



Legislation Text

File #: 83877, Version: 1

Fiscal Note

No City appropriation required.

Title

Creating Section 3.07(3) of the Madison General Ordinances related to Informed Consent to permit the Office of the City Attorney to communicate information related to its representation of the City in order to consult with other attorneys for purposes of collaboration and more effective legal representation.

Body

DRAFTER'S ANALYSIS: Prompted by the American Bar Association Formal Opinion 511 regarding the use of professional listservs, the Office of the City Attorney (OCA) has drafted a proposed amendment to MGO 3.07 to be granted informed consent by the Common Council to permit the OCA to communicate information related to its representation of the City in order to consult with other attorneys for purposes of collaboration and more effective legal representation. The ordinance permits the Common Council to restrict or specify categories of information the OCA is allowed to disclose, and authorizes the Mayor to provide informed consent in specific instances where the Office of the City Attorney deems it necessary to seek it regarding a specific communication. The ordinance also requires that the OCA provides a written reminder of the informed consent provided pursuant to the ordinance to newly-elected and appointed members of the Common Council.

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

1. Subsection (3) entitled "Informed Consent" of Section 3.07 entitled "City Attorney" of the Madison General Ordinances is created as follows:

“(3) Informed Consent.

- (a) Pursuant to this section, the Common Council provides informed consent for the Office of the City Attorney to share information regarding the Office’s representation of the City, including the identity of the City as a client and information which may not be available to the public at the time of release, to the extent necessary for the purposes of consulting and collaborating with other municipal attorneys or legal counsel representing other governmental jurisdictions or other public or private organizations or parties, for the benefit of the City. This informed consent includes but is not limited to participation with legal listservs, joint meetings or conferences with other attorneys, and individual consultations with other attorneys with expertise in the subject matter or legal interests similar to those of the City.
- (b) This section shall not provide informed consent for the Office of the City Attorney to release confidential information relating to the representation of the City where communication of the information would disadvantage the City’s legal position or where communication of the information is likely to result in that information being conveyed to a party that is adverse to the City in the particular matter related to the information or to that party’s legal counsel. In its sole discretion, the Common Council may establish additional restrictions or conditions related to its informed consent pursuant to this section.
- (c) In specific instances where the Office of the City Attorney deems it necessary to seek more specific informed consent regarding communication of information due to the requirements of subsection (b) or due to other obligations of the City Attorney under the rules of professional

conduct for attorneys or to other factors or circumstances, the City Attorney may seek such informed consent from the Mayor and the Mayor may, in their sole judgment, determine whether such informed consent may be provided on behalf of the City.

- (d) The City Attorney shall include a written reminder of this section and the informed consent provided pursuant to it in the City Attorney's orientation of newly-elected and appointed members of the Common Council."