File #: 94201, **Version:** 1

Fiscal Note
No City appropriation required.
Title
Amending various sections of the Madison General Ordinances to correct inconsistencies and improper references in the Madison General Ordinances, constituting a 2026 City Attorney Revisor's Ordinance.
Body
DRAFTER'S ANALYSIS: This City Attorney Revisor's Ordinance corrects certain parts of the Madison General Ordinances (MGO), the City's code of ordinances.

The proposed changes in this ordinance are as follows:

- Section 3.20(2)(k) is amended to correct a command system title.
- Section 3.32(12)(a)1 is amended to correct a grammatical error.
- Section 3.33 is amended to correct a reference to Wisconsin State Statute.
- Section 3.71 is amended to update the Wisconsin State Statutes relating to Open Meetings of Governmental Bodies.
- Section 3.71(4) is amended to correct a reference to Wisconsin State Statute.
- Section 12.87(2)(h) is amended to correct a grammatical error.
- Section 33.32(2)(a) is amended to correct membership of the Joint Campus Area Committee.

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

1. Subdivision (k) of Subsection (2) entitled "Definitions" of Section 3.20 entitled "Emergency Management" of the Madison General Ordinances is amended as follows:

"(k) "National incident ~~command~~ management system" (NIMS) is a national approach to an incident command system providing an integrated system with uniform processes, protocols and procedures for emergency response at every level of government."

2. Paragraph 1 of Subdivision (a) entitled "Death in Immediate Family" of Subsection (12) entitled "Death in Employee's Family or Otherwise" of Section 3.32 entitled "Absence of Employees from Duty" of the Madison General Ordinances is amended as follows:

"1. Where there is a death in the immediate family of an employee such City employee including crossing guard employees, shall be eligible, in accordance with the terms of this subsection, for leave without loss of pay. Employees shall be granted up to three (3) days without loss of pay and without charge to accrued sick leave or vacation of the employee. Such leave must be used within two (2) weeks of the death, memorial service, and/or funeral service which is the basis for the leave. Authorization for exceptions to this requirement can be obtained through the

Human Resources Director. The leave provided under this provision is not to be considered as vacation or holiday leave but leave provided for reasons related to the death of a close relative.~~.~~"

3. Section 3.33 entitled "Trainee Program" of the Madison General Ordinances is amended as follows:

"The Personnel Board may establish an in-service trainee program designed to give rigorous training in the various classes of positions in the City classified service. Each appointment shall be for such period of time and subject to such qualification as shall be determined by the Human Resources Director with the consent of the appointing authority. Trainees hereafter appointed pursuant hereto shall not have civil service status but shall be eligible to pension rights under the provisions of the ~~Wisconsin Retirement Fund, Chapter 41~~ Public Employee Trust Fund, Chapter 40, Wisconsin Statutes, and other fringe benefits provided by the general ordinances and civil service rules of the City of Madison. Permanent employees who shall be appointed as trainees hereunder shall retain their permanent civil service status. Trainees appointed hereunder shall be paid while undergoing training in accordance with the provisions of the salary schedule currently in force."

4. Subsection (1) entitled "Council Findings" of Section 3.71 entitled "Open Meetings of Municipal Bodies" of the Madison General Ordinances is amended as follows:

(1) Council Findings. Subchapter ~~IV~~ V of Ch. 19 of the Wisconsin Statutes, quoted hereinafter, sets forth the public policy of the State of Wisconsin with reference to open meetings of governmental bodies. Such statutes read as follows:

"19.81 Declaration of Policy.

(1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

(3) In conformance with article IV, section 10 of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

"19.82 Definitions. As used in this subchapter:

(1) 'Governmental body' means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or ~~quasigovernmental corporation~~ quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective

powered by Legistar™

bargaining under subch. IV or V of ch. 111.

(2) 'Meeting' means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in s. 60.50 (6), any gathering of the commissioners of a town sanitary district for the purpose specified in s. 60.77 (5) (k), or any gathering of the members of a drainage board created under s. 88.16, 1991 stats., or under s. 88.17, for a purpose specified in s. 88.065 (5) (a).

(3) 'Open session' means a meeting which is held in a place reasonably accessible to members of the public, and open to all citizens at all times. In the case of a state governmental body, it means a meeting which is held in a building and room thereof which enables access by persons with functional limitations, as defined in s. 101.13(1).

“19.83 Meetings of governmental bodies.

(1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

(2) During a period of public comment under s. 19.84(2), a governmental body may discuss any matter raised by the public.

“19.84 Public notice.

(1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and

(b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area. Communication from the chief presiding officer of a governmental body or such person’s designee shall be made to the public using one of the following methods:

1. Posting a notice in at least 3 public places likely to give notice to persons affected.

2. Posting a notice in at least one public place likely to give notice to persons affected and placing a notice electronically on the governmental body’s Internet site.

3. By paid publication in a news medium likely to give notice to persons affected.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.

(3) Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

(5) Departments and their subunits in any ~~university~~ University of Wisconsin ~~system~~ System institution or campus are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.

(6) Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

"19.85 Exemptions.

(1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

(a) Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.

(b) Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employee or person licensed is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary hearing or meeting where the employee or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

(d) ~~Considering~~ Except as provided in s. 304.06 (1) (eg) and by rule promulgated under s. 304.06 (1) (em), considering specific applications of probation, extended supervision or parole, or considering strategy for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

powered by Legistar™

(ee) Deliberating by the council on unemployment insurance in a meeting at which all employer members of the council or all employee members of the council are excluded.

(eg) Deliberating by the council on worker's compensation in a meeting at which all employer members of the council or all employee members of the council are excluded.

(em) Deliberating under s. 157.70 if the location of a burial site, as defined in s. 157.70 (1) (b), is a subject of the deliberation and if discussing the location in public would be likely to result in disturbance of the burial site.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

(h) Consideration of requests for confidential written advice from the ~~ethics board~~ elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59(5).

(2) No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. IV or V of ch. 111 which has been negotiated by such body or on its behalf.

"19.851 Closed sessions by ethics or elections commission.

(1) Prior to convening under this section or under s. 19.85 (1), the ethics commission and the elections commission shall vote to convene in closed session in the manner provided in s. 19.85 (1). The ethics commission shall identify the specific reason or reasons under sub. (2) and s. 19.85 (1) (a) to (h) for convening in closed session. The elections commission shall identify the specific reason or reasons under s. 19.85 (1) (a) to (h) for convening in closed session. No business may be conducted by the ethics commission or the elections commission at any closed session under this section except that which relates to the purposes of the session as authorized in this section or as authorized in s. 19.85 (1).

(2) The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.

(3) The commission shall convene in closed session for any of the following purposes:

(a) To consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring based on a complaint and, if received, a response to that complaint.

(b) To receive reports concerning audit findings and consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring.

"19.86 Notice of collective bargaining negotiations. Notwithstanding s. 19.82(1), where notice has been

powered by Legistar™

given by either party to a collective bargaining agreement under subch. IV or V of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in s. 19.84(1)(b). If the employer is not a governmental body, notice shall be given by the employer's chief officer or such person's designee.

"19.87 Legislative meetings. This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

(1) Section 19.84 shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

(2) No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

(3) No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

(4) Meetings of the senate or assembly committee on organization under ~~s. 71.11(44)(c)3 or 77.61(5)(b)3~~ s. 71.78 (4) (c) or 77.61 (5) (b) 3. shall be closed to the public.

"19.88 Ballots, votes and records.

(1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting.

(2) Except as provided in Sub.(1) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

(3) The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in s. 19.21.

"19.89 Exclusion of members. No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

"19.90 Use of Equipment in Open Session. Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.

"19.96 Penalty. Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than $25 nor more than $300 for each such violation. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

"19.97 Enforcement.

(1) This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state;

powered by Legistar™

and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

(2) In addition and supplementary to the remedy provided in s. 19.96, the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under s. 19.96, to obtain such other legal or equitable relief, including but not limited to ~~a writ of~~ mandamus, ~~an~~ injunction or ~~a~~ declaratory judgment, as may be appropriate under the circumstances.

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under subs. (1) to (3) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary costs of prosecution, including reasonable attorney fees to the realtor if he or she prevails, but any forfeiture recovered shall be paid to the state.

(5) Sections 893.80 and 893.82 do not apply to actions commenced under this section.

"19.98 Interpretation by attorney general. Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances.""

5. Subsection (4) entitled "Compliance with Open Meeting Law" of Section 3.71 entitled "Open Meetings of Municipal Bodies" of the Madison General Ordinances is amended as follows:

"(4) Compliance with Open Meeting Law. All of the provisions of Subchapter ~~IV~~ V of Ch. 19, Wis. Stats., including the exceptions, shall be observed by all boards, committees, subcommittees, commissions and authorities of the City of Madison. Any member of such a governmental body who violates the provisions of that law as set forth in Sec. 19.96 thereof shall be subject to a forfeiture of not less than twenty-five dollars ($25) nor more than three hundred dollars ($300) for each such violation."

6. Subdivision (h) of Subsection (2) entitled "Parades and Processions" of Section 12.87 entitled "Parades, Processions and Carnival Equipment" of the Madison General Ordinances is amended as follows:

"(h) The application ~~maybe~~ may be denied:

1. If it is for a parade that is to be held on a work day during hours when and at places where, in addition to the proposed parade, the flow of vehicular and pedestrian traffic is usually delayed by its own volume; or

2. If it is for a parade that is to be held between the hours of 10:00 p.m. and 6:00 a.m.

3. If sufficient parade marshals are not provided as to reasonably assure the orderly conduct of the parade."

7. Subdivision (a) of Subsection (2) entitled "Composition" of Section 33.32 entitled "Joint Campus Area Committee" of the Madison General Ordinances is amended as follows:

"(a) The following members shall be appointed by the City of Madison: Common Council members

powered by Legistar™

representing Districts 4, 5, and 8 as voting members, and Districts 2 and 13 as non-voting members; one (1) resident representative each from the Greenbush, Vilas, and Regent neighborhood associations; one (1) resident representative from Capitol Neighborhoods; ~~one (1) member of the Campus Area Neighborhood Association;~~ one (1) member of the Plan Commission; and one (1) member of the Transportation Commission. The Plan Commission member, Transportation Commission, and each neighborhood resident representative shall be appointed by the Mayor subject to confirmation by the Common Council."

powered by Legistar™