

1	COMMON COUNCIL ORGANIZATIONAL COMMITTEE	02/23/2006	Fiscal Note Required / Approval	Comptroller's Office/Approval Group		02/23/2006	
	Notes: Return to CCOC. Use 'after CC intro' approval.						
1	Comptroller's Office/ Approval Group	02/23/2006	Fiscal Note Pending	COMMON COUNCIL ORGANIZATIONAL COMMITTEE		02/23/2006	
	Notes: Fruit						
1	Comptroller's Office/ Approval Group	02/23/2006	Approved Fiscal Note By The Comptroller's Office (AFTER CC INTRO)	COMMON COUNCIL ORGANIZATIONAL COMMITTEE		02/23/2006	
	Notes: Fruit						
2	Attorney's Office/Approval Group	03/06/2006	Approved As To Form				
	Notes: Substitute.						
2	Attorney's Office	03/06/2006	Fiscal Note Required / Approval	Comptroller's Office/Approval Group	03/06/2006	03/06/2006	
2	Comptroller's Office/ Approval Group	03/06/2006	Approved Fiscal Note By The Comptroller's Office (SUBSTITUTES)	Attorney's Office		03/06/2006	
	Notes: Fruit						
2	Attorney's Office/Approval Group	03/06/2006	Substitute Created	COMMON COUNCIL ORGANIZATIONAL COMMITTEE		03/07/2006	
2	COMMON COUNCIL ORGANIZATIONAL COMMITTEE	03/07/2006	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER				Pass
	Absent: Rosas						
	Aye: Van Rooy, Brandon, King, Skidmore and Knox, Jr.						
	No: Palm and Konkel						
3	Attorney's Office/Approval Group	03/15/2006	Approved As To Form				
	Notes: 2nd Substitute.						
3	Attorney's Office	03/15/2006	Fiscal Note Required / Approval	Comptroller's Office/Approval Group	03/15/2006	03/15/2006	
3	Comptroller's Office/ Approval Group	03/15/2006	Approved Fiscal Note By The Comptroller's Office (SUBSTITUTES)	Attorney's Office		03/15/2006	
	Notes: Fruit						
3	Attorney's Office/Approval Group	03/15/2006	Substitute Created	COMMON COUNCIL ORGANIZATIONAL COMMITTEE		03/07/2006	
5	COMMON COUNCIL	03/21/2006	Adopt				Pass
	Aye: 12 Benford, Sanborn, Brandon, Cnare, King, Knox, Jr., Rosas, Skidmore, Thomas, Van Rooy, Verveer and Radomski						
	No: 8 Bruer, Compton, Golden, Konkel, Gruber, Olson, Palm and Webber						
	Non Voting: 1 Cieslewicz						
4	COMMON COUNCIL	03/21/2006	Place On File				Fail

		Aye: 8	Bruer, Compton, Golden, Konkel, Gruber, Olson, Palm and Webber	
		No: 12	Benford, Sanborn, Brandon, Cnare, King, Knox, Jr., Rosas, Skidmore, Thomas, Van Rooy, Verveer and Radomski	
		Non Voting: 1	Cieslewicz	
4	COMMON COUNCIL	03/21/2006	Adopt With Amendment(s)	Fail
		Aye: 7	Bruer, Compton, Golden, Gruber, Olson, Van Rooy and Webber	
		No: 13	Benford, Sanborn, Brandon, Cnare, King, Konkel, Knox, Jr., Rosas, Palm, Skidmore, Thomas, Verveer and Radomski	
		Non Voting: 1	Cieslewicz	
4	COMMON COUNCIL	03/21/2006	Adopt With Amendment(s)	Fail
		Aye: 7	Bruer, Golden, Konkel, Gruber, Olson, Palm and Webber	
		No: 13	Benford, Sanborn, Brandon, Cnare, Compton, King, Knox, Jr., Rosas, Skidmore, Thomas, Van Rooy, Verveer and Radomski	
		Non Voting: 1	Cieslewicz	
4	COMMON COUNCIL	03/21/2006	Adopt With Amendment(s)	Fail
		Aye: 2	Konkel and Webber	
		No: 18	Benford, Sanborn, Brandon, Bruer, Cnare, Compton, Golden, King, Gruber, Olson, Knox, Jr., Rosas, Palm, Skidmore, Thomas, Van Rooy, Verveer and Radomski	
		Non Voting: 1	Cieslewicz	
4	COMMON COUNCIL	03/21/2006	Adopt With Amendment(s)	Fail
		Present: 1	Golden	
		Aye: 6	Cnare, Konkel, Gruber, Olson, Van Rooy and Webber	
		No: 13	Benford, Sanborn, Brandon, Bruer, Compton, King, Knox, Jr., Rosas, Palm, Skidmore, Thomas, Verveer and Radomski	
		Non Voting: 1	Cieslewicz	
5	Attorney's Office/Approval Group	03/22/2006	Approved As To Form	
		Notes:	Amended 3rd Substitute.	

Text of Legislative File 03037

..Fiscal Note

No appropriation is required.

..Title

AMENDED THIRD SUBSTITUTE - Amending Section 23.05 of the Madison General Ordinances to create definitions of chewing tobacco, cigarettes and tobacco bars and to permit chewing tobacco in all public places and to permit smoking of all tobacco products (other than cigarettes) at all tobacco bars.

..Body

DRAFTER'S ANALYSIS: This substitute creates definitions for chewing tobacco, cigarettes, tobacco bars and changes the definition of tobacco product to take into account these new definitions. It removes the definition of chewing tobacco from the definition of tobacco product and thereby permits the use of chewing tobacco in all places open to the public. It also creates an exception, which permits the use of all tobacco products in tobacco bars if certain requirements are met, including that at least 10% of sales are from tobacco products. It prohibits the smoking of cigarettes in tobacco bars. It is not an ordinance to grandfather existing cigar bars, rather, it permits any establishment at any point in time, to file the proper paperwork to become a tobacco bar and to allow the use of all tobacco products (other than cigarettes) at these establishments.

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

1. Subsection (1) entitled "Definitions" of Section 23.05 entitled "Smoking Prohibited in Certain Areas" of the Madison General Ordinances is amended to read as follows:

“Chewing tobacco” means plug and twist tobacco; fine cut and other chewing tobaccos; snuff, snuff flour, cavendish, plug and twist tobacco; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing.”

“Cigarette” means any roll of tobacco wrapped in paper or any substance other than chewing tobacco or tobacco products.”

“Food” means a raw, cooked, or processed edible substance or ingredient used or intended for use or for sale in whole or in part for human consumption. It does not include ice, beverage or chewing gum.”

“Tobacco bar” means a tavern, which generates ten percent (10%) or more of its total annual gross income from the on-site sale of tobacco products, not including any sales from vending machines.”

“Tobacco Product” has the meaning found in Sec. 139.75, Wis. Stats. means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such a manner, as to be suitable for smoking in a pipe or otherwise smoking; but “tobacco product” does not include cigarettes or chewing tobacco.”

2. Subdivision (f) of Subsection (7) entitled “Exceptions” of Section 23.05 entitled “Smoking Prohibited in Certain Areas” of the Madison General Ordinances is hereby created as follows:

“(f) Tobacco bar, subject to the following:

1. Smoking of tobacco products is permitted;
2. Smoking of cigarettes ~~is~~ and service of food are not permitted;
3. Ten percent (10%) or more of the tobacco bar's total gross income from the previous fiscal year was from the on-site sale of tobacco products, not including any sales from vending machines;
4. To qualify for this exemption the owner must file written proof subscribed and sworn to by a Certified Public Accountant certifying the tobacco bar's total gross income and the percentage of tobacco product sales from the tobacco bar. The City Clerk or City Attorney may request further information, including an audit of the tobacco bar's records, if there is reason to believe the financial data may not be accurate;
5. This exemption is only in effect from the date of initial application until June 30, and then from July 1 to June 30, of each year. An application for this exemption must be made annually by April 15th of the application year. To qualify for an annual exemption the tobacco bar must provide written proof subscribed to and sworn by a Certified Public Accountant certifying that ten percent (10%) or more of the tobacco bar's total gross income from the preceding year was from the on-site sale of tobacco products, not including any sales from vending machines;
6. If the tobacco bar provides written proof subscribed to and sworn by a Certified Public Accountant certifying that ten percent (10%) or more of the tobacco bar's total gross income from the 2004 fiscal year was from the on-site sale of tobacco products, not including any sales from vending machines, then the tobacco bar qualifies for an exemption. This exemption will be in effect through June 30, 2007. After June 30, 2007, the tobacco bar must qualify on a yearly basis for this exemption;
7. A tobacco bar that has not previously qualified under this subdivision, may qualify for an exemption if it provides written proof subscribed to and sworn by a Certified Public Accountant certifying that during the previous six (6) months, ten percent (10%) or more of the tobacco bar's total gross income was from the on-site sale of tobacco products, not including any sales from vending machines. To qualify under this paragraph, the required certification must be filed no later than ninety (90) days after the above-mentioned six (6) months. This exemption will be in effect through the next full licensing year. After that point in time, the tobacco bar must qualify on a yearly basis for the above-mentioned exemption.
8. Tobacco bars shall display signs, in accordance with the standards in Subsection (8), that state that cigars and pipes may be smoked in the tobacco bar, that cigarettes may not be smoked in the tobacco bar, and warning of the dangers of secondhand smoke, in language and form as approved by the Director of Public Health.”