

**LEGISTAR #46508 – SUBSTITUTE CHARTER BODY**

DRAFTER’S ANALYSIS: This Charter Ordinance would create a new permit system for portable, sandwich-board style signs in the public right-of-way. This ordinance creates detailed criteria for the size, design, and placement of such signs. The maximum gross area of 30 inches wide and 48 inches high, with two sign faces (one on each side) of not more than 2 x 3 feet. All elements of the sign, including the supporting frame/structure shall fit within the maximum gross area of 30 x 48 inches. Each sign would require a detailed application process where the Zoning Administrator would inspect the proposed location and approve each sign. Each sign would require an \$100 annual permit running from April to April to coincide with sidewalk café and other vending licenses. The ordinance relies on the street vending definition of the State Street Mall/Capitol Concourse Vending Area to create location requirement for signs within this geographic area. The location for portable signs on the sidewalk in that area shall be determined by the Zoning Administrator, using the placement requirements for sidewalk cafes in Sec. 9.13(6)(j), MGO, as a starting point with the precise location for each sign determined on a case-by-case basis by the Zoning Administrator. Signs outside this area will also be approved on a case-by-case basis with similar placement criteria such as maintaining an unobstructed 6-foot pedestrian walkway, keeping clear of bike racks, trees, bus stops, and other obstructions and permanent improvements. Signs can only be placed on the sidewalk or terrace and cannot be placed within a median, crosswalk, curb, curbcut, nor any part of the traveled portion of the roadway, and a traffic vision clearance triangle must be maintained at intersections, driveways and other locations (see diagram(s).) Signs can only be displayed while the business is open and cannot be displayed on the Mall/Concourse during times when the mall crew is removing snow (defined as a “Street Vending Snow Day.” The ordinance requires features for the sign to be detectable by persons with vision-impairment and a number of other structural and aesthetic requirements.

This ordinance creates special rules for businesses with a sidewalk café or merchant vending license under Sec. 9.13. Sidewalk cafes will have the option to display two, 2x3 foot signs on the café enclosure in lieu of a free-standing portable sign. Merchant vendors will continue to have the option for small signs on display racks. Due to lack of space, sidewalk cafes and merchant vendors cannot display a free-standing portable sign in the right-of-way while their café or merchant equipment is present.

This is a Charter Ordinance because Wis. Stat. § 86.19 calls into question a municipality’s ability to allow signs within the limits of a street or highway. Sidewalks and terraces are within the boundaries of a street or highway right-of-way under the state’s definition of a highway in Wis. Stat. § 340.01(22).

If adopted, this Charter Ordinance shall take effect 60 days from the date of passage and publication, subject to the referendum procedures of Wis. Stat. § 66.0101(5).

Legistar File # 46509 and this Charter ordinance should be considered and acted upon together.

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

The City of Madison elects not to be governed by the provisions of Wis. Stat. § 86.19. This election is made pursuant to Wis. Stat. § 66.0101(4). If adopted, this Charter Ordinance shall take effect 60 days from the date of passage and publication, subject to the referendum procedures of Wis. Stat. § 66.0101(5).

Subdivision (c) entitled “Portable Signs on Public Property” of Subsection (2) entitled “Portable Signs” of Section 31.046 entitled “Miscellaneous Signs” of the Madison General Ordinances is created to read as follows:

“(c) Portable Signs on Public Property.

This Section 31.046(2)(c) is a Charter Ordinance adopted pursuant to Wis. Stat. § 66.0101 and Article XI, Sec. 3 of the Wisconsin Constitution. Certain state statutes and administrative rules, specifically Wis. Stat. § 86.19, and administrative regulations adopted pursuant to that statute, raise doubts about whether signs may be located within the limits of highway rights-of-way (“ROW”). The determination of whether to allow certain portable signs on the public sidewalk area

as described in this ordinance is a local affair of the government of the City of Madison. Portable signs as described herein provide identification, location and wayfinding information for all types of non-residential occupants in areas with minimal setback where there is no available space for visible signage on the private property. Such signage furthers the City's compelling interests in improving business vitality, wayfinding, vehicular and pedestrian traffic. Regulating the placement of such signs through a permit system with clear placement and construction regulations improves safety and aesthetics for all users of the sidewalk and decreases distractions to vehicle operators. Therefore, the City of Madison, through its Common Council, hereby determines that, to the extent Wis. Stat. § 86.19 and the Wisconsin Administrative Code restrict the City's ability to approve portable signs within the limits of any street or highway right-of-way, the City will not be governed by Wis. Stat. § 86.19 to that extent. This Charter Ordinance shall not apply to State Trunk Highways as defined in Wis. Stat. § 84.02.

1. Permit Required. Portable signs are prohibited in the ROW and other public property except as set forth in this sub. (c) and in sub. (b) above. No person shall display a portable sign in the right of way without a valid permit and except in compliance with the requirements of the approved permit and this subsection.
2. Permit Duration. The duration of a portable sign permit under this subsection shall be from April 15 to April 14.
3. Permit Fee. A non-refundable fee of one-hundred dollars (\$100) per sign, per year for the duration stated above.
4. Zoning Districts and Use. Portable signs under this subsection may be displayed only in Group 2 and 3 zoning districts and only adjacent to a non-residential use.
5. Lack of Available Setback. Portable signs are permitted to be displayed in the ROW only if the setback for the building to which the sign pertains is less than three (3) feet and no alternative, legal space exists on the private property where a portable sign could be placed under Sec. 31.046(2)(b), and only in conformity with the requirements of this subsection.
6. General Location Requirements.
  - a. In the Mall/Concourse Area.
    - i. General. The permitted location for a portable sign in the ROW within the State Street Mall/Capitol Concourse Vending Area, as defined in Sec. 9.13(6)(a), shall be determined by the Zoning Administrator, using the placement requirements for sidewalk cafes in Sec. 9.13(6)(j) and sub. 7., Specific Location Requirements. The available locations in Sec. 9.13(6)(j) shall be the starting point and the precise allowable location for each sign shall be determined on a case-by-case basis by the Zoning Administrator, in compliance with the requirements of this section, and shall be indicated on the approved sign permit. No person shall display a portable sign in the ROW in a location other than the location approved on the permit.
    - ii. Sidewalk Cafes and Merchant Vendors. An establishment holding a Mall/Concourse sidewalk café or merchant vending license under Sec. 9.13(6), shall be subject to alternate rules for portable sign display:
      - A. If the sidewalk café or merchant vending equipment is not set up for the day, a portable sign meeting all of the requirements of this section may be displayed instead, with a valid portable sign permit.
      - B. No portable sign shall be displayed for an establishment when any of its sidewalk café or merchant vending equipment are present, except as follows:
        - Sidewalk Cafés. In lieu of any portable sign, up to two (2) signs, a maximum of 2 x 3 feet in net area, may be displayed on an enclosure of a licensed sidewalk café. The sign may be screen printed or otherwise directly applied to the enclosure material, or constructed of a lightweight, weather proof, rigid sign board with or without manual changeable copy features. Such

signs shall meet all other applicable design criteria of this section set forth in sub. 8. and are subject to the same application process and permit fee as other portable signs under this section. If no part of the café is set up for the day, a regular portable sign may be displayed, with a permit under this section.

Merchant Vendors. A merchant vendor may not display a portable sign in the right-of-way when any of its merchant vending equipment is present. Licensed merchant vendors may display a sign not to exceed 12 x 12 inches, affixed directly to each licensed display rack in a manner that does not project into the required walkway.

- b. Outside the Mall/Concourse Area. Permitted locations to place a portable sign outside the boundaries of the State Street Mall/Capitol Concourse Vending Area shall be determined by the Zoning Administrator on a case-by-case basis, within the following parameters and subject to sub. 7., Specific Location Requirements:
- i. Sign shall be displayed immediately in front and between the side property lines or internal architectural features of the building designating the tenant space or occupancy of the business or organization to which the sign pertains (i.e. street frontage). If more than one occupant for the building qualifies for a sign under this section, the sign for each occupant shall be proximate to the building entrance for that occupant.
  - ii. Sign placement shall allow for an unobstructed public pedestrian walkway of not less than six (6) feet in width that follows the path of pedestrian traffic on the street frontage in question, as determined by the Zoning Administrator. Portable signs shall not be placed within any such an area. When the path of pedestrian traffic flows away from the building face and closer to the roadway, the pedestrian walkway shall be measured from the desired sign location to the:
    - curb edge,
    - roadside edge of sidewalk if there is an unpaved terrace,
    - edge of the roadway if there is no curb, or
    - the near edge of any curbside public amenities such as parking meters, trees, or light posts.Alternatively, if the path of pedestrian traffic is closer to the building face than the roadway, the walkway may be measured from the building face to the sign.  
The points of measurement shall be determined by the Zoning Administrator.
  - iii. If there is less than six feet of unobstructed pedestrian walkway in the area described in sub. i. above, no portable sign may be displayed.
  - iv. Establishments with licensed sidewalk cafes outside the Mall/Concourse Area shall be subject to sub. 6.a.ii.

7. Specific Location Requirements.

- a. Portable signs shall be placed on the sidewalk or terrace areas only.
- b. Portable signs shall not be placed within a median, crosswalk, curb, curbcut, nor any part of the traveled portion of the roadway.
- c. Number. Maximum of 1 sign for each eligible occupant, per building street frontage, if space allows. Space on a sign may be shared by more than one occupant.
- d. Sign placement shall not interfere with building ingress and egress openings.
- e. Signs shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, tree, tree grate, bicycle rack, or any other structure.
- f. Sign shall not be placed within the following vision clearance triangles demonstrated in Figure 1 below, and shall not obstruct any other applicable traffic visibility area required by ordinance or by the City Traffic Engineer.

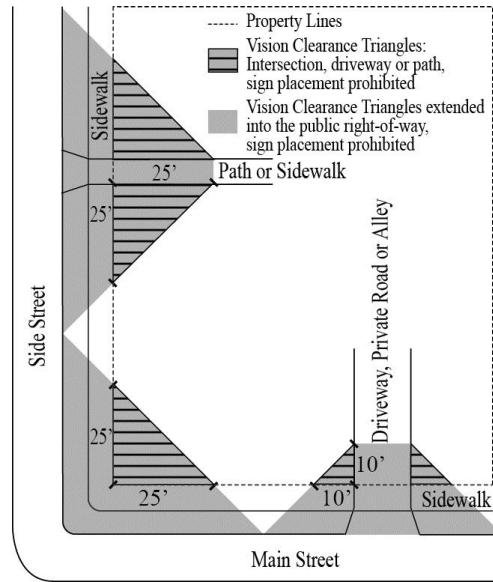


Figure 1

- g. Minimum Distance from Other Objects.
  - i. 2 feet from the curb; 5 feet from the curb if immediately adjacent to an on-street disabled parking stall.
  - ii. 2½ feet from any parking meter, parking meter space sign, or multi-space meter payment station, and 5 feet from a parking meter pole with a post-and-ring bicycle rack.
  - iii. 5 feet from any pedestrian curb ramp.
  - iv. A distance that does not in any manner interfere with the use of a bus shelter or bus stop, ingress or egress from bus shelter, or boarding the bus.
  - v. 4 feet from any public, bench, planter, trash or recycling receptacle.
  - vi. Bicycle Rack Clearance. Placement must maintain sufficient access aisles to all bicycle racks and bicycle parking areas, in accordance with Chapter 28.
- 8. Design and Size Requirements.
  - a. Portable signs permitted under this subsection shall be of freestanding A-frame or sandwich board construction, meaning two angled boards connected at the top and supported by creating an “A” or triangular shape.
  - b. The sign structure shall be self-supportive and constructed of substantial materials so as to withstand moderate wind velocity as required by Sec. 31.04(5)(f), and otherwise not create a hazard.
  - c. Maximum gross area of 30 inches wide by 48 inches tall. This is intended to incorporate a 2 by 3-foot sign face on each side plus all supporting structures. All elements of the sign, including supporting structure or frame must fit within this maximum gross area.
  - d. Maximum sign face of 2 by 3 feet per side.
  - e. Total height when measured vertically from the adjacent grade surface cannot exceed 48 inches.
  - f. No extensions beyond the gross area. (no sign extensions or projections)
  - g. Shall not include wheels, feet or other base or foundation that extends beyond the bottom edge of each board of the A-frame.
  - h. Accessibility Standards for Persons with Sight-Impairment. The sign structure shall include a horizontal component (e.g. chain or bar to connect the two sign

- boards) between 3 to 8 inches above the ground on all sides of sturdy and rigid construction.
- i. Sign must be maintained in good structural and aesthetic condition.
  - j. Sign shall not include any sign copy or element that does not directly relate to the premises to which the portable sign corresponds, except a noncommercial message may be displayed pursuant to Sec. 31.04(1)(c).
  - k. No illumination.
  - l. No electronic changeable copy features.
  - m. Manual changeable copy is permitted.
  - n. No moving pieces or attention-getting devices.
  - o. No part of the sign shall include mirrors, foil, or other reflective material, or retroreflective paint, sheeting or letters.
  - p. Sign shall not direct traffic nor mimic official traffic control devices as prohibited by Sec. 31.045(3)(b).
9. Time of Placement.
- a. May be displayed only during the hours when the premises to which the sign corresponds is open to the public.
  - b. Snow Clearance – City-wide. Shall not be displayed during a declared snow emergency under Sec. 12.045(1), MGO.
  - c. Snow Clearance – Mall/Concourse. Within the State Street Mall/Capitol Concourse Vending area, shall not be placed before 11:00 a.m. and must be removed by 1:30 p.m., during a “Street Vending Snow Day” as defined in Sec. 9.13(6)(l)6.c. Additionally, whether or not a Street Vending Snow Day or snow emergency has been declared, from November to March, portable signs shall not be displayed when snow is accumulating on the sidewalk between 6 a.m. to 6 p.m. During such times, the Parks Division shall notify all permit holders via email that the restriction is in place, by 7 a.m.
  - d. Shall not be displayed within a licensed street vending site, merchant vending site, or sidewalk café site held by another, during hours when such licensed activity is permitted, regardless of whether such licensed equipment is currently in place.
  - e. Shall not be displayed within the perimeter of an event that holds a Street Use Permit issued under Sec. 10.056, or a parade permit under Sec. 12.87, MGO, for the sidewalk area in question, while the permit is in effect, without permission of the event permit holder. This does not include signs on sidewalk café enclosures unless the sidewalk café license has been invalidated during the special event under the procedures in Sec. 9.13(6)(k), MGO.
10. Application Requirements. An application for a portable sign in the ROW shall be accompanied by the permit fee required herein, shall comply with the requirements of Sec. 31.04 and shall include the following information: A diagram or site plan of the entire right-of-way area in front of the applicant’s tenant or occupancy space that includes all details of the site such as the location of curbs, trees, poles, benches, gratings, street furniture, fire hydrants, store fronts and other amenities and the location in relation to the lot line and building setback. The diagram must be drawn to exact scale with the scale clearly indicated on the face of the drawing or site plan. A to-scale diagram or drawing of the proposed sign and its location shall also be attached.
11. Indemnification and Insurance. All applicants for a permit for a portable sign in the ROW shall agree, as a condition of being granted a permit, to indemnify, defend, and hold the City and its officers, officials, 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 placement, use, maintenance, or presence of the applicant’s portable sign in the public right-of-way. Prior to a permit being issued, the applicant shall also furnish a Certificate of Insurance, providing evidence of commercial general liability insurance with the City of Madison, its officers, officials, agents and employees named as additional insureds. The insurance shall include contractual liability coverage, apply on a primary and non-contributory basis,

and minimum limits of one million dollars (\$1,000,000) per occurrence. Permittee shall keep such insurance in full force and effect for the duration of the permit. Failure to maintain insurance meeting the requirements of this paragraph shall be grounds for immediate permit revocation. This insurance condition may be waived by the City Risk Manager for other governmental units.

12. Removal of Sign, Changes to Approved Location. Any violation of this subsection shall be deemed a hazard under the summary removal procedures in Sec. 31.04(4)(a) and any portable sign found in the right-of-way in violation of this subsection may be relocated or removed at the discretion of the Zoning Administrator or Police Department. Additionally, the approved location for a permitted portable sign is not guaranteed to remain available. Public construction, street improvements or redesign, or changes in public amenities, the addition of a licensed sidewalk cafe or merchant vending site for the building in question may result in the approved location being changed or eliminated at any time at the discretion of the Zoning Administrator. There shall be no refund of the permit fee for any action taken under this paragraph.
13. Sec. 31.07(5)(f) is a Charter Ordinance adopted pursuant to Wis. Stat. § 66.0101, and Article XI, Sec. 3 of the Wisconsin Constitution and shall be effective upon sixty (60) days from passage and publication, subject to the referendum procedures of Wis. Stat. § 66.0101(5).”

EDITOR'S NOTE: This is a Charter Ordinance adopted pursuant to Wis. Stat. § 66.0101, and Article XI, Sec. 3 of the Wisconsin Constitution and shall be effective upon sixty (60) days from passage and publication, subject to the referendum procedures of Wis. Stat. § 66.0101(5).