



Legislation Text

File #: 01839, Version: 1

**Fiscal Note**

No fiscal impact.

**Title**

Amending, creating and repealing various sections of the Madison General Ordinances to correct inconsistencies and improper references in the Madison General Ordinances, constituting the 2005 City Attorney Revisor's Ordinance.

**Body**

DRAFTER'S ANALYSIS: This ordinance is being introduced under the authority granted to the City Attorney by Sections 2.05(6)3. and 9. and 3.15(1) of the Madison General Ordinances, and is intended to correct various inconsistencies and errors within the Madison General Ordinances, to clarify certain current practices, and to repeal certain sections which were invalidated by state law. Please see the Report of the City Attorney for a section-by-section analysis.

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

1. Section 1.12 of the Madison General Ordinances is created to read as follows:

"1.12 SEVERABILITY.

- (1) This section applies to and is considered part of every ordinance and resolution adopted by the Common Council.
- (2) The provisions of any part of this ordinance or resolution are severable. If any provision or subsection or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance or resolution to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included."

2. Current Subdivisions 1. through 9. of Subsection (6) of Section 2.05 entitled "Introduction to Business" of the Madison General Ordinances are renumbered to Subdivisions a. through i.

"(6) Unless otherwise provided in these ordinances, no ordinance or resolution shall be introduced unless it is sponsored by a member of the Common Council or the Mayor or both. Use of a Common Council member's name as sponsor must be with his or her knowledge and consent. This provision shall apply not only to ordinances and resolutions, but also to all substitutes and amendments thereto. The provisions of this ordinance shall not apply to the following:

- ~~1.~~(a) Recommendations of the City Attorney relating to accounts and claims.
- ~~2.~~(b) Recommendations and advice of the City Attorney relating to litigation in which the City is or is going to become involved.
- ~~3.~~(c) Changes to ordinances and resolutions which may be mandated by state or federal law.
- ~~4.~~(d) Recommendations of the Personnel Board relating to the classification of positions.
- ~~5.~~(e) Changes to ordinances and resolutions which may be required by the adoption of the annual City Budget.
- ~~6.~~(f) Petitions for direct legislation pursuant to the provisions of Section 9.20 Wis. Stats.
- ~~7.~~(g) Ordinances and resolutions necessary to implement Public Works projects previously approved in the annual City Budget.
- ~~8.~~(h) Ordinances and resolutions requested by a citizen as may otherwise be allowed in these ordinances.
- ~~9.~~(i) Changes to ordinances and resolutions which are intended to correct errors, omissions or inconsistencies therein."

3. Subdivision (j) of Subsection (2) entitled "Duties of the Department" of Section 3.11 entitled "Department of Public Works" of the Madison General Ordinances is hereby repealed.

4. Current Subdivisions 1. through 4. of Subsection (2) entitled "Public Nuisance Authority" of Section 3.15 entitled "City Attorney" of the Madison General Ordinances are renumbered to Subdivisions (a) through (d).

"(2) Public Nuisance Authority.

The City Attorney is authorized to commence and prosecute public nuisance actions on behalf of the City under Wis. Stats. Chapter 823, if the following occurs:

1-(a) The City Attorney provides written notice to the Mayor and Common Council of the intent to file a nuisance action. This written notice will include a description of the nuisance, why action is necessary, and a reminder of the fifteen (15) day time limit in this ordinance to request Common Council consideration of a resolution.

2-(b) If the Mayor or any member of the Common Council wishes to have the matter considered by resolution of the Common Council, he or she shall, within fifteen (15) days of receipt of the notice from the City Attorney, provide a written request for such a resolution to the City Attorney.

3-(c) If there is a request for a resolution, the City Attorney shall draft a resolution (sponsored by the person requesting the same) requesting authorization to commence the nuisance action. This resolution is to be considered immediately at the next scheduled Common Council Meeting.

4-(d) If the City Attorney does not receive a request for a resolution within fifteen (15) days of receipt of the City Attorney's notice, the City Attorney does not need to obtain a resolution and is authorized to commence and prosecute the nuisance action as authorized under Wis. Stats. Chapter 823."

5. Title and Introduction to Section 3.19 entitled "Monona Terrace Convention and Community Center Board" of the Madison General Ordinances is amended to read as follows:

**"3.19 MONONA TERRACE CONVENTION AND COMMUNITY AND CONVENTION CENTER BOARD.**

The City and Dane County, by an agreement under Sec. 66.0301, Wis. Stats., have created a Monona Terrace ~~Convention and Community and Convention~~ Center Board (Board). The Board shall have broad authority and latitude to make decisions to operate a successful convention and community center. It shall establish all policies, rules and regulations governing Monona Terrace and oversee its operation, subject to the limitations set forth in the Agreement."

6. Subdivision (11) of Section 3.19 entitled "Monona Terrace Convention and Community Center Board" of the Madison General Ordinances is amended to read as follows:

"(11) Contracting Powers. The Board is empowered to enter into contracts to purchase or provide goods and services consistent with the mission of Monona Terrace, the approved budget and these ordinances. The Chair of the Board and the Director of Monona Terrace are authorized to sign contracts for the benefit of the Monona Terrace ~~Convention and Community and Convention~~ Center. All contracts shall be signed by both the Chair and the Director. In the absence of either the Chair or the Director, contracts may be signed by their duly authorized designee. Contracts shall be approved by the Comptroller and as to form by the City Attorney

(a) The Director of Monona Terrace is hereby empowered to enter into standard form facility rental agreements provided such agreements have been approved in advance by the Comptroller and the City Attorney."

7. Subsection (26) entitled "Health Insurance" of Section 3.38 entitled "Compensation Plan" of the Madison General Ordinances is amended to read as follows:

"(26) Health Insurance. Employees registered in domestic partnerships under Section 3.23(10) (11), Madison General Ordinances, will be eligible for family health insurance coverage when such coverage is permitted under the terms of the Wisconsin Public Employers' Group Health Insurance Plan."

8. Section 3.45 entitled "Minimum Wage" of the Madison General Ordinances is hereby repealed.

9. Subdivision (d) of Subsection (6) entitled "Honoraria, Fees and Expenses" of Section 3.47 entitled "Code of Ethics" of the Madison General Ordinances is amended to read as follows:

"(d) Employees may not use time provided under Sec. 3.36(4)(5) for purposes of outside employment."

10. Subdivision (i) of Subsection (9) entitled "Disclosure of Interests" of Section 3.47 entitled "Code of Ethics" of the Madison General Ordinances is amended to read as follows:

"(i) The Clerk shall send Statement of Interests forms to known filers at least 45 days before the filing deadline and a filing reminder to all City department heads and staff of all boards, committees and commissions at least 15 days before the filing deadline.

The Clerk shall notify any person who fails to timely file the required Statement of Interests. The Clerk shall notify the Comptroller of the name of any person who has not filed the Statement within 10 days of the mailing of the Clerk's notice.

The Comptroller shall withhold the compensation of any such person until the Statement is filed. The Clerk shall report to the Common Council the name of any member of any board, committee, commission, subcommittee or ad hoc committee who has not filed the Statement within 10 days of the mailing of the Clerk's notice. The Common Council shall, at the second meeting after receipt of the Clerk's notice, revoke the appointment of any such member who has not filed the required disclosure statement by the time of such Council meeting."

11. Paragraph 1. of Subdivision (h) entitled "Health Insurance and Benefits" of Section 3.52 entitled "Nonrepresented Transit Division Employees" of the Madison General Ordinances is amended to read as follows:

"1. Employees registered in domestic partnerships under Section 3.23~~(40)~~(11), Madison General Ordinances, will be eligible for family health insurance coverage when such coverage is permitted under the terms of the Wisconsin Area Health Fund."

12. Subsection (2) entitled "Creation of Community Development Authority; Status as Public Body" of Section 3.69 entitled "Community Development Authority of the City of Madison" of the Madison General Ordinances is amended to read as follows:

"(2) Creation of Community Development Authority; Status as Public Body. Pursuant to Sec. 66.43~~25~~ 1335 of the Wisconsin Statutes (entitled "Housing and Community Development Authorities"), there is hereby created a housing and community authority, which shall be known as the "Community Development Authority of the City of Madison". The Community Development (the "CDA") is deemed to be a public body and a body corporate and politic, exercising necessary public powers, and having all the powers, duties and functions conferred on housing authorities, redevelopment authorities and housing and community development authorities by applicable law."

13. Subdivision (a) of Subsection (11) entitled "Powers and Duties of CDA" of Section 3.69 entitled "Community Development Authority of the City of Madison" of the Madison General Ordinances is amended to read as follows:

"(a) The CDA shall have all the powers, duties and functions of a housing authority, as set forth in Sec. 66.40 to 66.404 ~~66.1201 to 66.1213~~, inclusive, of the Wisconsin Statutes, and all housing projects initiated by the CDA and approved by the Common Council shall be undertaken and carried out pursuant to such sections."

14. Subdivision (b) of Subsection (11) entitled "Powers and Duties of CDA" of Section 3.69 entitled "Community Development Authority of the City of Madison" of the Madison General Ordinances is amended to read as follows:

"(b) The CDA shall have all the powers, duties and functions of a redevelopment authority as set forth in Sec. 66.434 ~~1335~~ of the Wisconsin Statutes, and all projects relating to blight elimination, slum clearance, urban renewal and redevelopment programs initiated by the CDA and approved by the Common Council shall be undertaken and carried out pursuant to Secs. 66.43, ~~66.431, 66.435 or 66.46~~ 66.1331, 66.1335, 66.1337 and 66.1105 of the Wisconsin Statutes, as determined appropriate by the Common Council on a project by project basis."

15. Subdivision (d) of Subsection (11) entitled "Powers and Duties of CDA" of Section 3.69 entitled "Community Development Authority of the City of Madison" of the Madison General Ordinances is amended to read as follows:

"(d) The CDA may, upon the direction of the Common Council, act as agent of the City in performing any or all acts, except the development of the general plan of the City, which may otherwise be performed by the City Plan Commission under secs. 66.405 to 66.425, inclusive, ~~66.43, 66.435 or 66.46~~ 66.1301 to 66.1327, inclusive, 66.1331, 66.1337 or 66.1105 of the Wisconsin Statutes."

16. Subsection (13) entitled "Transfer of MRA Project to CDA" of Section 3.69 entitled "Community Development Authority of the City of Madison" of the Madison General Ordinances is amended to read as follows:

"(13) Transfer of MRA Project to CDA. All existing programs and projects of the MRA, and all debts, demands, liabilities and obligations existing in favor of or against the MRA, and all titles to real and person property, contracts, rights and remedies of the MRA shall be transferred to and assumed by the CDA upon adoption of this ordinance, and the operation of the MRA shall be terminated. Upon completion of such transfer, all such programs, projects, debts, demands, liabilities, obligations, titles to real and personal property, contracts, rights and remedies of the MRA shall become those of the CDA as though originally initiated, incurred, accrued, executed or acquired by the CDA, and all contracts entered into between the MRA and the Federal Government, or between the MRA and other parties, shall be assumed and

discharged by the CDA except for the termination of operations of the MRA. Subject to such approvals or consents by the Federal Government, or by any other parties, as may be required, the MRA and the CDA are hereby authorized to execute any and all documents that may be necessary to effect such transfer. Upon completion of such transfer, any procedures, hearings, actions or approvals taken or initiated by the MRA on pending projects pursuant to Sec. 66.434 1333 of the Wisconsin Statutes shall be deemed to have been taken or initiated by the CDA as though the CDA had originally undertaken such procedures, hearings, actions or approvals. Contracts for disposition of real property entered into by the MRA with respect to any project are deemed to be contracts of the CDA without the requirement of amendments thereto."

17. Subsection (17) entitled "Evidence of Authority" of Section 3.69 entitled "Community Development Authority of the City of Madison" of the Madison General Ordinances is amended to read as follows:

"(17) Evidence of Authority. A certified copy of this ordinance shall be filed with the City Clerk and shall be prima facie evidence of the CDA's right to transact business, and such ordinance shall not be subject to challenge because of any technicality. In any suit, action or proceeding commenced against the CDA, a certified copy of such ordinance shall be deemed conclusive evidence that the CDA is established and authorized to transact business and exercise its powers hereunder and pursuant to Sec. 66.4325 1335 of the Wisconsin Statutes."

18. Subsection (20) entitled "Construction" of Section 3.69 entitled "Community Development Authority of the City of Madison" of the Madison General Ordinances is amended to read as follows:

"(20) Construction. All powers, duties and functions of a housing and community development authority, as set forth in Sec. 66.4325 1335 of the Wisconsin Statutes, are deemed to have been granted to the CDA as though set forth in this ordinance, except as to those powers, duties and functions which are subject to further authorization and direction of the Common Council, as set forth herein. This ordinance and the powers granted hereunder shall be construed liberally to effectuate its purpose."

19. Subsection (1) entitled "Sections 65.02, 65.03, and 65.04 of the Wisconsin Statutes Adopted" of Section 4.02 entitled "Budget System" of the Madison General Ordinances is amended to read as follows: "(1) Sections 65.02, 65.03, and 65.04 of the Wisconsin Statutes Adopted. The provisions of Sections 65.02, 65.03 and 65.04 of the Wisconsin Statutes except subsection (8) of Section 65.04 and subsection (1) of Section 65.03 relating to the budget system are hereby adopted for the City of Madison and shall be in full force and effect as ordinances of said City as if fully set forth herein, except that the Board of Estimates shall consist of the Mayor and six aldermen, to be selected as set forth in Section 4.02(3)(4) of this ordinance, and except that the Board of Estimates shall make and submit the proposed budget to the Common Council on or before November 15 of each year. The Mayor shall be the chairman of the Board of Estimates."

20. Section 11.10 entitled "Underground Transmission Lines" of the Madison General Ordinances is hereby repealed.

21. Subdivision (b) entitled "Planned Developments" of Subsection (4) entitled "Powers and Duties" of Section 33.20 entitled "Urban Design Commission" of the Madison General Ordinances is amended to read as follows:

"(b) Planned Developments. The Urban Design Commission shall review the design of all proposed developments which are considered planned developments under provisions of the Zoning Ordinance. In exercising this power, the commission shall be bound by the provisions of Sec. 28.07(4), (5) and (6) and Sec. 28.12(10)(11)(k) and shall report its findings to the City Plan Commission and Common Council."

22. Section 35.01 entitled "Definitions" of the Madison General Ordinances is amended by amending therein the following:

"Federal Act shall mean the Federal Water Pollution Control Act of 1972, 33 U.S.C. Section 1251 et. seq., as amended, known as the Clean Water Act or as implemented by Chapters 447 281 and 283, Wisconsin Statutes, or appropriate sections of the Wisconsin Administrative Code adopted pursuant to Chapters 447 281 and 283, as well as any applicable guidelines, limitations and standards promulgated by the United States Environmental Protection Agency pursuant to the Federal Act."

23. Subdivision (e) of Subsection (3) entitled "Use of Public Sewers Required" of Section 35.02 entitled "The Public

Sewerage System" of the Madison General Ordinances is amended to read as follows:

"(e) When the Common Council, by resolution in accordance with Wisconsin Statutes section 62.16 and/or 66.0911, or by Madison General Ordinances Section 35.02(3), requires the installation of a sanitary sewer lateral and/or connection to the public sewerage system, or when the Director of Public Health, in accordance with Wisconsin Statutes section ~~444.06~~ 281.45 and Madison General Ordinances Section 7.33, requires the installation of a sanitary sewer lateral and/or reconnection to the public sewerage system, all applicable sewer district charges or assessments, the Madison Metropolitan Sewerage District charges, and the cost of the sanitary sewer lateral shall be entered on the tax roll as a special tax against the lot or parcel of land served and the same shall be collected in all respects like other taxes upon real estate."