

LEGISTAR #43549 - Substitute

DRAFTER'S ANALYSIS: This ordinance prohibits individuals from lying down or sleeping on a public sidewalk in the Central Business District between the hours of 7:00 a.m. and 10:00 p.m. The ordinance finds that the ability of pedestrians to move about freely in the Central Business District is essential to the health of the City's businesses and other commercial enterprises, including the numerous entertainment venues, restaurants, and taverns. Persons who occupy sidewalks and other public areas for uses not intended harm the public welfare in the Central Business District. The ordinance prohibits, with exception, any person lying down or sleeping on a public sidewalk or other public rights of way, in the Central Business District, or on any parcel of real estate containing City offices.

These ordinances were modeled on similar ordinances adopted in Portland and Honolulu.

The substitute reduces the forfeiture under the ordinance.

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

1. Section 23.60 entitled "Limitations on use of Public Benches, Sidewalks, and other Specified Public Areas in the Central Business District" of the Madison General Ordinances is created to read as follows:

"23.60 LIMITATIONS ON USE OF SIDEWALKS AND OTHER SPECIFIED PUBLIC AREAS IN THE CENTRAL BUSINESS DISTRICT.

(1) Definitions. As used in this section:

"Central Business District" or "CBD" for purposes of this ordinance is defined to include the 100 through 800 blocks of State Street Mall, North Park Street from University Avenue to Lake Mendota, East Campus Mall, Fitch Court, North Lake Street from University Avenue to Lake Mendota, North Frances Street from University Avenue to Langdon Street, Langdon Street from North Park Street to North Frances Street, University Avenue from North Park Street to North Frances Street, West Gilman Street from University Avenue to North Henry Street, West Gorham Street from University Avenue to North Carroll Street, West Johnson Street from North Broom Street to North Carroll Street, Dayton Street from State Street to North Webster Street, Mifflin Street from North Henry Street to North Webster Street, West Washington Avenue from Henry Street to Carroll Street, East Washington Avenue from Pinckney Street to Webster Street, Main Street from South Henry Street to South Webster Street, Doty Street from South Fairchild Street to South Webster Street, Wilson Street from South Carroll Street to 120 East Wilson Street, North Broom Street from West Dayton Street to State Street, Henry Street from West Main Street to West Gorham Street, Fairchild Street from West Doty Street to State Street, Carroll Street from West Wilson Street to West Johnson Street, Pinckney Street from East Wilson to East Dayton Street, Webster Street from East Doty Street to East Dayton Street, Wisconsin Avenue from Mifflin Street to Dayton Street, North Hamilton Street from East Mifflin Street to North Webster Street, King Street from East Main Street to South Webster Street, Martin Luther King Jr. Blvd. from Wilson Street to Main Street, South Hamilton Street from South Fairchild Street to West Main Street. This area includes all designated streets, all properties fronting on the designated streets and all areas bounded by the designated streets. This area is depicted in the map at the end of this section.

"Public sidewalk" or "public right-of-way" for purposes of this ordinance includes all sidewalks, sidewalk areas, streets, highways, terraces, pedestrian way, highway right-of-way, or any other parts of the established right-of-way.

(2) Purpose and Findings.

(a) The Central Business District (CBD) is a special and unique area of the City of Madison, constituting the connection between the University of Wisconsin and the State Capitol, and having numerous businesses, restaurants, taverns and entertainment venues. The State Street Mall is a Mass Transit Way and pedestrian mall with limited or no access to motor vehicles by the public. The City of Madison has a significant public and governmental interest in encouraging the public presence of residents and visitors in the CBD, and their unimpeded use of public areas and private businesses in the area by insuring that residents and visitors are able to walk unobstructed in this area without persons sitting or lying in their way. Thousands of

individuals walk in this area on a daily basis and the City has a significant interest in encouraging visitors to frequent this area. The City has received regular complaints from businesses and residents of the CBD on the deleterious effect of persons sitting or lying on sidewalks or the public right of way.

- (b) Public sidewalks are designed for the easy use of pedestrians. In the CBD, customers must be able to easily access stores, other retail establishments, restaurants, entertainment venues, taverns and city offices. Many such establishments have obtained permits for the operation of outdoor cafes, which has further limited the available pedestrian space. This has made it even more important to preserve pedestrian access
 - (c) Sleeping or lying down is not the customary or intended use of sidewalks or other public rights of way. Persons who sleep or lie down in these areas of the CBD impede the ability of residents and visitors to have access to businesses, restaurants, shops, and interfere with the delivery of goods and services, and otherwise harm the general welfare.
 - (d) The need for access to these services in the CBD is greatest during normal business hours, which commence with street cleaning as early as 5:30 am and extend to the closing of taverns at 1:00 am or later. Persons who lie down or sleep on public sidewalks threaten their own safety and the safety of pedestrians, especially the elderly, disabled, vision-impaired, and children.
 - (e) Because of a person sleeping or lying on a sidewalk or other public area may be in need of services, a police officer shall first warn the person before citing them for violation of this ordinance, and shall ascertain whether the person needs services available from the County or other welfare agencies.
 - (f) Existing laws on obstruction of sidewalks are not sufficient to obtain the results necessary for adequate flow of pedestrians in the CBD.
 - (g) Residents, visitors and businesses must have access to City of Madison offices. Persons lying or sleeping on the property housing City of Madison offices impede the public's access to the offices, and impede the ability of City of Madison employees to have access to the offices.
- (3) In the Central Business District between the hours of 7:00 am to 10:00 pm, no person shall lie down or sleep on any public sidewalk or public right-of-way, or on a tarp, blanket, or other object on a public sidewalk or public right-of-way. It is not a violation of this subsection to sit on a public bench located in or on a public sidewalk or public right-of-way.
- (4) Between the hours of 7:00 am to 10:00 pm, no person shall lie down or sleep on any parcel of land where City of Madison offices are located.
- (5) Exception. The prohibitions in subs. (3)-(4) of this ordinance do not apply to persons lying down due to a medical emergency.
- (6) No person shall be charged or cited under this ordinance unless the person engages in conduct prohibited by the ordinance after once having been warned by a law enforcement officer not to engage in such conduct. A verbal warning, once given to a person, is adequate warning.
- (7) This ordinance shall be enforced and interpreted so as to not interfere with rights guaranteed under the First Amendment to the U.S. Constitution or Article I, §§ 3 and 4 Of the Wisconsin Constitution.
- (8) Any person violating this section shall be subject to a forfeiture of not more than ten dollars (\$10) for the first offense and not more than twenty-five dollars (\$25) for a second or subsequent offense within one year.”

2. Current Section 23.60 entitled “Penalties for Violation of This Chapter” of the Madison General Ordinances is renumbered to Section 23.70.

3. 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 creating and amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
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Sleeping or lying down on public sidewalk or right of way.	23.60(3)	\$10, 1st \$25, 2nd & sub. w/in 1 yr.
Sleeping or lying down on any parcel of land where City offices are located during prohibited hours.	23.60(4)	\$10, 1st \$25, 2nd & sub. w/in 1 yr.

EDITOR'S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.