

LEGISTAR #44204 – 4TH Substitute Body

DRAFTER'S ANALYSIS: This is a public safety measure that limits persons from entering a highway and approaching a vehicle that is in operation. It also limits a person from staying upon the median of the highway longer than it takes to cross the highway. This ordinance also applies to vehicle operators who stop for a person violating these two prohibitions. The ordinance provides exceptions for crossing at crosswalks, getting into or out of a vehicle, highway maintenance, approaching a vehicle legally parked at the side of the street and others.

The ordinance will apply only to such activities taking place on what are defined as "covered highways." These are "arterial" streets, which is a classification based on heavier traffic levels, and on certain portions of some streets intersecting with arterial streets. A list of each street considered "arterial" is provided in the text of the ordinance. These are the streets with the greatest danger of injury to pedestrians, as has occurred in other cities. Because of their high traffic, these streets also present the greatest danger of distractions to drivers by persons in the median or the highway, resulting in higher risk of car crashes and potential injuries. The ordinance is narrowly tailored to cover those parts of the city with the greatest safety risks. It does not, for example, cover sidewalks, where both pedestrians and drivers are accustomed to seeing persons.

As a safety ordinance, it applies to all persons who violate it, regardless of what they are doing. Thus, it applies to persons in the median or highway advertising a business, seeking contributions, urging persons to vote for a candidate or cause, or asking drivers to "Fill The Boot." The ordinance provides for a delayed effective date, citizen education before enforcement and a report to the Council.

Chapter 12, MGO, adopts the definitions in the State traffic laws. In those laws, "Highway" is defined as "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)." Wis. Stats. § 340.01(22). This ordinance also defines medians and arterials.

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

1. Section 12.325 entitled "Solicitation on Highway Prohibited" of the Madison General Ordinances is repealed and recreated to read as follows:

"12.325 ENTERING OR STAYING UPON HIGHWAYS RESTRICTED.

- (1) Purpose. Pedestrians are increasingly using highways in ways for which the roads were not designed. These uses include approaching vehicles when in use or staying upon medians for purposes other than crossing the highway. These activities create safety hazards for pedestrians and distract drivers, making automobile crashes more likely. This ordinance is designed to decrease the safety hazards by restricting such activity. These safety concerns are most acute on the busiest streets within the City of Madison, identified as arterial streets or highways, and some streets intersecting with those arterial streets. This ordinance applies to those "covered highways" identified in sub. (7) herein.
- (2) Definitions. As used in this ordinance,
 - "Covered Highway" is defined in sub. (7) herein.
 - A vehicle is "in operation" when it has an operator, as defined in Wis. Stat. § 340.01(41).
 - A "median" is a paved or unpaved area dividing a street or highway that separates lanes of traffic traveling in opposite directions, or in the case of left or right hand turn lanes, vehicles traveling in the same direction.
- (3) No person, other than a person in or on a vehicle, shall be on a covered highway listed in sub. (7) and approach any vehicle in operation, except a vehicle that is legally parked at the curb or the shoulder.
- (4) No person shall be upon a median of a covered highway listed in sub. (7) unless that person is in the process of crossing the highway in a safety zone or crosswalk. It is prima facie evidence of a violation of this section if a person stays on the median through two consecutive opportunities to cross the highway in a legal manner under this Chapter and the state traffic laws adopted herein. This may include a change in the traffic control signal or lack of traffic, as applicable. After such two consecutive opportunities, such person shall not

be considered to be “using the safety zone or crosswalk to cross the highway” for purposes of the exception in sub. (6)(b).

- (5) No operator of a vehicle shall park, stop or leave standing a vehicle on a covered highway listed in sub. (7) where prohibited or suddenly decrease the speed of said vehicle or deviate from a traffic lane for the purpose of responding to persons violating subs. (3) or (4).
- (6) Exceptions. This ordinance does not apply to (a) persons on the sidewalk, (b) persons using the safety zone or crosswalk to cross the highway, (c) persons engaged in law enforcement or rescue activities, including providing assistance to an injured or disabled vehicle or person, (d) persons entering a vehicle as an invited passenger where it is lawful to do so, including activity permitted under Wis. Stat. § 346.29(1) (taxi), (e) persons engaged in repair or maintenance activities on the highway under the direction or authority of the City of Madison or the State of Wisconsin; or (f) streets or portions thereof that have been closed pursuant to a street use permit or other express authorization from the City.
- (7) Covered Highways. This ordinance applies only to covered highways, which are those highways or portions of highways listed in subs. (a) and (b) below:
 - (a) The following highways are designated as arterial streets, the streets and highways within the City of Madison that have the most traffic, and are covered highways under this ordinance:

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| Aberg Ave | Fish Hatchery Rd | Nakoma Rd |
| Allen Blvd | Fordem Ave | Nelson Rd |
| Agriculture Dr | N & S Gammon Rd | North Shore Dr |
| American Pkwy | Gorham St | Northport Dr |
| Anderson St | Hamilton St (Between Wilson St & Doty St) | Odana Rd |
| Atwood Ave | Highland Ave | Old Middleton Rd |
| Bassett St | High Crossing Blvd | Old Sauk Rd |
| Beltline Hwy | Hoepker Rd | Olin Ave |
| Blair St | I 39-90-94 | Packers Ave |
| Brandt Rd-CTH AB | International Ln | Park St |
| Broom St (Between John Nolen Dr & Gorham St) | John Nolen Dr | Pennsylvania Ave |
| W Broadway | Junction Rd | Pflaum Rd (Between Monona Dr & Agriculture Dr) |
| Buckeye Rd | Lien Rd (Between Theier Rd & Thompson Dr) | Pleasant View Rd |
| Campus Dr | Little St | Proudfit St |
| Commercial Ave | Maple Grove Dr | Putnam (Between McKenna Blvd & Maple Grove Dr) |
| Cottage Grove Rd | Marsh Rd | Randall (Between Monroe & University) |
| Dayton St (Between N Hamilton & State St) | McKee Rd | Raymond Rd |
| Doty St | McKenna Blvd (Between Gammon Rd & Putnam) | Regent St |
| Dutch Mill Rd | Midtown Rd (Between S Gammon Rd & Woods Rd) | Reiner Rd |
| E & W Johnson St | Midvale Blvd | Rimrock Rd |
| E Springs Dr (Between E Washington & High Crossing Blvd) | Milwaukee St (Between E Washington & Swanton Rd) | Schroeder Rd |
| E Washington Ave | Mineral Point Rd | Seminole Hwy |
| Eastwood Dr | Monona Dr | N Sherman Ave (Between Fordem & Northport Dr) |
| Fair Oaks Ave | Monroe St | Siggelkow Rd (Between Stoughton Rd & Holscher Rd) |
| Fairchild St | Moorland Rd | |
| Femrite Dr | | |
| First St | | |

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| South Towne Dr | Verona Rd | Williamson St |
| Speedway Rd | Vondron Rd (Between Agriculture Dr & Buckeye Rd) | Winnebago St |
| Sprecher Rd | | Wisconsin Ave (Between Gorham & Dayton) |
| STH 30 | W Washington Ave | Wright St (Between E Washington & Anderson St) |
| Stoughton Rd | Watts Rd (Between Gammon & Junction) | Zeier Rd |
| Theier Rd (Between E Washington & Lien Rd) | W Wilson St (Between Bassett & Hamilton) | |
| N Thompson Dr (Between Swanton and East Washington) | Webster St | |
| University Ave | Whitney Way | |

- (b) In addition to the arterial highways designated above, this ordinance applies to any highway containing a median that intersects with any of the arterial highways, but only for the first two hundred (200) feet of the intersecting highway from the arterial highway, as measured along the center line of the intersecting highway from the point the intersecting highway touches the right of way of the arterial highway.
- (8) This ordinance shall be effective April 10, 2017, (sixty (60) days after passage). Within three (3) weeks of passage, the Chief of Police, Traffic Engineer and City Attorney will file with the Clerk and Common Council office a plan for educating persons on the new ordinance, including brochures showing places the ordinance is applicable.
- (9) The Chief of Police will file a report with the Common Council providing data on the first six (6) months of operation of the ordinance, to include the numbers of those cited, the persons with no permanent address, and other relevant information. The report will be filed no later than eight (8) months after the effective date of the ordinance.
- (10) Any person violating this ordinance may be required to forfeit not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300). Officers are encouraged to provide a warning for a first offense."

2. 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 amending therein the following:

| <u>"Offense</u> | <u>Ord. No./Adopted Statute No.</u> | <u>Deposit</u> |
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| Solicitation <u>Entering or staying upon highway prohibited.</u> | 12.325 | <u>\$25, 1st</u> <u>\$100, 2nd w/in 1 yr</u> <u>\$200, 3rd/more w/in 1 yr</u> <u>\$300, 4th/more w/in 1 yr"</u> |

EDITOR'S NOTE:
Section 12.325 currently reads as follows:

"12.325 SOLICITATION ON HIGHWAY PROHIBITED.

- (1) No person shall be upon or go upon a highway for the purpose of soliciting employment, business or charitable or other contributions of any kind from the occupant of any vehicle, unless such person shall have obtained a Street Use Permit pursuant to Sec. 10.056, MGO, or other authorization under these ordinances.
- (2) No operator of a vehicle shall park, stop or leave standing a vehicle on a highway where prohibited or suddenly decrease the speed of said vehicle or deviate from a traffic lane for the purpose of responding to an individual engaging in activities prohibited in subsection (1).
- (3) This section is not intended to prohibit conduct permitted under Sec. 346.29(1), Wis. Stats.
- (4) Any person violating subsections (1) or (2) may be required to forfeit not less than thirty dollars (\$30) nor more than three hundred dollars (\$300)."