



Legislation Text

File #: 01954, Version: 4

**Fiscal Note**

No significant fiscal effects are anticipated.

**Title**

AMENDED SECOND SUBSTITUTE - Creating Section 31.04(6)(m), and amending other sections of Chapter 31, the Street Graphics Control Ordinance of the Madison General Ordinances to prohibit hand carried or permanent signs on bridges and overpasses that pass over controlled-access highways, freeways and expressways, and to clarify regulations regarding hand-carried portable signs.

**Body**

DRAFTER'S ANALYSIS: This 2<sup>nd</sup> substitute ordinance would prohibit permanent and temporary (hand-carried) signs on bridges and overpasses that cross over a freeway or expressway or a controlled-access highway with a speed limit over 40 mph. (i.e. the Beltline.) The ordinance also establishes the City's findings that such an ordinance is needed to protect the safety of all users of the highway and rights-of-way. New Subsection 31.04(6)(m) would make it unlawful to display, erect, post, maintain, install, affix, or carry any street graphic (i.e. any sign) including hand-carried signs, on bridges and overpasses over such highways, but creates an exception for official traffic control devices which are regulated on the local, state, and federal levels and which, by definition under state law, may only be placed under the authority of the public body or official with jurisdiction over the highway. This ordinance also clarifies the existing prohibition against street graphics in the right-of-way under Sec. 31.04(6)(e), and clarifies the existing policy of allowing hand-carried signs on sidewalks and other pedestrian ways, without a permit, as long as other laws are being followed.

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

**Findings and Purpose:** The Common Council finds that signs, other than official traffic control signs, displayed on bridges and overpasses that pass over limited-access and higher-speed highways cause a particular danger by distraction to motorists, using the highway. This is true whether the signs are temporary or hand-carried signs that may be oriented toward such traffic, or more permanent signage that is not for traffic control. In addition to the aesthetic goal of decreasing visual clutter, the Common Council finds there is a particular safety need for uniformity and lack of distraction to motorists, using freeways, express ways and controlled-access highways over 40 mph. to be free from visual overhead distractions that are posted or temporarily located within the right-of-way.

The Common Council finds that, in particular, portable or hand-carried signs on bridges and overpasses that cross high-speed highways create a significant hazard for several reasons, including but not limited to these: current city ordinance establishes a general policy that prohibits placing non-official signs in the right of way. Secondly, hand-carried signs are incompatible with high speed controlled-access highways, freeways and expressways where pedestrian access is limited or prohibited. Pedestrians would not be allowed to walk on the shoulder and carry signs and therefore should not walk on the overpass and carry signs. The Council finds that signs (other than official traffic control signs) that are in the vertical right of way of the traveled portion of freeways, expressways and controlled-access highways present an especially significant hazard and should be completely prohibited. Third, hand-carried signs are an especially significant distraction to high speed traffic because they are moving, they are unexpected, and more likely to cause a visual distraction when displayed on an overpass over these types of highways.

The Common Council also finds that the City has a compelling governmental interest in traffic safety which justifies a distinction between official traffic control devices (i.e. signs, signals and markers) as defined by Wisconsin Statutes and adopted via MGO 12.011, placed under the authority of the jurisdiction having control of the highway or right of way in question, and any other sign that has not been so authorized, on a bridge or overpass. that passes over a freeway, expressway or controlled-access highway. Specifically, official traffic control devices are placed by authorities in charge of the maintenance of the highway and only if approved under the Manual on Uniform Traffic Control Devices (MUTCD), which exists specifically to control the uniformity and safe placement of signs intended to assist motorists and increase safety, on a national level. The Common Council recognizes that the MUTCD is applicable to the State and the City. Therefore, the City of Madison finds that there is a compelling safety reason to prohibit all signs, other than authorized, official traffic signs, on such bridges and overpasses.

1. Subdivision (m) entitled "Street Graphics on Bridges and Overpasses" of Subsection (6) entitled "Unsafe and Unlawful Street Graphics and Structures" of Section 31.04 entitled "Administration and General Provisions" of the Madison General Ordinances is created to read as follows:

"(m) Street Graphics on Bridges and Overpasses. No person shall display, place, erect, post, maintain, install, affix, or carry any street graphic, including a hand-carried sign, on any portion of a vehicular or pedestrian bridge or overpass that passes over a freeway or expressway as defined in Wis. Stats. sec. 346.57, or a controlled access highway as defined in Wis. Stats. sec. 990.01, when such highway has a speed limit of more than 40 miles per hour, whether the highway is under the jurisdiction of the federal, state or local government, provided that such sign or graphic is visible from such freeway, expressway or controlled access highway.

This paragraph shall not apply to "official traffic control devices" as defined in Wis. Stats. sec. 340.01(38), 2003-04 and as may be amended, which are authorized by law and erected by the authority having jurisdiction over the highway or right of way. Nothing in this subsection shall be construed to limit or restrict the application of Secs. 31.04(6)(c) and (e) of this ordinance, Wis. Stats. Chapter 86 and any regulations created by the Department of Transportation, or any other federal, state or local law that prohibits or restricts the placement of signs in highways or other right-of-ways."

2. Subdivision (e) entitled "Public Right-of-Ways" of Subsection (6) entitled "Unsafe and Unlawful Street Graphics and Structures" of Section 31.04 entitled "Administration and General Provisions" of the Madison General Ordinances is amended to read as follows:

"(e) Public Right-of-Ways. No street graphic, advertisement, cabinet or obstruction, or any other object shall be placed upon, over, or in any public highway right-of-way, including the sidewalk, street, alley, or any public ground or lands, or upon posts, trees or other supports in any public street or public ground, except that this section shall not be construed to prohibit the erection or placing of official traffic control devices, signs, signals or markers or other signs authorized by law or this ordinance, or of any other object specifically authorized by law of the State of Wisconsin or by these ordinances. This section shall not prohibit carrying of portable hand-held signs on the sidewalk or other pedestrian ways, when done so in compliance with Sec. 31.04(6)(k)5."

3. Paragraph 5. of Subdivision (k) entitled "Portable Street Graphics" of Subsection (6) entitled "Unsafe and Unlawful Street Graphics and Structures" of Section 31.04 entitled "Administration and General Provisions" of the Madison General Ordinances is created to read as follows:

"5. Hand-carried portable signs on private property with the owner's permission or hand-carried signs on the public sidewalk or other pedestrian way, if the person carrying the sign or the sign itself is not in violation of other ordinances or laws applicable to the location and conduct, including but not limited to obstructing traffic, obstructing the sidewalk, trespassing, or conducting or participating in an event for which a parade permit, street use permit or park use special event permit would be required by city ordinance, but without such a required permit. Portable hand-carried signs shall be prohibited on certain bridges and overpasses as stated in Sec. 31.04(6)(m) and this exception shall not apply. Nothing in this exception shall be construed to limit the application of Secs. 31.04(6)(c) or (e) of this ordinance, Wis. Stats. Chapter 86 and any regulations created by the Department of Transportation, or any other federal, state or local law that prohibits or restricts signs in highways or other right-of-ways, except as expressly stated herein."