File #: 05512, **Version:** 2

Fiscal Note

It is anticipated that there may be perhaps 10 to 15 violations annually, which might yield an estimate increase in General Fund revenues of $1,000 to $2,000.

Title

AMENDED - Creating Section 25.26 of the Madison General Ordinances to restrict the possession and use of paintball marker/"gun"s in the City of Madison, and amending Section 1.08(3)(a) of the Madison General Ordinances to establish bail amounts for this section.

Body

DRAFTER'S ANALYSIS: This proposal prohibits a person from possessing, carrying, or going armed with a paintball marker/"gun" in areas held open for use by the public unless the marker/"gun" is unloaded and enclosed or encased, prohibits a person from discharging a paintball marker/"gun" except on private property with the owner's consent, prohibits a minor to possess or operate a paintball marker/"gun" unless accompanied and supervised by a parent or guardian or an adult with the parent or guardian's written authorization, prohibits the provision of paintball marker/"guns" to minors without the minor's parent or guardian's permission, and creates a graduated penalty scheme for violations of this ordinance.

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

1. Section 25.26 entitled "Paintball Marker/"Guns" of the Madison General Ordinances is created to read as follows:

"**25.26 PAINTBALL MARKER/"GUNS".**

(1) In this section:

(a) "Paintball marker/"gun"" shall be defined as any device which, in the manner it is used, intended to be used, or designed to be used, is capable of launching, propelling, expelling, or otherwise causing any item, device or article which carries or may be altered to become capable of carrying paint, ink, or any colored liquid, to an intended target and thereby causing a mark or stain on any surface which it may contact.

(b) "Projectile" means any item that is caused to be expelled from a paintball marker/"gun" at an enhanced velocity.

(2) Unlawful Possession of a Paintball Marker/"Gun". It shall be unlawful for any person to possess, carry or go armed with any paintball marker/"gun" on or about his or her person within areas of the City of Madison held open for use by the public, unless the paintball marker/"gun" is both unloaded and disconnected from an air supply or enclosed ~~or encased~~ within a carrying case. This provision does not apply to the following:

(a) Any peace officer or law enforcement officer during the course of his or her employment;

(b) Any merchant, or authorized employee of said merchant, who sells or displays paintball marker/"guns" during the normal and ordinary course of business, while on the business premises, or at a gun show or exhibition;

~~(c) Any person transporting a paintball marker/"gun" in a portion of a vehicle not readily accessible from the passenger compartment;~~

~~(d)~~(c) Individuals on a privately owned premises, held open for use by the public, that is authorized by the Chief of Police, or designated representative, as a paintball marker/"gun" recreational area;

~~(e)~~(d) Individuals engaged in live theatrical performances or historical reenactments, wherein paintball marker/"guns" are used as props; or

~~(f)~~(e) A person who has obtained the written permission from the Chief of Police, or designated representative.

(3) Unlawful Firing or Discharge of a Paintball Marker/"Gun". It shall be unlawful for any person to fire or discharge a paintball marker/"gun" within the City of Madison. This provision does not apply to a property owner, or authorized guest of the property owner, firing or discharging a paintball marker/"gun" on the

property owner's private property, provided that no portion of the projectile from the paintball marker/"gun" crosses the property line.

(4) Unlawful Possession of a Paintball Marker/"Gun" by a Minor. It shall be unlawful for any person under the age of 18 to possess, carry or go armed, or to fire or discharge a paintball marker/"gun" within the City of Madison, unless the minor is accompanied and supervised by a parent or guardian, or an accompanying and supervising adult who has the minor's parent or guardian's written authorization.

(5) Unlawful Provision of a Paintball Marker/"Gun" to a Minor. It shall be unlawful for any person to provide a paintball marker/"gun" to a person under the age of 18, unless that person is the parent or guardian of the minor, or that person has the minor's parent or guardian's express written permission.

(6) Penalty. Any person violating this section shall be subject to the following forfeitures upon conviction:

(a) If the person has no prior convictions under this section during the preceding five (5) years, the person shall be subject to a forfeiture of not less than one hundred ($100) nor more than three hundred ($300) dollars;

(b) If the person has one prior conviction under this section during the preceding five (5) years, the person shall be subject to a forfeiture of not less than three hundred ($300) nor more than five hundred ($500) dollars; and

(c) If the person has two or more prior conviction under this section during the preceding five (5) years, the person shall be subject to a forfeiture of not less than five hundred ($500) nor more than one thousand ($1000) dollars.

(7) Severability. The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance 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 herein."

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance Of Citations For Violations Of Certain Ordinances And Providing A Schedule Of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

"Offense	Ord. No./ Adopted Statute No.	Deposit
Unlawful Possession of a Paintball Marker/"Gun"	25.26(2)	$100, 1st; $300, 2nd; $500, 3rd+
Unlawful Firing or Discharge of a Paintball Marker/"Gun"	25.26(3)	$100, 1st; $300, 2nd; $500, 3rd+
Unlawful Possession of a Paintball Marker/"Gun" by a Minor	25.26(4)	$100, 1st; 300, 2nd; $500, 3rd+
Unlawful Provision of a Paintball Marker/"Gun" to a Minor	25.26(5)	$100, 1st; $300, 2nd; $500, 3rd+"

EDITOR'S NOTE: New or amended bail deposits must be approved by Municipal Judge prior to adoption. These deposits have been so approved.

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