

**SUBSTITUTE BODY – VERSION 2 - LEGISTAR #36979**

DRAFTER'S ANALYSIS: This ordinance makes numerous changes to effectively update and relocate the street occupancy permit from the Building Code (Chapter 29) to Chapter 10. This change is being made as a result of the decision to shift oversight of the street occupancy permit program from the Building Inspection Division to the Traffic Engineering Division as part of the 2014 budget process in which the Traffic Engineering Division was authorized to add a position to administer this program. By relieving the Building Inspection Division of the administration of this ordinance, this permit no longer makes sense to include in Chapter 29 and is better located in Chapter 10 with the other ordinances pertaining to streets, alleys, sidewalks and gutters. However, a portion of the existing ordinance addresses roofed passageways and barricades, which structures are best left within the oversight of the Building Inspection Division. Hence, these provisions, while tied to the street occupancy permit, will continue to be administered by the Building Inspection Division in Chapter 29 and will remain within a redrafted Sec. 29.10. Another new ordinance is being created to relocate the existing watchman requirements in Sec. 29.10 into a new standalone ordinance, while giving the term a gender neutral designation ("flag person").

In relocating and updating the street occupancy permit requirements from the Building Code to Chapter 10, the substantive portions of the ordinance remain intact, albeit reorganized and titled. This is meant to make the ordinance requirements easier to comprehend. Additional provisions have been added to address the necessary procedural requirements and appeal rights, as well as to create a penalty structure that will allow effective enforcement. The fee structure is being updated as well to better recover the costs to the City of administering this program. This new fee structure will be variable and be based upon the length of the occupation, the street classification and the type and location of the public land being requested for occupancy. Indeed, by updating this fee structure in this way, the City will be better able to fully recover its costs associated with administering this program, including the costs to fund the new Traffic Engineering position as well as the increased costs incurred involving more complex projects located in the central portion of the city.

Additionally, clauses are being added into the ordinance that will require applicants to identify, at the time of application for a permit, whether the occupancy will require that any street trees be removed, trimmed or pruned. Applicants will be reminded that any such removal, trimming or pruning is subject to Sec. 10.101, and the failure to abide by other ordinances during the occupation, including the tree removal ordinances, will be cause to revoke an existing street occupancy permit.

In order to enforce this ordinance, Traffic Engineering is being granted citation authority over Sec. 10.055 and new bond schedules will be established for the relocated and renumbered ordinances.

Finally, a bond schedule is also being added for the privilege in street ordinance, Sec. 10.31, at this time. This violation, which does not currently have a bond schedule, also addresses the use of public lands and is therefore consistent with the subject matter of this ordinance. City Engineering, the Parks Division, and the Building Inspection Division have begun to take on a more proactive approach to violations of this Section such that it is now necessary to provide them with citation authority over this Ordinance.

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

1. Section 10.055 entitled "Occupancy of Streets or Other Public Areas" of the Madison General Ordinances is created to read as follows:

**"10.055 OCCUPANCY OF STREETS OR OTHER PUBLIC AREAS.**

- (1) Street Occupancy Permit Required. Except as otherwise allowed by these ordinances, no person shall occupy, or cause to be occupied, any portion of the street, sidewalk, terrace, alleys or other public grounds for ninety (90) days or less, or in the case of 1 and 2 family homes for one hundred twenty (120) days or less, with any material or machinery without a valid street occupancy permit issued under this Section.
- (2) Administration. Permits under this section shall be administered by the City Traffic Engineer, or his or her designee.
- (3) Permit Application. An application for a street occupancy permit shall be in writing to the City Traffic Engineer and shall describe the premises to be occupied by lot, block and/or street on or over which such material or machinery is desired to be placed, the area of occupation sought, the character of the material for which the permit is desired and the duration of the proposed occupation. The application shall also note whether the proposed occupation area will require, or reasonably necessitate, the trimming, pruning or removal of any City tree. The application shall include a drawing of the proposed occupation area, the application fee, the certificate of insurance and surety bond required under Subdivision (4)(a), and an agreement to abide by all conditions set forth in Subsection (4).
- (4) Permit Conditions. As a condition of a street occupancy permit issued under this Section, permittees agree to abide by the following conditions:
  - (a) Responsibility for Occupation.
    1. Liability. The permittee shall agree to be primarily liable for damages to person or property by reason of the granting of the permit and shall agree to hold harmless, defend, and indemnify the City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties resulting from the installation, use, maintenance, or presence of the applicant's material or machinery in the public right-of-way or other public ground as permitted under this Section.
    2. Insurance. The permittee shall be required to 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. The Risk Manager reserves the right to require higher limits and other coverage terms and conditions at his/her discretion. Permittee shall keep required insurance in full force and effect throughout the term of the privilege in streets. This insurance condition may be waived for other governmental units and in those instances where the Risk Manager, in consultation with the City Attorney's Office, determines that this requirement can be waived.
    3. Surety Bond. Before a permit is granted, the City Traffic Engineer may require that the applicant deliver a surety bond to the City Traffic Engineer guaranteeing that the permittee will remove the materials or machinery from the permitted area upon receiving notice to do so from the City Traffic Engineer. If required, the surety bond shall be in an amount established by the City Traffic Engineer, but not to exceed ten thousand dollars (\$10,000).
    4. Preexisting Compliance. If evidence of the aforementioned insurance and bonding requirements set forth above is already on file with the City Traffic Engineer, said preexisting compliance

may be deemed sufficient to satisfy the requirements of either paragraphs 2. or 3. above. The City Traffic Engineer shall notify the applicant of his/her decision in that regard.

- (b) Permit Length and Renewal.
1. Permit Duration. A permit issued under this Section shall be valid for the period of time stated therein, which period shall not exceed ninety (90) days, or one hundred twenty (120) days in the case of 1 and 2 family homes.
  2. Permit Extension. Upon good cause shown, the City Traffic Engineer may extend a permit under this Section from time to time as may be reasonably required upon written application made to him/her for that purpose.
  3. Renewal. A permittee must submit a request to renew the permit no later than seven (7) days before the expiration of the permit. Any request made within seven (7) days or following the expiration of the permit shall be treated as a new application.
- (c) Occupation Limitations.
1. General. No permit shall be issued where the placing of any such material or machinery within the proposed occupation area will unreasonably interfere with the public safety and convenience, or where there is insufficient room for such material or machinery to be placed within the limits specified by this Section.
  2. Roadway Occupation Limited. No permit issued under this Section shall authorize the use of more than one-third (1/3) of the traveled roadway opposite the premises of the person to whom such permit is granted. However, total street occupancy may be granted by joint agreement of the City Engineer and the City Traffic Engineer.
  3. Occupations Near Intersections and Driveways. No building, machinery, temporary structure or other material of any kind shall be placed within a vision clearance area as established under Sec. 27.05(2)(bb), except temporarily as otherwise allowed by this Section and Sec. 27.05(2)(bb).
- (d) Posting of Permit. Upon issuance, the permittee shall place a copy of the permit issued by the City Traffic Engineer in a conspicuous place on the occupied premises, the permit to be unobstructed from public view and available for the inspectors to mark.
- (e) Stormwater Considerations. No building material shall be placed in any gutter so as to obstruct the flow of water therein and every person shall, before depositing or causing to be deposited building material in any gutter, provide a suitable culvert for the entire portion of such gutter over which the building material may be laid, or cover the gutter with plank or otherwise protect the same so as to provide for the free and unobstructed flow of water therein. Water shall not be conducted over the pedestrian walkway. Any erodible material (topsoil, gravel, sand, etc.) that is stored in the permitted area shall either be covered with plastic sheeting or protected with erosion control perimeter controls. If, over the course of the occupation of the permitted area, City Engineering inspectors note that perimeter controls are not effective or are not being adequately maintained, covering of the stockpile shall be mandated.
- (f) Roofed Passageways and Barricades. Roofed passageways and barricades required under Section 29.10 shall require a permit issued under this Section. The failure to follow the requirements of Section 29.10 shall be cause to revoke a permit issued under this Section.

- (g) Storage Requirements. All material placed upon any street or alley shall be piled in a compact form. In the case of permanently improved streets that can be damaged by piled material, the applicant shall provide to the City digital photos or digital video of the area to be occupied prior to permit approval and photos of the area following restoration under Subdivision (n). The City recommends that, to minimize possible damage, the permittee place a level plank floor under all concrete, masonry, and plaster materials or store those materials on pallets.
- (h) Safety Considerations. Material or machinery placed in the sidewalk, street or alley shall be properly guarded by day and each separate pile of material shall be either lighted or reflective at night, in such manner as to warn all persons traveling upon the sidewalk, street or alley of the presence of such material or machinery.
- (i) Walkways. All walking surfaces open to the public or required by the permit must be maintained in a clean, smooth, level, hazard free, and ADA compliant manner within the occupation area.
- (j) Deliveries. Vehicles shall make deliveries and pick-ups without backing into areas open to the public. A properly equipped flag person shall be stationed at permitted delivery lanes for all deliveries to ensure safe ingress and egress. No deliveries will be permitted in lanes not explicitly approved in the occupancy permit or at times prohibited by the permit.
- (k) Parking. Parking of vehicles within the occupancy area is prohibited, although the loading and unloading of vehicles is permitted within the occupation area provided that the activity is otherwise compliant with this Section.
- (l) Site Maintenance. All accumulation of rubbish, debris, snow, ice or other hazards within the permitted area shall be cleaned up every day before leaving the premises.
- (m) Removal for Public Purpose. Any material or machinery placed in a permitted area shall be removed upon twenty-four (24) hours notice given by the City Traffic Engineer, City Engineer or Superintendent of Streets where a street is needed due to an emergency or critical event, or where such removal is necessary in order to repair, replace or install a street, sidewalk, terrace, alley, water facility, sewer facility or other facility that the City Engineer determines needs to be installed.
- (n) Restoration. Upon either the expiration of the permit or, if the work of construction is completed before the permit expires, the completion of the work, the permitted area occupied under this Section shall be restored to its original condition and left in good repair and condition. The permittee shall be responsible for the repair of any damage noted by City staff and shall repair it to City of Madison Standard Specification for Public Works Construction. Any new or reconstructed sidewalk shall comply with Section 10.06. The City Traffic Engineer or City Engineer shall inspect the area upon completion of the restoration and the permittee shall make any further repairs required by the City Traffic Engineer or City Engineer needed to address any deficiencies that did not exist prior to the occupation. If permittee does not adequately restore the permitted area as required, the City may perform any repairs or restoration and recover the costs thereof as a special charge against the adjoining property under Sec. 4.09(13).
- (o) Signage Limitations. It shall be unlawful to post or attach to any roofed passageway, barricade, material, or any temporary street occupancy structure any temporary sign, bill, or placard, except that this provision shall not be construed to prevent the posting of the street occupancy permit, the building permit as required by Section 29.06, or the erection of signs denoting the owner, occupant, architect, engineer or contractors.

However, such signs shall not exceed sixty-four (64) square feet in aggregate area and shall be located not less than eight (8) feet above the street grade immediately below the sign and not more than eight (8) feet above the barricade. This sign shall not be placed in such a manner as to obstruct or interfere with the vision of traffic, traffic lights, or right-of-way directional signs.

- (p) Traffic Signs. All signing, barricading and electric arrow boards shall be placed in conformance with the Federal Highway Administration "Manual on Uniform Traffic Control Devices" and City of Madison standards.
  - (q) Permit Fees. All permit fees shall be paid in full prior to the issuance of the permit or any extension thereof.
  - (r) Other Conditions. The City Traffic Engineer may add additional conditions, such as a traffic control plan, to a permit issued under this Section that are reasonably necessary to protect the public's health, safety and welfare, including after the issuance of the permit.
- (5) Public Trees. Any trimming, pruning or removal of public trees within the permitted area will require the issuance of a separate permit under Sec. 10.101. The trimming, pruning or removal of any City tree without a permit issued under Sec. 10.101 or without the permission of the City Forester shall be cause to revoke a permit issued under this Section.
- (6) Revocation of a Permit. The violation of any condition of a street occupancy permit that endangers the health, safety and welfare of the public, or the violation of any other ordinance while occupying the permitted area, shall be cause to revoke a permit issued under this Section. Except in the case of an immediate threat to the health, safety and welfare of the public, the City Traffic Engineer shall provide written notice of the revocation to the permittee who shall have no less than twenty-four (24) hours to comply with the permit requirements or other ordinance. If there is an immediate threat to the health, safety or welfare of the public, the City Traffic Engineer may immediately revoke the permit and shall provide written notification of this action to the permittee in a timely manner.
- (7) Appeal. In the event the City Traffic Engineer denies an application for a street occupancy permit, imposes a special condition on the permit under Subsection (4)(r), or revokes a permit under Subsection (6), the City Traffic Engineer shall inform the person, in writing, of the reasons for the determination. The person may appeal this decision to the Board of Public Works within ten (10) days after mailing of the notice to the address of the person as shown on the application. Such appeal must be in writing to the City Clerk, and must inform the Board of the reasons why the person believes the decision to be in error. Failure to so appeal this decision shall result in automatic approval of the denial, special condition or revocation without further action by the City Traffic Engineer or the Board of Public Works.
- Within thirty (30) days after receipt of the appeal, the Board of Public Works shall hold a hearing at which the person and the City Traffic Engineer may present and question witnesses and present oral and written argument. Within twenty (20) days after the hearing, the Board shall cause to be issued a written decision which shall affirm, reverse or modify the determination of the City Traffic Engineer. Appeal of the Board of Public Works' decision shall be by Certiorari to Circuit Court and shall be commenced within thirty (30) days of the date of the decision sought to be reviewed or be waived.
- (8) Permit Fees. The following permit fees apply to street occupancy permits issued under this Section:
- (a) Application Fees. A minimum permit fee of fifty dollars (\$50) for an occupation lasting one to seven (1-7) days, a permit fee of seventy-five dollars (\$75) for an occupation lasting eight to thirty (8-30) days, and a permit fee of one hundred dollars \$100 for an occupation lasting greater than thirty (30) days shall apply. The application fee shall be double for

untimely renewals or applications made after occupation has already begun.

- (b) Dumpsters, Portable Storage Containers and Construction Trailers. A fee of fifty dollars (\$50) shall apply, in addition to any other fees under this Section.
- (c) Calculation of Fees. The fees charged in paragraphs 1. through 4. are charged for each area that is occupied and are based upon the area of the City where the permitted use is located. For the purposes of this Subdivision, the "Central City" is defined as the area bounded by the Yahara River on the east, Lake Mendota on the north, Park Street on the west, and Regent Street, Proudfit Street and Lake Monona on the south. The fees shall be charged for every twenty-five (25) feet of street front thereof that is to be temporarily occupied or used, based upon the period of occupation (1-7 days, 8-30 days, each 30 day successive period). Fees for occupancy of parking lanes and traffic lanes are based on the classification of the street, as indicated on the street classification map maintained by the City Traffic Engineer.
  - 1. Sidewalks. For the temporary occupancy of all of a sidewalk area, including by a roofed passageway, or an occupancy that results in a sidewalk that is less than five (5) feet wide at any point, where no temporary walkway is provided on the same side of the street, the fee is:

	Non Central City			Central City		
	1 - 7 Days	8 - 30 Days	Each Successive 30 Days	1 - 7 Days	8 - 30 Days	Each Successive 30 Days
Arterial St	\$16.00	\$32.00	\$32.00	\$20.00	\$40.00	\$40.00
5' min Ped Access	\$8.00	\$16.00	\$16.00	\$10.00	\$20.00	\$20.00
Collector St	\$11.20	\$22.40	\$22.40	\$14.00	\$28.00	\$28.00
5' min Ped Access	\$5.60	\$11.20	\$11.20	\$7.00	\$14.00	\$14.00
Local St	\$8.00	\$16.00	\$16.00	\$10.00	\$20.00	\$20.00
5' min Ped Access	\$4.00	\$8.00	\$8.00	\$5.00	\$10.00	\$10.00

- 2. Terraces. For the temporary occupancy of all or a portion of the terrace area, where the terrace is not available for public use, the fee is:

	Non Central City			Central City		
	1 - 7 Days	8 - 30 Days	Each Successive 30 Days	1 - 7 Days	8 - 30 Days	Each Successive 30 Days
Arterial St	\$4.00	\$8.00	\$8.00	\$5.00	\$10.00	\$10.00
Collector St	\$2.80	\$5.60	\$5.60	\$3.50	\$7.00	\$7.00
Local St	\$2.00	\$4.00	\$4.00	\$2.50	\$5.00	\$5.00

- 3. Parking Lanes. For the temporary occupancy of all or a portion of a parking lane, where the parking lane is not available for public use, the fee is:

	Non Central City			Central City		
	1 - 7	8 - 30	Each	1 - 7	8 - 30	Each

	Days	Days	Successive 30 Days	Days	Days	Successive 30 Days
Arterial St	\$8.00	\$16.00	\$16.00	\$10.00	\$20.00	\$20.00
Collector St	\$5.60	\$11.20	\$11.20	\$7.00	\$14.00	\$14.00
Local St	\$4.00	\$8.00	\$8.00	\$5.00	\$10.00	\$10.00

4. Traffic Lanes and Alleys. For the temporary occupancy of all or a portion of a traffic lane or alley, where the traffic lane or alley is not available for public use, the fee is:

	Non Central City			Central City		
	1 - 7 Days	8 - 30 Days	Each Successive 30 Days	1 - 7 Days	8 - 30 Days	Each Successive 30 Days
Arterial St	\$16.00	\$32.00	\$32.00	\$20.00	\$40.00	\$40.00
Collector St	\$11.20	\$22.40	\$22.40	\$14.00	\$28.00	\$28.00
Local St	\$8.00	\$16.00	\$16.00	\$10.00	\$20.00	\$20.00

- (9) Penalty. Any person who fails to comply with any of the requirements of this Section shall upon conviction be subject to a forfeiture of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense.”

2. Section 29.10 entitled “Occupancy of Streets or Other Public Areas” of the Madison General Ordinances is repealed and recreated to read as follows:

**“29.10 ROOFED PASSAGEWAYS AND BARRICADES.**

- (1) Roofed Passageways and Barricades Required. The owner or contractor engaged in the construction, remodeling or demolition of any building erected on the lot line adjacent to any street, sidewalk or alley shall cause a roofed passageway and/or barricade to be erected and maintained as set forth in this Section.
- (2) Standards. A roofed passageway or barricade required under Subsection (1) shall meet the following standards:
- (a) When Required. For any multi-story project, after the completion of the first story, a roofed passageway shall be built in the front of the building and, also, on the side of the building if such building is being erected or demolished on a corner lot. A solid substantial fence, eight (8) feet high, designed to resist a wind pressure of fifteen (15) pounds per square foot of net area may be provided for excavations and one story structures in lieu of a roofed barricade.
- (b) Construction and Maintenance Requirement. Any roofed passageway or barricade required under this Section shall be constructed and maintained while work on said building is in progress in such a manner as to insure the protection of persons using the sidewalk or street against flying or falling objects or other hazards of construction or demolition. All accumulation of rubbish within the roofed passageway or walkway area shall be cleaned up every day before leaving the premises.
- (c) Street Occupancy Permit. Where a roofed passageway or barricade is required to be placed in the public way or other public grounds under this Section, the owner or contractor shall obtain a street occupancy permit under Section 10.055 and the roofed passageway or barricade is subject to the requirements of that Section. In addition, the failure to follow the

requirements of this Section shall be cause to revoke a street occupancy permit issued under Section 10.055.

- (d) Design Standards. The walkway of a roofed passageway shall be not less than five (5) feet wide and eight (8) feet high in the clear. Roof bracing shall not be less than six (6) feet high from grade. Buildings set back twenty (20) feet from the front property line need not be covered if, in the opinion of the Director of the Building Inspection Division, no hazard to the public exists. All members of the shed shall be adequately braced and connected to resist displacement of members or distortion of the framework.
  - (e) Roof Design. The roof shall be designed to support a load of one hundred fifty (150) pounds per square foot and if the roof is to be used for storage of materials it shall be designed to support three hundred (300) pounds per square foot. Minimum roof decking shall be of not less than two (2) inch (nominal) wood plank, closely laid, and the deck made water tight. When roofs are used for storage of materials or during wrecking operations, the outside edge and ends of the roofed passageway's roof shall be provided with a solid substantial enclosure of at least three (3) feet six (6) inches above the deck of the shed.
  - (f) Lighting Requirements. The roofed passageway shall be lighted either by natural or artificial means sufficient to insure safety for pedestrians and warning to vehicular traffic.
  - (g) Fencing. Walkways shall have a solid fence not less than three (3) feet six (6) inches high on all open sides except within twenty (20) feet of a street intersection so as not to interfere with traffic visibility across the corner. This area shall have a handrail three (3) feet six (6) inches high and an intermediate rail on the open sides.
  - (h) Construction Activity. All construction activity shall take place behind the barricade. No materials or equipment shall be lifted over the roofed passageway.
- (3) Removal From Public Property. When, at the discretion of the Director of the Building Inspection Division, it is no longer necessary to maintain a roofed passageway and/or barricade on public property, the roofed passageway and/or barricade shall be removed within forty-eight (48) hours of notification by the Building Inspection Division.
  - (4) Restoration. Upon the removal of the roofed passageway or barricade, the street, sidewalk, alleys or other public grounds occupied by the roofed passageway or barricade shall be restored to their original condition and left in good repair and condition, as required under Sec. 10.055(4)(n). Any new or reconstructed sidewalk shall comply with Section 10.06.
  - (5) Violation. Any person who fails to comply with any of the requirements of this Section shall upon conviction be subject to a forfeiture of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense."

3. Section 29.135 entitled "Flag Person Required" of the Madison General Ordinances is created to read as follows:

**"29.135 FLAG PERSON REQUIRED.** Whenever a building is being demolished, erected or altered, a flag person shall be employed to warn the general public when intermittent hazardous operations are conducted."

4. Subdivision (e) entitled "Group V" of Subsection (3) entitled "Fee Schedule" of Section 29.07 entitled "Fee Schedule" of the Madison General Ordinances is amended by deleting therein the following:



"(e) Group V (Fee as Noted for Each Classification)

The use group shall include the following:

Code compliance pre-purchase survey

~~Street occupancy permit during~~

~~construction ..... \$50.00 per month for ea. 100 ft.  
or fraction thereof of lot  
frontage occupied~~

~~Street occupancy permit during construction~~

~~\_\_\_\_\_ of 1 or 2 family homes where there~~

~~is a formal recycling program.....\$50.00~~

~~per 4 mos. or~~

~~fraction thereof~~

~~per lot"~~

5. Subsection (4) of Section 29.13 entitled "Wrecking of Buildings" of the Madison General Ordinances is amended as follows:

"(4) If a street occupancy is required, refer to Section ~~29.40~~ 10.055 for the necessary permit and restrictions."

6. 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>
<u>Street, sidewalk alley or public ground occupied without a permit.</u>	<u>10.055(1)</u>	<u>\$200, 1st</u> <u>\$500, 2nd w/in 1 yr</u> <u>\$1000, 3rd w/in 1 yr</u>
<u>Violation of street occupancy permit conditions.</u>	<u>10.055(4)</u>	<u>\$200, 1st</u> <u>\$500, 2nd w/in 1 yr</u> <u>\$1000, 3rd w/in 1 yr</u>
<u>Causing or maintaining an obstruction without a privilege in street.</u>	<u>10.31(5)</u>	<u>\$50, 1st</u> <u>\$100, 2nd</u> <u>\$200, 3rd or more</u>
<u>Street occupied without approval or permit</u> <u>Failure to comply with roofed passageway and barricade requirements.</u>	<u>29.10(45)</u>	<u>\$200, 1st</u> <u>\$500, 2nd w/in 1 yr</u> <u>\$1000, 3rd w/in 1 yr</u>
<u>Failure to employ a flag person.</u>	<u>29.135</u>	<u>\$200, 1st</u> <u>\$500, 2nd w/in 1 yr</u> <u>\$1000, 3rd w/in 1 yr"</u>

7. Subsection (4) entitled "Issuance of Citations" 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 amending therein the following:

<u>"Enforcement Official</u>	<u>Ordinance Chapter or Section and Title</u>
Superintendent of Parks or her/his designee, and Park Rangers.	<u>Section 10.31, Privileges in Streets</u>

City Traffic Engineer, or her/his designee.”

Section 10.055, Occupancy of Streets or Other Public Areas.

8. The City Attorney is directed to make corresponding changes to other City ordinances to reflect these updated Sections.

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 29.10 currently reads as follows:

**“29.10 OCCUPANCY OF STREETS OR OTHER PUBLIC AREAS.**

(1) Application to place material or machinery for ninety (90) days or less , or, in the case of 1 and 2 family homes where there is a formal recycling program, for one hundred twenty (120) days or less, on or over streets, sidewalks, alleys or public grounds shall be in writing and shall describe the premises by lot, block and street on or over which such material or machinery is desired to be placed and shall specify the character of the material for which the permit is desired; and shall apply for a permit and pay fees pursuant to Sec. 29.07(3)(e), Madison General Ordinances, if the portion of the street to be occupied has established on-street meter parking.

(2) Before a permit is granted the applicant shall execute and deliver to the Director of the Building Inspection Division a certificate of general public liability insurance or an approved indemnity agreement. Applicant shall also deliver a surety bond to the City Director of the Building Inspection Division who may waive the bond requirement in certain cases.

(a) In the application the applicant shall agree to hold the City harmless and to indemnify the City against any and all claims, liability, loss, damage, or expense incurred by the City on account of any injury to or death of any person or on account of any damage to property caused by or resulting from occupancy as set forth in the application.

(b) As evidence of her/his responsibilities under (a) above, the applicant shall furnish a Certificate of Insurance on a form provided by the City evidencing existence of general public liability and property damage insurance with the City of Madison being named as an additional insured.

The insurance shall include coverage for general liability including contractual liability created hereunder in minimum limits of five hundred thousand dollars (\$500,000) combined single limits per occurrence. The certificate of insurance shall provide thirty (30) days' written notice to the City upon cancellation or material change in the policy. In lieu of said certificate of insurance, applicant shall furnish a properly executed agreement indemnifying the City of Madison. Said agreement shall be approved by the Director of the Building Inspection Division and the City Attorney.

(c) The surety bond if so required shall be in an amount established by said Director of the Building Inspection Division but not to exceed ten thousand dollars (\$10,000) guaranteeing that applicant will remove the encroachments upon receiving notice to do so from the City Director of the Building Inspection Division.

(d) If evidence of blanket location bonding and continuing insurance in the minimum limits set forth above is already on file with the Director of the Building Inspection Division, said blanket coverage may be deemed

sufficient by said Director of the Building Inspection Division to satisfy the requirements of either (b) or (c) above and he/she shall notify the applicant of his/her decision in that regard.

- (3) Such permit shall be valid for the period of time stated therein. Upon good cause shown the Director of the Building Inspection Division may extend any such permit from time to time as may be reasonably required upon written application made to him/her for that purpose. It shall not authorize the use of more than one-third (1/3) of the traveled roadway opposite the premises of the person to whom such permit is granted when such portion may be occupied as the Director of the Building Inspection Division may determine may be occupied with safety to the public. Total street occupancy may be granted by joint agreement of the Director of Public Works, the Director of Transportation and the Director of the Building Inspection Division. No such permit shall be issued where the placing of any such material or machinery upon the street or public ground will unreasonably interfere with the public safety and convenience, or where there is sufficient room for such material or machinery shall be placed within the limits specified by this chapter.
- (4) No building or other material or temporary structure of any kind or nature of a greater height than three (3) feet shall be placed upon any public street in the City of Madison within twenty (20) feet of the extended lot line of the lot immediately adjacent to an intersecting street without prior approval by the Director of the Building Inspection Division, the Director of Transportation, and the Director of Public Works. No building material shall be placed in any gutter so as to obstruct the flow of water therein and every person shall, before depositing or causing to be deposited building material in any gutter, provide a suitable culvert for the entire portion of such gutter over which the building material may be laid, or cover the gutter with plank or otherwise protect the same so as to provide for the free and unobstructed flow of water therein. Water shall not be conducted over the pedestrian walkway. All material placed upon any street or alley shall be piled in a compact form and in case of permanently improved streets that can be damaged by piled material there shall be placed a level plank floor under all concrete, masonry, and plaster materials. Material or machinery placed in the street or alley shall be properly guarded by day and each separate pile of material lighted at night by a red light, in such manner as to warn all persons traveling upon the sidewalk, street or alley of the presence of such material or machinery. All accumulation of rubbish upon the sidewalk, street or alley shall be cleaned up every day before leaving the premises and also on the expiration of the permit, or if the work of construction is completed before the permit expires, then on the completion of the work and sidewalk, street, or alley left in good repair. All activity shall take place behind the barricade. No materials or equipment shall be lifted over the covered walkway. This area shall be used exclusively for materials and equipment.
- (5) Any material or machinery placed in a street, alley or public grounds shall be removed upon twenty-four (24) hours' notice given by the Superintendent of Streets where such removal is necessary in order to repair, oil or otherwise improve such street, alley or public ground or to lay water, sewer or other service pipes therein.
- (6) The owner or contractor engaged in the construction, remodeling or demolition of any building erected on the lot line adjacent to any street shall, after the completion of the first story, cause a roofed passageway to be built in the front of the building and, also, on the side of the building if such building is being erected or demolished on a corner lot; said roofed passageway to be properly maintained while work on said building is in progress. Said passageway shall be not less than five (5) feet wide and eight (8) feet high in the clear. Roof bracing shall not be less than six (6) feet high from grade. Buildings set back twenty (20) feet from the front property line need not be covered if, in the opinion of the Director of the

Building Inspection Division, no hazard to the public exists. This walkway shall be located within one-third (1/3) of the street occupancy.

The roof shall be designed to support a load of one hundred fifty (150) pounds per square foot and if the roof is to be used for storage of materials it shall be designed to support three hundred (300) pounds per square foot. Minimum roof decking shall be of not less than two (2) inch (nominal) wood plank, closely laid, and the deck made water tight. All members of the shed shall be adequately braced and connected to resist displacement of members or distortion of the framework. The sidewalk shed shall be lighted either by natural or artificial means sufficient to insure safety for pedestrians and warning to vehicular traffic. When roofs are used for storage of materials or during wrecking operations, the outside edge and ends of the barricade roof shall be provided with a solid substantial enclosure of at least three (3) feet six (6) inches above the deck of the shed. Walkways shall have a solid fence not less than three (3) feet six (6) inches high on all open sides except within twenty (20) feet of the "corner" so as not to interfere with traffic visibility across the corner. This area shall have a handrail three (3) feet six (6) inches high and an intermediate rail on the open sides.

A solid substantial fence, eight (8) feet high, designed to resist a wind pressure of fifteen (15) pounds per square foot of net area may be provided for excavations and one story structures in lieu of a roofed barricade.

The whole shall be constructed in such a manner as to insure the protection of persons using the sidewalk or street against flying or falling objects or other hazards of construction or demolition.

Watchman. Whenever a building is being demolished, erected or altered, a watchman shall be employed to warn the general public when intermittent hazardous operations are conducted.

- (7) It shall be unlawful to post or attach to any such passageway, barricade, material, or any temporary street occupancy structure any temporary sign, bill, or placard, except that this provision shall not be construed to prevent the posting of the building permit required by Section 29.06 hereof, or the erection of signs denoting the owner, occupant, architect, engineer or contractors. Such signs shall not exceed sixty-four (64) square feet in aggregate area and shall be located not less than eight (8) feet above the street grade immediately below the sign and not more than eight (8) feet above the barricade. This sign shall not be placed in such a manner as to obstruct or interfere with the vision of traffic, traffic lights, or right-of-way directional signs.
- (8) When, at the discretion of the Director of the Building Inspection Division, it is no longer necessary to maintain said barricade on public property, the barricade shall be removed within forty-eight (48) hours of notification by the Building Inspection Division of the Department of Planning and Community and Economic Development. The pedestrian walkway shall then be restored to comply with Section 10.06 of the City of Madison General Ordinances. Failure to comply with this paragraph shall be subject to penalties stated in Section 29.17 of this chapter."