

LEGISTAR # 38645 – Amended Substitute Body

DRAFTER'S ANALYSIS: This ordinance establishes a “cap and replace” program to allow removal of an existing billboard (“Advertising Sign”) from a property to be redeveloped and construction of a replacement sign on another site. An Advertising Sign is a sign that advertises something unrelated to the premises upon which the sign is located. Advertising signs are typically owned by outdoor advertising companies. New advertising signs are prohibited by ordinance. This ordinance would allow construction of a replacement advertising sign under some circumstances.

A similar ordinance, ID # 35036, was defeated on January 20, 2015 after a Mayoral Veto. A challenge to the veto did not pass. The differences between the vetoed ordinance and this ordinance are:

- (1) The property where the existing sign is located must be scheduled for redevelopment.
- (2) The procedure is only available to signs in existence within the city as of February 2, 2015. (Future billboards that come into the city through annexation will not be eligible.)
- (3) The replacement advertising sign permit will have a maximum lifespan of 50 years.
- (4) The ordinance will sunset in eight years.

Under this ordinance, the owner of an advertising sign in existence within the City limits as of February 2, 2015, may remove the sign and bank the square footage, if the property is to be redeveloped and the sign must be removed to accommodate the redevelopment. (This option would not be available to remove an existing billboard and replace it on the same lot.) Eligible sign owners will receive credit for the square footage removed, to be applied toward a permit for a replacement sign with a maximum lifespan of fifty years. The square footage of the removed sign would be “banked” at a ratio of 1 square foot to 1. A permit for a Replacement Advertising Sign (“RAS”) would be issued for a maximum of 50 years. At the conclusion of 50 years the permit holder or the landowner must remove the sign. Replacement signs would be allowed only in the CC-T, CC, TE, SE, IL, and IG zoning districts, but not in an Urban Design District, an Historic District, Landmark building or Landmark site, the area described in Sec. 31.05(2)(a), nor in the area known as the No Advertising District.

The Zoning Administrator will administer the sign bank. Once placed in the bank, the square footage is not transferrable to anyone else. Failure to complete the installation of a Replacement Advertising Sign within 6 months of permit issuance will result in the permit becoming void and the banked square footage lost. Replacement Advertising Signs will be subject to most of the rules applicable to existing Advertising Signs, except an RAS will be allowed in annexed lands (pre-February 2, 2015), will have different setback rules (minimum of 3 feet and maximum of 100 feet), different rules for height measurement, and the RAS may be displayed for no more than 50 years. The sign cannot be located within 100 feet of a residential property line. An RAS will have a maximum height of 30 feet but if the base of the sign sits at a grade below the adjacent roadway, the 30 feet can be measured from the top of the sign to the road surface where it is intended to be viewed, rather than from the top of the sign to the ground. The issuance of a replacement advertising sign permit may be reviewed by the Common Council upon request of the Alder of the district where the sign is proposed to be placed. A two-thirds vote of the Council could override the issuance of the permit upon a finding that the proposed sign will substantially impair or diminish the established uses, values or enjoyment of the property in question or any immediately adjacent property.

This amendment also adds necessary references to Replacement Advertising Signs in Sec. 31.11, and deletes the option of measuring illumination by watts for signs up to 300 square feet. Sec. 31.05(2)(b) is amended to make it clear that Replacement Advertising Signs will not be treated as nonconforming under that section because they are a new type of permitted sign. Finally, the RAS ordinance and related cross references will sunset in eight (8) years from the effective date.

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

1. Section 31.112 entitled "Advertising Sign Bank and Replacement Advertising Signs" of the Madison General Ordinances is created to read as follows:

"31.112 ADVERTISING SIGN BANK AND REPLACEMENT ADVERTISING SIGNS.

- (1) If the owner of an existing advertising sign permanently removes a lawfully existing advertising sign eligible for replacement under sub. (2) below, the net area of each sign face removed may, at the owner's request, be added to an "Advertising Sign Bank" for that owner. The net area banked by the owner will be available to construct a Replacement Advertising Sign ("RAS") that may be displayed for up to fifty (50) years, as set forth in this section.
- (2) Eligibility. The following criteria must be met for an existing advertising sign to be eligible for banking under this section:
 - (a) The advertising sign must have been in existence within the boundaries of the City of Madison on February 2, 2015 or earlier. Signs that come into the City by annexation or attachment after February 2, 2015 are not eligible to be banked.
 - (b) Redevelopment. The process established in this ordinance is only available for an advertising sign to be removed from a property that is scheduled for redevelopment, if the redevelopment includes all of the following:
 1. Removal of improvement(s) other than the existing advertising sign;
 2. Construction of new improvement(s) other than an advertising sign, as evidenced by the issuance of a building permit or zoning certificate for the new improvement(s); and
 3. The advertising sign must be removed because the sign is located in the same physical space where a new improvement (other than another advertising sign) will be constructed, or adjacent to a new improvement such that proximity of the existing sign would result in a building code violation.
 - (c) Advertising Sign Replacement not Considered Redevelopment. Removal of an existing advertising sign and construction of a replacement advertising sign on the same site shall not be considered "redevelopment" under this subsection and is prohibited.
 - (d) Redevelopment projects that have been approved for a demolition permit by the Plan Commission prior to the effective date of this Sec. 31.112 are not eligible to have existing advertising signs banked.**
- (3) Definitions. For purposes of this section:

"Owner" means the lawful owner of the existing advertising sign to be removed as of the date of actual removal of the existing advertising sign.

"Remove" means the complete removal of the entire "sign" as defined in Sec. 31.03(2).

"Replacement Advertising Sign" or "RAS" means a new, lawfully-permitted temporary sign meeting the definition of "Advertising Sign" in Sec. 31.03(2), but modified by and authorized under the requirements of this section. Replacement Advertising Signs are permitted for a maximum of fifty (50) years. This section shall in no way modify the requirements for an Advertising Sign under Sec. 31.11.
- (4) Advertising Sign Bank.
 - (a) One-hundred percent (100%) of the net area of each sign face removed from a lawfully pre-existing advertising sign may be banked.

- (b) Procedure. An owner wishing to bank square footage under this ordinance shall file written notification of intent to remove an existing advertising sign with the Zoning Administrator not less than ten (10) business days prior to the intended date of removal. The written notification shall include the address of the zoning lot where the existing sign is located, information regarding the intended redevelopment and approximate date for commencement of construction, and description of the existing sign. The Zoning Administrator shall measure the net area of the existing sign prior to removal. The owner shall notify the Zoning Administrator when the existing sign has been removed so the Zoning Administrator can verify its removal and when a building permit has been applied for on the property in question. Square footage may not be banked until a building permit or zoning certificate for new improvement(s) on the property in question has been issued, the Zoning Administrator gives his or her written approval to bank the square footage.
 - (c) The Zoning Administrator shall maintain an Advertising Sign Bank for each owner so requesting and who meets the requirements herein. The Advertising Sign Bank will include information about the removed sign including the zoning district, whether the sign was in an Urban Design District and any other information the city deems pertinent. The Zoning Administrator shall draw down an Owner's Advertising Sign Bank when a Replacement Advertising Sign permit is issued.
 - (d) Failure to complete the installation of a Replacement Advertising Sign within six (6) months of issuance of the sign permit shall cause the permit to expire, per Sec. 31.041(4), and the owner will lose the banked square footage associated with that permit.
 - (e) Banked square footage expires on the sunset date in sub. (7) herein.
 - (f) Banked square footage may be banked only by the owner of the lawfully-existing removed sign and is not transferrable under any circumstances including but not limited to a transfer by assignment, merger, acquisition, etc.
 - (g) If a Replacement Advertising Sign is installed in violation of any requirement of the permit for such sign, said permit shall become null and void, the sign shall be immediately and permanently removed, and the banked square footage for that sign permanently forfeited.
- (5) Procedure to Install a Replacement Advertising Sign.
- (a) The owner must have accumulated the corresponding amount of unexpired banked square footage in the Owner's Advertising Sign Bank to construct the RAS in question, before applying for an RAS permit.
 - (b) A complete application and permit fee meeting all the requirements for an advertising sign permit under this chapter shall be filed by the owner and reviewed for compliance with this ordinance and according to applicable procedures for the issuance of sign permits established in this chapter. The application shall also include a written agreement to remove the RAS within fifty (50) years of its installation date as required by sec. (6)(f) herein.
 - (c) Common Council Review. Prior to approving and issuing a permit for an RAS, the Zoning Administrator or designee shall provide written notice to the alderperson of the district where the RAS is proposed to be placed. That alderperson may request a review by the Common Council within fourteen (14) calendar days of the date of the written notice by notifying the City Clerk in writing of the request for review. The Clerk shall place the matter on the next available Council agenda for review, wherein the Council shall consider whether the proposed RAS will substantially impair or diminish the established uses, values or enjoyment of the

property in question or any immediately adjacent property. A two-thirds (2/3) vote of the Common Council shall be required to prevent the issuance of an RAS permit, based upon a finding of the foregoing criteria. Any person aggrieved by the decision of the Common Council may, within thirty (30) days after the decision is published in the proceedings of the Common Council, commence an action seeking the remedy available by certiorari. This Sec. 31.112(5)(c), "Common Council Review," shall be ineffective as of a date two (2) years from the effective date of this ordinance.

- (6) Replacement Advertising Sign Criteria. A Replacement Advertising Sign shall conform to the requirements for Advertising Signs in Sec. 31.11(2), "General Regulations for Advertising Signs" except:
- (a) Permitted Zoning Districts. Replacement Advertising Signs are permitted only in the CC-T, CC, TE, SE, IL, and IG zoning districts and only such districts or portions of such districts that are not located in a Prohibited Location listed in sub. (5)(b), below. A Replacement Advertising Sign may be located in "Annexed Lands" as described in Sec. 31.13(8), if the annexed land is in a zoning district listed in this paragraph and not a Prohibited Location under Sec. 31.112(5)(b) herein.
 - (b) Prohibited Locations. No RAS shall be constructed in an Historic District or on a Landmark building or Landmark site, as defined in Sec. 33.19, an Urban Design District listed in Sec. 33.24, in the geographic area described in Sec. 31.05(2)(a) or in the No Advertising Sign District described in Sec. 31.13(6).
 - (c) Height. The height of a Replacement Advertising Sign displayed on the ground shall not exceed thirty (30) feet, measured using one of the following two methods:
 - 1. From the top of the sign to the approved grade at the base of the supporting structure, or
 - 2. If the base of the sign's supporting structure sits below the elevation of the adjacent roadway, the height may be measured from the top of the sign to the highest elevation of any roadway surface within the highway right-of-way directly adjacent to the zoning lot where the RAS is to be located, except an on-ramp, off-ramp, overpass or pedestrian bridge is not eligible for this measurement. The point at which the elevation of the eligible roadway is measured shall be determined by drawing a line from the base of the sign to the roadway that bisects the roadway at a right angle.
 - (d) Setback, Residence Districts.
 - 1. Replacement Advertising Signs shall be set back not less than three (3) feet and not more than one hundred (100) feet from any property line.
 - 2. No RAS shall be erected within one hundred (100) feet of any property line of a residential zoning district or the lot line of any property containing a residential use.
 - (e) Net Area. For a Replacement Advertising Sign displayed as a ground sign, the maximum net area of the sign face shall be as set forth in Sec. 31.11(2)(e), with a maximum of two (2) sign faces per structure. If displayed as a wall sign, the maximum net area shall be as set forth in Sec. 31.11(2)(d).
 - (f) Fifty-year Permit. All RAS permits shall expire fifty (50) years from the date of issuance by the City. Any RAS installed under this section shall be removed within fifty (50) years of the date the permit is issued and the permit holder shall agree to do so, in writing, as a condition of the permit. This obligation to remove the sign shall continue with any change of

ownership of the sign or the property where the sign is located. No person shall allow a Replacement Advertising Sign to remain erected for more than fifty (50) years from its installation date.

- (7) Sunset Clause. Section 31.112(5)(c), “Common Council Review,” shall be ineffective as of a date two (2) years from the effective date of this ordinance. The remainder of this ordinance, Sec. 31.112, MGO, and all related cross references as determined by the City Attorney, shall be ineffective as of a date eight (8) years from its effective date and any unused, unexpired banked square footage in an Advertising Sign Bank shall expire as of the eight-year sunset date. Notwithstanding the foregoing, sub. (4)(g), all of sub. (6), “Replacement Advertising Sign Criteria,” and any other provision establishing criteria for a Replacement Advertising Sign shall survive the sunset of this ordinance for purposes of enforcement.”

2. Subsection (1) of Section 31.11 entitled “Advertising Signs” of the Madison General Ordinances is amended to read as follows:

- “(1) Existing advertising signs are nonconforming and permitted to remain only in CC-T, CC, TE, SE, IL, IG Districts as regulated in this section ~~and in Sec. 31.15(3)~~, subject to the nonconforming advertising signs provisions of Sec. 31.05(2). Notwithstanding any other provision of these ordinances, new, relocated and replacement advertising signs are prohibited, except advertising signs that are realigned pursuant to Sec. 31.05(2)(c) and Wis. Stat. § 84.30(5r) (as created by 2011 Wis. Act 32) and Replacement Advertising Signs under Sec. 31.112, MGO.”

3. Subdivision (o) entitled “Replacement Advertising Signs” of Subsection (2) entitled “General Regulations for Advertising Signs” of Section 31.11 entitled “Advertising Signs” of the Madison General Ordinances is created to read as follows:

- “(o) Replacement Advertising Signs. As defined in Sec. 31.112, a “Replacement Advertising Sign” is a temporary permitted sign distinct from an Advertising sign. Sec. 31.11 controls Advertising Signs and Sec. 31.112 controls Replacement Advertising Signs. The requirements of Sec. 31.11 shall apply to any Replacement Advertising Sign erected pursuant to Sec. 31.112, except where expressly stated otherwise in that section.”

4. Subparagraph a. of Paragraph 4. of Subdivision (k) entitled “Illumination of Signs” of Subsection (5) entitled “Construction Requirements” of Section 31.04 entitled “Administration, Enforcement, and Construction Requirements” of the Madison General Ordinances is amended to read as follows:

- “a. Signs with a gross area (for ground signs) or net area (all other signs) of less than three hundred (300) square feet shall have a maximum illumination level ~~equal to the greater of: 1) forty (40) foot-candles average across the sign surface, or 2) a total of 50 watts for all fixtures.~~”

5. Subdivision (b) of Subsection (2) entitled “Nonconforming Advertising Signs” of Section 31.05 entitled “Nonconforming Signs” of the Madison General Ordinances is amended to read as follows:

- “(b) Any other advertising sign existing as of November 1, 1983, including those excepted from or otherwise not included in the areas set forth in sub. (a) above, may be continued provided that it may not be relocated, replaced, expanded, enlarged, repositioned or raised in height, except under sub. (2)(c). Such existing advertising signs may not be restored or reconstructed for any reason, except if damaged or destroyed by fire or other casualty or act of God, and only if the total cost of restoration to the condition in which it was before the occurrence does not exceed fifty percent (50%) of its assessed value or

the cost to replace with a new structure of equal quality, whichever amount is lower. The determination of eligibility for restoration or reconstruction in the preceding sentence shall be made by the Urban Design Commission and any restoration or reconstruction (except realignment under (2)(c) below) without the approval of the Urban Design Commission is prohibited. Violation of this subdivision shall result in the said sign being subject to immediate removal by the owner thereof at no cost to the City. Ordinary repairs or normal maintenance shall be considered "required by law" hereunder.

Construction of a Replacement Advertising Sign with a permit under Sec. 31.112 does not violate the prohibitions in this subsection. A Replacement Advertising Sign under Sec. 31.112 is not an advertising sign as contemplated by this subsection, and therefore not subject to treatment as nonconforming hereunder."