

CITY OF MADISON, WISCONSIN

AN ORDINANCE - *VERSION II* \_\_\_\_\_

PRESENTED August 4, 2015  
REFERRED PSRC, DCC

Creating Section 23.60, renumbering current Section 23.60 to Section 23.70, and amending Section 1.08(3)(a) of the Madison General Ordinances to impose a time limit on use of public benches, to prohibit sitting or lying or lodging in the public sidewalks and rights of way and specified other public places, during specified hours in the Central Business District, and establish a bail deposit schedule for violations thereof, to be known as the Downtown Pedestrian Protection Ordinance.

DRAFT

Drafted by: Michael P. May

Date: September 21, 2015

SPONSOR: Mayor Soglin

DRAFTER'S ANALYSIS: This ordinance creates new limitations on use of certain public areas in the Central Business District. The ordinance finds that the ability of pedestrians to move about freely in the Central Business District is essential to the health of the City's businesses and other commercial enterprises, including the numerous entertainment venues, restaurants, and taverns. Persons who occupy sidewalks, benches and other public areas for uses not intended harm the public welfare in the Central Business District. The ordinance establishes a time limit that an individual may use a public bench for the storage of property within the Central Business District. Exceptions are created for individuals that may need to sit longer for medical reasons and for events where people will sit on benches for longer than the time limit in order to participate or observe the event. The ordinance prohibits, with exceptions, any person sitting or lying or lodging on public sidewalks or other public rights of way, in the Central Business District, or on any parcel of real estate containing City offices. It also prohibits lying on public benches.

The ordinance limits these restrictions to the Central Business District between the hours of 5:30 am to 1:00 am (11 pm for City offices), the time when offices and businesses are usually open. This leaves ample times and areas where such activity is allowed and does not interfere with pedestrian activity.

These ordinances were modeled on similar ordinances adopted in Portland and Honolulu.

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

1. Section 23.60 entitled "Limitations on use of Public Benches, Sidewalks, and other Specified Public Areas in the Central Business District" of the Madison General Ordinances is created to read as follows:

**"23.60 LIMITATIONS ON USE OF PUBLIC BENCHES, SIDEWALKS, AND OTHER SPECIFIED PUBLIC AREAS IN THE CENTRAL BUSINESS DISTRICT.**

(1) Definitions. As used in this section:  
"Central Business District" or "CBD" for purposes of this ordinance is defined to include the 100 through 800 blocks of State Street Mall, North Park Street from University

Approved as to form:

Avenue to Lake Mendota, East Campus Mall, Fitch Court, North Lake Street from University Avenue to Lake Mendota, North Frances Street from University Avenue to Langdon Street, Langdon Street from North Park Street to North Frances Street, University Avenue from North Park Street to North Frances Street, West Gilman Street from University Avenue to North Henry Street, West Gorham Street from University Avenue to North Carroll Street, West Johnson Street from North Broom Street to North Carroll Street, Dayton Street from State Street to North Webster Street, Mifflin Street from North Henry Street to North Webster Street, West Washington Avenue from Henry Street to Carroll Street, East Washington Avenue from Pinckney Street to Webster Street, Main Street from South Henry Street to South Webster Street, Doty Street from South Fairchild Street to South Webster Street, Wilson Street from South Carroll Street to 120 East Wilson Street, North Broom Street from West Dayton Street to State Street, Henry Street from West Main Street to West Gorham Street, Fairchild Street from West Doty Street to State Street, Carroll Street from West Wilson Street to West Johnson Street, Pinckney Street from East Wilson to East Dayton Street, Webster Street from East Doty Street to East Dayton Street, Wisconsin Avenue from Mifflin Street to Dayton Street, North Hamilton Street from East Mifflin Street to North Webster Street, King Street from East Main Street to South Webster Street, Martin Luther King Jr. Blvd. from Wilson Street to Main Street, South Hamilton Street from South Fairchild Street to West Main Street. This area includes all designated streets, all properties fronting on the designated streets and all areas bounded by the designated streets. This area is depicted in the map at the end of this section.

“Lodge” for purposes of this ordinance means to occupy a place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire, or other personal living item is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof, for the purpose of establishing a temporary place to live.

“Public Bench” for the purposes of this ordinance is a bench located on any public sidewalk or sidewalk area, terrace, street or highway right-of-way, City bus shelters, City park or other City-owned lands.

“Public sidewalk” or “public right-of-way” for purposes of this ordinance includes all sidewalks, sidewalk areas, streets, highways, terraces, pedestrian way, highway right-of-way, or any other parts of the established right-of-way.

(2) Purpose and Findings.

- (a) The Central Business District (CBD) is a special and unique area of the City of Madison, constituting the connection between the University of Wisconsin and the State Capitol, and having numerous businesses, restaurants, taverns and entertainment venues. The State Street Mall is a Mass Transit Way and pedestrian mall with limited or no access to motor vehicles by the public. The City of Madison has a significant public and governmental interest in encouraging the public presence of residents and visitors in the CBD, and their unimpeded use of public areas and private businesses in the area by insuring that residents and visitors are able to walk unobstructed in this area without persons sitting or lying in their way. Thousands of individuals walk in this area on a daily basis and the City has a significant interest in encouraging visitors to frequent this area. The City has received regular complaints from businesses and residents of the CBD on the deleterious effect of persons sitting or lying on sidewalks or the public right of way, or occupying benches for long periods of time.
- (b) The City has an interest to ensure that public benches in the CBD are safe and available for use by all members of the public. There are a limited number of benches in the Central Business District, an area with a high amount of pedestrian traffic, restaurants, tourist attractions and other facilities that increase demand for space on public benches. In addition, the CBD has individuals who monopolize public benches for long periods of time and use them to store their belongings. This type of usage negatively impacts the public’s health, safety and well-being, as well as equitable access to the benches. Public benches used for storage impede the public’s convenient, enjoyable and safe use of public space. Imposing a time limit for storage of property on ~~using~~ a public bench will provide more available benches for all members of the public to enjoy.

- (c) ~~In addition, the CBD has individuals who monopolize public benches for long periods of time and use them to store their belongings. This type of usage negatively impacts the public's health, safety and well-being, as well as equitable access to the benches. Public benches used for storage impede the public's convenient, enjoyable and safe use of public space.~~
  - (d) Public sidewalks are designed for the easy use of pedestrians. In the CBD, customers must be able to easily access stores, other retail establishments, restaurants, entertainment venues, taverns and city offices. Many such establishments have obtained permits for the operation of outdoor cafes, which has further limited the available pedestrian space. This has made it even more important to preserve pedestrian access.
  - (e) Sitting or lying down is not the customary or intended use of sidewalks or other public rights of way. Persons who sit or lie down in these areas of the CBD impede the ability of residents and visitors to have access to businesses, restaurants, shops, and interfere with the delivery of goods and services, and otherwise harm the general welfare.
  - (f) The need for access to these services in the CBD is greatest during normal business hours, which commence with street cleaning as early as 5:30 am and extend to the closing of taverns at 1:00 am or later. Persons who lie or sit down on public sidewalks threaten their own safety and the safety of pedestrians, especially the elderly, disabled, vision-impaired, and children.
  - (g) Because a person sitting or lying on a sidewalk or other public area may be in need of services, a police officer shall first warn the person before citing them for violation of this ordinance, and shall ascertain whether the person needs services available from the County or other welfare agencies.
  - (h) Existing laws on obstruction of sidewalks are not sufficient to obtain the results necessary for adequate flow of pedestrians in the CBD.
  - (i) Residents, visitors and businesses must have access to City of Madison offices. Persons sitting or lying on the property housing City of Madison offices impede the public's access to the offices, and impede the ability of City of Madison employees to have access to the offices.
- (3) In the Central Business District between the hours of 5:30 am to 1:00 am, no person shall ~~sit down upon or otherwise occupy a public bench, or~~ use a public bench to store property for more than a total of one continuous hour per bench.
  - (4) ~~In the Central Business District between the hours of 5:30 am to 1:00 am, no person shall lie on any public bench.~~
  - (5) In the Central Business District between the hours of 5:30 am to 1:00 am, no person shall sit or lie or lodge on any public sidewalk or public right-of-way, or on a tarp, blanket, or other object on a public sidewalk or public right-of-way. It is not a violation of this subsection to sit on a public bench located in or on a public sidewalk or public right-of-way.
  - (6) Between the hours of 5:30 am to 11:00 pm, no person shall sit or lie or lodge on any parcel of land where City of Madison offices are located, except:
    - (a) The person may sit on a public bench, subject to sub. (3);
    - (b) The person may sit on steps or walls, but not for a period longer than one hour; and,
    - (c) This sub. (6) does not apply to any public employee or official engaged in their work, or persons doing official business at that time with a public employee or official.
  - (7) Exceptions. The prohibitions in subs. (3)-(6) of this ordinance do not apply to:
    - (a) Persons using a public bench or sitting on the public sidewalk or right of way located within two (2) blocks of any parade, festival, performance, rally, demonstration, or similar outdoor event; including but not limited to events holding a Street Use Permit, Parade Permit, Parks Special Event Permit, permit for use of the State Capitol grounds or other permit or permission of a unit of government having jurisdiction over the location of the event.
    - (b) Persons sitting or lying down due to a medical emergency.
    - (c) Persons who, as the result of a disability, use a wheelchair or other similarly wheeled device or have limited mobility and/or require periods of rest longer than one hour.
    - (d) Persons seated within the boundaries of a licensed sidewalk café or patronizing a business within the boundaries of a licensed merchant vending area, both as defined

in Sec. 9.13, MGO, during permitted hours for such activities as established in that ordinance, and with the permission of the café owner or licensed merchant.

- (e) Babies in strollers.
- (f) A person in line for goods or services.
- (g) An authorized person making maintenance or repairs on behalf of a governmental body or utility that has facilities located in the public right-of-way.
- (8) No person shall be charged or cited under this ordinance unless the person engages in conduct prohibited by the ordinance after once having been warned by a law enforcement officer not to engage in such conduct. A verbal warning, once given to a person, is adequate warning.
- (9) This ordinance shall be enforced and interpreted so as to not interfere with rights guaranteed under the First Amendment to the U.S. Constitution or Article I, §§ 3 and 4 Of the Wisconsin Constitution.
- (10) Any person violating this section shall be subject to a forfeiture of not more than two hundred dollars (\$200) for the first offense and not more than five hundred dollars (\$500) for a second or subsequent offense within one year.
- (11) This ordinance may be called the Downtown Pedestrian Protection Ordinance.”

2. Current Section 23.60 entitled “Penalties for Violation of This Chapter” of the Madison General Ordinances is renumbered to Section 23.70.

3. 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>
Exceeding time <del>limit</del> <u>limit for storage of property</u> on public bench. \$100, 1st	23.60(3)	\$250, 2nd & sub. w/in 1 yr.
<del>Lying on a public bench during prohibited hours.</del>	<del>23.60(4)</del>	<del>\$100, 1st \$250, 2nd &amp; sub. w/in 1 yr.</del>
Sitting, lying, or lodging on public sidewalk or right of way.	23.60(5)	\$100, 1st \$250, 2nd & sub. w/in 1 yr.
Sitting, lying, or lodging on any parcel of land where City offices are located during prohibited hours.	23.60(6)	\$100, 1st \$250, 2nd & sub. w/in 1 yr.

EDITOR’S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.