



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Master

**File Number: 56836**

**File ID:** 56836

**File Type:** Ordinance

**Status:** Passed

**Version:** 4

**Reference:**

**Controlling Body:** Attorney's  
Office/Approval  
Group

**Lead Referral:** SUSTAINABLE  
MADISON  
COMMITTEE

**File Created Date :** 07/30/2019

**File Name:** Regulate distribution of plastic straws

**Final Action:** 02/04/2020

**Title:** 3rd SUBSTITUTE Creating Section 23.62 and amending Section 1.08(3)(a) of the Madison General Ordinances to regulate the distribution of plastic straws and plastic stir sticks in the City of Madison and establish a bail deposit for violation thereof.

**Notes:** 6256straws3rdSUB  
MAYOR APPROVAL DATE: 2/7/2020

**CC Agenda Date:** 02/04/2020

**Agenda Number:** 121.

**Sponsors:** Syed Abbas, Grant Foster, Patrick W. Heck, Lindsay Lemmer and Sally Rohrer

**Effective Date:** 05/13/2020

**Attachments:** 3rd Substitute, 2nd Substitute, Substitute, Body,  
10/21/19 Chair\_Co-Chair\_DRC Letter.pdf, EDC  
Presentation 8.21.19, Quam Public Comment at EDC  
8-21-19

**Enactment Number:** ORD-20-00019

**Author:** John Strange

**Hearing Date:**

**Entered by:** dalthaus@cityofmadison.com

**Published Date:** 02/13/2020

## Approval History

Version	Date	Approver	Action
1		Michael May	Approved as to Form
1		Travis J. Martin	Approve
2		Michael May	Approved as to Form
2		Laura Larsen	Approve
3		Michael May	Approved as to Form
3		Laura Larsen	Approve
4		Michael May	Approved as to Form
4		Laura Larsen	Approve

## History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office/Approval Group	07/30/2019	Referred for Introduction				
	<b>Action Text:</b> This Ordinance was Referred for Introduction <b>Notes:</b> Sustainable Madison Committee, Economic Development Committee, Disability Rights Commission						
1	COMMON COUNCIL	08/06/2019	Referred	SUSTAINABLE MADISON COMMITTEE		10/28/2019	
	<b>Action Text:</b> This Ordinance was Referred to the SUSTAINABLE MADISON COMMITTEE <b>Notes:</b> Additional Referrals to Economic Development Committee, Disability Rights Commission						
1	SUSTAINABLE MADISON COMMITTEE	08/06/2019	Referred	ECONOMIC DEVELOPMENT COMMITTEE		08/21/2019	
	<b>Action Text:</b> This Ordinance was Referred to the ECONOMIC DEVELOPMENT COMMITTEE <b>Notes:</b>						
1	SUSTAINABLE MADISON COMMITTEE	08/06/2019	Referred	DISABILITY RIGHTS COMMISSION		09/26/2019	
	<b>Action Text:</b> This Ordinance was Referred to the DISABILITY RIGHTS COMMISSION <b>Notes:</b>						
1	ECONOMIC DEVELOPMENT COMMITTEE	08/21/2019	Return to Lead with the Recommendation for Approval	SUSTAINABLE MADISON COMMITTEE		10/28/2019	Pass

**Action Text:**

- Susan Quam of the Wisconsin Restaurant Association testified in opposition. Ms. Quam provided a written copy of her statement.
- Harris agreed that fine is too high and more work could be done to improve the ordinance. He said that he does not want a "kid" to get fired because they make a mistake and the restaurant gets fined.
- 500 restaurants in association; got 15 calls to the Restaurant Association in opposition.
- Stacie Reece, City of Madison Sustainability Coordinator, and Ald. Abbas provided a presentation.
- Enforcement is self-reporting.
- Harris noted that many people using the drive thru will need a straw; otherwise there will be accidents.
- Harris noted that the ordinance is the right thing to do, but it still needs work to be fair to restaurants.
- Harris said that they need to have a consumer awareness campaign.
- Having the straws available will not count as providing them.
- Harris and Madison both stressed a consumer awareness plan.
- Kemble asked about the Disability Rights Committee. She said that the Disability Rights Committee does not want people to be discriminated against. She suggested having more positive language about having straws available for people with disabilities.
- Foster noted that it would be acceptable for businesses to ask people if they want a straw and the language should be clarified regarding this point.

A motion was made by Kemble, seconded by Stanley, to Return to Lead with the Recommendation for Approval to the SUSTAINABLE MADISON COMMITTEE. The motion passed by voice vote/other.

Harris and Madison asked that the resolution sponsors review the penalty part from an equity lens.

1	DISABILITY RIGHTS COMMISSION	09/26/2019	Return to Lead with the Following Recommendation(s)	SUSTAINABLE MADISON COMMITTEE	10/28/2019	Pass
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**Action Text:** A motion was made by Stroman, seconded by Erlanger, to Return to Lead with the Following Recommendation(s): The Commission wants this item to be rereferred to them after it gets to Common Council. The motion passed by the following vote:

**Notes:**

2	DISABILITY RIGHTS COMMISSION	10/24/2019	Return to Lead with the Following Recommendation(s)	SUSTAINABLE MADISON COMMITTEE	11/25/2019	Pass
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**Action Text:** A motion was made by Earl, seconded by Macy, to Return to Lead with the Following Recommendation(s) to the SUSTAINABLE MADISON COMMITTEE,. The motion passed by the following vote:

**Notes:** Recommend approval with the following changes:

Thus, reducing reliance on plastic beverage straws and stir sticks is one way Madison can help ensure that these products, which are used briefly but can take nearly 200 years to decompose, do not unnecessarily harm the environment. **This ordinance is not meant to discourage restaurants from having straws on site for customers who may wish to use them, including specifically for individuals with disabilities who may depend on straws to consume a beverage.**

(2) Restrictions. It shall be unlawful for a restaurant to prepare a drink with a plastic straw or plastic stir stick for a dine-in customer **unless the restaurant asks the dine-in customer if they want a plastic straw or stir stick.** This ordinance does not prohibit a restaurant from providing a plastic beverage straw or plastic stir stick to a take-out customer or making plastic straws or plastic stir sticks available for dine-in customers to take voluntarily. **This ordinance also does not prohibit the restaurant from providing a straw upon a dine-in customer's request.** Finally, this ordinance does not prohibit restaurants from preparing drinks with straws or stir sticks made from materials other than plastic.

2	SUSTAINABLE MADISON COMMITTEE	10/28/2019	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER			Pass
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**Action Text:** A motion was made by Evers, seconded by DeMarb, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER.

Alder Abbas outlined elements of the ordinance for Committee. Main points are that straws would only be given upon request at restaurants. Take-out orders are exempt from restriction. Green asked why take-out orders were excluded. Abbas stated that take-out orders may have customer in need of a straw and Disability Rights Commission has already opposed a complete ban of plastic straws due to potential usage needs of people with disabilities. Abbas says ordinance is a first step and that modifications will occur later as we learn more about impacts of this on community.

The motion passed by voice vote/other.

3	SUSTAINABLE MADISON COMMITTEE	11/25/2019	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
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**Action Text:** Alder Abbas and staff reviewed reconsideration process for straw ordinance. Alder Abbas had added language to the 2nd substitute amendment to reflect the issue identified by the Disability Rights Commission that straws need to be available and offered to any disabled person who needed them. A motion was made by Green, seconded by Beard, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by a unanimous voice vote/other.

3	COMMON COUNCIL	12/03/2019	Re-refer	DISABILITY RIGHTS COMMISSION	01/23/2020	Pass
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**Action Text:** A motion was made by Bidar, seconded by Verveer, to Re-refer to the DISABILITY RIGHTS COMMISSION.

The motion passed by voice vote/other.

There was one registrant in support.

3	DISABILITY RIGHTS COMMISSION	01/23/2020	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
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**Action Text:** A motion was made by Stroman, seconded by Erlanger, to RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER. The motion passed by the following vote:

**Notes:** Roll Call Vote: 4:3:1:3 - Ayes - 4 - Hicks, Koch, Macy, Ringland; Noes - 3 - Erlanger, Luppino Witzling, Stroman - Abstain - 1 Harrington-McKinney; Absent - 3 - Sobah, Siegel, Earl

4	COMMON COUNCIL	02/04/2020	Adopt	Pass
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**Action Text:** A motion was made by Abbas, seconded by Verveer, to Adopt. The motion passed by voice vote/other with Alder Harrington-McKinney abstaining.

There was one registrant in support.

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## Text of Legislative File 56836

### Fiscal Note

The monetary penalty for a restaurant violating any provision of this proposed ordinance will be a fine of \$25 for a first-time offense.

### Title

3rd SUBSTITUTE Creating Section 23.62 and amending Section 1.08(3)(a) of the Madison General Ordinances to regulate the distribution of plastic straws and plastic stir sticks in the City of Madison and establish a bail deposit for violation thereof.

### Body

DRAFTER'S ANALYSIS: Routinely, restaurants prepare drinks for dine-in customers and automatically put a plastic straw or plastic stir stick in the drink. Often, dine-in customers do not actually use the straw or stir stick, which, having already been placed in the drink, then must go

to waste. The purpose of this ordinance is therefore to prevent this “involuntary” use of straws and stir sticks by prohibiting restaurants from preparing drinks with plastic straws or stir sticks for dine-in customers unless the dine-in customer expresses a desire to have a plastic straw or stir stick.

This ordinance is not meant discourage restaurants from having straws on site for customers who may wish to use them, including specifically for individuals with disabilities who may depend on straws to consume a beverage. To that end, this substitute clarifies that this ordinance does not prohibit restaurant staff from asking if dine-in customers want a plastic straw or stir stick or from leaving those items out for dine-in customers to take voluntarily. This substitute also reduces the fine for violations of this ordinance. Finally, this substitute delays the effective date of this ordinance to three-months after the enactment date in order to give restaurants time to implement any changes that may be required by the ordinance.

The City has the authority under Wis. Stat § 62.11(5) to enact an ordinance to prohibit or regulate the use of plastic straws, and that authority is not withdrawn by Wis. Stat § 66.0419, which prohibits municipalities from regulating the use of containers, specifically plastic grocery bags, not plastic straws. The two operative phrases of Wis. Stat. § 66.0419 are: “a bag, cup, bottle, can, or other packaging that is designed to be reusable or single-use” and “that is designed for transporting or protecting merchandise, food, or beverages from a food service or retail facility.” The Wisconsin Supreme Court defines terms not statutorily defined by referring to dictionary definitions, and dictionary definitions for these terms do not include straws. Accordingly, a straw is not packaging and a straw is not designed for transporting or protecting liquids from a food service or retail facility, and thus may be regulated by local units of government.

This third substitute was necessary to incorporate changes requested by the Disability Rights Commission.

This ordinance shall take effect three months from the date of enactment.

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

Please see "3rd Substitute" in Attachments.