



Legislation Details (With Text)

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Title: Amending Section 8.39 of the Madison General Ordinances to change the composition of the Olin Terrace Use Team, change the name to Olin Terrace Use Commission, update the procedures for review and approval of Olin Terrace Special Use Permits, amending Sec. 8.38 to clarify the use of vehicles on Olin Terrace, and creating Sec. 33.27(1)(c) to include the Olin Terrace Use Commission in the list of "Full Committees."

Sponsors: Paul R. Soglin, Michael E. Verveer

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
4/17/2012	1	COMMON COUNCIL	Adopt	Pass
4/12/2012	1	MONONA TERRACE COMMUNITY AND CONVENTION CENTER BOARD	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
4/10/2012	1	COMMON COUNCIL	Referred	
4/5/2012	1	Attorney's Office/Approval Group	Referred for Introduction	

Fiscal Note

There may be a minor increase in General Fund revenues derived from permit fees.

Title

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Body

DRAFTER'S ANALYSIS: This ordinance amends and updates the process for obtaining a Special Use Permit for Olin Terrace. A Special Use Permit is required for gatherings of more than 50 people on Olin Terrace (which includes an area known as the Olin Terrace Pedestrian Way.) Under the current ordinance, permit requests are reviewed by a staff team of at least seven people. This amendment reduces the committee to 5 persons and clarifies how they are appointed and that they are a Staff Commission under current city terminology. This amendment adds a requirement that a permit is required for groups of any size if their activity includes the placement of equipment. This amendment raises the application fee from \$30 to \$50, updates the insurance requirements, establishes the hours of use for a Special Use Permit, and updates the Standards of Issuance. The current ordinance does not specify any hours for Special Use. Under this ordinance, the hours for Special Use would match the hours that the Monona Terrace Rooftop is open to the public, currently 8 a.m. to midnight. Additional Standards of Issuance would include a requirement that electrical use is paid for, plantings not be damaged, chalk drawings cannot be made on the special pavement surfaces, tents intended for habitation cannot be used, and equipment cannot be left overnight without

permission or a rental agreement. This ordinance also clarifies that a Special Use Permit cannot be issued if another group already has a permit or a rental agreement for Olin Terrace, or if there is an event at the convention center of a size or duration that issuing a Special Use permit would substantially interfere with the rental event. The ordinance amends Sec. 8.38, MGO regarding the use of vehicles on Olin Terrace. Finally, the appeal process is updated to incorporate the judicial review available under Sec. 8.49(7) and generally expedite an appeal if a Use Permit is denied. This amendment also replaces the word "Team" with "Commission" consistent with Sec. 33.01, MGO, and adds the Olin Terrace Use Commission to the list of "Full Committee" staff committees in Sec. 33.27.

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

1. Section 8.39 entitled "Olin Terrace Use Permit" of the Madison General Ordinances is amended to read as follows:

"8.39 OLIN TERRACE USE PERMIT.

- (1) Purpose. Olin Terrace is a multipurpose space owned and maintained by the City for the use and enjoyment of visitors to the Monona Terrace Community and Convention Center ("Community and Convention Center") and the general public in the ordinary way. It also provides the primary pedestrian entrance for access on foot to and from the Community and Convention Center. Under proper and uniform circumstances the Common Council may allow special use, subject to reasonable municipal regulation and control. This ordinance is enacted to regulate and control Olin Terrace to the end that the health, safety and general welfare of the public is ensured and the good order of the City is maintained and operations at the Community and Convention Center are not adversely affected.
- (2) Definitions. Within this section the following definitions apply:
 - (a) City means City of Madison.
 - (b) Clerk means the City Clerk of Madison.
 - (c) Monona Terrace means the premises known as 1 John Nolen Drive and includes the Monona Terrace Community and Convention Center building and grounds and excludes the Monona Terrace Parking Structure, the John Nolen Drive right-of-way beneath Monona Terrace and outside of the tunnel, the railroad corridor under Monona Terrace, and Olin Terrace. The legal description may be found in Resolution 54,136, adopted May 6, 1997.
 - (d) Olin Terrace means the public right-of-way originally platted as Wisconsin [sic] Avenue between West Wilson Street and the southerly ownership lines of blocks 86 and 87 on the original plat of the City.
 - (e) Olin Terrace Pedestrian Way (or "Pedestrian Way") means the walkway on Olin Terrace extending southeast from the West Wilson Street sidewalk to the beginning of the entry circles of the main entrance of the Monona Terrace Community and Convention Center building.
 - (f) Olin Terrace Use ~~Permit Team~~ Commission means the public body charged with reviewing applications for an Olin Terrace Use Permit under this ordinance. City staff representatives: from the departments of Clerk, Fire, Police; the divisions of Engineering, Parks, and Streets; Monona Terrace, and others as necessary. The voting membership of the Olin Terrace Use Commission ("Commission") shall consist of a staff representative from each of the following City departments or divisions:
 1. Monona Terrace - Operations;
 2. Risk Manager;
 3. Parks Division;
 4. Police Department;
 5. Fire Department;Commission coordination shall be provided by Monona Terrace. Membership on this Staff Commission shall not require mayoral appointment or Common Council approval. The head of each department or division listed above shall designate an individual to serve on the Commission on a regular basis for an indefinite term. The Department

- head may assign another individual to attend and vote in the absence of the regularly-assigned staff person. This Commission is considered a "full" or "formal" committee under Sec. 33.27, MGO, and subject to all applicable provisions of that section, including Sec. 33.27(2)(a), MGO.
- (g) Person means any person or persons, firm, partnership, association, corporation, company or organization of any kind.
- (h) Special Use means a the following:
1. any meeting, demonstration, picket line, rally or gathering of more than fifty (50) persons for a common purpose as a result of prior planning or,
 2. whether or not resulting from prior planning, any gathering of more than fifty (50) people that interferes with or has a tendency to interfere with the normal flow of pedestrian traffic on Olin Terrace and to and from the entry of the Monona Terrace Community and Convention Center-, or
 3. any gathering, regardless of the number of people, that includes the placement of any equipment (excluding personal assistive mobility devices).
- (i) Team means Olin Terrace Use Permit Team.
- (3) No person shall participate in any Special Use of the Olin Terrace or Olin Terrace Pedestrian Way unless a permit has been issued under this ordinance.
- (4) Exceptions.
- (a) An Olin Terrace Use Permit shall not be required of a person who leases ~~the premises or reserves Olin Terrace and/or the Olin Terrace Pedestrian Way through a facility rental agreement or similar process established by the Monona Terrace Community and Convention Center for users of the center~~ in the ordinary course of business.
- (b) The City and other government units as defined in Sec. 108.02(17), Wis. Stats. shall be exempt from Subsection sub. (7) of this ordinance.
- (5) Application Process.
- (a) A person shall make written application on a form provided by the Clerk and file the completed ~~and notarized~~ application at the Clerk's office or electronically, if available. ~~with the Clerk.~~
- (b) The form shall set forth the following information regarding the proposed use:
1. The name, address, and telephone number of the person seeking to use Olin Terrace or Olin Terrace Pedestrian Way.
 2. The name(s), address(es) and telephone number(s) of the headquarters of the organization for which the use is requested and if any, the authorized and responsible heads or officers of the organization.
 3. The date, start and end times for which the use is requested.
 4. The approximate number of persons expected to participate in the use of the space.
 5. A detailed and accurate description of the proposed use including the exact space for which use is requested, a description of all proposed equipment and a diagram showing equipment location.
 6. A description of any recording or sound amplification equipment to be used in connection with the proposed use and schedule for any proposed sound amplification. All use of sound is subject to sec. 24.04, MGO.
 7. A designation of any City-owned facilities and statement of whether the use of any city equipment, city electricity or other facilities is requested and agreement to pay costs for the same. to be utilized.
 8. A crowd control plan.
 9. Any additional information as may reasonably be found necessary by the ~~Team~~ Commission in meeting its fair determination regarding the request for use.
- (c) Deadline for Application.
1. An application for a permit shall be filed ~~thirty (30) days prior but not less than~~ fourteen (14) days prior to the date of the proposed use.

2. The deadline for filing may be waived by the Chief of Police or designee if after due consideration of the date, time, nature of use, anticipated number of participants, City services required, the Chief or designee determine that the Team Commission will have sufficient time to objectively review the application, provide a safe and successful use and ensure the comfort, convenience and safety of the general public.
 3. No application shall be considered complete and thus, timely filed, unless all required information required by this ordinance has been provided.
- (d) Issuance Process.
1. Upon receipt of a complete application and any accompanying materials, the Clerk shall immediately forward copies to the Team Commission for review.
 2. The Team Commission shall evaluate a timely filed application according to the standards set forth elsewhere in this ordinance. ~~The Team and shall recommend either approval~~ approve the application with conditions as appropriate to ensure the safety of the public and provide for an orderly use of the space or ~~denial of~~ deny the application.
 3. The approval or denial of the application shall be made within twenty-one (21) days of receipt of all materials and no later than five (5) days before the proposed use to allow for a timely appeal as provided elsewhere in this section.
 4. The Clerk shall issue the permit, including any special provisions or conditions.
 5. If the Team has denied a permit, the reason(s) shall be set forth in writing and the applicant notified either in person or by certified mail and shall include information on appealing the decision.
 6. Upon the issuance of an Olin Terrace Use Permit, the Team shall notify the Clerk, Mayor, the City Attorney and the Monona Terrace Board.
 7. ~~The Monona Terrace Board shall regularly report to the Common Council on all special use permit applications approved or denied.~~
- (6) Standards for Issuance. Except to the extent they are inconsistent with the provisions of any other section of the Madison General Ordinances, the standards established within this subsection and as amended from time to time, shall govern the issuance of special use permits. An Olin Terrace Use Permit shall be issued to an applicant unless:
- (a) The time and size of the proposed use would substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic in the vicinity of Olin Terrace; or
 - (b) The concentration of persons would unduly interfere with proper fire and police protection of, or other emergency service to Monona Terrace or through Olin Terrace, or to areas adjacent to Olin Terrace; or
 - (c) Another special use permit has already been granted for substantially the same time at or adjacent to Olin Terrace or the Olin Terrace Pedestrian Walkway, another person has leased or reserved the space under sub. (4)(a) for substantially the same time, or has a rental agreement with the Community and Convention Center for an event of such size and/or duration that issuing a Special Use permit would substantially interfere with the rental event; or
 - (d) The size or time of the special use would require so great a diversion of City police as to prevent normal police protection of the City or to prevent adequate police protection at another previously scheduled City-wide event; or
 - (e) The use is reasonably likely to cause injury to persons or property and there is inadequate planning for crowd control of participants; or
 - (f) Adequate sanitation or other necessary health facilities will not be available at the event; or
 - (g) There is an insufficient number of parking places within a reasonable distance to accommodate the number of vehicles expected; or
 - (h) The time, size or nature of the proposed use is incompatible with the normal activity at that location so as to impermissibly intrude on the comfort and convenience of guests at

Monona Terrace and adjacent neighbors and an alternative channel of communication is available; or

- (i) The proposed use or event will have a significantly adverse environmental impact; or
- (j) The proposed use would violate another city ordinance, state or federal law; or
- (k) The purpose of the event includes sales of food, goods, or other merchandise (i.e. vending), or
- (l) The proposed use would violate one or more of the following rules of conduct for Olin Terrace and the Pedestrian Way. The following rules apply to any person on Olin Terrace or the Pedestrian Way, whether or not a Special Use permit has been requested or granted:
 - 1. Special use shall not take place outside the normal hours for the rooftop of the Monona Terrace Community and Convention Center, or otherwise overnight, except for a person that has or will have a facility rental agreement for a multi-day event at the Convention Center that includes the use of the Olin Terrace and/or Pedestrian Way may leave permitted equipment in place overnight.
 - 2. No person shall plug into any electrical source on the Monona Terrace, Olin Terrace, Olin Terrace Pedestrian Walkway or other adjacent City property without a Special Use Permit and an agreement in place for payment to the city.
 - 3. The special use shall not include the attachment of signs or any other equipment to Olin Terrace structures, benches, planters, or any other city amenity; and signs may not be posted or displayed within a planter.
 - 4. No person shall cause damage to plantings on the Olin Terrace or Pedestrian Way.
 - 5. The special use shall not include chalk or similar drawing, writing or marking of any kind on the pavement, pavers or any other surface of the Olin Terrace and no person shall make or cause to be made any such markings. Sec. 23.06(6), MGO, creating an exception to the general prohibition against Damage to Property for water soluble chalk, shall not apply to any such markings made anywhere on Olin Terrace or the Pedestrian Way.
 - 6. Tents, shelters, structures, or any other equipment that must be anchored or attached to the ground are prohibited unless the placement and method of attachment are specifically approved as a condition of the permit or under a facility rental agreement. Any tent or other structure designed or intended for housing, sleeping, or overnight shelter for or occupancy by persons, regardless of the method of attachment or construction, is prohibited.
 - 7. Any other rule found in the official "Monona Terrace Community and Convention Center Policy and Rules for Public Demonstrations and Gatherings" adopted by the Monona Terrace Board.

(7) Fees.

- (a) A nonrefundable fee of ~~thirty~~ fifty dollars (\$~~300~~350) to cover the administrative costs of processing the proposed permit application shall be submitted at the time the permit application is filed, except as set forth in sub. (4)(b) herein.
- (b) ~~If the permitted use will require~~ the applicant requests the use of any City equipment or any City services, the applicant shall pay prior to the issuance of the permit, the charges for use of that equipment and those services in accordance with a schedule of rental fees approved by the Monona Terrace Community and Convention Center Board.
- (c) As a condition to approval of an application, the applicant shall agree to pay, within twenty (20) days of billing, any additional actual costs for City services and equipment incurred by the City by the occasion of the special use and its participants.

(8) Insurance.

- (a) The applicant for an Olin Terrace Use Permit shall agree to indemnify, defend, and hold the City and its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the City on account of any injury to or death of any

- person or any damage to property caused by or resulting from the activities for which the permit is granted.
- (b) The requirement of insurance and applicable minimum limits shall be determined by the City Risk Manager according to objective standards including but not limited to the size and nature of the event, the number of expected participants, the potential for physical injury or property damage caused by participants.
 - (c) ~~As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be asked to furnish a Certificate of Commercial General Liability insurance on a form provided by the City with the City of Madison, its employees and agents as additional insured.~~
 - 1. ~~The insurance shall include coverage for contractual liability with minimum limits of one million dollars (\$1,000,000) combined single limits per occurrence.~~
 - 2. ~~The certificate of insurance shall provide a thirty (30) days' written notice to the City upon cancellation, nonrenewal, or material change in the policy.~~

If insurance has been determined to be required for an event under sub. (b) above, the applicant shall furnish a Certificate of Insurance providing evidence of Commercial General Liability coverage with minimum limits of one million dollars (\$1,000,000) per occurrence or a higher limit if determined by the Risk Manager to be necessary on a case by case basis. Such Commercial General Liability coverage shall include coverage for contractual liability and list the City of Madison, its officers, officials, employees and agents as additional insureds. The certificate of insurance shall provide a thirty (30) day written notice to the City upon cancellation, nonrenewal, or material change in the policy. If insurance is determined to be required for an event, the applicant shall provide the Certificate of Insurance described above no less than five (5) days prior to the event.
- (9) Appeal Procedure.
- (a) Any applicant wishing to appeal the denial of an Olin Terrace Use Permit shall file the appeal and the basis of the appeal in writing with the Clerk within ten (10) calendar days of the decision, if delivered in person, or of the mailing of the notice of denial, if delivered by mail. Upon receipt of an appeal, the Clerk shall notify the secretary of the Commission, Monona Terrace Director and Chair of the Monona Terrace Community and Convention Center Board.
 - (b) Appeal Subcommittee. The appeal shall be heard by a subcommittee of the Monona Terrace Community and Convention Center Board ("Board") formed for such a purpose. ~~The subcommittee shall consist of three (3) members appointed by the Chair. The Board shall create a subcommittee of three (3) Board members. The Board Chair shall appoint current board members to the subcommittee as needed to hear appeals without further action of the Board.~~
 - (c) The Appeal Subcommittee shall schedule a hearing as soon as possible, in compliance with open meetings requirements, after receiving notice of the appeal. At the hearing, ~~the~~ the applicant and the Team City, as represented by counsel, shall have the opportunity to be represented by counsel, to present evidence, call and cross-examine witnesses.
 - (d) The Appeal Subcommittee shall issue a written decision if possible before the date of the requested Special Use but in no case more than within ten (10) calendar days of after the hearing.
 - (e) The decision of the administrative body Appeal Subcommittee shall be a final determination and shall be for purposes of judicial review. subject to review in circuit court as may be provided by law. Any party aggrieved by the decision determination may seek review by following the procedures for judicial review in 9.49(7), MGO. thereof but in no event later than thirty (30) days after the date of the final determination.
- (10) Termination of Permit. An Olin Terrace Use Permit for an event in process may be terminated by the Chief of Police or designee if participants engage in violent or destructive behavior causing injury to persons or damage to property, if termination is reasonable and necessary in

the face of imminent danger or threat to public safety, or if there is a substantive violation of the conditions of the permit and termination is necessary and reasonable. A permit 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.

- (11) Severability. Each provision or any portion of this section shall be considered separable, and the finding of the invalidity of any portion by a court of competent jurisdiction shall not affect the validity or enforceability of any other portion.

- (12) Penalty. Any person who shall do any of the following may be subject to a forfeiture of not less than thirty dollars (\$30) nor more than three hundred dollars (\$300) for each violation:

- (a) Hold, sponsor or conduct any special use of Olin Terrace or Olin Terrace Pedestrian Way for which a use permit is required without first having obtained a permit as herein provided; or
- (b) Knowingly participate in an activity for which a special use permit is requested without a valid permit having been granted or after a permit has been terminated pursuant to Subsection sub. (9) above; or
- (c) As an applicant, knowingly fail to comply with a condition of the permit; or
- (d) Provide ~~fake~~ false or inaccurate information on the special use application; or
- (e) Disobey a lawful order of a police officer after the officer has informed the person of the condition of the permit that has been or is being violated; or
- (f) Violate the rules of conduct in sec. 8.39(6)(l) or any other subsection of this ordinance.

2. Paragraph (b) of Subsection (3) of Section 8.38 entitled "Monona Terrace Community and Convention Center" of the Madison General Ordinances is amended to read as follows:

- "(b) Authorized City service and maintenance vehicles, authorized emergency vehicles, vehicles authorized pursuant to a Special Use Permit under Sec. 8.39, MGO, or facility rental agreement, or vehicles otherwise authorized by law are permitted on Monona Terrace, Olin Terrace and Olin Terrace Pedestrian Way."

3. Subdivision (c) of Subsection (1) entitled "Full Committees" of Section 33.27 entitled "Staff Committees" of the Madison General Ordinances is created to read as follows:

- "(c) Olin Terrace Use Commission. See Sec. 8.39, MGO."