

LEGISTAR #47998 - Body

DRAFTER'S ANALYSIS: This proposal creates Sec. 12.1291, MGO, to restrict motor vehicle owners and City motor vehicle drivers from causing or permitting the engine of any motor vehicle to operate in idle for more than five consecutive minutes on any highway. "Owner," "motor vehicle," and "highway" are defined in Wis. Stat. §§ 340.01(42), (35), (22), respectively. The City adopts these definitions in Sec. 12.01.

Under Sec. 12.1291, idling is not permitted while stopping, standing, or parking, each of which are defined in Wis. Stats. §§ 340.01(62), (59m), (42m), respectively. The City again adopts these definitions in Sec. 12.01. The definitions of "parking" and "standing" do not require a vehicle to be occupied, and the definition of "parking" excludes vehicles actively engaged in the loading or unloading of property or passengers.

Except for City motor vehicles, motor vehicle owners solely bear the responsibility for violations of Sec. 12.1291 on any highway, and need not be operating the motor vehicle at the time of violation. For City vehicles, drivers are solely responsible for violations of Sec. 12.1291 on any highway. An escalating forfeiture scheme for motor vehicle owners or City motor vehicle drivers who receive more than one conviction for this violation within one year is proposed in Sec. 12.141(9). Specific bail deposit amounts are specified in the proposed amendment to Sec. 1.08(3)(a) as well.

Proposed Sec. 12.1291 provides several exceptions to liability relating to ambient temperatures, health and safety concerns, repair purposes, auxiliary equipment, and general traffic conditions.

Additional pre-existing idling ordinances have been amended and repealed, as necessary, to conform with the creation of Sec. 12.1291. These include amending Sec. 12.129 and repealing 12.915(7)(f). The City of Madison Vehicle Idling Management Policy Resolution, RES-07-00576, Legistar # 05017, has also been repealed as a result of the creation of Sec. 12.1291.

Furthermore, this proposal amends Sec. 28.141(13)(g) to enforce the prohibition of motor vehicles from idling for more than five minutes on private property except while actively loading. Identical to a violation of Sec. 12.1291, the amendment sets forth an escalating forfeiture scheme for property owners who receive more than one conviction for this violation within one year in Sec. 28.141(13)(g)2. Likewise, specific bail deposit amounts are specified in the proposed amendment to Sec. 1.08(3)(a).

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

1. Section 12.129 entitled "Parking Heavy Traffic in Residence Districts" of the Madison General Ordinances is amended to read as follows:

"12.129 PARKING HEAVY TRAFFIC IN RESIDENCE DISTRICTS.

- (4) No operator of a motor truck, truck tractor, trailer or semitrailer, motor home or any other vehicle or combination of vehicles, other than motor buses, weighing more than six thousand (6,000) pounds, shall park such vehicle on any highway, other than routed State Trunk Highways, in any residence district except for such time as is reasonably necessary to facilitate the loading or unloading of such vehicle.
- ~~(2) No operator of any motor bus weighing over eight thousand (8000) pounds shall permit such motor bus to remain stationary with the main power train motor running for more than fifteen (15) minutes when such motor bus is on a highway abutting a residential building and when the outside air temperature is between 40°F and 80°F.~~

2. Section 12.1291 entitled "Motor Vehicle Idling" of the Madison General Ordinances is created to read as follows:

"12.1291 MOTOR VEHICLE IDLING.

- (1) Violation. No person shall cause or permit the engine of any motor vehicle to operate in idle for longer than five (5) consecutive minutes while stopping, standing, or parking on any highway.
- (2) Liability.

- (a) The owner of any motor vehicle involved in a violation of Subsection (1) of this Section shall be solely liable for the violation, except as provided in Subdivision (2)(c) of this Section.
 - (b) It shall be no defense to a violation of Subsection (1) of this Section that the registered owner was not operating the vehicle at the time of the violation.
 - (c) The driver of any City motor vehicle involved in violation of Subsection (1) of this Section shall be solely liable for the violation.
- (3) Exceptions. The following periods of idling by any motor vehicle shall be exempted from sub. (1) of this Section:
- (a) Idling as needed when the ambient temperature is below twenty degrees Fahrenheit (20°F) or above ninety degrees Fahrenheit (90°F);
 - (b) Idling as needed to operate defrosters, heaters, air conditioners, or other equipment, to prevent a health or safety emergency, including for the purpose of providing shelter;
 - (c) Idling as needed for testing, servicing, repairing, or diagnostic purposes;
 - (d) Idling as needed to operate auxiliary equipment for which the motor vehicle was designed, other than transporting goods, including, but not limited to, operating a transportation refrigeration unit, lift, crane, pump, drill, hoist, or ready mixed concrete mixer; and
 - (e) Idling as needed for traffic conditions over which the driver has no control, including, but not limited to, traffic congestion, an official traffic control device or signal, a railroad crossing while a train is passing or the crossbars are down, traffic controls in a construction zone, or at the direction of a law enforcement official.
- (4) Enforcement. Sub. (1) of this Section shall be enforced by any police officer or parking enforcement officer."

3. Subsection (9) of Section 12.141 entitled "Penalties for Violating Sections 12.122 Through 12.140" of the Madison General Ordinances is amended to read as follows:

"(9) Any person violating Section 12.129(2) shall be subject to a forfeiture of not less than twenty dollars (\$20) nor more than ~~one hundred three hundred fifty~~ dollars (~~\$100350~~) for the first offense, a forfeiture of and not less than three hundred fifty dollars (\$350) nor more than two five hundred dollars (\$200500) for the second or subsequent conviction within a seven (7) years, and a forfeiture of not less than five hundred dollars (\$500) nor more than seven hundred dollars (\$700) for the third or subsequent conviction within seven (7) years."

4. Subdivision (f) of Subsection (7) entitled "Large Motor Truck Regulations" of Section 12.915 entitled "Traffic on State Street Restricted" of the Madison General Ordinances is repealed.

5. Subdivision (g) entitled "Idling" of Subsection (13) entitled "Off-Street Loading Requirements" of Section 28.141 entitled "Parking and Loading Standards" of the Madison General Ordinances is amended to read as follows:

- "(g) Motor Vehicle Idling.
- 1. Vehicles shall not have idling engines for more than five (5) minutes except when actively loading. No property owner shall cause or permit the engine of any motor vehicle to operate in idle for longer than five (5) consecutive minutes while stopping, standing, or parking except when actively loading or unloading of property or passengers.
 - 2. Exceptions. The following periods of idling by any motor vehicle shall be exempted from sub. (1) of this Section:
 - (a) Idling as needed when the ambient temperature is below twenty degrees Fahrenheit (20°F) or above ninety degrees Fahrenheit (90°F);
 - (b) Idling as needed to operate defrosters, heaters, air conditioners, or other equipment, to prevent a health or safety emergency, including for the purpose of providing shelter;
 - (c) Idling as needed for testing, servicing, repairing, or diagnostic purposes;

(d) Idling as needed to operate auxiliary equipment for which the motor vehicle was designed, other than transporting goods, including, but not limited to, operating a transportation refrigeration unit, lift, crane, pump, drill, hoist, or ready mixed concrete mixer; and

(e) Idling as needed for traffic conditions over which the driver has no control, including, but not limited to, traffic congestion, an official traffic control device or signal, a railroad crossing while a train is passing or the crossbars are down, traffic controls in a construction zone, or at the direction of a law enforcement official.

3. Any property owner violating Paragraph 1. shall be subject to a forfeiture of not less than twenty dollars (\$20) nor more than three hundred fifty dollars (350) for the first offense, a forfeiture of not less than three hundred fifty dollars (\$350) nor more than five hundred dollars (500) for the second or subsequent conviction within seven (7) years, and a forfeiture of not less than five hundred dollars (\$500) nor more than seven hundred dollars (\$700) for the third or subsequent conviction within seven (7) years."

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

<u>"Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
<u>No motor bus idling in residential districts.</u>	<u>12.129(2)</u>	<u>\$45</u>
<u>Motor vehicle idling on highway.</u>	<u>12.1291(1)</u>	<u>\$100, 1st in 7 yrs</u> <u>\$400, 2nd in 7 yrs</u> <u>\$600, 3rd & sub. in 7 yrs</u>
<u>State St. "Large Motor Truck" idling.</u>	<u>12.915(7)(f)</u>	<u>\$45</u>
<u>Motor vehicle idling off-street.</u>	<u>28.141(13)(g)</u>	<u>\$100, 1st in 7 yrs</u> <u>\$400, 2nd in 7 yrs</u> <u>\$600, 3rd & sub. in 7 yrs"</u>

7. The City Attorney is directed to make corresponding changes to other City ordinances to reflect these changes to the idling ordinances.

8. Resolution RES-07-00576 (Legistar # 05017), the City of Madison Vehicle Idling Management Policy, is hereby repealed.

EDITOR'S NOTES:

1. New or revised bail deposits must be approved by the Municipal Judge prior to adoption. The above-referenced deposits have been so approved.
2. Subdivision (f) of Subsection (7) of Section 12.915 of the Madison General Ordinances reads as follows:
 "(f) No operator of any large motor truck shall permit such vehicle to remain stationary with the main power train motor running for more than fifteen (15) minutes when the outside air temperature is between 40°F and 80°F. This subsection shall not apply to maintenance, construction or public utility vehicles."
3. Legal Reference: Wisconsin Statute § 340.01 provides the following definitions:

340.01(22) "Highway" means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or

driveways upon the grounds of public schools, as defined in s. 115.01 (1), and institutions under the jurisdiction of the county board of supervisors, but does not include private roads or driveways as defined in sub. (46).

340.01(35) "Motor vehicle" means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "motor vehicle" includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. A snowmobile, an all-terrain vehicle, a utility terrain vehicle, and an electric personal assistive mobility device shall be considered motor vehicles only for purposes made specifically applicable by statute.

340.01(42) "Owner" means a person who holds the legal title of a vehicle, except that if legal title is held by a secured party with the immediate right of possession of the vehicle vested in the debtor, the debtor is the owner for the purposes of chs. 340 to 349.

340.01(42m) "Park or parking" means the halting of a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

340.01(59m) "Stand or standing" means the temporary halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.

340.01(62) "Stop" when required means complete cessation from movement.