

CITY OF MADISON, WISCONSIN

A 2nd SUBSTITUTE ORDINANCE _____

amending Section 10.056 of the Madison General Ordinances to clarify and revise procedure for applications, petitions, notifications, and permit fees; to update and create additional standards for issuance; to revise certain appeal timelines; and to make various organizational corrections to the Street Use Permit procedures.

EXHIBIT R

Drafted by: Lara M. Mainella
Assistant City Attorney

Date: February 1, 2005

Fiscal Note: The increased permit application fees are anticipated to generate additional General Fund revenues of \$500 to \$1000 annually.

SPONSORS: ~~Mayor Bauman~~
Ald. Verveer

PRESENTED March 18, 2003
REFERRED Street Use Staff Team
CCOC; Street Use Staff Team
REREFERRED CCOC, Street Use Staff
Team (5/6/03; 6/17/03; 8/5/03; 9/16/03;
11/4/03; 1/6/04;)
REPORTED BACK 5/6/03; 6/17/03; 8/5/03;
9/16/03; 11/4/03; 1/6/04
ADOPTED _____ POF _____
RULES SUSP. _____ TABLED _____
PUBLIC HEARING _____

* * * *

MAYOR SIGNED _____
PUBLISHED _____

* * * *

APPROVAL OF FISCAL NOTE IS NEEDED
BY THE COMPTROLLER'S OFFICE
Approved By

Comptroller's Office

* * * *

SUBST. ORD. NUMBER _____
ID NUMBER 33659A

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

Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is amended to read as follows:

"10.056 STREET USE PERMIT.

- (1) Purpose and Title. This section shall be known as the "Street Use Ordinance." The streets in possession of the City are primarily for the use of the public in the ordinary way. However, under proper and uniform circumstances ~~the Common Council may allow~~ special street use may be permitted, subject to reasonable municipal regulation and control. Therefore, this ordinance is enacted to regulate and control the use of streets for purposes other than ordinary uses, pursuant to a Street Use Permit, to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.
- (2) Definitions.
 - (a) "City" means the City of Madison.

Approved as to form:

- (b) “Person” means any person, firm, partnership, association, corporation, company or organization of any kind.
 - (c) “Street” means any public way, street, highway, sidewalk, terrace, alley, or public square. For purposes of this ordinance, a bicycle path or bicycle way shall also be considered a street.
 - (d) “State Street Mall -Capitol Concourse” or “Mall-Concourse” for purposes of this ordinance, means those streets or portions of streets located within area described in Sec. 9.13(6)(a) of these Ordinances.
 - (e) “Non-Mall-Concourse” means those streets or portions of streets located in any part of the city other than the State Street Mall - Capitol Concourse defined herein.
- (3) Street Use ~~Events~~ Staff Team.
- (a) The Street Use ~~Events~~ Staff Team shall consist of representatives of the City Clerk, Department of Public Works and Transportation, Police, Fire, Risk Management and Metro; the Divisions of Parks and Streets; the State Capitol Police and additional city staff as necessary. Team coordination shall be provided by the Parks Division.
 - (b) The Street Use ~~Events~~ Staff Team may require the applicant or other authorized individual person or representative of the group making application for a Street Use Permit to attend one or more meetings of the Street Use Staff Team be present when the Street Use Events Staff Team meets regarding the application for the Permit, and to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit shall be granted.
- (4) Application.
- (a) A written application for a Street Use Permit ~~by persons or groups desiring the same~~ shall be made on a form provided by the City Clerk or Parks Division, and shall be filed with the City Clerk. The application shall set forth the following information: ~~regarding the proposed street use:~~
 - 1. The name, address and telephone number of the applicant or applicants. The applicant shall be the event sponsor. If the application is being filed by someone else on behalf of the event sponsor, that person shall also provide their name, title, address, and phone number.
 - 2. In addition to the information required in subparagraph 1. above, if the applicant is not an individual, the full name and business or headquarters address of the organizational entity shall be provided. If the applicant is a corporation, limited liability company, or limited partnership, the name and address of the registered agent shall also be provided. If the entity is a general partnership, the name, and address of at least one (1) general partner shall be provided. ~~proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.~~
 - 3. The name, address and telephone number of the person or persons who will be responsible for conducting and/or managing the proposed use of the street; if different from the individual(s) named in subparagraph 1. or 2. above. This person shall also provide a mobile phone, pager number, or other means for immediate contact during the event.
 - 4. The exact date or dates, and beginning and ending times ~~duration of time~~ for which the requested use of the street is proposed to occur; including any set-up and tear down times. If an event sponsor requests identical street closures for the same location for more than one occasion or event within a twelve (12) month period, each event may be included on a single application.
 - 5. An accurate description of that portion of the street proposed to be used.
 - 6. The estimated number of persons for whom use of the proposed street area is requested.

7. The proposed use of the street, described in detail, including a description of all activities planned during the street use such as vending, music, selling of food or alcohol beverages, location and use of tents, stages, or other equipment, and a detailed plan for clean-up after the event. for which the Street Use Permit is requested.
8. A description of any recording or sound amplification equipment to be used in connection with the street use.
9. A designation of any public facilities or equipment to be utilized.
10. Any additional information that the Street Use ~~Events~~ Staff Team finds reasonably necessary to a fair determination as to whether a permit should be issued. ~~including but not limited to a crowd control plan.~~
11. Addendum and Attachments. Applicants requesting identical street closures for more than one occasion, or large events expecting over 10,000 attendees, shall include an "Addendum to Street Use Permit" with the application. The Addendum shall include written details regarding transportation management, parking, crowd control, resident access.
Additionally, if there will be any extraordinary security measures including searches of persons or vehicles, the applicant shall submit that plan as a separate Attachment to the application. If the crowd control or security plan calls for the hiring of private security services, the applicant shall provide the name of the security firm .

(b) Deadline for Applications.

1. An application to close three (3) or more blocks or to close a street or streets which will require any bus route detours of bus routes or substantial other rerouting of vehicular traffic must shall be submitted not less than thirty (30) days prior to the beginning date of the proposed event.
2. An application to close less than three (3) blocks which ~~does will~~ not require the any rerouting bus route detour of bus routes or substantial rerouting of vehicular traffic shall be submitted not less than fourteen (14) days prior to the beginning date of the proposed event.
3. The deadline for filing may be waived if, based upon the proposed after due consideration of the date, time, place, size, duration, nature of public assembly, anticipated number of participants, and City services required, the Chief of Police or designee determines there will be sufficient time for the Staff Team to objectively review the application and make a determination under the standards of issuance herein. provide for a safe and successful event, and ensure the comfort, convenience, and safety of the general populace.

(c) Petition Required for Certain Events on Local, Residential Streets, Intent.

~~Subject to the regulations of this ordinance, the Common Council finds that It is in the public interest to dedicate and use Non-Mall/Concourse local, residential streets for neighborhood-centered activities. If the application is for the use of not more than two (2) blocks of a primarily residential-Non-Mall/Concourse local street (defined as a street with a speed limit of twenty-five (25) miles per hour or less) the application shall be accompanied by a petition designating the proposed area of the street to be used, the date and times of the proposed use, and the petition shall be signed by not less than seventy-five percent (75%) of the residents over eighteen (18) years of age residing along that portion of the street designated for the proposed use. The petition form shall be included with the permit application available from the City Clerk and completed petitions shall be verified. the event sponsor shall provide at least 48-hour written notice of the event to all residents and commercial tenants, owners and lessees.~~

- (5) Application Process and Permit Requirements.
- (a) Upon receipt of a completed Street Use Permit Application, Street Use Permit application, the \$50 non-refundable application fee under sub. (7)(a), a petition, if required, and any accompanying additional materials, the City Clerk shall immediately forward the application and materials copies of the application to the Community Events Coordinator of the Parks Division, or other designee of the Parks Division currently providing team coordination for the Street Use Events Staff Team. Only complete applications containing all of the information required under sub. (4)(a) shall be considered. The Street Use Staff Team shall review all such applications within the time limits in sub. (5)(f), if the application was filed within the deadlines in sub. (4)(b).
- (b) Permit Review Procedure.
Except for exclusive use, regulated under Sec. 9.13(6)(k) of the Madison General Ordinances,
1. The Staff Team shall evaluate the application and materials using the standards found elsewhere in this ordinance. and the Events Criteria and Street Use Policy adopted by the Common Council. The Team shall recommend either approve the issuance of a Street Use Permit with conditions, as appropriate to ensure the safety of the public and provide for an orderly event, or deny of the permit. The reasons for denial shall be set forth in writing and provided to the applicant immediately, unless the applicant is present at the meeting at which the permit is denied. application.
 2. Conditions of the permit shall include those required by this ordinance and those determined by the Staff Team to be appropriate to ensure the safety of the public and provide for an orderly event. The information supplied under sub. (4)(a), if approved by the Staff Team, shall also become conditions of the permit.
 3. When approved, the City Clerk shall issue the permit. The permit shall include all information required on the application and any conditions added to the application by the Staff Team. any special provisions or conditions.
 4. Duration of Permit. Each permit shall be valid for the dates and times stated therein. A separate permit shall be required for each separate event or street closure requested, except that a single permit for identical street closures for more than one occasion over the course of twelve (12) months or less may be considered and approved as a single permit, if the appropriate fee is paid under sec. 10.056(7)(a) herein. Any deviation from the approved conditions on a permit for more than one occasion shall be approved by the Street Use Staff Team by submitting an amended application following all the application procedures and deadlines herein.
- (c) Street Vending. Exclusive Vending Rights. While the applicant shall be required to describe proposed vending activities on the application for a Street Use Permit, all street vending issues shall be controlled by sec. 9.13 of these ordinances; including necessity of vending permits, selection of vendors, requests for "exclusive vending use" and the suspension of certain vending ordinances or regulations during the event. If the applicant requests exclusive vending rights and/or the suspension of certain or all vending licenses, the applicant shall follow the procedure set forth in this ordinance and the procedure set forth in Sec. 9.13(6)(k) of the Madison General Ordinances.
- (d) Alcohol Beverage Permit. If the applicant requests permission to sell beer or wine on a public street, the applicant shall follow the procedure for a Class B Picnic License under set forth in Sec. 38.05(9)(e) of the Madison General Ordinances.
- (e) Sound Amplification. The use of sound amplification equipment may be approved as part of the Street Use Permit; and if approved, a separate permit

~~under sec. 24.04(3) shall not be required. The Staff Team shall determine the conditions for use of amplified sound using the standards of issuance herein, except that the use of sound amplification equipment may only be approved between 10:00 a.m. and 11:00 p.m. Any applicable time limits in sec. 24.04(3) shall not apply to a Street Use Permit issued under sec. 10.056. If the applicant requests use of sound amplification equipment, the applicant shall follow the procedure set forth in this ordinance and the procedure set forth in Sec. 24.04(3) of the Madison General Ordinances. As a condition of the Street Use Permit, the use of sound amplification equipment may be granted for no earlier than 10:00 a.m. and no later than 11:00 p.m. The use of sound amplification shall be evaluated with all other aspects of the permit, under as long as consistent with standards set forth in Subsection (6).~~

(f) Time Limit for Decision. The decision to approve or deny of a complete a Street Use Permit application shall be made within twenty-one (21) days of the date a receipt of a complete application properly filed under sub. (5)(a) is received, and all required materials, unless the applicant expressly agrees to a longer period of time. ~~but~~ In no case shall the decision to approve or deny be made later than five (5) days before the beginning of the proposed event, to allow a timely appeal as provided elsewhere in this section.

(g) Notification Requirements.
The notices required by this paragraph shall be in addition to any petition which may be required under sec. 10.056(4)(c), and any street vendor or other notifications required elsewhere in these Ordinances.

1. Notification by the Applicant.

a. Residential Neighborhood Events of two (2) blocks or less. The applicant shall deliver written notices announcing an event for which a permit has been granted, to each occupant on the streets to be closed at least seven (7) days prior to the event, unless a petition is required. The applicant shall provide the Staff Team a sample of any written notice required under this paragraph. If a petition is required under sub. (4)(c), the circulation of the petition shall serve as the only notice required under this paragraph.

b. Large Public Events of three (3) or more blocks, 10,000 or more estimated attendees and any event requiring bus detours or significant traffic rerouting. The applicant shall send a copy of the application to the alderperson(s) of the aldermanic district(s) where the street closure is requested and to any neighborhood association on file with the Department of Planning and Development, within five (5) days of filing the application. The notification shall include contact information for the applicant. The purpose of the notification shall be to exchange information and receive public comment about the details of the event. The applicant shall keep a record of all public comments and provide them at the Street Use Staff Team meeting when the application is reviewed. If a permit is granted, the applicant shall also provide written notice announcing the event to each occupant on the street(s) to be closed, prior to the event. The applicant shall also promptly notify any merchants or building occupants identified by the Street Use Staff Team, upon request of the Staff Team. The applicant shall provide the Staff Team a copy of the meeting announcement and other written notice(s) required under this paragraph.

c. 700 and 800 blocks of State Street. For events on the 700 or 800 blocks taking place during regular business hours, the applicant shall notify all of the business or educational occupants

of both the 700 and 800 blocks, and include proof of that notification with their application. A list of occupants can be obtained from the Parks Division.

d. Notice. Notice of an event for which an permit has been granted shall be sufficient if provided to the owner or occupant of each building or use with street frontage or driveway access on the street or portion of streets to be closed.

2. Notification by the Street Use Staff Team. The Street Use ~~Events~~ Staff Team shall regularly report to Common Council members all Street Use ~~applications~~ Permits granted and denied. The Community Events Coordinator shall also notify the Street Vending Coordinator and other pertinent staff of permits that have been granted and denied, as needed.

(6) Standards for Issuance.

~~Except to the extent they are inconsistent with the provisions of any other section of the Madison General Ordinances, The following standards established within this subsection, in addition to any other mandatory requirements within sec. 10.056 or elsewhere in these Ordinances, and by the Common Council's Policy on Street Use Permits adopted by the Common Council on January 5, 1982, and February 16, 1982, and as amended from time to time, shall govern the issuance of Street Use Permits. In the case of a street use permit requested solely to facilitate access to an event occurring off the street, the "event" for purposes of these standards shall be those activities reasonably expected to take place within the street(s) to be closed. A Street Use Permit shall be issued to an applicant unless:~~

- (a) The time and size of the event would substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic in the vicinity of the event's location; or
- (b) The concentration of persons at the event would unduly interfere with proper fire and police protection of, or other emergency service to or through, the event or to areas adjacent to the event's location; or
- (c) The estimated number of participants or the size or type of event equipment is not sufficient to close a street and there is an alternative channel of communication available; or
- (d) Another street use permit has already been granted for substantially the same time and location; or
- (e) The size or time of the event would require so great a diversion of City police, fire, and other emergency staff as to prevent normal ~~police~~ protection of the City or to prevent adequate ~~police~~ protection at another previously scheduled ~~City-wide~~ event; whether or not that event has been issued a street use permit or other permit from the City, or
- (f) The event is reasonably likely to cause injury to persons or property and there is inadequate planning for crowd control of participants; or
- (g) Adequate sanitation or other necessary health facilities will not be available at the event; or
- (h) There is an insufficient number of parking places within a reasonable distance or inadequate alternative parking or transportation options to accommodate the number of vehicles expected; or
- (i) The time, size or nature of the event is incompatible with the normal activity at that location so as to impermissibly intrude on the comfort and convenience of the residents; or
- (j) The proposed use or event will have a significantly adverse environmental impact; or
- (k) ~~The event is strictly for commercial or financial gain.~~ (Repealed by Ord. No. xxxxx, eff. Xx/xx/xx.)
- (l) The applicant has provided fraudulent information on the application; or

- (m) The applicant has an outstanding balance owed to the City of Madison for unpaid fees for actual costs of equipment or services related to a previous Street Use Permit; or
 - (n) The applicant has failed to satisfy the following permit requirements established elsewhere in this ordinance:
 - 1. Filing of any petition required under sub. (3).
 - 2. Posting of any cash bond or surety required under sub. (7).
 - 3. A valid indemnification agreement required under sub. (8).
 - 4. Proof of insurance, timely submitted and approved by the Risk Manager, as may be required under sub. (8).
 - 5. A valid agreement to pay actual costs of equipment and services as required under sub. (7).
 - 6. Submittal of an "Addendum to Street Use Permit," and Attachment, if required under sub. (4)(a)11.
 - (o) The proposed street use does not comply with the following minimum safety restrictions:
 - 1. At least one (1) emergency vehicle access lane a minimum of sixteen (16') wide, free of obstacles, shall be maintained at all times.
 - 2. At least one (1) walkway for pedestrian access at least eight (8) feet wide shall be maintained at all times.
 - 3. Any permit to close any portion of State Street shall not include the closing of the cross streets of Gorham Street, Johnson Street and Dayton-Fairchild Streets unless a traffic detour plan, approved by the Staff Team, can be used.
- (7) Fees.
- (a) Application Fee. A nonrefundable application fee of fifty dollars (\$50), to cover the administration costs of processing the street use permit application shall be submitted with an application for each event. If the application is for identical street closures for the same location for more than one occasion or event within a twelve (12) month period, the application fee shall be one-hundred and fifty dollars (\$150). at the time the permit application is filed. The application fee includes the administrative costs of processing the application. For events in the 700-800 blocks of State Street and residential neighborhood events of not more than two (2) blocks, the fee shall also include minimal use of City equipment and services. This \$50 fee shall include minimum use of City equipment and services, provided for the use of the 700/800 blocks of State Street or provided for neighborhood-centered activities that involve the use of not more than one or two residential blocks. However, additional fees for actual costs of services and equipment provided may be incurred for any event, under par. (c) below.
 - (b) Cash or Bond Deposit for Capitol Concourse Square Events. Prior to issuing a permit for street use on A person who seeks a permit for use of the Capitol Square or closure of more than three (3) blocks, the applicant shall post at the time of application a minimum of one thousand dollars (\$1,000) cash or \$1,000 surety bond to guarantee payment of the actual cost of City equipment and the City services provided. The cash or bond shall be delivered to the Parks Division to the attention of the Event Coordinator. Bonds will be forwarded by the Clerk to the Risk Manager for review.
 - (c) Fees for equipment rental and additional services. Event sponsors may rent equipment or arrange for services from the City as available. Additionally, if the street use permitted use results in will require more than the minimal use of any City equipment or any City services, whether or not such use was requested or expected, the applicant event sponsor shall pay the actual costs for use of that equipment and these services in accordance with a schedule of rental and services fees approved by the Common Council by resolution, determined by each department/division that bills for services and/or provides equipment for an event.

- ~~(d) As a condition to approval of an application, the applicant shall agree to pay, within 20 days of billing, any such additional actual costs prior to issuance of a permit, such as additional barricades or trash barrels, incurred by the City by the occasion of the event and its participants for City services and use of City owned equipment.~~
- (8) Insurance and Indemnification.
- (a) The applicant for a street use permit on the Mall/Concourse shall agree to indemnify, defend, and hold the City and its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted.
- (b) The requirement of insurance shall be determined according to objective standards including but not limited to the size and nature of the event, the number of expected participants, the potential for physical injury or property damage caused by participants.
- (c) ~~As evidence of the applicant's ability to perform the conditions of the permit, if insurance has been determined to be required for an event under sub. (b) above, the applicant may be asked to~~ shall furnish a Certificate of Commercial General Liability insurance to the Risk Manager with the City of Madison, its employees and agents as additional insured. The insurance shall include coverage for contractual liability with minimum limits of one million dollars (\$1,000,000) in the aggregate, combined single limits per occurrence. The certificate of insurance shall provide a thirty (30) days' written notice to the City upon cancellation, nonrenewal, or material change in the policy. If insurance is determined to be required for an event, the applicant shall provide the Certificate of Insurance described above no less than five (5) days prior to the event.
- (9) Appeal Procedure. Any applicant may appeal the denial of a Street Use Permit to the Administrative Review Board. Appeal procedures shall be as provided in Section 9.49, Madison General Ordinances, Review of Administrative Determinations, except that all timelines in 9.49(6)(a) and (b), other than the thirty (30) day deadline for the person aggrieved to file a Notice of Appeal, shall be shortened as necessary to provide a meaningful appeal whenever possible prior to the first requested date of the proposed street closure.
- (10) Severability. Each provision or requirement of any portion of this subsection shall be considered separable, and the invalidity of any portion of this subsection by a court of competent jurisdiction shall not affect the validity or enforceability of any other portion.
- (11) Termination of a Street Use Permit.
- (a) Chief of Police. A Street Use Permit for an event in progress may be terminated by the Chief of Police or designee if termination is a reasonable and necessary response in the face of imminent danger or threat to public safety, if the safety of the public is imminently endangered by activities generated during the event, if the participants engage in violent or destructive behavior causing injury to persons or damage to property, or if there is a ~~major~~ violation of any the conditions of the permit such that the standards of issuance are no longer met.
- (b) Fire Chief. A Street Use Permit for an event in progress may be terminated by the Fire Chief or designee if termination is a reasonable and necessary response in the face of imminent danger or threat to public safety.
- (12) Violations and Penalty. Any person who shall do any of the following may be subject to a forfeiture of not less than fifty (\$50) nor more than five hundred dollars (\$500) upon conviction thereof for each violation:
- (a) Hold, sponsor, initiate, commence, or be in charge of any activity for which a street use permit is required without ~~possessing~~ having been issued a valid Street Use Permit for said activity. ~~or~~
- (b) Violate any condition placed upon a Street Use Permit; encourage others to do the same; or, as the applicant or sponsor of an event for which a Street Use Permit has been issued, permit or allow a violation of a condition of the Permit.

The applicant or sponsor is considered to have permitted or allowed a violation of a condition if the applicant or sponsor was issued a permit with the conditions listed, or a letter thereto, and a violation of any listed condition occurs during the event.

- (c) Provide false or inaccurate information on a written application for a Street Use Permit. ~~or~~
- (d) Knowingly participate in an activity for which a street use permit is required without a valid street use permit having been granted or after a permit has been terminated pursuant to Subsection (11), above. ~~or~~
- (e) ~~Disobey or encourage others to disobey this section after a police officer or fire department official has informed her or him of any provisions of this section or the terms of the Street Use Permit that she or he is violating; or~~
- (f) Violate any other subsection of this ordinance.”