

# Section 6 of Unlawful Trespass

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To: Mayor <Mayor@cityofmadison.com>; All Alders <allalders@cityofmadison.com>; Tishler, Bill <district11@cityofmadison.com>; Figueroa Cole, Yannette <district10@cityofmadison.com>; Currie, Jael <district16@cityofmadison.com>; Bennett, Juliana <district2@cityofmadison.com>; Rummel, Marsha <district6@cityofmadison.com>;

Cc: Barnes, Shon F <SBarnes@cityofmadison.com>;

📎 2 attachments

Screenshot\_20230921\_173425\_Adobe Acrobat.jpg; Screenshot\_20230929\_113239\_Chrome.jpg;

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Dear Mayor and Alders,

I am writing in opposition to the repeal of Section 6 of the Unlawful Trespass code. **Alder Figueroa-Cole's substitute version, which allows a homeowner or occupant to authorize another to act as notifier on their behalf does not go far enough.**

For one thing, this would create a disaster for call center dispatch workers, who are already too busy, to have to look into whether or not a homeowner or occupant has authorized an officer to act on their behalf before dispatching a police officer (who is likely already tied up with other things).

If this repeal passes, **I recommend that homeowners, occupants and property owners appoint their Alder as their authorized appointee.** Notice can then be made by you. Just keep your phone and file handy, especially at night, so you will know who has authorized you and who hasn't, and you will likely be able to arrive in your own district faster than our busy police officers. And anyway, isn't the whole thing to "decriminalize homelessness" and avoid increased interaction with police?

I put "decriminalize homelessness" in quotes because **Section 6 does not criminalize homelessness.** Despite the obvious misinformation that lead sponsor Alder Figueroa-Cole did not clear up (see highlighted area of my attached screenshot) even after she was publicly educated about the truth at the September 18 City-County Homeless Issues Committee meeting, MPD officers have cited 4 people under Section 6 in the past 5 years, and none of them were homeless. Please watch the recording of that meeting linked below, where 16 residents registered opposed to this repeal, with just 1 in support. Four letters were received (which I hope you will read by clicking the link on Legistar) and all were in opposition to this repeal.

The Police Chief and MPD as a whole opposes this repeal as it will limit officer response and invite instant conflict and "stand your ground" scenarios.

The sponsor's stated rationales for repealing this ordinance are that 1) it is redundant (it is not, because **Section 6 alone requires prior permission, while Section 2 requires notice** that you want someone off your property (this does not change with the substitute version); and 2) it "criminalizes homelessness."

For the few of you who may not know this, violating a city ordinance is not a criminal act and it does not have criminal consequences. It is a fine. When you watch the CCHIC meeting linked below, you will see how lenient the rules are on paying the fine and how nonexistent the consequences (it may be sent to collections, but goes no further). **No one goes to jail for unpaid city fines. No one receives a criminal record for it either.**

Lastly, but most importantly, please think through the **dangers** of allowing people to presume permission to sleep on private property without the prior permission and consent of the one who owns it. It is extremely risky and could put the city in **legal jeopardy** if this common-sense ordinance is repealed. **If it is repealed, sleeping on someone else's property without their prior permission is not considered trespassing unless and until notification is made and the person refuses to leave.**

In case you haven't read the posts on social media, there are people saying what they would do if they found someone sleeping in their yard or on their property without permission, with references made to the **Castle Doctrine**. With relative shrinking police resources in our growing city, there is already too frequent talk of residents taking matters into their own hands in a growing spirit of vigilantism. Many homeowners own guns and might not hesitate to protect their property if they thought someone posed a threat. Others have said they would sic their protective dogs on people.

Under the Castle Doctrine, when someone uses force intended or likely to cause death or great bodily harm (such as shooting another person) in the course of defending themselves they have **civil immunity from prosecution**. Listen closely to the words of Attorney Haas when asked about a Castle Doctrine defense and the 3 thresholds in the meeting linked below.

The decision you will make at Tuesday's Common Council meeting has the possibility for significant unintended consequences. It is not a move that most home and business owners appreciate. As things stand currently, there is nothing standing in the way of private property owners allowing people to sleep on their private property. Plenty of churches downtown allow it and because of security systems in place, it provides a safer place to sleep. Removing the requirement for permission places people at risk and could pose a threat to the safety of those the sponsors say they want to protect.

Community Development Director Jim O'Keefe has acknowledged in a statement that it is not safe to live outdoors on public or (without the owner's consent) private property.

The safest place for members of our unsheltered community to sleep is where they are welcomed and protected.

Here is a link to the recording of the Sept. 18 City-County Homeless Issues Committee meeting:

<https://media.cityofmadison.com/mediasite/Showcase/madison-city-channel/Presentation/9b388161ea6b4207821423b05e505df01d>

**Please carefully consider all of the unintended consequences and vote no on agenda #44 on Oct. 3.**

Thank you,

Bonnie Roe  
District 11