolls, blankets, pillows, sheets, quilts and comforters on the property of another without the permission of a person lawfully upon the premises."

Working Title: Repealing Amending Section 23.07(2), repealing Section 23.07(6) of the Madison General Ordinances related to trespassing and amending Section 23.07(13) and 1.08(3) of the Madison General Ordinances to remove associated references.

