

**LEGISTAR 46817 – Substitute**

DRAFTER'S ANALYSIS: Wis. Stat. § 349.13(6) gives municipalities explicit authority to (1) consider mopeds as Type 1 motorcycles rather than bicycles for the purposes of parking, (2) establish parking areas for mopeds marked by signs, and (3) regulate the parking of mopeds. By adopting a moped parking ordinance under the authority of Wis. Stat. § 349.13(6), a municipality can enact an exception to Wis. Stat. § 346.54(1)(e) which, for the purposes of parking, considers mopeds as bicycles. Furthermore, Wis. Stat. § 346.52(1)(d) prohibits people from stopping or standing vehicles on a sidewalk or sidewalk area except when parking on the sidewalk or sidewalk area is clearly indicated by official traffic signs, pavement markings, or parking meters. By considering mopeds as Type 1 motorcycles, this ordinance will prohibit moped parking on the public sidewalk and terrace area except in approved Moped Parking Areas marked by official signs. Moped Parking Areas will be established under the privilege in street process under Sec. 10.31 and following criteria outlined in this ordinance. This ordinance shall be effective January 1, 2018.

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

1. Subdivision (f) of Subsection (4) entitled "Parking" of Section 12.76 entitled "Special Rules Applicable to Bicycles" of the Madison General Ordinances is hereby repealed.
2. Subdivision (g) of Subsection (4) entitled "Parking" of Section 12.76 entitled "Special Rules Applicable to Bicycles" of the Madison General Ordinances is hereby renumbered to Subdivision (f).
3. Section 12.793 entitled "Moped Parking" of the Madison General Ordinances is created to read as follows:

**"12.793 MOPED PARKING.**

- (1) Definition. For the purposes of this section:
  - "Moped Parking Area" means an area within the sidewalk and terrace area approved for moped parking under this ordinance.
  - "Sidewalk and terrace area" means the entire area of the highway from the curb line of the roadway to the adjacent property line. This area often includes, but is not limited to, both a paved sidewalk and a grassy or paved area commonly referred to as the terrace.
- (2) Mopeds shall be considered Type 1 motorcycles for parking purposes. No person shall park a moped on the sidewalk and terrace area except in an approved Moped Parking Area. A list of Moped Parking Areas shall be on file with the City of Madison Traffic Engineering Division and the Parking Utility and listed on the City of Madison website. Mopeds parked in Moped Parking Areas must comply with applicable Madison General Ordinances and Wisconsin State Statutes in addition to the following requirements:
  - (a) Mopeds must not be locked to or leaned against any object.
  - (b) Mopeds must be parked in a marked stall.
  - (c) Mopeds must be registered to the current owner and display a valid moped license plate. Mopeds not displaying a current and valid moped license plate may be cited and towed.
  - (d) Mopeds may not be driven upon any sidewalk and terrace area, pedestrian walkway, pedestrian mall, or wheelchair ramp except at a permanent or temporarily established driveway or unless permitted to do so by signs or pavement markings.
- (3) Moped Parking Area Requirements. A Moped Parking Area may be established and maintained as follows:
  - (a) Unless established directly by the City, the area, and all encroachments contained therein, shall lie within a valid privilege in street granted under Sec. 10.31, MGO.

- (b) A Moped Parking Area may only be approved on a paved sidewalk and terrace area located in the following zoning districts: UMX, DC, TSS, NMX, and TE.
  - (c) No Moped Parking Area will be approved if it abuts a local, state, or national historic building, place, or landmark or if it is located in a local, state, or national historic district.
  - (d) No Moped Parking Area will be approved on State Street or any area designated as part of the State Street pedestrian mall established by Sec. 12.167, MGO.
  - (e) No Moped Parking Area will be approved if the sidewalk and terrace area was paved after the effective date of this ordinance. Removing grass or other landscaping in the sidewalk and terrace area for the purpose of creating a Moped Parking Area will not be permitted.
  - (f) Moped stall design shall be in accordance with Sec. 28.141(12), MGO titled Moped Parking Design.
  - (g) In areas with on-street parking, Moped Parking Areas shall not obstruct space for parking meter access or the opening of vehicle doors.
  - (h) The area shall be marked by official City of Madison traffic signs designating the area as a Moped Parking Area.
  - (i) The holder of the privilege in street containing the Moped Parking Area shall be responsible for funding and maintaining the area, including any official signs, pavement markings required to define the boundaries of the Moped Parking Area, and signs or markings to identify where mopeds may park.
  - (j) The holder of the privilege in street containing the Moped Parking Area shall be responsible for the routine maintenance, including, but not limited to, snow and ice removal.
  - (k) Moped Parking Areas shall not be reserved for private use and no person shall be charged a fee or be otherwise restricted from using the Moped Parking Area.
  - (l) No Moped Parking Area will be approved when, in the opinion of the City Traffic Engineer, the location will create a vision obstruction to on-street traffic, interfere with access to vehicles parking on the street, interfere with bus stops or loading zones, interfere with pedestrian travel, or reduce the effective width of the pedestrian circulation area of the sidewalk.
- (4) The failure to comply with the terms of the privilege in street or of this ordinance shall result in the termination of the Moped Parking Area.
- (5) Any person violating sub. (2) shall be subject to a forfeiture of not less than five dollars (\$5) nor more than one hundred dollars (\$100). The registered owner of the vehicle shall be liable for violations of this section.”

4. Subsection (14) entitled “Parking on Terrace Prohibited” of Section 12.128 entitled “Miscellaneous Restrictions on Parking” of the Madison General Ordinances is amended to read as follows:

“(14) Parking on Terrace Prohibited. No person shall stop or leave standing any vehicle, upon any portion of a street between the curb line thereof and the ~~element~~paved or traveled portion of the sidewalk, said space being commonly known as the terrace, except temporarily and for the purpose of and while actually engaged in loading or unloading or in receiving or discharging passengers and while the vehicle is attended by a licensed operator so that it may be promptly moved in case of an emergency; or unless specifically allowed for bicycle parking under Section 12.76(4) or moped parking under Section 12.793 of these ordinances. Any person violating this subsection shall be subject to a forfeiture of not less than five dollars (\$5) nor more than one hundred dollars (\$100).”

5. Subsection (1) 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:

“(1) Any person violating any provision of Sections 12.128 (1), (3), ~~(14)~~, and (16), 12.130, 12.1334 except 12.1334(99), 12.134 to 12.136 inclusive, 12.138(9), or 12.140, shall be subject to a

forfeiture of not less than ten dollars (\$10) nor more than fifty dollars (\$50) for the first offense and not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for the second or subsequent conviction within a year.”

6. Subdivision (c) of Subsection (3) entitled “Rates” of Section 12.145 entitled “Parking at Parking Meters and Multi-Space Meters; Meter Rates” of the Madison General Ordinances is amended to read as follows:

“(c) The hourly rate for all on-street metered parking designated for motorcycles and mopeds shall be one dollar (\$1).”

7. 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>
<del>Illegal moped/bicycle parking (w/in 15' of crosswalk/secured to tree, etc.)</del>	<del>12.76(4)</del>	<del>\$20</del>
<u>Moped parking on Sidewalk and Terrace area.</u>	<u>12.793(2)</u>	<u>\$60</u>
No parking on terrace.	12.128(14)	<del>\$45</del> 60”

8. This ordinance shall be effective January 1, 2018.

EDITOR'S NOTES:

1. New bail deposits must be approved by the Municipal Judge prior to adoption. These deposits have been so approved.
2. Section 12.76(4)(f) currently reads as follows:  
“(f) Mopeds shall comply with this subsection, pursuant to Wis. Stat. § 346.54(1)(e).”
3. Wisconsin Statutes Legal References for Convenience. Wis. Stats. § 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 (29m) (am) "Moped" means any of the following motor vehicles capable of speeds of not more than 30 miles per hour with a 150-pound rider on a dry, level, hard surface with no wind, excluding a tractor, a power source as an integral part of the vehicle and a seat for the operator:

1. A bicycle-type vehicle with fully operative pedals for propulsion by human power and an engine certified by the manufacturer at not more than 130 cubic centimeters or an equivalent power unit.
2. A Type 1 motorcycle with an automatic transmission and an engine certified by the manufacturer at not more than 50 cubic centimeters or an equivalent power unit.

(bm) "Moped" does not include a motor bicycle.

340.01(54) "Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively.

340.01(58) "Sidewalk" means that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, constructed for use of pedestrians.