

LEGISTAR #53818 – Substitute – Version 2

DRAFTER'S ANALYSIS: This ordinance amendment creates a geographic area called the Downtown Zone for purposes of reviewing Street Use Permits for street closures for events, festivals, races, etc., in that zone. The Downtown Zone includes the core of the isthmus extending roughly from Blair to Park Streets, but excludes the Capitol Square, the 100 blocks off the square, and 200 block of Martin Luther King Jr. Boulevard, where events are encouraged. This amendment creates specific new standards for closing arterial or collector streets in the Downtown Zone to consider impacts on traffic patterns, Metro Transit service, and residential, business and government occupants within that zone, including rules for events that include a "traveling route" such as races and runs, start times on weekends, restrictions on weekday closures, and specific rules for State Street. This amendment also elaborates on the criteria for approving a Street Use Permit, allowing the Staff Commission to consider the overall number of permitted events and other activities happening in the City when considering an application for a street use event. Currently the ordinance allows consideration of traffic impacts and the ability to provide police and other emergency services, and impacts on residents. The existing ordinance does not explicitly mention impacts on public transit, overall strain on city services, nor does it speak to the overlap of events over the course of a weekend. This amendment makes it explicit that the Commission may consider the following factors: size, location, route, duration of an event, as well as safety concerns articulated by the Police or Fire Department, significant impairment to traffic flow, Metro Transit service, or the provision of police, fire, or other emergency services. Those factors can be considered based on the proposed event itself or the combination of events or activities known to be occurring on the same day or same weekend. This amendment also clarifies the requirement for a Traffic Management Plan for closures of State Street that include closing Gorham, Johnson and Dayton-Fairchild Streets, and creates a new rule that John Nolen Drive cannot be completely closed for a Street Use Event unless it is a City-Sponsored event. This amendment clarifies that a permit for an event that has not yet started can be terminated by the Police or Fire Chief, upon consultation with the Superintendent of Parks, if termination is reasonable and necessary in the face of imminent danger or threat to public safety.

The Substitute ordinance makes the following changes: the rules for the Downtown Zone have been moved into the ordinance (rather than a noncodified set of policies as originally proposed) and two categories for exceptions to the Downtown Zone rules are created: Legacy Events and Premier Events. A Legacy Event is one that has held a permit in the Downtown Zone for at least 10 years as of 2018. Such events can apply for exceptions to the Downtown Zone rules for their 2019 permit and if acceptable conditions are reached, the event will continue to be exempt from the rule(s) in question and receive a date priority for future years as long as they don't change their event to a degree that causes it to lose this status. Legacy Events that do not require an exception to the new rules can also receive date priority for their traditional event date, in keeping with current practice. An event's Legacy Exempt Status and date priority, as with all street use permits, are subject to the City's rights to use the streets for transportation, infrastructure, and transit initiatives, including Bus Rapid Transit, and are also subject to change due to construction, and this substitute makes this explicit. A Premier Event is one that meets minimum criteria for tourism revenue and positive exposure for the City, as determined by a staff review based on criteria that includes minimum hotel room nights, attendance, direct spending and economic impact of the event. The City's designated tourism entity (under Wisconsin room tax law) will have input on developing this criteria. This substitute also creates a new rule that prohibits events in the Downtown Zone during certain student move-in dates in August, and adds a number of findings to the purpose section.

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

1. Subsection (1) entitled "Purpose and Title" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is amended to read as follows:

"(1) Purpose, and Title and Findings. 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 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, subject to Wis. Stat. § 349.185. The Common Council makes the following findings:
(a) The streets and sidewalks (highway rights-of-way) under the control of the City are intended for use in the ordinary way for travel for motor vehicles, other vehicles, and pedestrians.

- (b) The City has a substantial interest in preserving traffic and pedestrian safety, the safe and orderly use of streets and sidewalks, the ability to provide emergency services to all parts of the City, while also encouraging recreation, tourism, celebration, physical exercise, economic vitality of the community and the right to assemble, the right to exercise freedom of speech, expression, and association in a traditional public forum, as guaranteed by the First Amendment to the United States Constitution and Article I, Section 3 of the Wisconsin Constitution.
- (c) Street Use Permitted events bring benefits to the City, including cultural, economic, tourism, and the City has a tradition of approving Street Use Permits for festivals, gatherings, athletic events, charity events, demonstrations, parades and other gatherings.
- (d) A large street use event or more than one event occurring in the same general area, whether on-street or off-street, causes occupancy levels of adjacent streets and sidewalks to increase, which may create unsafe conditions and strain the City's resources and infrastructure.
- (e) The Council further recognizes the appeal of the City's downtown area, including State Street and the State of Wisconsin Capitol square and streets surrounding the square, as a desired location for festivals, demonstrations and activities of all kinds. The unique geographic location and space limitations of the downtown area, as a narrow isthmus between two lakes, presents special challenges if an event closes the streets in the Downtown Zone. Special challenges include but are not limited to impacts on cross-town traffic, including Metro transit service, and impacts upon business, government, and students in the area, especially on weekdays, and impacts on all users and visitors to the area on weekends, therefore the City has adopted the additional standards for the Downtown Zone for weekdays and weekends as stated in that section.
- (f) This ordinance allows the City to manage the demands on the streets and sidewalks and strike a balance between the needs of users of the streets and sidewalks for transportation in the ordinary way and the use of such spaces for recreation, tourism, celebration, demonstration, and other non-standard reasons. This ordinance recognizes and balances the needs of City staff including police, fire, traffic engineering, parks and other departments to plan for and staff events occurring with a Street Use Permit and allow for reasonable reimbursement for such services when they are available and a process to deny or modify a permit when they are not, or when the standards of issuance stated herein cannot be met.
- (g) The ability to deny or require modifications to a requested Street Use Permit as stated in this ordinance directly furthers the City's interests stated above and allows the City to respond to applications in a way that provides ample alternative channels for speech and without restricting more speech than necessary.
- (h) The procedures and standards for approving a Street Use Permit in this ordinance are necessary to ensure safety for all, including event participants, workers, City employees, motor and non-motorized vehicle users, pedestrians, bicyclists, transit customers, and the general public. This ordinance also promotes the welfare of residential and non-residential occupants in areas where a Street Use Permit is issued."

2. Subdivision (f) entitled "Downtown Zone" of Subsection (2) entitled "Definitions" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is created to read as follows:

"Downtown Zone (DZ) for purposes of this ordinance is defined as the area bounded by and including the following streets: North Blair Street where it terminates at James Madison Park, South Blair Street, John Nolen Drive, North Shore Drive, Proudfit Street, Regent Street, and Park Street from Regent Street to where it terminates at Lake Mendota. The Downtown Zone does not include the portions of streets forming the Capitol Square, the 100 blocks of each street intersecting with the Capitol Square, or the 200 block of Martin Luther King, Jr. Boulevard."

3. Subdivision (i) of Subsection (5) entitled "Application Process and Permit Requirements" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is created to read as follows:

"(i) Additional Standards for the Downtown Zone. Beginning with the effective date of ORD-19-XXXXX, applications for a permit for an event that will occur, start, end or pass through the Downtown Zone shall be subject to the following additional standards of issuance which are hereby established to take

into account the special impacts on traffic patterns, Metro Transit service, and residential, business and government occupants within this zone:

1. Definitions.

Arterial. A street with a functional classification of “arterial” as classified by the City Traffic Engineer on a map created for that purpose.

Closure. A full closure of the street where all lanes of traffic are closed. This does not include a parking lane closure or single lane closure where motor vehicle traffic is still permitted to move in both directions. “Closure” also includes a cross street being closed to traffic (example: application for State Street that would require closing Gorham Street to motor vehicle traffic where it intersects State Street without allowing such traffic to cross would qualify as a request for a full closure of Gorham Street.) Any request to use the roadway of State Street is considered a full closure because State Street does not have the option for a partial lane closure. However, an event where participants stay on sidewalks and obey all traffic signals at cross streets is not considered a “closure.”

Collector. A street with a functional classification of “collector” as classified by the City Traffic Engineer on a map created for that purpose.

Downtown Zone. See 10.056(2)(f).

Legacy Event. Any event that has held a permit in the Downtown Zone on the same date and substantially the same location for at least ten (10) continual years counting backwards from 2018, excluding location changes caused by construction.

Traveling Route. A run, race, walk, march, parade, procession or other event where people travel from one location to another or travel along a route that returns to the starting point.

2. A full closure of all lanes of traffic on a street with a functional classification of “arterial” or “collector”, as classified by the City Traffic Engineer on a map created for that purpose, shall only be approved in the Downtown Zone with the following conditions:

a. Weekdays. No closure of arterial or collector street Monday through Friday.

b. Weekends. Arterial or collector streets may only be closed on a weekend as follows:

i. Start Time.

Saturday – traveling route must start by 8:00 a.m.

Sunday – traveling route must start by 9:00 a.m.

ii. Exceptions to Saturday/Sunday Start Times.

A. Events that obey traffic signals and have the capacity to control participants to safely allow motor vehicle traffic to cross on arterials/collectors, and

B. City-sponsored events, defined as an event where the City of Madison or a department or agency thereof is the applicant, or an event for which the City has a contractual or financial relationship that directly supports the event in question.

3. No permit shall be issued for a closure of any part of the 200 thru 600 blocks of State Street (West Dayton Street to North Lake Street) at any time on the days of Monday through Friday. However, an event that stays on sidewalks and whose participants obey all traffic signals is not considered a "closure" and not subject to this subsection.

4. Any permit to close any part of State Street shall not include the closing of the cross streets of Gorham Street, Johnson Street and Dayton-Fairchild Streets unless:

a. The closure complies with all provisions of this subsection for the Downtown Zone including those for collectors and arterials in sub. 2. above.

b. The event organizer agrees to a traffic management plan that meets the requirements of Sec. 10.056(6)(o)3.b., MGO.

5. Beginning in 2019, for new events that have never been issued a Street Use Permit, no permit shall be issued for a closure for an event that includes a race or run with a traveling route that ends at the Capitol Square or crosses any arterial street within the Downtown Zone during the second half of the route, regardless of the start time.”

4. Subdivision (j) entitled “Exceptions to the Standards for the Downtown Zone” of Subsection (5) entitled “Application Process and Permit Requirements” of Section 10.056 entitled “Street Use Permit” of the Madison General Ordinances is created to read as follows:

“(j) Exceptions to the Standards for the Downtown Zone.

1. Legacy Events.
 - a. Process. The standards for the Downtown Zone in Sec. 10.056(5)(i) shall not apply to an event that meets the following criteria:
 - i. Event is considered a Legacy Event, which is any event that has held a permit in the Downtown Zone on the same date and substantially the same location for at least ten (10) continual years counting backwards from 2018, excluding location changes caused by construction.
 - ii. Event organizer has worked with the Street Use Staff Commission to reach agreeable conditions for its Street Use Permit for 2019 (or future year under sub. b.iii.) that complies with the standards of issuance in sub. (6) and takes into account the stated purpose of the additional standards for the Downtown Zone in sub. (5)(i), and has been issued a permit that includes such conditions.
 - b. Legacy Exempt Status. An event meeting the criteria of Sec.10.056(5)(j)1. will be granted Legacy Exempt Status which means:
 - i. The standards for the Downtown Zone shall not apply to the event, so long as the event has not done anything to lose its Legacy Exempt Status, as set forth in sub.1.e.
 - ii. The event will be given priority over any other application for its traditionally-requested date for future years, subject to the limits described in sub. 1.f., or other circumstances beyond the control of the City of Madison, and provided it does not lose Legacy Exempt Status as set forth in sub.1.e.
 - iii. If this ordinance is amended to change or create additional rules for the Downtown Zone beyond those adopted by ORD-19-XXXXX, an event with Legacy Exempt Status may apply for an exception to such new rule(s) using the process in sub. a.ii..
 - c. Date Priority for Legacy Events That Do Not Violate the Downtown Zone. A Legacy Event that complies with the standards for the Downtown Zone will also be given priority over any other application for its traditionally-requested date for future years, (“Legacy date priority”) subject to the limits described in sub. 1.f., or other circumstances beyond the control of the City of Madison, and provided it does not lose Legacy status as set forth in sub. 1.e.
 - d. Event Date Defined. As used herein, “date” refers, in most cases, to the annual day of the week and/or weekend during which the event has traditionally taken place (e.g. third Saturday in July or third weekend of July.) For an event traditionally held on the same calendar date each year (e.g. January 1) “date” refers to the exact date. Moving an event to a different week or weekend or changing the day of the week (Sunday instead of Saturday) will be considered a change in date for purposes of losing Legacy status under sub. 1.e.
 - e. Loss of Legacy Status. An event will lose Legacy date priority or Legacy Exempt Status under this section and no longer be considered a Legacy Event if any one of the following occur:
 - i. There is a request to change any one of the following: date, start time, duration, location, approved route, or another other substantial change in the logistics or set-up of the event from that approved for 2019 (or future year if applicable under sub. 1.b.iii.), except that a request to change route or location caused by sub. f. or construction will not cause loss of Legacy status.
 - ii. The type or nature of the event substantially changes.
 - iii. There is either a documented violation of a condition of the approved permit or the Standards of Issuance, or a citation or other enforcement action is commenced for another violation of Sec. 10.056, MGO.
 - f. Limits of Legacy Status, Retention of Rights. Date priority for a Legacy event under sub. 1.c. and Legacy Exempt Status under sub.1.b. will be honored by the City of Madison to the extent it does not conflict with City-owned or City-approved construction projects, public utilities, governmental transportation projects, public transit initiatives including but not limited to Bus Rapid Transit (BRT) routes, or other City rights and obligations with respect to the rights-of-way. Legacy Exempt Status, or the issuance of any Street Use Permit under this ordinance, does not guarantee

any permit holder any rights beyond those granted by the permit in question and shall not interfere with the City's rights and obligation to control the use of the highways and rights-of-way under its control.

A change in route or location of any Legacy event, if the change is required by this paragraph f., shall not cause the event to lose its Legacy status so long as all other criteria for such status remains in effect.

2. Premier Event.

- a. Purpose and Findings. The City finds that under certain circumstances, an extraordinary event of a caliber that brings signature tourism value to the City will qualify for exceptions to the standards for the Downtown Zone, if the event requires a street closure in the Downtown Zone. Such a premier event will bring significant, positive national or international recognition to the City and an economic benefit to the area that outweighs the negative impacts on the Downtown Zone under certain circumstances. Therefore, the standards for the Downtown Zone in Sec. 10.056(5)(i) shall not apply to an event that has been granted premier status using the following procedure.
- b. Staff Internal Review and Criteria. An event sponsor may initiate the process for seeking premier event status by contacting the Mayor's office, who shall refer the event to the Parks Division Events Coordinator for a staff review to determine, first, if the requested street use requires an exception from the standards for the Downtown Zone, and second, if the overall event will meet certain base minimum criteria to qualify as a premier event. Such criteria shall be developed by the Parks Division and pertinent staff and input from the City's designated tourism entity or its successor, under Wis. Stat. § 66.0615, and made available to the public. Such criteria shall include: minimum hotel room nights; minimum direct spending dollars and/or minimum economic impact dollars as measured by a recognized event impact calculator that measures the economic value of an event; minimum estimated total attendance; and other criteria as appropriate, to determine if the event meets the purposes stated above. The staff review shall also include notification to the alder of the affected district(s) and an estimate of City costs for the street use portion of the event. If staff finds the minimum base criteria can be met, staff shall inform the event sponsor and report the same to the Street Use Staff Commission at the time the event applies for a Street Use Permit.
- c. Application to Commission: Event sponsor may apply for a Street Use Permit under the regular procedures and standards of this ordinance, except that in addition to the standards of issuance in sub. (6), event sponsor must conclusively demonstrate to the Commission that the minimum base criteria in sub. b. above can be met. The Commission shall review the application as required by this ordinance, except that the Commission may approve a permit that includes exceptions to the standards for the Downtown Zone in sub. (5)(i)."

5. Subdivision (a) of Subsection (6) entitled "Standards for Issuance" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is amended to read as follows:

"(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. If the requested location is in the Downtown Zone, the standards set forth in sub. (5)(i) shall also apply; or"

6. Subdivision (b) of Subsection (6) entitled "Standards for Issuance" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is amended to read as follows:

"(b) The concentration of persons at the event, the proposed event location, or other physical characteristics of the event would unduly interfere with the City's ability to provide 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 to other parts of the City; or"

7. Subdivision (d) of Subsection (6) entitled "Standards for Issuance" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is amended to read as follows:

“(d) The Event for Which the Application is Submitted Conflicts with Other Events or Activities, as Follows:

1. Same Place/Time. Another event at substantially the same time and location has already been issued a ~~s~~Street ~~u~~Use ~~p~~Permit ~~has already been granted for substantially the same time and location or parade permit~~; or”
2. Same Day/Weekend. Another event on the same date or same weekend has already been issued a street use, parade, or Parks special event permit and, due to the size, location, route, duration, or safety concerns that can be objectively articulated by the Police or Fire Department associated with any of the proposed events, the combination of events would significantly impair traffic flow, Metro Transit service, or the provision of police, fire, or other emergency services; or
3. Other Events/Activities. One or more events or activities are known to be occurring on the same date or same weekend, whether or not such activities require a City permit, and, due to the size, location, route, duration, or safety concerns that can be objectively articulated by the Police or Fire Department, for any of the events or activities, the combination of activities would significantly impair traffic flow, Metro Transit service, or the provision of police, fire, or other emergency services.”

8. Subdivision (i) of Subsection (6) entitled “Standards for Issuance” of Section 10.056 entitled “Street Use Permit” of the Madison General Ordinances is amended to read as follows:

“(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 non-residential occupants or uses in the vicinity of the event; or”

9. Subdivision (o) of Subsection (6) entitled “Standards for Issuance” of Section 10.056 entitled “Street Use Permit” of the Madison General Ordinances is amended to read as follows:

- “(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 twenty (20') 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. The closure can be approved under the standards for the Downtown Zone under sub. (5)(i), and
 - b. aA traffic detour management plan; that includes all requirements established for this event by City staff for traffic control, traffic detours, barricades, signage, and parking, is approved by the Staff Commission, ~~can be used~~ event organizer agrees to cooperate with all aspects of the plan, and the plan is included as a condition of approval of the permit.
 4. A complete closure of all lanes of vehicle traffic on any portion of John Nolen Drive shall not be approved, with the exception of a closure for a City-sponsored event.”

10. Subdivision (r) entitled “Student Move-In Dates” of Subsection (6) entitled “Standards for Issuance” of Section 10.056 entitled “Street Use Permit” of the Madison General Ordinances is created to read as follows:

“(r) Student Move-In Dates. The proposed street use includes a run, walk, parade or similar traveling route that closes any lane of traffic in the Downtown Zone on any date from August 13 through the Sunday of the third full weekend of August, or any of the move-in dates for residence halls and apartments operated by the University of Wisconsin-Madison’s University Housing department, as those dates are established by the University. Notwithstanding the foregoing, the Commission may exercise flexibility and approve a traveling route with a traffic lane closure in the Downtown Zone on one of the dates listed above if, for a certain year, due to the sequence of move-in dates and proximity in time or location to other events around that time, the Commission finds that the other standards of issuance can be met while approving the event on that date. Such approval shall apply only for the year in question and shall not entitle the event sponsor to future approval on the same or similar date in the future.”

11. Subsection (11) entitled "Termination of a Street Use Permit" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is amended to read as follows:

"(11) Termination of a Street Use Permit.

- (a) In Advance of an Event. A Street Use Permit for an event that has not yet commenced may be terminated by the Chief of Police or the Fire Chief or their respective designees, upon consultation with the Superintendent of Parks, if termination is a reasonable and necessary response in the face of imminent danger or threat to public safety.
- (b) During an Event. A Street Use Permit for an event in progress may be terminated by the Chief of Police or the Fire Chief, or their designees, if termination is a reasonable and necessary response in the face of imminent danger or threat to public safety. Additionally, the Chief of Police or designee may terminate a Street Use Permit for an event in progress 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 violation of any condition of the permit such that the standards of issuance are no longer met. 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. A Street Use Permit for an event in progress may be terminated by the Superintendent of Parks, or designee, if there is a violation of any condition of the permit such that the standards of issuance are no longer met, or if the applicant, sponsor, or other person affiliated with the event has violated Sec. 9.13 (Street Vending), the regulations adopted thereto, or any resolution adopted pursuant to Sec. 9.13(6)(k) (Vending and Exclusive Vending Rights During Special Events) within the perimeter of the event."

12. Subdivision (a) of Subsection (12) entitled "Penalty" of Section 10.056 entitled "Street Use Permit" of the Madison General Ordinances is amended to read as follows:

- "(a) Hold, sponsor, initiate, commence, or be in charge of any activity for which a ~~s~~Street ~~u~~Use ~~p~~Permit is required without having been issued a valid Street Use Permit for said activity or after a Street Use Permit has been terminated pursuant to Subsection (11)."