

LEGISTAR – File No. 69380 Body

DRAFTER'S ANALYSIS: This ordinance amendment creates a new section, 9.135, "Sidewalk Cafe and Roadway Cafe Expansion Licenses," to allow expansion of sidewalk cafes into the roadway, making permanent many aspects of the "Streatery" program authorized on a temporary emergency basis at the beginning of the pandemic.

All information for sidewalk cafes is moved into new section 9.135. This Section describes eligibility, application process, operational rules, and allowable equipment for the following sidewalk cafe types: Regular Sidewalk Cafes on the State Street Mall/Capitol Concourse, Regular Sidewalk Cafes in other parts of the City, and new Roadway Cafe Expansion Licenses. The rules for new Roadway Cafe Expansion licenses are based on the existing Streatery program, with some changes. The Roadway Cafe Expansion License replaces the temporary Streatery approvals and may be issued seasonally (April 15-November 15), for the winter (November 16-April 14) or both. The fees for the new Roadway Cafe Expansion Licenses are \$7.50/square foot on the Mall/Concourse and \$5.00/square foot in other parts of the City, with an additional \$5.35/square foot for winter on the Mall/Concourse and \$3.57/square foot for winter Citywide. There is an additional fee for Citywide cafes requesting outdoor storage in Table B. This square foot fee includes the fees for the Roadway Cafe Permit under new Sec. 10.30 (File No. 69379), which must be approved by the Traffic Engineer to qualify for a Roadway Cafe Expansion License, as well as costs associated with removal of on street metered parking spaces. This ordinance does not change the fees for a "regular" sidewalk cafe on the sidewalk.

This ordinance also reorganizes Sec. 9.13 without making substantive changes or changing existing license fees. All information for the State Street Mall/Capitol Concourse Vending Area (Food Carts, Arts/Craft, and Merchant Vending) is moved into another new section, 9.136, with no substantive changes to those licenses or their fees. Section 9.13 is repealed and recreated, with a new title, "Street Vending Ordinance." All other information about other existing vending types and general rules for street vending will remain in Sec. 9.13. References to the Vending Coordinator are replaced with the Director of the Department of Planning and Community and Economic Development (abbreviated Director), with no actual change to the Vending Coordinator's role. This ordinance authorizes the City Attorney to update cross references to Sec. 9.13 throughout the Madison General Ordinances, consistent with the changes made herein. This ordinance updates cross references in Sec. 9.12 (Vending Oversight Committee) and Sec. 1.08, creates a bail deposit of \$200 plus costs for citations for violating Sec. 9.135 and adds citation authority for the designee of the Department of Community and Planning and Economic Development (Street Vending staff) for new Secs. 9.135 and 9.136. The substitute ordinance changes the time that alcohol service must stop in all sidewalk cafes on Fridays and Saturdays from 1:00 a.m. to 1:30 a.m., and changes the storage rules for Mall/Concourse Sidewalk Cafes that don't have a Roadway Expansion, to allow them to store their equipment overnight in another establishment's Roadway Cafe, with permission.

The following companion files relate to this ordinance and should be considered for adoption at the same time: File No. 69379 (Sec. 10.30, Roadway Cafe Permit), File No. 69382 (Chapter 28) and File No. 69381, a resolution that moves all information about sidewalk cafes out of the "Regulations Governing Street Vending on the State Street Mall/Capitol Concourse" into Sec. 9.135.

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

1. Section 9.135 entitled "Sidewalk Cafe and Roadway Cafe Expansion Licenses" is created as follows:

"9.135 - Sidewalk Cafe and Roadway Cafe Expansion Licenses.

- (1) Sidewalk Cafe and Roadway Cafe Expansion Licenses. The following types of sidewalk cafe licenses are available under this Section: Regular Mall/Concourse Sidewalk Cafe License, Regular Citywide Sidewalk Cafe license, Roadway Cafe Expansion Licenses (Seasonal) and Roadway Cafe Expansion License (Winter.)
- (2) Definitions.

Approved Cafe Area means the entire space on the public right-of-way, including sidewalk, terrace, and roadway, if any, as shown in the record of an approved Sidewalk Cafe License.

Citywide, for purposes of sidewalk cafes, refers to all areas of the City other than the State Street Mall/Capitol Concourse Street Vending Area.

Director is defined in Sec. 9.13.

Mall/Concourse means the State Street Mall/Capitol Concourse Street Vending Area defined in Sec. 9.136(1)(a).

Roadway is defined in Wis. Stat. § 340.01(54) and Sec. 10.30.

Roadway Cafe Expansion Area is the portion of an approved Sidewalk Cafe located in the Roadway and authorized by a Roadway Cafe Expansion License

Roadway Cafe Expansion License is an add-on to a Sidewalk Cafe License that authorizes all of the activities allowed for a Regular Sidewalk Cafe to take place in a portion of the roadway (also known as a “Streatery”). A Roadway Cafe Expansion License cannot be issued without an approved Roadway Cafe Permit for the identical space, under Sec. 10.30.

Roadway Cafe Permit means the permit approved by the Traffic Engineer under Sec. 10.30 authorizing the privilege of placing obstructions beyond the lot line in the roadway portion of the public highway right-of-way, as a prerequisite to a Roadway Cafe Expansion License.

Sidewalk Cafe, when used in this Section without reference to a Regular or Roadway Cafe Expansion License, refers generally to the entire approved cafe area, whether on the sidewalk, terrace, or roadway.

Sidewalk Cafe (Regular) means a group of tables, chairs, enclosures, umbrellas, tents and other authorized equipment authorized in Sec. 9.135(5) maintained upon the sidewalk or terrace portion of the public highway right-of-way, used for outdoor seating for food and beverage service and alcohol consumption by an establishment eligible under this Section.

Sidewalk Cafe License means a license issued under this Section for a Regular Sidewalk Cafe, authorizing all of the equipment in the record of the approved license, and all of the operations authorized by this Section, and when a Roadway Cafe Expansion License and Roadway Cafe Permit have been issued, the Sidewalk Cafe License also serves as the Roadway Cafe Expansion License and authorizes the entire approved cafe area on the (sidewalk, terrace, and roadway) all of the equipment in the record of the approved license, and all of the operations authorized by this Section.

Space Delineators are defined in Sec. 10.30 as any City-approved equipment used to prevent or stop motor vehicles from entering the Roadway Cafe space. This may include a temporary or movable curb or bumper, jersey barriers, traffic delineators, or other durable items designed to notify of, or impede motor vehicles from entering the Roadway Cafe Expansion area and provide some protections to occupants thereof. The City Traffic Engineer shall maintain a list of approved space delineators and their purpose.

(3) Administrative Requirements for all Sidewalk Cafe Types.

- (a) Operations/Purpose. Regular Sidewalk Cafe and Roadway Cafe Expansion Licenses are available to eligible establishments to allow outdoor seating for service and consumption of food and beverages on the public sidewalk and

roadway directly adjacent to the establishment. A Regular Sidewalk Cafe and Roadway Cafe Expansion shall be used only for outdoor seating for the service and consumption of food and beverages from the corresponding establishment and for no other purpose, during the hours and under the conditions described herein. All sidewalk cafes shall be placed within the approved dimensions and in the configuration shown in the record of the approved license hereunder.

(b) Establishment Eligibility. Any establishment that serves food or beverages to consume on-site and holds all necessary licenses to do so from the applicable regulating authorities for the food and beverages in question is eligible for a sidewalk cafe license. Establishments that serve alcohol beverages are also subject to Sec. 9.135(3)(h).

(c) Location Eligibility.

1. General. Establishments on the Mall/Concourse will qualify for a sidewalk cafe adjacent to their business, either near the curb or against the building, consistent with specific placement requirements for the Mall/Concourse in Sec. 9.135(6). Generally, a location with a paved public sidewalk (or paved sidewalk and paved terrace) of not less than nine (9) feet in width is eligible for consideration, subject to the placement rules below and elsewhere in this Section.

2. Specific location eligibility – Mall/Concourse and Citywide.

a. Lateral placement. Sidewalk cafes shall extend no further in either direction on the public sidewalk than the side property lines of the establishment's street-level occupancy on the corresponding building face, unless a lateral extension is approved as described below, or unless expressly approved as part of an alternate placement authorized elsewhere in this Section.

Lateral expansion. The boundaries on one or both sides of the eligible sidewalk cafe site (including any corresponding Roadway Expansion) may be extended beyond the side property lines of the establishment's street-level occupancy on the corresponding building façade, with written permission from the side(s) where the expansion occurs. If the adjacent space is occupied, permission shall be obtained from the occupant/tenant and the property owner or their designated management company. If the space is vacant and will remain so for the duration of the license, permission shall be obtained from the property owner or their designated management company for the full duration of the license requested. The license applicant shall demonstrate such written permission(s) to the Director's satisfaction.

b. The paved portion of the adjacent public sidewalk must be at least nine (9) feet wide.

c. The entire sidewalk surface for the proposed sidewalk cafe must be paved with concrete, asphalt, cement, brick, pavers, or other impervious surface. Paved areas of the establishment's private property may be included within the boundary of the proposed cafe if immediately adjacent to the paved public sidewalk.

d. Required Pedestrian Walkway. An establishment is not eligible for a Regular Sidewalk Cafe if its placement does not allow the

required minimum unobstructed pedestrian walkway on the adjacent public sidewalk of seven (7) feet on the Mall/Concourse as required by 9.135(6)(a), and six (6) feet in all other locations Citywide.

- e. An establishment is not eligible if immovable, obtrusive or too numerous public amenities on the adjacent sidewalk make cafe placement impractical, or when existing amenities would create obstacles to accessibility if a sidewalk cafe were added to that location, in the opinion of the Director.
 - f. An establishment is not eligible if the grade or slope of the adjacent public sidewalk is prohibitive, if the sidewalk does not offer a sufficiently level surface for food and drink service, or if cafe placement would present a safety hazard due to any other elements of the topography or layout of the sidewalk, regardless of the width or square footage of the adjacent public sidewalk, in the opinion of the Director.
 - g. An establishment is not eligible for a Mall/Concourse sidewalk cafe if it does not meet the additional location requirements in Sec. 9.135(6).
 - h. An establishment is not eligible for a Citywide sidewalk cafe if it does not meet the additional location requirements in Sec. 9.135(7).
 - i. Eligibility for a Regular Sidewalk Cafe does not guarantee eligibility for a Roadway Cafe Permit or a Roadway Cafe Expansion License. See Sec. 9.135(8) for specific criteria.
 - j. An establishment may be eligible for a Roadway Cafe Expansion License even if not eligible for a Regular Sidewalk Cafe due to the size or configuration of the sidewalk and terrace.
 - k. All sidewalk cafes, including Roadway Cafe Expansions, are subject to the general rules for street vending in Sec. 9.13, including Sec. 9.13(4), unless expressly stated otherwise.
- (d) Applications, Required Contents. Applications for all sidewalk cafes, including a Roadway Cafe Expansion shall be filed with Director by the deadlines in Table B, using the method designated by the City for that purpose. All applications shall include:
- 1. Applicant information. The applicant shall be the entity holding the applicable license(s) for eligible establishments under Sec. 9.135(3)(b) above. The application shall include the full legal business name and address of the establishment, any DBA, any registered agent's name and address, and the applicant's Wisconsin Seller's Permit Number (state tax identification number). Where the establishment is a corporation, cooperative or partnership, the legal name and mailing address (if different) of the business entity and the name and address of the chief officer, or general partner, as appropriate. All sidewalk cafe applicants shall provide the name of at least one individual as the main point of contact for the City. The license, if approved, shall be issued in the name of the applicant.

2. Type of license. The application shall indicate which cafe license type is applied for.
3. Cafe information. The application shall include a diagram showing the footprint of the entire proposed cafe area on the sidewalk, terrace and roadway, and its impact on the public right-of-way. The diagram should show the building face, sidewalk, curb, and roadway. The diagram must include:
 - a. The location of all enclosures, and space delineators if applying for a Roadway Cafe Expansion License.
 - b. Dimensions, in feet and inches, of the following:
 - i. The footprint of the entire cafe area on the sidewalk/terrace.
 - ii. For cafes not placed against the building: distance from the building face to the edge of the sidewalk cafe nearest the building, to demonstrate the available space for the required pedestrian walkway.
 - iii. For cafes placed against the building: the dimension and location of the required pedestrian walkway.
 - iv. If applying for Roadway Cafe Expansion License:
 - Dimensions of the footprint of the entire Roadway Cafe area (see Sec. 10.30.)
 - Distance from the curb to the farthest roadway space delineator in the roadway.
 - v. Additional relevant dimensions if applying for a lateral expansion under Sec. 9.135(3)(c)2.a.
 - c. Location of all permanent, public amenities within or near the proposed cafe, including curbs, curb cuts, trees, planters, light poles, benches, grates, street furniture, fire hydrants, bus shelters, and any other City amenities.
 - d. Color photographs, catalog pages, links, or accurate renderings of the tables, chairs, enclosures, and other allowed equipment to be used within the cafe, and their location.
 - e. Storage location for items allowed to be stored in the roadway cafe by Sec. 9.135(9).
 - f. Any other information required by Sec. 10.30 for the Roadway Cafe Permit.
4. Written permission required if requesting a lateral expansion under Sec. 9.135(3)(c)2.a.
5. The indemnification agreement required by Sec. 9.136(1)(m).
6. Proof of insurance required by Sec. 9.136(1)(m).

7. Other information or supporting documents required by the Director or by ordinance.
8. Any material omission, misstatement or misrepresentation in the application or supporting documents shall be grounds for denial or suspension of a resulting license under Sec. 9.135(3)(f).

(e) Required License Contents. Licenses approved under this Section shall be provided to the licensee after all license fees are paid and shall contain the following information:

1. Sidewalk cafe license type (Mall/Concourse or Citywide).
2. Whether the license includes a Roadway Cafe Expansion License under Sec. 9.135.
3. Duration and expiration date for the Regular Sidewalk Cafe (annual) and any Roadway Cafe Expansion License (seasonal or winter).
4. Permit number of the Roadway Cafe Permit issued under Sec. 10.30 (must match the duration of the Roadway Cafe Expansion License).
5. Licensee name (i.e. full legal business name of the applicant establishment).
6. DBA and street address of the approved cafe location (i.e. name of the establishment).
7. Applicant's contact person name and contact information.
8. A statement that the license only authorizes a cafe that complies with the location, dimensions, equipment and operations in the record of the approved license on file with the City.

(f) Application Review Process.

1. Review and Approval. Applications for all sidewalk cafe license types shall be reviewed as stated in Sec. 9.136(1)(i)2. For any new sidewalk cafe, the Director shall inspect the proposed cafe location for compliance with this Section and to make placement suggestions, and may do the same on request for any returning cafe. An application may be denied for failure to comply with the requirements of this Section or for the reasons in Sec. 9.136(1)(i)3.
2. Appeals. A decision to grant or deny a sidewalk cafe license may be appealed under the procedures set forth in Sec. 9.136(1)(i)2.
3. Revocation or Suspension. The procedures in Sec. 9.13(8)(a) shall govern revocation or suspension of a Sidewalk Cafe License. Revocation or suspension of a Roadway Cafe Permit shall follow the procedures in Section 10.30.

(g) Hours of Operation. Sidewalk cafes (with or without a Roadway Cafe Expansion) shall operate only when the establishment is open for business, may remain open until the establishment closes, and are exempt from any earlier closing time for street vending in the area where the establishment is located. Notwithstanding the foregoing, alcohol service shall stop and all containers of alcohol beverages shall be off the tables and removed from the cafe by 1:00 a.m. Sunday through Thursday and 1:30 a.m. Friday and Saturday unless an earlier

closing time has been required on the establishment's alcohol beverage license. If a Mall/Concourse Sidewalk Cafe chooses to set up their cafe before 9:30 a.m., the licensee must sweep and remove all debris and litter from the entire approved sidewalk cafe area. Mall/Concourse hours of operation are also subject to any other closing time required for snow removal in Sec. 9.136(1)(l)6.c.ii.

- (h) Alcohol Service. Establishments intending to serve any type of alcohol beverage for consumption in a sidewalk cafe must be eligible under Sec. 9.135(3)(b), and shall hold all licenses required by and follow all applicable provisions of Chapter 38 of the Madison General Ordinances, when applicable, and any State of Wisconsin law or administrative code applicable to the alcohol beverage(s) in question.
1. Consumption of alcohol beverages in all sidewalk cafes shall be limited to persons seated at tables in the approved site.
 2. The approved cafe area, including any Roadway Cafe Expansion, for an establishment serving alcohol beverages and regulated by Chapter 38 must be included in the licensed premise approved by the ALRC.
 3. Establishments serving alcohol beverages for consumption but not regulated by Chapter 38, such as tasting rooms, distilleries, wineries, breweries and brewpubs, shall follow the state laws and regulations applicable to outdoor service and consumption of such beverages, if any.
 4. A sidewalk cafe licensee serving alcohol beverages shall be responsible for ensuring that customers are of the legal drinking age and that alcohol beverages are not removed from the premises, consistent with the applicable requirements under Chapter 38 or applicable state law or administrative code.
 5. Alcohol service shall stop and all containers of alcohol beverages shall be off the tables and removed from the cafe by 1:00 a.m. Sunday through Thursday and 1:30 a.m. Friday and Saturday, unless an earlier closing time has been required on the establishment's alcohol beverage license. There shall be no sale of alcohol for consumption at a sidewalk cafe after 1:00 a.m. Sunday through Thursday and 1:30 a.m. Friday and Saturday, or the time specifically indicated on the alcohol beverage license, whichever is earlier, until normal opening of business each day.
- (i) Insurance and Indemnification. The insurance and indemnification requirements for all sidewalk cafe license types are set forth in Sec. 9.136(1)(m). Additional insurance and indemnification requirements for the Roadway Cafe Permit are in Sec. 10.30.
- (j) Relocation, Emergencies, Construction. Changes to cafe size and location may be made for any type of Sidewalk Cafe License for the reasons described in Sec. 9.136(1)(l)4., provided that any change to a Roadway Cafe Expansion License (other than complete elimination) shall also require a change to the Roadway Cafe Permit with Traffic Engineer approval under Sec. 10.30.

The approved dimensions of any cafe are not guaranteed to remain available. Public construction, street improvements or redesign may result in a cafe site being modified, reduced in size or eliminated at any time. All cafe dimensions are subject to change if the City makes changes to the construction of the sidewalk or streetscape that affect the vending site, including but not limited to the addition

or removal of planters, trees, benches, bike racks, bus shelters, sculptures, or any other public amenity.

- (k) Special Events: All Sidewalk cafe license types are subject to the procedures in Sec. 9.136(1)(k) for temporary invalidation of their licenses during a street use event.
 - (m) The general rules in Sec. 9.13 for street vending apply to vending activities in this Section, unless otherwise specified. Definitions not provided in this Section shall be as defined in Secs. 9.13 and 9.136.
- (4) License Fees. The license fees for each Sidewalk Cafe license type, and associated late fees, shall be as set forth in Table B. The fee for a Roadway Cafe Permit under Sec. 10.30 is included as part of the Roadway Cafe Expansion License fee below. The license fee is determined by the square foot of the cafe's approved dimensions, as measured by the City. The square footage of any tree grate or other obstruction that is considered unusable in the opinion of the Director shall be subtracted from the total square footage of the cafe for fee purposes.
- (a) License Type and Fee. Each sidewalk cafe license type shall have the fee shown in Table B.
 - (b) License Duration. Annual licenses are valid from April 15 or the date issued, if later, to April 14. Roadway Cafe Expansion licenses are valid for a seasonal or winter duration as set forth in Table B.
 - (c) Application Due Date. Each license type shall be applied for by the Application Due Date in Table B. Applications filed after the Application Due Date are subject to the late application fee, if applicable. The Application Due Date and late application fees shall not apply to a first-time applicant seeking a license mid-season (where available) or if applying for a Roadway Cafe Expansion License after already being issued a Regular Sidewalk Cafe license.
 - (d) Payment Due Date. Once approved, each license type shall be purchased by the applicant no later than the Payment Due Date in Table B. Payment shall include the license fee and any late application fee. Applicants who pay for their license after the payment due date shall pay the Late Payment fee in Table B, if applicable, addition to the license fee and any other fees owed for the license in question.
 - (e) Payment Process. Payment instructions will be provided upon notification of license approval. An approved license shall not be valid until payment is received.
 - (f) Sidewalk Cafe and Roadway Cafe Expansion License Fees.

Table B - Sidewalk Cafe And Roadway Cafe Expansion Fees

MGO	Sidewalk Cafe Type	License Fee	Application Due Date	Late Application Fee	Payment Due Date	Late Payment Fee
9.135(6)	Mall/Concourse Regular Sidewalk Cafe (Annual)	\$5.50/sq. ft. ^{1,2}	February 1	\$250	April 1	\$75
9.135(8)(e)1.	Mall/Concourse Roadway Cafe	\$7.50/sq. ft. ²	February 1 when	N/A	April 1 if applying	N/A

	Expansion License (Seasonal)	for Seasonal License	applying with regular cafe		with regular cafe	
9.135(8)(e)2.	Mall/Concourse Roadway Cafe Expansion License (Winter)	\$5.35/sq. ft. ² for Winter	October 15	N/A	Nov. 15	N/A
9.135(7)	Citywide Regular Sidewalk Cafe (Annual)	\$3.00/sq. ft. ²	February 1	\$250	April 1	\$75
9.135(9)(b)2.	Citywide Regular Sidewalk Cafe (Annual) with after- Hours Storage	\$5.00/sq. ft. ²				
9.135(8)(e)1.	Citywide Roadway Cafe Expansion License (Seasonal)	\$5.00/sq. ft. ² for Seasonal License	February 1 when applying with regular cafe	N/A	April 1 if applying with regular cafe	N/A
9.135(8)(e)2.	Citywide Roadway Cafe Expansion (Winter)	\$3.57/sq. ft. ² for Winter Operations	October 15	N/A	Nov. 15	N/A

¹ 400 Block West Gilman Street Discount. The annual fee for a Regular Sidewalk Cafe located in the 400 block of West Gilman shall be three dollars (\$3.00) per square foot effective with the 2016 vending season. The fee for a Roadway Cafe Expansion License is not discounted.

² Construction Discount. For sidewalk cafes located on a block or series of blocks that experiences public road construction under a City of Madison Public Works contract during any portion of the vending season, all sidewalk cafe license fees for that vending season (including Roadway Cafe Expansion) shall be 33% of the total as calculated above. A vendor shall be entitled to this reduced fee if, at the time the vendor applies for the annual license, the Common Council has adopted a resolution approving plans and specifications for a phase of road construction to take place anytime during the vending season in question.

- (5) Sidewalk Cafe Furniture and other Equipment. The following is a complete list of all equipment allowed in a sidewalk cafe and rules for its use. No person shall place, allow to remain in place, or use any equipment in any sidewalk cafe other than the approved equipment as described below:
- (a) Furniture: Tables, Chairs, Other Seating. Tables in sidewalk cafes shall be no more than thirty-two (32) inches in diameter or on the longest side of the table top, unless otherwise authorized by the Director based on the size and configuration of the site. Tables, chairs and other seating such as benches, when allowed, must be weatherproofed, attractive and in good repair and made of a sturdy and safe material. All sidewalk cafe furniture shall be maintained in an attractive and presentable condition.

Plastic furniture is prohibited. Furniture, enclosures, other approved equipment containing some elements of resin may be approved, depending upon the quality and integrity of design. The urban design of the area should be considered when planning furniture design and all equipment should be representative of the corresponding establishment.

- (b) Enclosures. This Section applies to fencing and similar decorative enclosures for Regular Sidewalk Cafes and the enclosures that are placed inside required space delineators for a Roadway Cafe.
1. Placement. All pieces of the cafe enclosures shall fit within the dimensions of the approved cafe area. All Regular Sidewalk Cafes shall be enclosed on at least three (3) sides, except when more than one establishment has an adjoining Roadway Cafe permit under Sec. 10.30(5)(b)4. the Director may approve a cafe enclosure configuration with fewer than 3 sides as long as each establishment's seating area is sufficiently defined. Where sidewalk cafes may be located next to a building the building wall may serve as one side of the enclosure and other enclosures shall be flush against the building wall. For all other cafes, the interior face of the enclosure on the street side shall be no closer than two (2) feet from the curb or the pavement markings delineating the edge of the roadway if there is not a raised curb, except when a Roadway Cafe Expansion License is approved. If a Roadway Cafe Expansion license is approved, the enclosures in the roadway portion of the cafe shall also meet the requirements for enclosures in Sec. 10.30.
 2. Entrance. Enclosures shall have at least one (1) unobstructed entrance at least three (3) feet wide that complies with the Americans with Disabilities Act and any other law impacting accessibility for persons with disabilities. The entrance shall not be in the roadway portion of the cafe. The position of cafe entrance(s) and enclosures shall not interfere with the entry or egress from the establishment.
 3. Height. Enclosures shall be between thirty-six (36) and forty-two (42) inches in height, and the bottom of the structure shall be no more than six (6) inches from the ground.
 4. Durability. Enclosures shall be constructed of a stable, rigid, wind-resistant, self-supporting framework, capable of containing all furniture and approved equipment within the confines of the cafe and free from any structures that may cause a tripping hazard within or outside the cafe. Hanging elements such as chains or ropes shall not be considered sufficiently stable enclosures.
 5. Design/Style. Furniture design and the overall urban design of the area should be considered when selecting enclosures. All enclosure material must be weatherproofed, attractive and in good repair, maintained in an attractive and presentable condition.
 6. Plants. Planter boxes or potted plants may be incorporated into the enclosure structure, if meeting all other requirements of this Section for enclosures. See also Sub. (i) for plants within the cafe.
- (c) Umbrellas must be securely anchored such that wind will not lift them out of their holders and shall otherwise be capable of withstanding windloads. Umbrella color and design should be consistent with the cafe furniture and urban design of the

area and maintained in good repair. The umbrella circumference, when open, shall not exceed the area covered by the tables and chairs that it covers. The umbrella height, when open, shall provide a vertical clearance of not less than seven (7) feet measured from ground to the lowest point of the umbrella so as to provide safe pedestrian clearance. Umbrellas shall not contain any signage, per Chapter 31. No heaters shall be placed under umbrellas.

- (d) Trash. At least one covered trash receptacle shall be provided if the cafe does not include table service, and the cafe shall be maintain in a clean, orderly and litter free manner.
- (e) Service Items. Small tables, stands and similar equipment used as a service station or host stand by establishment staff may be approved on a case-by-case basis.
- (f) Lighting. Light strings, light boxes, or other decorative lighting marked "UL listed" or "UL classified" and rated for outdoor use may be used within the cafe area. Any such lighting shall be securely fastened to the enclosure, umbrella, or other approved equipment, so that it does not blow or swing in the wind, and shall not hang in such a way to create a hazard. No such lighting or other decorative features or cords shall be attached to any public amenity or hung across the street. An extension cord, plugged into the establishment's building only, may be used to provide power to decorative lighting within the cafe, provided it is used according to manufacturer's specifications, does not hang lower than nine (9) feet over the pedestrian walkway when measured from the ground, is placed so that it does not create danger or likely to result in damage to the cord, and must be appropriately monitored when in use and unplugged from the power source when not in use or not being monitored. Electrical cords within the cafe space shall be secured using cord covers approved as part of the approved plan. All decorative lighting, including approved light boxes, must be capable of being removed or stored as required by Sec. 9.135(9).
- (g) Electrical power source. Other than for Lighting or Electric Heaters described herein, there shall be no electrical power cords connected to any part of a sidewalk cafe, including a roadway cafe expansion, and no sidewalk cafes shall draw power from any City of Madison power source.
- (h) Heaters. Outdoor heaters may be used only if meeting the following requirements and only if approved by the Madison Fire Department prior to use:
 - 1. All proposed heaters and their location must be shown on the application diagram required by 9.135(3)(e). The applicant shall provide information including manufacturer, style, fuel or power source, and any other details required by the City.
 - 2. Heaters must be unplugged or disconnected when not in use and during after-hours outdoor storage, if allowed.
 - 3. Sufficient clearance shall be maintained between heaters and all other objects. Required minimum clearance distance depends on the heating device; five (5) feet is recommended.
 - 4. Heaters shall be operated in compliance with the operations manual and all recommended safety guidance issued with the heater.

5. Heaters shall be operated in compliance with any additional laws, ordinances or guidance provided by the Madison Fire Department.
 6. Storage. Heaters and associated equipment shall only be stored outdoors after-hours in compliance with Sec. 9.135(9), and an approved storage plan, if required below.
 7. Propane Heaters. Propane heaters shall be used only in compliance with all Fire Department requirements and only after a propane heater and tank storage plan is approved by relevant City agencies including the Madison Fire Department and the Director. Propane shall not be used if such a plan is not approved. No propane tank shall be stored or remain in any part of the sidewalk cafe area or the public right-of-way after hours. See Sec. 9.135(9) for storage requirements. Establishment staff should be trained in proper installation of fuel tanks and detecting leaks.
 8. Electric Heaters. Electric heaters may be used if the power source complies with the electrical requirements in Subs. (f) and (g) above and in compliance with any other guidelines issued by the City for their use.
- (i) Potted plants, trees, flowers. The establishment may provide its own plants or trees in pots, or planter boxes, to be approved on a case-by-case basis. Planter/flower boxes may be hung on the inside of enclosures or on the exterior, if not facing the public pedestrian walkway, and otherwise not creating a hazard. Enclosures may be designed with built-in planters that do not reduce the required minimum pedestrian walkway adjacent to the cafe. Any such plants shall be watered and maintained in a healthy and attractive condition.
- (j) Tents. Pop-up tent(s) of not more than ten by ten feet may be used in in a sidewalk or roadway cafe area, in the discretion of the Director based on factors including available space, proximity to street amenities and other previously-approved vending sites, and only in compliance with applicable fire codes. The following criteria shall apply in the absence of a more strict fire code regulation:
1. Tents shall not exceed 10' x 10' in area.
 2. Tents maintain a minimum vertical clearance of seven (7) feet measured from ground level to the lowest point of the tent canopy.
 3. Tents shall not be staked. Rather, all tent legs must be weighted with a minimum of 40 pounds per leg, using any of the following methods:
 - 5 gallon bucket full of water, sand, or concrete
 - 4" PVC pipe at least 36" long filled with concrete
 - Large commercially available tent weights
 - Sandbags or salt bags 40lbs or heavierWeights must be on the ground and not dangling
 4. Tents shall be secured and weighted as soon as they are put up, and brought down as soon as weight is removed. Tents shall not be left unsecured or unweighted at any time.

5. Use of tents may be deemed unsafe and prohibited during severe weather events.
 6. All tents must be taken down upon close of business. Tents may only be stored in the cafe area if allowed by Sec. 9.135(9).
 7. No signage of any kind shall be displayed on a tent.
 8. Heaters of any kind shall not be used under tents.
 9. Smoking is prohibited under tents.
 10. Tents must not have closed walls in place and all sides shall remain open while open for business.
- (k) Fire Code Compliance. All equipment hereunder and its placement and storage shall comply with Chapter 34, the Fire Prevention Code, and any other applicable fire code.
- (l) Signs. Any signs, graphics or other logos within a sidewalk cafe shall comply with Chapter 31 of the Madison General Ordinances, any other applicable ordinances, and state law. See Sec. 31.046(2)(c)6.a. for permissible signage on enclosures and portable signs.
- (m) Other authorized equipment. The Director may approve other decorative or functional equipment on a case-by-case basis, which shall be noted in the official record of the approved license.
- (n) City Amenities. Unless expressly authorized herein, no sidewalk cafe equipment shall be attached, affixed or hung from any City street amenity of any kind and no City amenity may be used as part of the cafe.
- (o) Maintenance. All cafe furniture and equipment shall be maintained in an attractive and presentable condition. Items that become weathered or worn shall be repaired or replaced within sixty (60) days of written notice from the Director. Failure to comply with the written notice may result in further enforcement action; however, nothing in this paragraph shall limit the authority of the City to enforce violations of this or any other ordinance through citation or other means.
- (6) Mall/Concourse Sidewalk Cafes. This subsection provides additional location and placement requirements for Sidewalk Cafes in the State Street Mall/Capitol Concourse Vending Area. Licenses for a Sidewalk Cafe and Roadway Cafe Expansion issued to establishments on the Mall/Concourse are considered Mall/Concourse Vending Licenses, and licensees are considered Mall/Concourse Vendors under Sec. 9.136.
- (a) 7-foot Pedestrian Walkway. All Mall/Concourse Sidewalk Cafes shall be placed with a minimum of seven (7) feet of unobstructed pedestrian walkway on the adjacent public sidewalk. No sidewalk cafe may obstruct the pedestrian right of way required by the City to be maintained adjacent to the cafe. All sidewalk cafe equipment and operations shall remain within the boundaries of the sidewalk cafe site as shown in the record of the approved license and surrounded by enclosure(s) meeting the requirements herein.

Establishments that have been issued a regular Mall/Concourse sidewalk cafe license prior to the 2022 vending season where the approved cafe placement provided less than a seven (7) feet minimum pedestrian walkway, as set forth in the record of their most recently approved license, may continue to be approved with a walkway of less than 7 feet, but no less than six (6) feet. If the licensee

wishes to change their cafe configuration or dimensions from the most recently approved license (other than by adding a Roadway Cafe Expansion License) any such change shall comply with the 7 foot rule. All new applicants shall comply with the 7 foot rule, including new ownership of the establishment.

- (b) Standard Placement of Mall/Concourse Sidewalk Cafes. Mall/Concourse Sidewalk Cafes shall be placed toward the street, no closer than two (2) feet from the face of the adjacent street curb, and no closer than seven (7) feet to the building face, to allow space for the pedestrian walkway required in Sub. (a), unless alternative placement is required by or approved under 9.135(6)(c).
- (c) Lateral dimensions. Mall/Concourse Sidewalk cafes shall extend no further on the public sidewalk than the side property lines of the street level establishment's occupancy space on the corresponding building face, unless a lateral extension is approved under Sec. 9.135(3)(c)2.a. or alternative placement is approved under Sec. 9.135(6)(d) below.
- (d) Mall/Concourse Alternative Sidewalk Cafe Placement.
 - 1. Sidewalk Cafes in 100 Block of Martin Luther King Jr. Boulevard. Sidewalk cafes within the 100 block of Martin Luther King Jr. Boulevard, due to the unusual width and design of the sidewalk between the roadway and the property line of adjacent buildings, shall be located between the building face and a distance of twelve (12) feet from the building face and shall comply with the lateral placement requirement in Sec. 9.135(6)(c) above.
 - 2. Sidewalk Cafes on the Capitol Square. Due to the width and unique design and layout of sidewalks on the Capitol Square, establishments located on the 10 blocks of E. and W. Mifflin, N. and S. Pinckney, E. and W. Main, and N. and S. Carroll Streets may choose a sidewalk cafe location that either complies with 9.135(6)(b) if the layout of the permanent amenities on sidewalk in front of the business allows, or placed next to the building, but not both. Sidewalk cafes located next to the building shall comply with the lateral placement requirement in Sec. 9.135(6)(c), shall extend no more than five (5) feet from the primary building face (not including any private property), and shall otherwise comply with all applicable requirements of this Section.
 - 3. 500, 600 and 700 Blocks of University Avenue (North Side). Due to the unique design of the roadway, bus lanes and pedestrian ways on University Avenue, particularly the wide sidewalks, absence of permanent street amenities, and proximity to the bus lane, sidewalk cafes located on the North side of the street within the 500, 600 and 700 blocks of University Avenue shall be placed next to the building. Sidewalk cafes shall comply with the lateral placement requirements in sub (6)(c) above, shall extend no more than five (5) feet from the building face, and shall otherwise comply with all applicable requirements of this Section.
 - 4. Mall/Concourse - Case-by-Case Placement. The Director may, on a case-by-case basis and at their discretion, allow a sidewalk cafe on portions of the Mall/Concourse other than State Street to be placed up against the building using the criteria in Sub. (d)1. above, or to split a sidewalk cafe into two (2) sections for one establishment if, after inspecting the site, in the Director's opinion, such variance is necessary to allow a sidewalk cafe for an otherwise eligible establishment.

To be eligible, the adjacent sidewalk must meet the general location eligibility criteria in Sec. 9.135(3)(c).

An establishment shall be eligible for a 2-part sidewalk cafe if made necessary by permanent public amenities positioned in the sidewalk adjacent to the establishment, if there is sufficient space for an enclosed sidewalk cafe on both sides of the amenity(ies). In that case the cafe is considered one licensed cafe site that is split into two sections.

An establishment is eligible for two separate sidewalk cafes if located on a street corner or if it has two street frontages and both adjacent sidewalk and/or roadway areas are otherwise eligible. For establishments on State Street, the cafe on the State Street side shall conform to the rules above for placement on State Street. The cafe on the other side shall be placed against the curb under the standard placement in Sub. (6)(b) above if space allows, or may be placed against the building under the rules of Sub. (6)(d)1. if, in the opinion of the Director, placement against the building is more safe and consistent with the traffic and pedestrian flow on the corresponding street. In this case, the establishment shall obtain two sidewalk cafe licenses. The placement rules in this paragraph shall also apply to an establishment with multiple addresses in Sec. 9.135(6)(e)2.c. below.

(e) Assignment of Sidewalk Cafe Sites Among Street-Level and Non-Street Level Establishments.

1. Definitions.

Contiguously-Located, Street-Level Establishments. An establishment is considered to be "contiguously-located, "street-level" if its place of business is located on the ground floor of a building with a street address that abuts a public sidewalk and there is space on that sidewalk that is not otherwise prohibited for vending by the Madison General Ordinances.

Corresponding Non-Street-Level Establishment. A sidewalk cafe applicant is considered to be a corresponding non-street-level establishment if it is located in the same building as a contiguously-located, street-level establishment, but not on the ground floor.

2. Sidewalk cafe site eligibility shall be determined as follows:

a. Contiguous Street-Level Establishments. A contiguously-located, street-level establishment shall apply for a sidewalk cafe license by the deadlines in Table B. The site shall be assigned to that applicant if all applicable licensing criteria is met.

b. Corresponding Non-Street Level Establishments. If a sidewalk cafe is not approved for the street-level establishment by April 1, any eligible establishment in the building, including a corresponding non-street level establishment, may apply for a sidewalk cafe. Cafes shall be issued on a first come, first served basis, taking into account any corresponding merchant vendor application under Sec. 9.136(1)(j)4. If more than one such application is received for the same sidewalk site on the same day, the site shall be assigned by lottery by the Director.

- c. Multiple Addresses. If an eligible establishment has more than one street address abutting a public sidewalk that is otherwise available for a sidewalk cafe, the establishment is eligible for a sidewalk cafe at both addresses. If multiple eligible tenants use the same street addresses, the site(s) shall be allocated among street-level and non-street level establishments as described above, taking into account any merchant vendor application under Sec. 9.136(1)(j)4.

(7) Citywide Sidewalk Cafes. This subsection sets forth requirements for Sidewalk Cafes for eligible establishments located anywhere in the City but the Mall/Concourse, and are in addition to the provisions that apply to all sidewalk cafes.

(a) Citywide Sidewalk Cafe Location Eligibility.

1. Must meet the establishment eligibility criteria in Sec. 9.135(3)(b).
2. Must meet the location eligibility criteria in Sec. 9.135(3)(c), except that the default location for a citywide Sidewalk Cafe without a Roadway Cafe Expansion License is against the building, unless alternative placement is approved under Sub. (e) below.
3. Required Pedestrian Walkway. An establishment is not eligible if sidewalk cafe placement would result in a violation of Sec. 9.13(4)(d) (minimum six (6) foot wide unobstructed public pedestrian walkway).

(b) Citywide Cafe Placement and Dimensions. Citywide Sidewalk Cafes (without a Roadway Cafe Expansion) shall be located against the building except as allowed under Sub. (e), alternative placement. All components of the sidewalk cafe shall be placed as required by 9.135(3), (7)(a), and the following criteria:

1. Sidewalk cafes (without a Roadway Cafe Expansion) shall be placed against the building, unless the cafe has been approved for alternate placement under Sec. 9.135(7)(e) below.
2. Sidewalk cafes shall extend no further than the side property lines of the establishment's street frontage unless a lateral expansion has been approved under Sec. 9.135(3)(c)2.a.
3. No Citywide sidewalk cafe may obstruct the minimum of six feet (6') unobstructed public pedestrian walkway required to be maintained on the adjacent public sidewalk. Except for cafes with alternative placement under sub. (7)(c), this 6' walkway shall be measured from the outside of the cafe enclosure to the:
 - curb edge,
 - roadside edge of sidewalk if there is an unpaved terrace,
 - edge of the roadway if there is no curb, or
 - the near edge of any curbside public amenities such as parking meters, trees, or light posts located adjacent to the proposed cafe and shall be otherwise free from obstructions and public amenities. The points of measurement shall be determined by the Director, according to these standards.

4. Cafe Width. The maximum width of a Citywide sidewalk cafe shall be determined by the width of the adjacent public sidewalk, according to Table C below. Sidewalk width shall be measured from the building face to the edge of the curb (or edge of the sidewalk nearest the roadway if there is an unpaved terrace.)
5. Cafe Equipment and Furniture. Allowable equipment in a Citywide Sidewalk Cafe shall be as stated in Sec. 9.135(5) except that the maximum cafe width and table sizes shall be as shown in Table C, below.

Table C - Citywide Cafe Specifications

Sidewalk Width	Maximum Cafe Width (Citywide)	Maximum Table Size & Configuration (Citywide)
less than 9'	cafe not permitted	n/a
9' - 10'11"	3' cafe	24" diameter or longest side of table top
11' - 15'	5' cafe	32" diameter or longest side of table top, or greater, at discretion of Director
15' or more	5' or wider, at discretion of Director	32" diameter or longest side of table top, or greater, at discretion of Director

6. Citywide sidewalk cafes shall be enclosed on at least three (3) sides (the building face may serve as one side of the enclosure), with the choice of which side to remain open being approved on a case-by-case basis. When more than one establishment has an adjoining Roadway cafe permit under Sec. 10.30(5)(b)4. the Director may approve a cafe enclosure configuration with fewer than 3 sides as long as each establishment's seating area is sufficiently defined. Enclosures shall also comply with the sidewalk cafe enclosure requirements of Sec. 9.135(5) herein.
 7. Citywide sidewalk cafes shall comply with all other applicable requirements of this Section. In the event of a conflict with another section, the more strict requirement shall control.
- (c) Alternative Placement for Citywide Cafes.
1. Regular cafes - Case-by-Case Determination. The Director may, on a case-by-case basis, allow variances to Secs. 9.135(7)(b) 1., 4., 5., and 6., after inspection of the site, if in their opinion such variance is necessary to approve a sidewalk cafe for an otherwise eligible establishment. Any such cafe shall provide the minimum unobstructed six (6) foot clearance for the adjacent public sidewalk according to where the cafe is located in relation to the building face and street.
 2. Roadway Expansion License. Citywide Sidewalk cafes that are eligible for a Roadway Cafe Expansion shall be placed at the terrace, directly adjacent to the approved Roadway Cafe area and not up against the building.

- (8) Roadway Cafe Expansion License. An establishment with a Regular Sidewalk Cafe may be eligible for a Roadway Cafe Expansion License, authorizing expansion of the seating area for food and beverage service into the roadway immediately adjacent to the sidewalk cafe, creating additional space and seating for the operations and equipment allowed under this Section.
- (a) Eligibility. To be eligible for a Roadway Cafe Expansion License, the applicant must:
1. hold a valid Sidewalk Cafe License or be eligible to apply for a Sidewalk Cafe License at their location, under the eligibility criteria in Sec. 9.135(3)(b) and (c), and 9.135(6) or (7).
 2. hold a valid Roadway Cafe Permit under Sec. 10.30 for the identical part of the roadway.
 3. comply with all other applicable requirements for a Sidewalk Cafe under Sec. 9.135.
- (b) Equipment. Only the following equipment may be present in the Roadway Cafe Expansion area:
1. Any equipment allowed in a Regular Sidewalk Cafe under Sec. 9.135(5).
 2. Any additional equipment allowed for the Roadway Cafe Permit by Sec. 10.30, which shall only be placed in the Roadway Cafe Expansion Area and not the Regular Sidewalk Cafe area.
 3. All approved equipment and its location shall be indicated in the record of the approved Sidewalk Cafe License. No person shall use or place any equipment within a Roadway Cafe Expansion area except as allowed herein and as indicated on the approved license.
- (c) Application. An applicant for a Roadway Cafe Expansion License shall follow the application procedure in Sec. 9.135(3)(d). Roadway Cafe Expansions are applied for as a Sidewalk Cafe License.
- (d) Criteria for issuance. A Roadway Cafe Expansion License shall only be issued if:
1. A Regular Sidewalk Cafe license has been or will be issued under Sec. 9.135(5) or (6).
 2. A Roadway Cafe Permit has been issued under Sec. 10.30 and the proposed Roadway Cafe Expansion area complies with all requirements of Sec. 10.30.
 3. Proof of required insurance and indemnification agreement required for sidewalk cafes and a roadway cafe permit are on-file and approved as needed by the City Risk Manager.
 4. Any storage plan required for propane heaters by Sec. 9.135(5)(h) is approved and on file with the Director.
 5. Any snow removal plan required by Secs. 10.30 and 9.135(10) is approved and on file with the Director.
 6. All applicable license fees in Sec. 9.135(4), Table B have been paid.

- (e) Roadway Cafe Expansion License, Duration. A Roadway Cafe Expansion License shall be issued in connection with the underlying Regular Sidewalk Cafe license (Mall/Concourse or Citywide) and provided to the applicant after payment of the fees in Table B. Roadway Cafe Expansion Licenses are available in two durations:
 - 1. Seasonal - from April 15 to November 15.
 - 2. Winter - from November 16 to April 14, and only available if the applicant has also obtained a Roadway Cafe Permit for Winter Operations under Sec. 10.30(5)(d), received approval of all required snow removal plans, and pays the additional Winter License fee in Table B.
- (f) Invalidation of License for Special Events, Removal for Public Purposes. Roadway Cafe Expansion Licenses and the associated Roadway Cafe Permit are subject to the procedures in Sec. 9.136(1)(k) for temporary invalidation of their licenses during a street use event. Roadway Cafe Permit obstructions and equipment are subject to removal for additional reasons listed in Sec. 10.30(6)(c)3.
- (9) Removal and Storage of Sidewalk Cafe Equipment After Hours.
 - (a) Regular Mall/Concourse. A Regular Mall/Concourse Sidewalk Cafe without a Roadway Cafe must completely remove from the right-of-way all equipment associated with the sidewalk cafe, including enclosures, during hours that the cafe is not operating, or store such equipment in another establishment's licensed Roadway Cafe Expansion Area, with permission from that establishment, demonstrated to the Director's satisfaction, and in compliance with all requirements of Sec. 9.135(9)(b)2.b., c. and d., and with such storage approved as part of the Sidewalk Cafe License for the cafe requesting the storage. All such equipment must be removed from the site no later than thirty (30) minutes after the close of business until not sooner than one (1) hour prior to being open for business each day. Sidewalk cafes having permanent facilities approved through a maintenance agreement do not have to remove the permanent equipment that is approved through that process.
 - (b) Regular Citywide. A Regular Citywide Sidewalk Cafe without a Roadway Cafe must completely remove from the right-of-way all equipment associated with the sidewalk cafe, including enclosures, during hours that the cafe is not operating, except for the exceptions noted below. All such equipment must be removed from the site no later than thirty (30) minutes after the close of business until not sooner than one (1) hour prior to being open for business each day, with the following exceptions:
 - 1. Citywide sidewalk cafes having permanent facilities approved through a maintenance agreement do not have to remove the permanent equipment that is approved through that process.
 - 2. Outdoor storage in Sidewalk/Terrace. On a case-by-case basis, the Director may approve a citywide sidewalk cafe to store some or all of its cafe equipment within the perimeter of its approved sidewalk cafe, if in the opinion of the Director, there is enough room, for an additional license fee set forth in Table B. All such equipment shall be safely secured and stored as required by Sec. 9.135(8)(c)2.c.
 - (c) Storage for Sidewalk Cafes with a Roadway Cafe Expansion (Citywide or Mall/Concourse).

1. Removal from the Sidewalk/Terrace. All equipment associated with the sidewalk cafe, including enclosures, must be removed entirely from the sidewalk and terrace portions of the cafe no later than thirty (30) minutes after the close of business until not sooner than one (1) hour prior to being open for business each day. Sidewalk cafes having permanent facilities in the sidewalk or terrace area approved through a maintenance agreement do not have to remove the permanent equipment approved through that process.
2. Storage in the Roadway Cafe Expansion Area.
 - a. Any equipment required by Sec. 10.30, such as space delineators, shall remain in the roadway in its approved location at all times for the duration of the approved Roadway Expansion License, or until such time as the Roadway Cafe Permit, Roadway Expansion License or entire cafe is discontinued for any reason. Optional heavy equipment such as light boxes, planters, barrels and similar items, if approved as part of the Roadway Cafe Expansion License, may also remain in place after-hours in the approved roadway area only.
 - b. All equipment not listed in Sub. 2. a. above, including the enclosures for the sidewalk and terrace portion of the cafe, shall either be removed completely from any part of the public right-of-way, or may be safely secured and stored within the approved Roadway Expansion area, by no later than thirty (30) minutes after the close of business until not sooner than one (1) hour prior to being open for business each day. This may include cafe equipment from the sidewalk and terrace area as well as the roadway, if there is enough space in the roadway area to store such items as required in Sub. c. This may also include equipment from another sidewalk cafe if approved under sec. 9.135(9)(a)
 - c. Safe and Secure Storage. Tables, chairs and any other moveable equipment to be stored outside must be gathered or stacked neatly together so that no equipment extends outside the approved perimeter of the Roadway Cafe Permit, secured with a chain or similar device, and locked, such that all stored items cannot be moved, but nothing shall be locked or tied to any City amenity.
 - d. Heater and Propane Tank Storage. When heaters have been approved and overnight storage is permitted under this Section, the following shall apply:
 - i. Heaters. Electric Heaters must be unplugged or disconnected from power, and propane heaters must have the propane tanks disconnected and removed from propane heaters, prior to the heater being stored in the roadway cafe overnight.
 - ii. Propane Tanks. Propane tanks shall not be stored anywhere in the cafe area or public right-of-way after hours. The use of propane heaters shall require an approved propane tank storage plan under Sec. 9.135(5)(h).

(10) Winter Sidewalk Cafe Operations.

(a) Snowfall Procedures for Regular Mall/Concourse Sidewalk Cafes. The following procedures apply to all Regular Mall/Concourse Sidewalk Cafes.

1. Snow Removal. If any cafe site has accumulated snow and ice and the licensee wishes to set up the cafe, they must clear all snow and ice from the site before placing any equipment in the site, including enclosures, and shall not modify the approved perimeter or location of equipment within their approved site.

Operators of cafes with sites on the Capitol Concourse or Municipal Building Vending Area shall push the snow toward, but not into, the road. Vendors shall keep a four foot (4') perimeter around the vending cart, equipment, approved Sidewalk Cafe enclosures clear from accumulating snow and ice at all times.

2. Snow Emergencies. Sidewalk cafe license holders shall not operate, set up any equipment or otherwise operate in the sidewalk portion of their sidewalk cafe on any day when the City has declared a snow emergency under Sec. 12.045(1).
3. Street Vending Snow Day. The Superintendent of Parks or designee (Superintendent) may declare a "street vending snow day" when a full snow emergency under Sec. 12.045 has not been declared but additional time is needed for city staff to safely remove snow and ice from the streets and sidewalks within the Mall/Concourse Vending Area. When a Street Vending Snow Day has been declared, one or both of the following may occur;
 - a. Delayed set-up. Mall/Concourse sidewalk cafe equipment of any kind cannot be placed in the sidewalk or terrace area before 11:00 a.m. or a later time if deemed necessary by the Superintendent and vendors are notified according to the procedure below. Such notification may extend for the entire day.
 - b. Early Closing for Sidewalk Cafes. The Superintendent may also determine that Sidewalk Cafes must close and remove all equipment from the sidewalk/terrace by 12:00 a.m. to facilitate snow removal overnight. The Parks Division will announce the snow day and the specific restrictions above no later than 8:00 a.m. of the affected day by emailing a current list of all affected vendors provided by the Director, and using a call-in telephone number or similar technology established for this purpose.

(b) Snow Removal Plan.

1. Roadway Cafes. If winter operations are approved for a Roadway Cafe Permit under Sec. 10.30(5), a snow removal plan meeting criteria established by the Traffic Engineer and approved by the Streets Superintendent is required.
2. Mall/Concourse Sidewalk Cafe (Regular). An approved snow removal plan may be required by the Mall Maintenance Supervisor, Streets Superintendent, or both, for a Regular Mall/Concourse sidewalk cafe. Mall/Concourse Licensed Vendors shall comply with all provisions of their approved snow removal plan (if any) when required. In the event of a conflict between the snowfall procedures set forth above and an

approved snow removal plan, the approved snow removal plan shall apply.

3. Citywide cafes without a Roadway Expansion License. No additional snow removal plan is required. Licensees shall follow applicable ordinances for snow removal within their approved sidewalk cafe area.

- (11) Enforcement; Penalties. Any person violating any provision of Section 9.135 or the regulations adopted hereto shall be subject to a forfeiture of not less than thirty dollars (\$30) nor more than three hundred dollars (\$300.00) for each separate violation of the ordinance or regulation. Enforcement of this Section shall not bar proceedings under Section 9.13(8), "Procedure for Revocation, Suspension or Nonrenewal of Vending License," nor shall proceedings under Section 9.13(8) bar the City from prosecuting violations of Sec. 9.135."

2. Section 9.136 entitled "Street Vending on the State Street Mall/Capitol Concourse" is created as follows:

- "(1) This Section governs all street vending, as defined in Sec. 9.13(1), in the State Street Mall/Capitol Concourse Vending Area. The general rules in Sec. 9.13 for street vending apply to vending activities in this Section, unless otherwise specified. Definitions not provided herein shall be as defined in Secs. 9.13 and 9.135.

- (a) Scope and Definition of Mall/Concourse.

1. Purpose. The physical design of the State Street Mall and the Capitol Concourse ("Mall/Concourse") are suited to street selling of handcrafted goods, personally prepared food and limited goods by contiguously-located, street-level or corresponding non-street level merchants and sidewalk cafes subject to such regulations as necessary to maintain the orderly use of the public streets and to protect the public health.
2. Included Streets and Boundary. For purposes of street vending under this Section, the State Street Mall/Capitol Concourse Vending Area includes both sides of the street and the City sidewalks of the 100 through 800 blocks of State Street and the first block of every cross street intersecting State Street, in any direction; the Capitol Concourse consisting of the first blocks of North and South Carroll Streets, the first blocks of East and West Main Streets, the first blocks of North and South Pinckney Streets and the first blocks of East and West Mifflin Streets and the first block of all cross streets intersecting with the Capitol Concourse in any direction; the 700 and 800 blocks of Langdon Street; and all other city streets and city sidewalks within the boundaries formed by the following streets, including both sides of the boundary streets unless otherwise noted; the 400-600 blocks of North Park Street, the 600 block of North Lake Street, the 200-600 blocks of Langdon Street, the 400-500 blocks of North Henry Street, the 100 block of West Gorham Street, the 200-300 blocks of North Carroll Street, the portions of each street forming the Outer Loop around the Capitol (Fairchild, Doty, Webster and Dayton Streets), the 200 block of West Mifflin Street, the 100 block of North Henry Street, the 300 block of West Dayton Street, the 200-300 blocks of North Broom Street, the northwest side of the 400 block of West Gorham Street, the 500-800 blocks of University Avenue on the north side of the street; Elizabeth Link Peace Park and the Municipal Building Vending Area.

- (b) Limitation on Products to be Sold Within the Mall/Concourse. Only handcrafted goods and personally prepared food as defined in Sec. 9.136(1)(e)3. and 7. and in any regulations approved by the Common Council pursuant to Sec. 9.136(1)(c) may be sold or offered for sale by within the Mall/Concourse Area and all such sales shall be limited to designated vending sites, except that non-personally prepared food and beverages may be sold in sidewalk cafes. Only goods traditionally, customarily and currently sold inside a

merchant's store may be sold by a merchant vendor and only during normal business hours and on days designated in this chapter.

(c) Regulating Authority and Intent.

1. The Vending Oversight Committee (VOC) is empowered to create additional regulations not inconsistent with the provisions of Secs. 9.13, 9.135, 9.136 or other ordinances and subject to approval by the Common Council. The VOC shall submit proposed regulations to the Common Council by formal resolution or report. Any such regulations shall be effective upon adoption of the sponsoring resolution or report, and a copy of any adopted regulations shall be maintained on file at the offices of the City Clerk and the Department of Planning and Community and Economic Development. The VOC may regulate the following, with assistance and recommendations from the Director:
 - a. The number, size and location of vending sites within the State Street Mall/Capitol Concourse area, with input from the Superintendent of Parks, or designee, as needed.
 - b. The procedure governing allocation or assignment of vending sites among vendors holding valid vending licenses.
 - c. The procedure governing application for and granting of Mall/Concourse vending licenses.
 - d. The procedure governing revocation or suspension of Mall/Concourse vending licenses.
 - e. Physical specifications for and aesthetics of vending carts, sidewalk cafes, signage and equipment.
 - f. The regulations, criteria and procedure for determining whether an item to be sold by a vendor is a handcrafted good or personally prepared food. This includes but is not limited to criteria which are specific to individual crafts.
 - g. Special standards for merchant vending including, but not limited to, time, location, site and equipment specifications and restrictions.
 - h. The procedure and criteria for determining whether an item to be sold by a merchant is traditionally, customarily and currently sold inside the merchant's store.
 - i. Any other matters regarding vending on the Mall/Concourse.
2. The Common Council may at any time by ordinance or resolution adopt rules and regulations governing vending on the Mall/Concourse.

(d) (Reserved for Future Use.)

(e) Definitions.

1. Art and Crafts or Food Vendor. To be eligible for a license for the sale of handcrafted goods or personally prepared food a vendor must be:
 - a. Arts and Crafts Vendor. An Arts and Crafts Vendor is defined as one (1) or two (2) individuals who offer for sale only 'handcrafted goods' as defined in Sec. 9.136(1)(e)3. if both individuals are solely and regularly involved in both the production and the sale of the goods. In addition, an Arts and Crafts Vendor may be a corporation, cooperative or partnership provided that no more than two (2) people are all solely and regularly involved in all phases of both the production and the sale of the goods. The names of all such individuals shall be listed on the application and

license. An Arts and Crafts Vendor shall be licensed to sell only the handcrafted goods indicated on the face of the license from one arts and crafts vending site. "Arts and Crafts Vendor" also includes a vendor meeting the criteria in this paragraph operating as a Spray Paint Artist as described in the Regulations, Sec. II.F.1.e. All sections of this Section applicable to an Arts and Crafts vendor (or "craft" vendor) shall apply to a Spray Paint Artist unless explicitly stated otherwise.

- b. Food Vendor. A Food Vendor is an individual who offers for sale only personally prepared food for which that individual is regularly involved in all phases of both the production and the sale of the food. In addition, a food vendor may be a corporation, cooperative or partnership; however, the application and license shall designate a primary individual who is all regularly involved in all phases of the production process and responsible for the vending operation and who holds a valid Basic street vending license or is included on a Umbrella Basic License held by the food vendor under Sec. 9.13(3). A Food Vendor shall be licensed to sell only the personally prepared food items indicated on the face of the license from one assigned food vending site.
- c. Persons Permitted at Arts and Crafts and Food Vending Sites.
 - i. Persons Permitted at Arts and Crafts Sites. The individually licensed vendor, at least one of the primary individual vendors listed on an arts and craft vending license, or the primary individual designated on a license issued to a corporation, cooperative or partnership must be present at the vending site at all times during which items are displayed, offered for sale or sold. Other individuals who work on handcrafted items may be present at the vending site solely to assist and need not be named on the license or hold a Basic license. No unlicensed assistant shall sell, offer for sale, accept money, engage in prolonged commercial interactions or other transactions with customers or engage in any other direct vending activities.
 - ii. Persons Permitted at Food Vending Sites. The individually licensed food vendor, or the primary individual designated on a license issued to a corporation, cooperative or partnership must be present at the vending site at all times when open for business. Primary vendors must hold a Basic license or be included on the Umbrella Basic license held by the food vendor.

Supplemental Food Vendors. A food vendor may employ supplemental vendors who need not be individually named on the food vending application or license and who conducts vending activities such as selling, accepting money, and engaging in commercial interactions with customers. Any supplemental vendors under this paragraph must hold valid basic street vendor licenses or be included on an Umbrella Basic License held by the food vendor, within fourteen (14) days of being employed by the food vendor.

New Employees. In addition, new employees of food vendors may be present at food vending sites without holding a valid Basic street vending license or without being named on an Umbrella Basic License, for up to fourteen (14) days from the date of hire as provided in b. above, provided that the food vendor provides written notice to the Director of the employee's name and date

of hire. Such properly-noticed new employees may assist the food vendor in vending activities, such as selling, offering for sale, accepting money, and engaging in prolonged commercial interactions with customers or engage in any other direct vending activities.

Helpers. Other individuals may be present at the vending site solely to assist and need not hold a Basic license. Activities such as operating vending vehicles, loading and unloading, food or drink preparation, or working on handcrafted items are acceptable assistance activities. No unlicensed assistant or person not named on the Food Vending License or covered by a Basic or Umbrella Basic license shall sell, offer for sale, accept money, engage in prolonged commercial interactions or other transactions with customers or engage in any other direct vending activities.

2. a. Contiguously-Located, Street-Level Merchant or Establishment.
A merchant or establishment is considered to be "contiguously-located, "street-level" if its place of business is located on the ground floor of a building with a street address that abuts a public sidewalk and there is space on that sidewalk that is not otherwise prohibited for vending by the Madison General Ordinances.
- b. Corresponding Non-Street-Level Merchant or Establishment. A merchant or establishment is considered to be a corresponding non-street-level business if it is located in the same building as a contiguously-located, street-level business, but not on the ground floor.
3. Handcrafted Goods. Handcrafted goods are those goods produced and created entirely by an Arts and Crafts vendor, as defined in Sec. 9.136(1)(e)1.a., with their own hands, from raw or basic materials changing these materials into a significantly different shape, design, form, or function. An item shall not be considered handcrafted if anyone other than the vendor(s) named on the Arts and Crafts Vending license was involved in production. Handcrafted goods shall not include food items, beverages or any other product intended for internal consumption. Commercially grown, manufactured or processed goods in their finished form do not constitute handcrafted goods. Any good containing a commercially produced item as a significant part of the good shall not be considered handcrafted unless such commercially produced item has been substantially changed in function or character. For purposes of this Section, cut flowers and Christmas trees shall be considered handcrafted goods.
4. Licensed Mall/Concourse Vendor. A Mall/Concourse vendor is a Food Vendor, Arts and Crafts Vendor, Merchant Vendor or Sidewalk Cafe who holds a valid Mall/Concourse vending license issued under Secs. 9.136(1)(h) or 9.135.
5. Merchant Vendor. A merchant vendor is a contiguously-located, street-level merchant whose business fronts on or abuts a street in the Mall/Concourse, or a merchant whose business is located in the same building as a contiguously-located, street-level merchant, to whom a valid Mall/Concourse vending license has been issued pursuant to this Section and who has a basic street vendor issued pursuant to Sec. 9.13(3). However a restaurant or other establishment eligible for a sidewalk cafe contiguously-located to the Mall/Concourse shall not be construed to be a merchant vendor.
6. Municipal Building Vending Area includes the 200 block of Martin Luther King, Jr. Boulevard, the 10 blocks of East and West Doty Street, the 10 blocks of East and

West Wilson Street, the 200 block of South Pinckney Street and the 200 block of South Carroll Street.

7. Personally Prepared Food. Personally prepared food is food or beverage produced by the vendor from raw or basic ingredients, changing the nature, form, shape or function. Any food sold on the Mall/ Concourse shall comply with City and State Health Regulations. In addition, the category 'personally prepared food' shall include the following:
 - a. Fruit sold by the piece or in individual-sized portions.
 - b. Condiments and other incidental ingredients given free with personally prepared food, but not including commercially packaged, prepared or produced drinks.
 - c. Coffee if prepared and brewed from beans that are locally roasted, meaning roasted at a facility located in Dane County, and tea brewed by the vendor from loose ingredients.
 - d. Food grown or raised by vendor.
 - e. Hotdogs, bratwurst or other sausages, and commercially produced buns.
 - f. Milk in individual portion sized containers.
 - g. Commercially produced soda water beverages in containers not made of glass or other shatterable material sold in conjunction with a personally prepared food item. Soda water beverage as used herein means all beverages commonly known as soft drinks or soda water.
8. Sidewalk Cafe. Sidewalk cafe is defined in Sec. 9.135.
9. Vending Year. Vending year shall mean the calendar year beginning April 15 and ending April 14 of the immediately following year, except that for a Seasonal Roadway Cafe Expansion License, the vending year shall mean April 15 to November 15.

- (f) Arts/Crafts and Food Vending Sites. The Vending Oversight Committee (VOC) shall determine, by regulation, the number, size and location of food vending sites and arts and crafts vending sites for each vending year. Each vending site may be occupied by only one vendor at a time except for craft vending sites on the 700 and 800 blocks of the State Street Mall where, at the discretion of the first craft vendor occupying an individual vending site, the site may be shared with additional craft vendors. Notwithstanding the foregoing, an Arts and Crafts Vendor operating as a Spray Paint Artist may not share a site with another craft vendor, shall operate only within a designated Spray Paint site, and follow all site assignment procedures specific for Spray Paint Artists established in the Regulations or elsewhere in this Section. A vendor may not occupy more than one vending site at any given time. In addition, the VOC shall determine the method for allocating or assigning food vending sites among licensed food vendors and the method for allocating or assigning arts and crafts vending sites among licensed arts and crafts vendors. The mere possession of a valid food or arts and crafts vending or sidewalk cafe license by a vendor shall not in and of itself entitle the vendor to the use of a vending site on a specific day or a minimum number of days during the vending year, and each Mall/Concourse vending license shall be issued subject to the regulations promulgated by the VOC and approved by the Common Council regarding allocation or assignment of vending sites. Failure to become fully licensed and approved or to consistently use the assigned site by May 1st of a given vending year shall be grounds for the site to be assigned to another vendor for the remainder of that vending year.

Special Saturday vending areas shall be created, by regulation, designating an increased number of vending sites on the Mall/Concourse for use on Saturdays. These vending sites are for crafts and food and will be in addition to the existing vending sites, but will in

no way infringe upon the yearly assigned food sites. During Saturday special events, any rules for 'Exclusive Vending Rights' during the special event adopted by the Common Council under Sec. 9.136(1)(k) shall apply to all vendors.

(g) Mall/Concourse Vending License Required. No person shall sell or offer to sell, any goods, foodstuffs, or any other article of any kind or otherwise conduct any of the activities described in Sec. 9.13(1) on the State Street Mall/Capitol Concourse without holding a valid Mall/Concourse Vending License or being designated as a primary vendor on a valid Mall/Concourse Vending license issued to a corporation, cooperative or partnership, and without all of the other necessary licenses required under this Section or another ordinance or law. A Mall/Concourse Vending license is not required for a vendor participating under Special Event Vending License pursuant to Sec. 9.13(2) herein. Only one Mall/Concourse Vending License in each category listed in Sec. 9.136(1)(h)2., i.e., arts and crafts, food, sidewalk cafe, merchant vendor, may be issued to a vendor for any single vending period. This paragraph shall not apply to vendors operating in late night food vending areas under Sec. 9.136(1)(n).

(h) Mall/Concourse Vending Licenses and Fees.

1. Categories of Mall/Concourse Vending Licenses.

- a. Mall/Concourse Food Vending Licenses issued to food vendors.
- b. Arts and Crafts Vending Licenses issued to arts and crafts vendors.
- c. Sidewalk Cafe Licenses issued to establishments eligible for sidewalk cafes under Sec. 9.135.
- d. Merchant Vendor Licenses issued to contiguously-located, street-level merchants or corresponding non-street-level merchants in the same building by order of priority established in Sec. 9.136(1)(j)4. below.

2. Additional License Requirements for the Mall/Concourse.

- a. Basic License. Food Vendors, Arts and Crafts Vendors and individuals working in those vending sites (except helpers as described in Sec. 9.136(1)(e)1.c.ii.) must also hold a Basic Street Vending license or Umbrella Food Vending License, if applicable, under Sec. 9.13(3). Merchant Vendors and Sidewalk Cafes do not require a Basic Street Vending License.
- b. Health Licensing. All food vendors required to be licensed under Chapter 7 of the Madison General Ordinances shall obtain the appropriate food and drink license and a mobile restaurant base license and operate from a licensed restaurant for food preparation, food storage and utensil cleaning activities.
- c. Optional Site Reservation Fee for Arts/Crafts Vendors.
 - i. Saturday-only craft vendors may reserve a site by paying the site reservation fee set forth in Table A in Sec. 9.13. This allows the vendor to reserve a specific vending site until 7:30 a.m. at the Saturday craft vending area, which site shall be assigned to them by the Director pursuant to the regulations on Saturday Vending Site Assignment adopted pursuant to Sec. 9.136(1)(c) and (f).
 - ii. Daily craft vendors may reserve a site by paying the site reservation fee set forth in Table A in Sec. 9.13. This allows the vendor to reserve a specific craft vending site on the 400, 500, and 700 blocks of State Street until 11:00 a.m. each day, which

shall be assigned to them by the Director and be subject to the to the regulations adopted pursuant to Sec. 9.136(1)(c) and (f).

3. Fees. The duration, license fees, application and payment deadlines for all Mall/Concourse vending license types are as set forth in Sec. 9.13(1)(a)6, Table A, Street Vending License Types and Fees ("Table A"). Additional information regarding specific license types is below:
 - a. Food Vendors. In addition to the annual license in Table A, a pro-rated license is available for the fee shown in Table A for a Mall/Concourse Food Vending license issued November 1 or later to a first-time food vendor, as described in Sec. V.E. of the Regulations Governing Vending on the State Street Mall/Capitol Concourse.
 - b. Sidewalk Cafes. The license fees for sidewalk cafes on the Mall/Concourse are set forth in Sec. 9.135(4), Table B.
 - c. Monthly License. Only arts and crafts vendors are eligible for a Monthly License. Monthly licenses shall expire thirty (30) days from the date of issuance.
 - d. (Reserved for Future Use.)
 - e. Non-Profit Exemption. Qualified non-profit organizations, otherwise meeting the criteria for Mall/Concourse vending, may apply for an annual license under Sub. (h)3.a. and may be exempt from paying the annual license fee, upon approval of the Vending Oversight Committee.
 4. A licensed Mall/Concourse vendor shall inform the Director of any change of address of the vendor or the primary vendor named on the license, in writing, occurring during the license period.
 5. Each Mall/Concourse Vending License shall contain such information on its face as may be required by the Director, by ordinance, and the Regulations for Vending on State Street Mall/Capitol Concourse.
 6. The Mall/Concourse Vending License shall be conspicuously displayed by the vendor at all times while vending.
- (i) Procedures For Granting a Mall/Concourse Vending License.
1. Application. All applications for a Mall/Concourse Vending License shall follow the procedures set forth hereunder unless a different procedure is established for a particular category of vending. All applications shall be filed by the Application Due Date established in Table A of Sec. 9.13, when applicable.
 - a. Application for a Mall/Concourse Food Vending License or Arts and Crafts Vending License shall be filed with the Director by the Application Due Date established in Table A and shall contain such information as shall be required by regulation and such additional information as they shall require in order to determine whether the requirements of the ordinances have been met. Such additional information may include but shall not be limited to documentation or other evidence, such as invoices for raw materials, demonstrations or explanations of design or production techniques, which evidence or illustrate that the item in question is handcrafted or personally prepared. An application for a Mall/Concourse Food vending license shall not be accepted unless the applicant has first participated in the Food Cart Review set forth in the Regulations Governing Vending on the State Street Mall/Capitol Concourse.
 - b. Application for a Merchant Vendor License shall be filed with the Director using the process designated for that purpose. All applications shall be

accompanied by a photograph, catalogue page(s) or detailed renderings of the tables, or other furniture or equipment being considered for use, including the location and number, and any additional information required by the Regulations Governing Vending on the State Street Mall/Capitol Concourse. The application shall also contain any information required by regulation or by the Director.

- c. Application for a Mall/Concourse Sidewalk Cafe License shall be made according to Sec. 9.135.
2. Initial Determination Appeal and Review. Upon receipt of an application for a license the Director, shall review all applications for a vending license under this Section for compliance with the applicable ordinance(s) and regulations, and shall make a determination using the procedures below.
- a. Upon receipt of a completed application, if all the applicable requirements are clearly and unambiguously met in the opinion of the Director, and all applicable fees paid, the appropriate license shall be promptly approved and issued.
 - b. If the Director determines that the applicable requirements of the ordinance and regulations are not met, they shall deny the license and state the reasons in writing to the applicant within ten (10) business days of the date of the application. The applicant may re-apply in order to address the reasons for denial, or may appeal the denial to the Common Council by filing a written notice of the appeal with the Director, within five (5) days of the Director's written determination. The Director shall refer the appeal to the VOC for a hearing. The applicant shall be notified in writing of the time, date and place of the hearing at least ten (10) days prior to the hearing, unless both parties agree in writing to shorter notice.
 - c. The sole issue at the hearing shall be whether the correct decision was made by the Director, based on the information contained in the application and any supporting documentation submitted with it. New or additional information shall not be grounds for an appeal and any such information shall not be allowed at the hearing. Such information, however, may be the basis of a re-application to the Director under this Section. The parties shall have the opportunity to question witnesses, may call witnesses on their behalf, and may be represented by counsel. All testimony shall be recorded. The Committee shall report its findings and recommendations in writing to the Common Council which shall convene to consider the report and recommendations. After due consideration of the Committee's report and any evidence presented, the Common Council may by majority vote affirm, reverse, or modify the decision of the Director and shall issue its decision in writing. If no decision is made within sixty (60) days from the date of filing the Notice of Appeal, the appeal shall be deemed denied. If the application is approved, the Director shall sign the application and the license shall be issued upon proper payment of fees.
 - d. The decision of the Common Council shall be a final determination and shall be subject to review in court as may be provided by law. Any person aggrieved by the decision may seek review thereof within thirty (30) days after the date of the final determination.
 - e. Any approval by the Director, or Common Council of any category of Mall/Concourse vending license shall be deemed to be a conditional approval in the absence of any approval by other necessary City agencies.

3. Renewal of Mall/Concourse Vending Licenses, Consequences for Past Violations. There shall be no renewal of any Mall/Concourse Vending License except where expressly stated for monthly licenses. All applicants shall follow the process above each year for granting an initial license. The following applies to applicants with citations or civil complaints within the previous vending year:
 - a. Any Mall/Concourse license holder who applies for a Mall/Concourse Vending license and has been issued two (2) or more citations or civil complaints for vending-related ordinance violations within the previous vending year must appear before the VOC prior to any action by the Director on their application, for the purpose of a formal expression of concern by the VOC, at which the applicant shall be required to present a detailed plan for preventing such violations in the future. If the applicant fails to appear after service of written notice to appear, no further action may be taken by the Director and the license shall be deemed denied.
 - b. If the applicant has committed three (3) or more vending-related offenses in the previous vending year as charged in citations or civil complaints, the Director may deny a request for a Mall/Concourse vending license based on the number, nature and seriousness of the offenses committed. Such determination may be appealed pursuant to Sec. 9.136(1)(i)2. above.

(j) Miscellaneous Restrictions on Merchant Vendors.

1. Miscellaneous Restrictions on Merchant Vendors.
 - a. Merchandise may only be displayed during normal business hours when the merchant's corresponding place of business is open.
 - b. Merchandise may only be displayed in specific sites defined by the street frontage of the street level merchant's place of business and otherwise complying with the requirements of Sec. 9.13, no closer than seven (7) feet to the building face, allowing a minimum of seven (7) feet unobstructed pedestrian walkway and no closer than two (2) feet from the face of the adjacent street curb on the other side in the specific location, with the configuration approved on the application pursuant to Sec. 9.136(1)(i). This requirement applies to vending on State Street and the sidewalks on the outside of the streets comprising the Capitol Square.
 - c. (Reserved for Future Use.)
 - d. An attendant or sales person shall either be present within the approved merchant vending site at all times at which items are displayed or sold or immediately available within the corresponding place of business. In addition to other requirements herein, the merchant vending site and merchandise displayed therein shall be maintained in an orderly and organized fashion.
2. (Reserved for Future Use.)
3. (Reserved for Future Use.)
4. Assignment of Merchant Vendor Sites Among Street-Level and Non-Street Level Businesses.
 - a. Merchant vendor site eligibility shall be determined as follows:
 - i. Contiguous Street-Level Businesses. A contiguously-located, street-level merchant, as defined in Sec. 9.136(1)(e)2.a., shall apply for the appropriate merchant vendor license and site by the

deadlines in Sec. 9.13(1), Table A. The site shall be assigned to that merchant if all other applicable licensing criteria is met.

- ii. Corresponding Non-Street Level Businesses. If a merchant or sidewalk cafe' vending site is not approved for the street-level business by April 1, any merchant or establishment eligible for a sidewalk cafe in the building, including non-street level businesses defined in Sec. 9.136(1)(e)2.b. may apply for the appropriate license and site. Site assignments shall be issued on a first come, first served basis. In the event that more than one such application is received for the same sidewalk site on the same day, the site shall be assigned by lottery by the Director.
- iii. Multiple Addresses. Merchants with a business space that has multiple street addresses must choose only one address (and corresponding street frontage) for a merchant vending site. If multiple business tenants use the same street addresses, the site(s) shall be allocated among street-level and non-street level businesses as described above.

(k) Vending During Street Use Events.

1. Special Event Vending Approvals. When a Street Use Permit is requested under Sec. 10.056 (a "street use event"), the applicant may request one or more of the following special approvals: invalidation of street vending licenses and Sec. 9.54 permits, permission to select participating vendors for the event, and suspension of some or all restrictions on street vending under this Section, Secs. 9.13 and 9.135 (collectively, "approvals"), using the procedures below. Any approvals under this Section are subject to the issuance of a valid Street Use Permit for the event.

- a. Invalidation of Vending Licenses. To encourage the integrity, comprehensiveness and success of a street use event taking place on any street, alley, sidewalk or public square in the City, the applicant may request that some or all categories of street vending license(s) or permits issued under Sec. 9.54 ("licenses") will not be valid within the perimeter of the street use event. Invalidation of licenses shall only occur within the perimeter approved in the Street Use Permit. Invalidation shall not be approved more than ten (10) times per year at the same location (i.e. same street block.) Invalidation of licenses is not available for serial street use permits of more than five (5) days.

When licenses are invalidated, street vendors or permit holders under Sec. 9.54 ("licensees") whose licenses have been invalidated cannot conduct the activities authorized by their license in anywhere within the perimeter of the event, unless selected by the event sponsor under Sec. 9.136(1)(k)1.b. ("Selection of Vendors.") Licensees with assigned sites inside the event perimeter cannot operate from the assigned site during the event. Such licensees may operate outside the event perimeter only as follows: by moving into an unoccupied vending site outside the event perimeter if allowed for that type of vending elsewhere in Sec. 9.13, by following any applicable procedures for relocating under Sec. 9.54, or if the City assigns the licensee a temporary site under Sec. 9.136(1)(k)3.

- b. Selection of Vendors. A street use applicant may request permission to select vendors to participate in the applicant's event. If approved, the event sponsor must obtain a Special Event Umbrella Vending License under Sec. 9.13(2) covering all persons selling food or any other item as part of the event, if required to be listed on such license by Sec. 9.13(2).

- c. Suspension of Rules. A street use applicant may request suspension of specific provisions of Sec. 9.13 or the regulations adopted thereto within the perimeter and for the duration of a street use event, and may request alternate vending rules for the event. This option is available for events held anywhere in the City where an ordinance restricts vending to certain types of food or articles, or only from assigned sites. It is not necessary to suspend the rules regarding vending equipment size or placement for vendors operating under a special event umbrella license within the perimeter of a street use event, however, all applicable state and local health, electrical and fire code provisions will continue to apply and cannot be suspended under this procedure. If granted, the rules and procedures approved through this process will control over any conflicting section of Sec. 9.13 or the Regulations.
- d. 700-800 Blocks of State Street - Suspension of Rules. Certain vending rules may be suspended by the Street Use Staff Commission for street use events held entirely within the "podium area" of the 700 block of State Street, or anywhere in the 800 block of State Street. The Street Use Staff Commission may approve the suspension of portions of Sec. 9.13 and the Mall/Concourse Regulations to allow vending of non-personally prepared food and non-handcrafted items within the event. The street use applicant must demonstrate that vending such items is necessary to ensure the integrity and success of the event. If granted, suspension of rules under this paragraph shall be indicated on the street use permit and does not require Common Council approval.

2. Special Approvals Process.

- a. Street Use Applicants seeking any of the approvals in Sub. 1. shall so indicate on their street use permit application. Applications requesting special approvals for this first time are due ninety (90) days prior to the event start date. Applicants for events that have received prior approval under this Section shall notify the Parks Division of their intent to repeat the event as soon as possible during the calendar year.
- b. The Parks Division shall prepare each year, prior to the event season, one or more resolutions for the Common Council listing all known events for the calendar year seeking special approvals under this Section and the type of approval(s) requested. (Events seeking approval under Sec. 9.136(1)(k)1.d. for the 700 or 800 block of State Street need not be included.) The resolution shall include sufficient details for the Council to consider the requested approvals, and additional details about first-time events if deemed necessary by Parks Division.
- c. The Common Council shall consider the requested approvals not less than fourteen (14) days prior to the event start date. If license invalidation is requested under Sec. 9.136(1)(k)1.a., the applicant shall provide at least one (1) week's written notice of the Common Council meeting to the Director (to the attention of the Street Vending Coordinator), any licensed street vendors (including merchant vendors and sidewalk cafes) with assigned sites in the event perimeter, and any Sec. 9.54 permit holders with assigned sites in the event perimeter. The notice shall include all of the details required for the resolution and information about participating in the event including fees. The Common Council may grant the approvals authorized in Sec. 9.136(1)(k)1.a., b., and c. after making a finding that the requested approval(s) are necessary to maintain the integrity, comprehensiveness and success of the special event. License invalidation shall not be approved unless the applicant also satisfactorily demonstrates and the Council finds that special conditions exist warranting the exclusive vending rights. The Street Use Permit issued by

the Street Use Staff Commission shall include a reference to the approvals granted by the Common Council.

3. Relocating Vendors Outside Event Perimeter. Whether or not invalidation of licenses under Sec. 9.136(1)(k)1.a. has been granted, the Director may relocate vendors or Sec. 9.54 permittees ("licensees") with assigned sites within the perimeter of a street use event to a location outside the event perimeter, to avoid interference with the event. Any such relocated sites shall be in addition to existing vending or Sec. 9.54 sites that have not been invalidated.
4. Prohibition Against Vending During Street Use Event.
 - a. No person holding a street vending license of any kind may conduct the activities authorized by their license if their license has been invalidated under Sec. 9.136(1)(k)1.a., or otherwise in violation of the special vending approvals granted under Sec. 9.136(1)(k)1. This prohibition does not apply to licensees who have been selected by the event sponsor to participate in the event, or relocated outside the perimeter of a street use event under Sub. 3. above.
 - b. No person shall conduct any street vending activity within the perimeter of a street use event unless the vendor is covered by the sponsor's special event vending license, or the vendor was selected by the sponsor to vend at the event using the vendor's existing street vending license as allowed in Sec. 9.13(2).

(l) Miscellaneous Vending Restrictions.

1. Hours. The permitted hours for all street vending on the State Street Mall/Capitol Concourse shall be from 5:00 a.m. to 1:00 a.m., with the following exceptions:
 - a. Permitted hours in the 500 block of North Frances Street (Concrete Park) shall be from 5:00 a.m. to 8:00 p.m., except that vendors with an assigned site in Late Night Vending area L3 may vend during the Late Night Vending hours established under Sec. 9.136(1)(n).
 - b. Permitted hours in the Late Night Vending areas shall be as established in Sec. 9.136(1)(n).
 - c. Permitted hours for vending may be modified pursuant to a resolution adopted by the Common Council under Sec. 9.136(1)(k).
 - d. Equipment Removal when Closed. All vending equipment shall be completely removed during the hours in which vending is not permitted, except that sidewalk cafe equipment shall be removed no later than thirty (30) minutes after the establishment closes, or at the time required for snow removal by Sec. 9.136(1)(l)6.c.ii., if applicable, unless alternate removal and storage procedures have been approved for a sidewalk cafe by Sec. 9.135(9). Mall/Concourse Food Vendors with Saturday-only assigned food vending sites may park and leave food carts securely locked and unattended in the assigned sites between 12:00 a.m. and 5:00 a.m. on Saturdays only, from the third Saturday in April through the second Saturday in November.
 - e. The hours for Sidewalk cafes on the Mall/Concourse are further described in Sec. 9.135(3).
2. Use of Electricity. Only Mall/Concourse Food or Arts/Crafts vendors are eligible to use City electricity for their vending operations, consistent with this Section, the regulations adopted hereto, and any rules and regulations of the City Traffic Engineer including the fee schedule.

- a. Vendors shall only be eligible to use the City's 110 volt outlets.
 - b. Vendors using the City's AC electrical outlets shall have a circuit breaker installed in accordance with the National Electrical Code (NEC) not exceeding 15 amps on line between the appliance and the power source (City electric receptacle).
 - c. Generators. Vendors may use one generator in lieu of an AC electrical source. Generators must operate at 60 decibels or lower.
 - d. All electrical equipment and wiring in a vending cart, regardless of whether powered by AC or a generator, shall comply with the NEC (National Electrical Code). Vendors shall follow any other regulations for electrical use in the "Regulations Governing Vending on the State Street Mall/Capitol Concourse."
 - e. Vendors using the City's AC electrical outlets shall pay the fee established by the Traffic Engineering Division or otherwise established by the City for such electrical use.
 - f. Licensed Sidewalk Cafes may use their own electrical power only as set forth in Sec. 9.135 and shall not use any City of Madison power source.
3. Emergency Vehicle Access. Vending sites in the 700 and 800 blocks of the State Street Mall shall be located in such a manner that an emergency vehicle access lane at least eighteen (18) feet wide and continuous over the entire length of the 700 and 800 blocks of the State Street Mall shall be maintained at all times and shall be kept clear of all obstructions.
4. Relocation of Vendors. The Director of Planning and Community and Economic Development and the Chief of Police, or designees, have the authority to relocate designated vending sites elsewhere on the State Street Mall/Capitol Concourse or to eliminate them in the interest of public safety during construction or emergencies and as elsewhere provided in these ordinances. If the Superintendent of Parks or designee requires relocation or elimination of a vending site for maintenance, cleaning or construction on the Mall/Concourse, they shall notify the Department of Planning and Community and Economic Development. The Superintendent of Parks, with approval of the Director of Planning and Community and Economic Development, may relocate vending sites and create additional, temporary sites in this vending area when deemed in the best interests of the City, however this procedure shall not be used in place of any of the procedures in Sec. 9.136(1)(k). Any vendor operating in such temporary sites must hold all licenses required for vending in the relocated or temporary site and, if applicable, pay any additional daily license fee established by the City.

Any change to a Sidewalk Cafe's Roadway Cafe Expansion license by any persons authorized in this Section shall also require a change to the Roadway Cafe Permit approved by the Traffic Engineer under 10.30. Nothing in this Section shall be construed to limit the authority of the police to temporarily relocate or eliminate a vending site in the case of an emergency.

5. Changes to Vending Site Dimensions. The approved dimensions of any type of Mall/Concourse vending site are not guaranteed to remain available. Public construction, street improvements or redesign may result in a vending site being moved, reduced in size or eliminated at any time. All vending site dimensions are subject to change if the City makes changes to the construction of the sidewalk and/or streetscape that affect the vending site, including but not limited to the addition or removal of planters, trees, benches, bike racks, bus shelters, sculptures, or any other public amenity.

6. Snowfall Procedures for Mall/Concourse Vendors and Late Night Vendors. The following procedures apply to Food, Arts and Crafts, and Merchant Vendors, Late Night Vendors in the 500 block of North Frances Street (Concrete Park), and any other LNV site on a sidewalk or sidewalk area. Snowfall procedures for sidewalk cafes are in Sec. 9.135(10). In this Section "Vendor" shall refer to the license holder of any of these license types and "site" shall refer to the vendor's assigned vending site or the approved location of furniture, tables, enclosures, other approved equipment, and the approved perimeter of a sidewalk cafe or merchant vendor.

a. Snow Removal. If any Vendor's site has accumulated snow and ice and the vendor wishes to set up the site, the Vendor must clear all snow and ice from the site before placing the cart or any other equipment in the site.

Food and Arts and Crafts Vendors may not use another site nor otherwise alter the position of the cart or table from its approved position within the vendor's assigned site. Sidewalk cafes and Merchant Vendors shall not modify the approved perimeter or location of equipment within their approved site.

Vendors with sites on the Capitol Concourse or Municipal Building Vending Area shall push the snow toward, but not into, the road.

Vendors shall keep a four foot (4') perimeter around the vending cart, other vending equipment, and Merchant Vendor equipment clear from accumulating snow and ice at all times.

b. Snow Emergencies. Mall/Concourse Licensed Vendors, Late Night Vendors in the 500 block of North Frances Street (Concrete Park) and any other LNV site on a sidewalk or sidewalk area, shall not vend, set up any equipment or otherwise operate in their site on any day when the City has declared a snow emergency under Sec. 12.045(1).

c. Street Vending Snow Day. The Superintendent of Parks or designee (Superintendent) may declare a "street vending snow day" when a full snow emergency under Sec. 12.045 has not been declared but additional time is needed for city staff to safely remove snow and ice from the streets and sidewalks within the Mall/Concourse Vending Area. When a Street Vending Snow Day has been declared, one or both of the following may occur;

i. Delayed set-up. Mall/Concourse Vending carts or equipment of any kind cannot be placed before 11:00 a.m. or a later time if deemed necessary by the Superintendent and vendors are notified according to the procedure below. Such notification may extend for the entire day.

ii. Early Closing for Sidewalk Cafes. The Superintendent may also determine that Sidewalk Cafes must close and remove all equipment from the sidewalk by 12:00 a.m. to facilitate snow removal overnight.

The Parks Division will announce the snow day and the specific restrictions above no later than 8:00 a.m. of the affected day by:

- A. Emailing a current list of all affected vendors provided by the Director, and
- B. Using a call-in telephone number or similar technology established for this purpose.

- d. An approved snow removal plan may be required by the Mall Maintenance Supervisor, Streets Superintendent, or both, for a Regular Mall/Concourse sidewalk cafe. Mall/Concourse Licensed Vendors shall comply with all provisions of their approved snow removal plan (if any) when required. In the event of a conflict between the snowfall procedures set forth above and an approved snow removal plan, the approved snow removal plan shall apply.

(m) Waiver, Indemnification and Insurance.

1. Waiver. The licensee agrees that the City shall not be held responsible for any damage to the licensee's property that may be caused by City, its employees, contractors or others.
2. Indemnification. To hold a valid license, the licensee shall agree to indemnify, defend, and hold the City, its officers, officials, employees and agents harmless against all claims, liability, loss, damages, penalties, and expenses, including attorney's fees, incurred by the City as the result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the license is granted, whether caused by or contributed to by the City or its officers, officials, agents or employees.
3. Insurance. The licensee shall be required to furnish a Certificate of Insurance, providing evidence of commercial general liability insurance with the City of Madison, its officers, officials, agents and employees listed as additional insureds, in a form approved by the City Risk Manager. The insurance shall include contractual liability coverage, apply on a primary and non-contributory basis, with minimum limits of one million dollars (\$1,000,000) per occurrence. The Risk Manager reserves the right to require higher limits and other coverage terms and conditions at their discretion. The Licensee shall keep required insurance in full force and effect for the duration of the license. Persons acting solely as the primary designated vendor when the licensee is a corporation, cooperative or partnership, Arts/Crafts assistants defined in Sec. 9.136(1)(e)1.c.i., and supplemental food vendors and helpers defined in Sec. 9.136(1)(e)1.c.ii. are not required to provide separate proof of insurance.

(n) Late Night Vending (LNV) Areas.

1. Certain areas within the Mall/Concourse and downtown area are established for vending food and drink between the hours of 9:00 p.m. and 4:00 a.m. The Late Night Vending Areas established under this subsection shall continue until April 14, 2023, after which time the only available vending area under this subsection will be the Library Mall as described in Sub. 3.c. below.

Vendors operating as licensed Late Night Vendors are not considered Mall-Concourse Food Vendors, do not need a Mall/Concourse Vending License, and need not participate in the food cart review. Vendors operating as licensed Late Night Vendors are not subject to other portions of Sec. 9.136 or the Regulations Governing Vending on the State Street Mall/Capitol Concourse adopted under Sec. 9.136(1)(c), except Secs. 9.136(1)(k), (exclusive use and special events), 9.136(1)(l)2. (use of electricity), 9.136(1)(l)3. (emergency vehicle access), 9.136(1)(l) 4. (relocation), 9.136(1)(m) (waiver/insurance/indemnification), and those Regulations listed in Sec. 9.13(4)(s) (safety requirements for non-Mall/Concourse food vending). Late Night vending is subject to Sec. 9.13(4), all other applicable portions of this Section and Sec. 9.13, and applicable traffic and parking laws.

2. Licenses Required, Eligibility. Beginning with the 2018-2019 vending season, only those applicants who held a valid Late Night Vending License during the 2016-17 or 2017-2018 vending season are eligible for a Late Night Vending License and site or zone assignment, determined by the names printed on the

past license. For purposes of eligibility under this paragraph, all names printed on the past license must match the applicant names.

One (1) Late Night Vending License shall be required for each vending cart or food stand and shall be issued in the name of the individual or business entity responsible for the Late Night Vending activities, which must match the name(s) on the past license. Additionally, every person working or performing vending activities as defined in Sec. 9.13(1) must hold a valid basic street vendor license under Sec. 9.13(3).

No person shall vend (as defined in Sec. 9.13(1)) in an LNV area during LNV hours without the licenses required hereunder and without an LNV zone or site assignment.

3. Late Night Vending Areas.

a. Creation of Site or Zones. Beginning with the 2018-2019 vending season, the Director, with the written approval of the Chief of Police or designee, may establish Late Night Vending zones or sites to accommodate timely applicants eligible for licensing under Sub. (n)2. above. Such sites or zones may be located within or outside the Mall/Concourse Vending Area (but not in a residential zoning district), subject to applicable placement requirements elsewhere in this Section and 9.13. A "site" under this Section means a specific site on a sidewalk or other non-roadway right-of-way such as a pedestrian mall. A "zone" means a geographic area identified by a range of street addresses and/or block number. When a zone is established, vending may occur only within a legal parking space on the roadway within the zone. The Director shall notify eligible potential vendors and the VOC of the sites and zones established under this Section prior to the deadline for applications each season.

b. Assignment. The Director shall assign Late Night sites or zones to eligible applicants based on seniority and mix and balance as described in Sec. 9.136(1)(n)4.b. The Director shall notify each applicant vendor of the site or zone assignment prior to April 15 of the licensing year in question.

The Director may relocate any licensed late night vendor to another site or zone at any time during the season, and may create, move, or eliminate sites or zones for such purpose with the written approval of the Chief of Police or designee.

c. Library Mall Night Vending Area. Beginning with the 2023 vending season, a zone with sites for night food vending will be established in the pedestrian mall area of the 700 and 800 blocks of State Street (aka Library Mall) with a program to include licensing, site assignment, and promotion of this area to be promulgated by staff and approved by the Vending Oversight Committee prior to the 2023 season.

4. Application, Site Assignment. Applicants holding a basic street vendor license and who are eligible under Sub. (n)2. above may apply for a Late Night Vending License at the Office of Business Resources, using an application form created by the Director, as follows:

a. Deadline to Apply and Use License. Applications for an LNV zone or an assigned site must be filed no later than April 1 to be eligible for zone or site assignment for the upcoming vending season (April 15-April 14). The vendor must accept the zone or site in writing and purchase a Late Night Vending License within ten (10) calendar days of receiving notification of the assignment, or will forfeit the assignment. Failure to use an assigned

LNV zone or site by June 1st will result in forfeiture of the assignment. Late applicants and vendors who forfeit their Late Night assignment shall permanently forfeit their eligibility for a Late Night Vending License and Late Night site or zone assignment for that season, and in the future.

- b. Late Night Site Assignment Procedure. Site and zone assignment procedure shall be based on seniority as described below. Only one Late Night zone or site will be assigned per Late Night Vending applicant, per season. Site or zone assignments and Late Night Vending Licenses are not transferrable between individuals or business entities under any circumstances, including the sale or acquisition of business, business name, vending cart, or equipment.

All eligible applicants shall be ranked according to a seniority system. Seniority shall be calculated by counting the number of vending seasons that the applicant has purchased an LNV license (of any duration) issued under Sec. 9.13(3)(a)1. or 2., counting backwards from the present, and subtracting any demerit points (see Sec. 9.136(1)(n)5.). However, a vendor may have taken, prior to the 2018-19 vending season, one (1) vending season as a sabbatical (not purchase a license that season) without losing seniority, but that year will not be counted toward the applicant's total number of years of seniority. If a vendor had two (2) consecutive vending seasons prior to the 2018-19 vending season without purchasing a LNV license, the vendor will lose all years of seniority and be placed at the bottom of the seniority list upon their next application for a site. Beginning with the 2018-2019 vending season, no LNV sabbaticals will be allowed and any one year without a LNV license will result in loss of seniority and permanent loss of eligibility for future LNV licensing.

In determining seniority of applicants, the business and individual names on the current LNV application and the LNV license used for seniority must be the same. If more than one applicant was issued an LNV license on the same date, the time of day that the license is created will determine seniority. If the time is not available, seniority will be determined by a coin toss conducted by the Director.

Applicants shall list three (3) zone and/or site preferences on the application. The applicant with the most seniority (minus any demerit points) will be assigned their first preferred zone or site, the next applicant assigned to their first available preferred zone or site, and so on; until all eligible applicants have been assigned a zone or site or until all are full. There shall be no waiting list for Late Night Vending. In addition, the Designee of the department may consider whether the site assignments under the above system result in an inappropriate mix and balance, and may, upon consultation and approval of the applicant(s) affected, rearrange site assignment to achieve an appropriate balance. The designee may consider the extent to which the food sold at one site is different from that sold at adjacent sites or otherwise proximately available, and the designee may give great consideration to maintaining the diversity of vending in order to achieve a better balance of vendors and products so as to better serve the public.

5. Demerit Points for Late Night License Applications. One (1) year of seniority will be subtracted for each demerit point described below:
 - a. One (1) demerit point will be assessed for any violation of Sec. 9.13, the Regulations adopted thereto, or any other violation listed in Sec. 9.13(8)(a) (except for serious health code violations described below). A violation counts as a demerit point if charged in a citation or civil or

criminal complaint with a date of violation in the previous vending season.

- b. Serious Health Code Violations. Five (5) demerit points will be assessed if the applicant's food and drink permit has been suspended or revoked for seven (7) or more consecutive days during the previous vending season, or if the applicant's vending cart or mobile base kitchen has been ordered by the Public Health Madison and Dane County to suspend or cease all operations for seven (7) or more consecutive days during the previous vending season.
- c. For purposes of Sec. 9.136(1)(n)5.a. and b., violations issued to the person named on the basic street vending license, the holder of any health department license for the vending operation, if applicable, and the person and/or business entity listed as the applicant for the Late Night Vending license will all be counted.
- d. If an applicant's vending license has ever been suspended or revoked under Sec. 9.13(8), the number of days the license was been suspended or revoked shall be subtracted from the total number of days counted for seniority. Suspensions or revocations against the person named on the basic street vending license and the person or business applying for the late night vending license shall be counted.

6. Late Night Vending License Fees. Late Night Vending licenses are issued on an annual basis, valid from April 15 to April 14, with the following fees:

- a. Small push-carts that can be moved by hand, of a size and construction that does not meet the definition of "vehicle" under Wis. Stat. § 340.01(74) and that fit entirely within a footprint of 4 feet by 8 feet: \$200/annual.
- b. All other food vending carts or stands: \$500/annual.
- c. Late payment fees shall be as set forth in Table A.

7. Violations. No person shall conduct the activities for which an LNV license is required herein without having been issued a valid LNV license, and no person shall vend in any LNV zone or site without being assigned to that zone or site, and no person shall vend from a location other than a valid Late Night Vending Area during hours when street vending is not permitted elsewhere in this Section or Sec. 9.13. No person shall violate any other provision of Sec. 9.136(1)(n).

(2) Enforcement; Penalties. The Director is authorized to enforce Sec. 9.136 and any regulations adopted hereto. Any person violating any provision of Sec. 9.136 or the regulations adopted hereto shall be subject to a forfeiture of not less than thirty dollars (\$30) nor more than three hundred dollars (\$300.00) for each separate violation of the ordinance or regulation. Enforcement of this Section shall not bar proceedings under Sec. 9.13(8), "Procedure for Revocation, Suspension or Nonrenewal of Vending License," nor shall proceedings under Sec. 9.13(8) bar the City from prosecuting violations of Sec. 9.136."

3. Section 9.13 entitled "License for Selling on Public Streets" of the Madison General Ordinances is repealed and Section 9.13 entitled "Street Vending Licenses" of the Madison General Ordinances is recreated as follows:

"9.13 Street Vending Licenses.

- (1) It shall be unlawful for any person upon any highway, street, alley, sidewalk, or public square, to vend, sell or offer for sale or procure the sale of any services, goods, wares, tokens, or foodstuffs, or any other article of any kind; by preparing or setting up a booth, vending cart, truck, stand, vehicle or equipment of any kind from which the vending

activity directly occurs; preparing food, beverage or articles for sale; stopping a vehicle or person on foot; interacting with potential customers in or around the vending site; taking names for the purpose of making future sales; offering applications or other materials for future sales; making an Extended Delivery as defined in Sec. 9.13(1)(b)5.; or in any other manner participating in the vending operation or attempting to publicly sell or offer for sale any such articles or services upon any highway, street, alley, sidewalk, or public square; unless such person shall have first applied for and obtained the appropriate license(s) required by this Section, Secs. 9.135, or 9.136, or is exempt from license under another provision herein.

For purposes of this Sub. (1) and the licenses described in Sec. 9.13 (3)(a), "vending" includes the activities described above and any other activity that furthers the vending operation at the vending site, whether or not the vending cart, truck or stand is open for business. "Street Vending" does not include the act of delivering the cart, truck, equipment, or necessary equipment and supplies to and from the vending site. However, unlicensed individuals shall not remain in or around a vending site for any length of time, whether open or closed for business, unless expressly permitted under another subsection herein or in Subs. 9.135 or 9.136, or unless they are customers waiting to be served. Specific criteria for licensing and persons permitted at the vending site within specialized vending areas are set forth elsewhere in herein or Subs. 9.135 and 9.136. In case of a conflict between this Sub. (1) and the requirements for a specialized vending area, the requirements for the specialized vending area in question shall control.

No license issued under this Section, Secs. 9.135 or 9.136 shall be denied for reasons prohibited under Sec. 39.03(5).

(a) Table A sets forth the license fees and additional information for each street vending license type authorized by this Section and Sec. 9.136. Sidewalk cafes license fees are in Sec. 9.135.

1. License Type and Fee. Each vending license type shall have the fee shown in Table A.
2. License Duration. All license types in Table A are annual licenses unless otherwise noted. Annual licenses run from April 15 or the date issued, if later, and expire on April 14. Monthly licenses have a duration of 30 days from the date issued. Camp Randall High Density Vending licenses run for the duration set forth in Sec. 9.13(7)(e)1.
3. Application Due Date. Each license type shall be applied for by the Application Due Date in Table A. Applications filed after the Application Due Date shall be subject to the late application fee in Table A, if applicable. The Application Due Date and late fees shall not apply to a first-time vendor seeking a license mid-season (where available), or an application for an Umbrella Basic license from a licensed vendor transitioning to an umbrella license mid-season, or other circumstances deemed appropriate by the Director.
4. Payment Due Date. Once approved, each license type shall be purchased by the applicant no later than the Payment Due Date in Table A. Payment shall include the license fee and any late application fee. Applicants who pay for their license after the payment due date shall pay the late payment fee in Table A, addition to the license fee and any other fees owed for the license in question.

5. Payment Process. Payment instructions will be provided upon completion of the review process and notification of license approval. An approved license shall not be valid until payment is received.
6. Table of Street Vending License Types and Fees.

Table A - Street Vending License Types and Fees.

MGO	License Type	License Fee	Application Due Date	Late Application Fee	Payment Due Date	Late Payment Fee
9.13(3)(a)1.	Basic Street Vending Annual	\$250.00	February 1	\$50.00	April 1	\$75.00
9.13(3)(a)2.	Basic Street Vending Monthly	\$150.00	February 1	N/A	April 1	\$75.00
9.13(3)(a)4.	Basic Street Vending Umbrella (Mall Food or Citywide Food)	\$600.00	February 1	\$150.00	April 1	\$75.00
9.13(7)(c)	Camp Randall High Density Food (duration: UW home game football season)	\$750.00	July 1	\$150.00	August 1	\$75.00
9.13(7)(c)	Camp Randall High Density Goods (duration: UW home game football season)	\$600.00	July 1	\$120.00	August 1	\$75.00
9.13(11)(h)	UW Game Day - site assignment (duration: UW home game football season)	N/A	July 1	N/A	N/A	N/A
9.136(1)(n)	Late Night Vending	\$650.00	April 1	\$125.00	License issuance	N/A
9.136(1)(e)1.b.	Mall Food Vending	\$1,250.00	February 1	\$250.00	April 1	\$75.00
9.136(1)(h)3.a.	Mall Food Vending - Prorated	\$750.00	Nov. 1 or later	N/A	License issuance	N/A
9.136(1)(e)1.a.	Mall Arts/Craft Annual	\$500.00	February 1	\$100.00	April 1	\$75.00
9.136(1)(h)2.c.	Mall Arts/Craft Reserved Site	\$150.00	February 1	N/A	April 1	\$75.00
9.136(1)(e)1.a.	Mall Arts/Craft Monthly	\$150.00	February 1	N/A	April 1	\$75.00

9.136(1)(e)5.	Merchant Vending	\$250.00	February 1	\$62.50	April 1	\$75.00
9.13(10)	Southeast Campus	\$400.00	February 1	\$50.00	April 1	\$75.00
9.13(12)	TOSVOD	\$50.00	February 1	N/A	April 1	\$75.00

(b) 1. Street Vending Near Parks, etc.

Vending, as defined herein, upon any highway, street, alley, sidewalk, public square or pleasure drive located upon or adjacent to any park, playground, recreation area, bathing beach or athletic field owned or operated by the City of Madison are subject to further regulations set forth in Sec. 8.17. No street vending license shall be issued for the locations defined above unless the applicant demonstrates compliance with the requirements of Sec. 8.17.

2. Street Vending on Certain Streets Near Schools Prohibited. Street vending is prohibited upon any highway, street, alley, sidewalk, pleasure drive, or portion thereof if the street is designated "arterial" or "collector" on the "Street Functional Class Map" maintained by the City Traffic Engineer, has a posted speed limit greater than 25 miles per hour, and is located directly adjacent to, or directly across the street, alley, highway or pleasure drive from any school property, unless approval to vend in that location is granted to the vendor under Par. b. below.

a. For purposes of this paragraph, "school property" includes all property owned or operated by a public school as defined in Wis. Stat. § 115.01(1) or owned or operated by a private school as defined in Wis. Stat. § 115.001(3r).

b. Procedure for Approval to Vend Near Schools. A licensed vendor may apply to the Vending Oversight Committee (VOC) for permission to vend near a school where street vending is prohibited by this Section, by submitting a written application designed for this purpose to the Director (to the attention of the Vending Coordinator), who shall place the application on the agenda of the next available VOC meeting. Prior to hearing the application, the VOC shall require proof that the vendor has notified, in writing, the official in charge of the school in question, the alder of the district where the school is located, and the neighborhood association registered with the City (if any), of the vendor's intent to apply for such permission and the date, time and place of the VOC meeting where the application will be heard. The written notification must be sent via electronic email, faxed or postmarked at least seven (7) days before the date of the meeting and copies must be provide to the VOC. The vendor must appear in-person at the VOC meeting for the VOC to consider their application. The VOC shall approve or deny the application to vend near a school based upon objective criteria that takes into account the proposed location of vending equipment, the speed limit on the street in question, vehicular and pedestrian traffic flow and safety, proximity and effect on the surrounding residential neighborhood, and issues of student safety, and shall render a verbal decision at the meeting.

3. Street Vending Prohibited on Bicycle Paths, Bicycle Ways and Recreational Trails. Street vending is prohibited on any bicycle path, bicycle way or other recreational trail owned, operated or maintained by the City of Madison, whether paved or unpaved or any other surface. This prohibition applies to the entire width of any right-of-way or other property lines designated for or associated with the bicycle path, bicycle way, or other recreational trail. This prohibition does not apply to vending sites in the Camp Randall High Density Vending Area approved in Sec. 9.13(7) and in accordance with any agreement(s) regarding the maintenance or use of the Southwest Commuter Bike Path to which the City is a party.
4. Temporary Prohibition of Basic Street Vending for Conventions. The Common Council finds that it is in the interest of the City to encourage the integrity, comprehensiveness and success of certain conventions and events taking place at Dane County's Alliant Energy Center campus or other government-operated convention centers located in or adjacent to the City of Madison. Therefore, the Common Council may by resolution, after referral to the Vending Oversight Committee, declare up to fifteen (15) days during any calendar year during which street vending will be prohibited at particular locations throughout the City that have been identified as major entry ways to the City and/or adjacent to the Dane County Alliant Energy Center campus or other location(s) where a business convention or similar event is taking place. Any such resolution shall include the date(s) and time(s) of the prohibition, geographic boundaries and a map or diagram of the temporary prohibition zone and a finding by the Common Council that the prohibition is necessary to ensure the success and integrity of the event. This procedure may not be used to prohibit vending in the State Street Mall/Capitol Concourse, High Density Vending, Southeast Campus Vending, UW Football Game Day Vending or Late Night Vending areas or to prohibit vending in an area where a Street Use Permit has already been approved under Sec. 10.056.
 - a. Notice Procedure for Temporary Basic Street Vending Prohibition. The organization or individual requesting a temporary vending prohibition under this Section shall provide written notice of the date, time and place of the Vending Oversight Committee and Common Council meetings where such resolution will be considered to: The Street Vending Coordinator; Director of Planning and Community and Economic Development; the Superintendent of Parks; and all persons holding a Basic Street Vending License on file with the Department of Planning and Community and Economic Development. The written notice shall be provided not less than seven (7) business days prior to the meeting. To be effective such a resolution must be adopted not less than four (4) weeks prior to the start date of the temporary prohibition and published by the City Clerk in the same manner as is provided for the adoption of an ordinance. The publication notice shall include a diagram of the temporary prohibition zone.
 - b. Violation. No person shall conduct any vending activities, as defined in Sec. 9.13(1), within a location and during a time when street vending has been temporarily prohibited under this Section.

5. Extended Delivery Prohibited.

- a. Definition. Extended Delivery is a type of street vending where food or beverage is delivered by vehicle, on foot, or using any other equipment or any other means, to more than five (5) customers at the same place and time, and the delivery is made to the customers on the public street, sidewalk, alley, square or other part of the highway right-of-way. It is not considered extended delivery if the customers take delivery of the food or beverage on private property or inside a building.
- b. Prohibition. No person shall engage in the activity of Extended Delivery anywhere in the City of Madison, and no street vending permit is available for Extended Delivery.

(c) Definitions.

Director of Department of Planning and Community and Economic Development or Director when used in Secs. 9.12, 9.13, 9.135 and 9.136 means the position in Sec. 3.12(3), or any City employee they designate to perform any duty or function of the City under Secs. 9.13, 9.135, or 9.136, most often the position known as the Street Vending Coordinator, or their designee.

Enclosed Cart is an enclosed trailer used for street vending that does not exceed 56 square feet, fits in a 10' by 12' footprint and meets all applicable requirements of this Section, 9.136, and applicable regulations.

Food Cart is an enclosed trailer used for street vending of food and beverage that does not exceed 56 square feet, fits in a 10' by 12' footprint and meets all applicable requirements for a Mall/Concourse Food Vendor or Late Night Vendor in Sec. 9.136 or, when operating outside the Mall/Concourse, meets all other applicable requirements of this Section for the vending area in question.

Food Truck is a truck or trailer used for food and beverage vending that exceeds the size restrictions for a Food Cart and is more specifically defined and regulated in Sec. 9.13(13).

Food Vendor refers to a licensed Mall/Concourse Food Vendor as defined in Sec. 9.136(1)(e).

Non-cart Food Vending Equipment refers to vending apparatus other than an enclosed cart, used for food vending, and when used within the Mall/Concourse Vending Area, meeting the requirements of Sec. VII of the Regulations Governing Vending on the State Street Mall/Capitol Concourse.

Push Cart is a small non-motorized cart that can be moved by hand, of a size and construction that does not meet the definition of "vehicle" under Wis. Stat. § 340.01(74) and fits entirely within a footprint of 4 feet by 8 feet.

Specialized Vending Area means a geographic area of the City where street vending activities are more specifically regulated, and an assigned site and/or a special vending license in addition to a Basic Vending license is required. The specialized vending areas are set forth in Secs. 9.136 State Street Mall/Capitol Concourse, 9.13(7) High Density, 9.13(10) Southeast Campus, 9.13(11) Camp Randall, and 9.13(12) TOSVOD.

Specialized Vending License refers to the specific vending license required to vend in a Specialized Vending Area.

Vending Site means a space on a street or sidewalk designated by the City as a location for street vending by licensed vendor holding the required licenses for the site in question, with the site being created either by this Section, Secs. 9.135, 9.136, or regulations adopted thereto, or an official map designated thereto. Vending Site also refers to the area where a vendor holding a Basic license chooses to conduct street vending when vending in a part of the City that does not require an Assigned Site.

Vending Site, Assigned (Assigned Site) is a type of vending site that can only be used if the vendor is assigned to the site through procedures in this Section, Secs. 9.135 or 9.136.

See Secs. 9.135, 9.136, and other subsections herein, for additional definitions for specific vending types and vending areas.

- (d) All Basic Street Vendor licenses shall contain the following language on the face of the license:

"NOTE: Additional licenses are required to vend in these areas: State Street Mall/Capitol Concourse, Camp Randall high density area, Southeast Campus area, Late Night Vending, and certain streets over 25 mph adjacent to a school. Vending may be limited to certain sites in the UW Game Day Vending area. Vending in a City Park or on a street, sidewalk or pleasure drive adjacent to any park, playground, recreation area, beach or athletic field requires an additional license from the Parks Division under Sec. 8.17. Street vending is prohibited on a bike path, bicycle way or recreational trail. Street vending may be prohibited near convention centers, by Resolution. See Sec. 9.13."

- (e) Any license issued and any vending site assignment made under this Section, Secs. 9.135 or 9.136, or regulations adopted thereto shall be nontransferable.

(2) Special Event Umbrella License.

- (a) Requirement. The holder of a Street Use Permit shall purchase an umbrella Special Event Vending License to cover the street vending activities of all persons vending solely as a participant in a street use permitted event under Sec. 10.056, or a city-sponsored event. The Special Event Vending License is required for any event participant conducting activities for which a license would be required by Secs. 9.13, 9.135, or 9.136, or an "E Permit" would be required by Sec. 9.54, except currently-licensed street vendors or Sec. 9.54 permit holders that the sponsor has allowed to remain in their assigned site within the event perimeter. The event sponsor need not include the following participants on the Special Event Vending License. licensed street vendors, sidewalk cafes and merchant vendors with assigned sites within the event perimeter (if not invalidated under Sec. 9.136(1)(k)1.b.), T and E permit holders under Sec. 9.54 with assigned sites within the perimeter (if not invalidated under Sec. 9.136(1)(k)1.b.) and authorized event participants using a table to distribute information but not making any sales whether or not that person holds a T permit. Participants covered by the Special Event Vending License are subject to any alternate vending rules established pursuant to Sec. 9.136(1)(k)1.c.
- (b) Application. Application for a Special Event Vending License shall be filed with the Parks Division on a form designed for that purpose. The application shall include information about the event and event sponsor, a list of all participants required by Sub. (a), proof that each participant holds of a State of Wisconsin seller's permit (if required) as evidenced by the seller's permit number or a statement from the State of Wisconsin Department of Revenue that a seller's

permit will be issued, and proof that the event sponsor holds adequate liability insurance as required in Sec. 9.136(1)(m).

- (c) Licenses and Fees. Special Event Vending Licenses shall be issued in the name of the event sponsor, who shall be responsible for the conduct and supervision of all vending activities under the Special Event Vending License, whether or not said event sponsor is present at the vending location, however this does not preclude enforcement of ordinance violations against persons conducting the vending activities under such license. Activities conducted under the Special Event Vending License are subject to any special rules established under Sec. 9.136(1)(k). The license shall make reference to the approved Street Use Permit and shall set forth the start and end times and date(s) of the event, the location and perimeter of the event, including vending locations (if specified), and shall be valid only during the date(s) and at the location(s) specified. The Special Event Vending License fee is based on the number of vendors participating in the event who are required to be listed by Sub. (a), and covers all such street vending activities for the duration of the event. Fees for a Special Event Vending License approved by the Parks Division are payable to the City Treasurer as follows:

1—25 vendors	\$400
26—100 vendors	\$675
101—300 vendors	\$975
301 or more vendors	\$1,700
City-sponsored event	(No fee if entirely sponsored by the City)

- (3) Basic Street Vending License. A Basic Street Vending License entitles the licensee to conduct street vending activities (as defined in Sec. 9.13(1)) on streets and sidewalks in the City, consistent with Sec. 9.13(4) and other applicable requirements herein. Application for a Basic street vending license shall be filed with the Director by the application deadline in Table A, and shall include all information required by this Section and the Director. A Basic license shall be approved and issued if all applicable ordinance and regulation requirements have been met. Licenses shall be conspicuously displayed at the place where such sales are being made.

Other Vending License Types. In addition to the Basic licenses in this Sub. (3), special licenses and/or site assignments are required for vending in the following areas: Mall/Concourse Vending Area, under Sec. 9.136, Late Night Vending under Sec. 9.136(1)(n), High Density Vending Areas under Sec. 9.13(7), Southeast Campus Vending Area under Sec. 9.13(10), UW Football Game Day Vending Area under Sec. 9.13(11), and TOSVOD under Sec. 9.13(12). Basic Street Vendor License holders selling a ticket for admission to a sporting event, concert performance, or similar event ("ticket"), shall also annually obtain a photo identification badge for twenty-five dollars (\$25) through the Madison Police Department. The badge shall be prominently displayed on the vendor's person at all times while vending tickets and shall not be displayed without a valid Basic Street Vendor License. In order to lawfully vend tickets, an individual must hold both a valid Basic Street Vending License and a current identification badge.

- (a) Basic Street Vendor License Fees and Durations.

1. Basic Street Vendor License (Annual). License fees and late fees for a Basic annual license are set forth in Table A. Annual licenses shall run

from April 15 or the date issued (if issued after April 15) and shall expire on April 14th of the year following its issuance.

2. Basic Street Vendor License (Monthly). License fees for a monthly Basic license are set forth in Table A. Such license shall be issued for thirty (30) days and shall set forth the date of expiration.
3. Basic Street Vendor Community Service Rebate. Certain vendors may qualify for a community service credit toward future street vending license fees as follows:
 - a. For every five (5) hours a mobile grocery store as defined in Sec. 9.13(4)(s) is in operation within an NRT (Neighborhood Resource Team) target neighborhood during the calendar year, the vendor is eligible for a ten percent (10%) rebate of fees paid for Basic Street Vendor license(s) purchased for the mobile grocery for the vending season that began in that calendar year, up to a total of one hundred dollars (\$100) per Basic license or fifty percent (50%) of the total vending license fees, whichever is greater. The rebate(s) earned will be applied toward the next street vending license(s) purchased by that vendor.
 - b. Eligible Neighborhoods. An NRT target neighborhood, for purposes of this vending license rebate only, is a neighborhood within a geographical area identified as a focus area on a map maintained by the City for that purpose, and subject to the approval of the Mayor, except that downtown NRT target neighborhoods are not eligible.
 - c. Rebate Procedure. Eligible vendors may request the license fee rebate by recording the date(s) and hours of operation in an NRT target neighborhood on a form provided by the Director. A single form recording all hours for the calendar year, approved by an NGT (Neighborhood Guidance Team) leader of the applicable neighborhood and signed by the vendor, must be filed with the Director not later than December 1 of the calendar year for which the rebate is requested. The Director shall apply the rebate as a credit toward future street vending license(s) purchased by the same vendor. The rebate is not transferrable to other vendors. Subject to approval by the Finance Director, the license fee credit shall have no expiration. A vendor may request a refund rather than a credit if the vendor can demonstrate circumstances that satisfy the Director and the Mayor that they will not be operating as a street vendor in the next vending season and a refund is appropriate. The rebate and refund procedures, including the December 1 request deadline, are subject to approval of the Finance Director.
4. Umbrella Basic License (Food Vending Only). Six hundred dollars (\$600) for an annual license issued on April 15 or thereafter when applied for, and expiring on April 14 following its issuance. This license is available to:
 - a. A licensed Mall/Concourse Food Vendor to provide the basic licensing necessary for any supplemental vendors working in the Food Vendor's vending site, per Sec. 9.136(1)(e)1.c. The Food Vendor shall provide the Director, in writing, the name, date of

birth and address of each worker to be listed on the Umbrella Basic License, and any workers added to or deleted to the license during the licensing period, within fourteen (14) days of the change.

- b. A vendor holding an individual Basic Street Vending license who sells food only, under a Basic license for vending in locations where no other vending license type is required. Such vendors may obtain an Umbrella Basic License to provide the basic licensing for workers meeting the definition of a "supplemental food vendor" under Sec. 9.136(1)(e)1.c. The vendor shall provide the Director, in writing, the name, date of birth and address of each worker to be listed on the Umbrella Basic License, and any workers added to or deleted to the license during the licensing period, within fourteen (14) days of the change. New employees and helpers, as defined in Sec. 9.136(1)(e)1.c., may be employed according to the provisions of that section.
- (b) Insurance. In addition, to hold a valid license, the vendor shall have in force the liability insurance required by Sec. 9.136(1)(m).
 - (c) Change of Address. A vendor to whom a street vending license has been issued under this subsection shall inform the Director of any change of address of the primary vendor named on the street vending license, in writing, if the address change occurs during the time period for which the vending license was issued.
 - (d) Food Vendor Community Service License Rebate. With the approval of the Mayor, the City may offer a license fee rebate to licensed food vendors who participate in City-sponsored neighborhood events in an NRT target neighborhood, as defined in Sec. 9.13(3)(a)3.b. Participating vendors may be eligible for a rebate of fees paid for street vending license(s) held by the food vendor based on their participation in one event or a series of events. Any rebate(s) earned will be applied toward future street vending license(s) purchased by that vendor, using the rebate procedure in Sec. 9.13(3)(a)3.c. Rebate criteria will be established by the Mayor and made available to participating vendors.
- (4) General Restrictions on Vending. Any street vending conducted pursuant to Secs. 9.13, 9.135 and 9.136 shall be subject to the following, unless a different standard is established herein or in Secs. 9.135 or 9.136 for specialized vending areas:
- (a) No vending equipment shall be permitted within a ten (10) foot radius of a fire hydrant nor within a five (5) foot radius of a standpipe.
 - (b) No vending or display shall be permitted within five (5) feet of the sides of bus shelters or bus stops nor in a manner that interferes with the use of the bus stop or with ingress or egress to the bus shelters.
 - (c) Unless otherwise authorized within Secs. 9.13, 9.135, 9.136, regulations established thereto, or Sec. 10.056, no vending equipment shall be permitted within ten (10) feet of a curbcut or a marked crosswalk, except that vending equipment of a licensed Mall/Concourse vendor shall be permitted, within two (2) feet of a marked crosswalk in a properly designated vending site or sidewalk cafe site, if consistent with public safety as determined by Traffic Engineering.
 - (d) All street vending equipment and displays shall be placed only upon paved surfaces, except for specifically assigned vending sites in the Camp Randall High

Density Vending Area under Sec. 9.13(7), and in otherwise lawful locations for Basic Street Vending on Regent Street from West Washington Avenue to Breese Terrace, and equipment adjacent to a mobile grocery store, as defined in Sec. 28.211, if the mobile grocery store is owned and operated by a non-profit entity and operating as a street vendor with a Basic Street Vendor license from a lawful parking space on the street. For purposes of this paragraph, a paved surface includes concrete, asphalt, cement, brick, pavers, or other impervious surface.

(e) Pedestrian Sidewalk Access.

1. All vending activities shall be conducted so as to maintain a minimum width of six (6) feet of unobstructed public pedestrian walkway adjacent to the vending site, unless another distance is expressly specified elsewhere in this Section, Secs. 9.135 or 9.136, including the sidewalk cafe placement rules in Sec. 9.135.
2. Except as otherwise permitted in Sec. 9.13, the Regulations adopted hereto, or Sec. 10.056, no vending equipment, including sidewalk cafe or merchant vending equipment, may be placed on any portion of a public sidewalk between the edge of the sidewalk closest to the property line if clearly defined or, if not so defined, the face of the abutting building or structure, and an imaginary line six (6) feet therefrom. "Sidewalk" has the meaning given in Wis. Stat. § 340.01(58). This Section shall not apply to sidewalk cafes under Sec. 9.136(1)(j)2.e. or any other section where another distance is expressly provided.

(f) Vending adjacent to certain parking areas.

1. Loading Zones. Except for a legally parked Food Truck, a Regular Sidewalk Cafe, and a Roadway Sidewalk Cafe Expansion, no street vending equipment or activities shall be approved or occur adjacent to any truck, freight or passenger loading zone in a manner that interferes with the loading activities.
2. No street vending equipment or vending activities of any kind, including Regular Sidewalk Cafes and Roadway Cafe Expansions, shall be approved in, directly adjacent to, or in a manner that otherwise interferes with an official parking space reserved for a motor vehicle used by people with disabilities or an access aisle to provide entry to and exit from vehicles by persons with physical disabilities.

(g) Except for a lawfully parked Food Truck, or an approved Roadway Cafe Expansion License under Sec. 9.135, no vending equipment shall be permitted within two (2) feet of the adjacent street curb or within two and one-half (2½) feet of a parking meter or multi-space parking meter. Street vending from a vehicle parked at a parking meter during hours in which the meter is enforced is prohibited by Sec. 12.145(1)(d).

(h) No vendor shall use any of the amenities, such as benches, flower planters, trees, bus shelters, kiosks, light poles or any other utility poles for any street vending activities whatsoever, including display of merchandise, or attach any ropes or other vending equipment to any of the aforementioned.

(i) Vending equipment and displays, including signage, shall be directed away from the street. In addition, merchandise shall be displayed in a manner in which attention to it is not focused from the street and which does not require or encourage prospective buyers to enter or walk upon the street in order to examine it.

(j) Appearance of Vending Site and Equipment. Vendors must maintain their vending site areas and vending equipment in a clean and hazard-free condition.

1. Vending Site Perimeter. For purposes of this requirement, the maximum size of the "vending site" shall be the actual dimensions of an assigned site, or a perimeter of not more than ten by twelve feet (10' x 12') around the vendor if vending in an area where an assigned site is not required, except the following are not subject to this vending site size restriction:
 - a. Mobile Grocery Stores. A mobile grocery store, as defined in Sec. 28.211, if owned and operated by a non-profit entity and operating as a street vendor with a Basic Street Vendor license. The vending site size shall be determined by the size of the mobile grocery store vehicle.
 - b. Ice Cream Trucks. A street vendor selling ice cream, ices, and/or frozen confections from a licensed motor vehicle, if meeting all licensing requirements of Public Health Madison and Dane County and holding a Basic Street Vending License. The vending site size shall be determined by the size of motor vehicle.
 - c. Food Trucks licensed under Sec. 9.13(13). The vending site size shall be determined by the size of the Food Truck.
2. Equipment. All equipment present at the vending site shall be completely contained within the perimeter of the vending site and no equipment shall extend or be placed outside this perimeter, except for Food Trucks, except as may be allowed elsewhere by ordinance or the regulations, and except that a mobile grocery store, defined in Sec. 28.211 and owned and operated by a non-profit entity, when operating with a Basic Street Vendor license, may use stairs or similar equipment necessary to facilitate customers access to and from the mobile grocery store. Equipment placement is further restricted by other provisions in Sec. 9.13(4).

Unless otherwise specified for a specific type of vending or specialized vending area, a vendor vending from an enclosed cart or push cart may only use the vending cart, one (1) chair, and one (1) trash receptacle. Vendors vending from an enclosed cart or push cart are limited to the equipment listed above and may not use any additional freestanding equipment, however umbrellas or awnings securely attached to the cart may be used. If using vending apparatus other than an enclosed cart, food cart, push cart, mobile grocery, ice cream truck, or Food Truck, one (1) freestanding pop-up style tent or similar structure of not more than 10 feet by 10 feet may be used but must maintain a minimum vertical clearance of seven (7) feet measured from ground level to the lowest point of the tent or other structure and a maximum height of eleven (11) feet at the highest point, and shall comply with the tent requirements in Sec. 9.135(5). No part of any equipment, whether attached or detached, shall protrude beyond the perimeter of the vending site (as defined herein).

3. Equipment Appearance. All equipment used at the vending site shall be in a clean, sanitary, hazard-free condition and maintained in a presentable appearance and in good repair, without noticeable holes or other structural defects. Visible exterior surfaces of all equipment shall

be maintained so as to prevent chipping, cracking or other deterioration of the paint or exterior surface.

- (k) A vendor shall be present within the vending site at all times during which items are displayed or sold, except that a vendor may leave their vending site unattended during lawful vending hours for a maximum of ninety (90) minutes.
- (l) No vending equipment or merchandise may be stored on any street, sidewalk or alley or public square when the vendor is not present unless a different restriction is established pursuant to a street use permit under Sec. 10.056, pursuant to regulations adopted under this Section, except as set forth in Sec. 9.13(4)(k) and except as set forth elsewhere in Sec. 9.13.
- (m) All vending equipment, including enclosed carts, tables, apparatus and merchandise shall be removed from the streets, sidewalks, terrace area or other vending location during times when vending is prohibited, unless a different restriction is established pursuant to a street use permit under Sec. 10.056, the regulations adopted under Sec. 9.136, and except as specified in Sec. 9.135 for Sidewalk Cafes, including those with a Roadway Cafe Expansion License. This provision shall not apply to a Food Truck that is closed for vending business and operating or legally parked on the street.
- (n) (Reserved for Future Use.)
- (o) No display shall violate any terms of any agreement(s) between the City of Madison and the Federal Transit Administration or other agency(ies) of the U.S. government for funding the reconstruction or maintenance of State Street and the Capitol Square.
- (p) It is unlawful for any vendor licensed under Secs. 9.13, 9.135 or 9.136 to permit any other person to vend at that vendor's vending site, unless that person is properly licensed or otherwise authorized under Secs. 9.13, 9.135 or 9.136 to vend from that vendor's site.
- (q) The Madison Police Department and the Director of Planning and Community and Economic Development shall have concurrent authority to remove or cause the removal of any vending equipment or merchandise found on the street, sidewalk, terrace or other vending location in violation of Secs. 9.13, 9.135, 9.136, the regulations established thereto, or Sec. 10.056. The removal of any food cart or Food Truck parked on the street shall be at the direction of a traffic officer of the Madison Police Department, or Parking Division Parking Enforcement staff authorized to direct the towing of vehicles. In addition to any forfeiture, the violator shall be liable for any removal, towing and storage charges incurred by either department.
- (r) Vending Hours Restricted in Residential Areas. Street vending shall be prohibited between the hours of 9:00 p.m. and 6:00 a.m. on any street or sidewalk located within any residentially zoned district listed in Sec. 28.021(1) and as indicated on official Zoning District Maps on file in the office of the City Zoning Administrator, except for Citywide sidewalk cafes which are subject to the hours in Sec. 9.135).
- (s) Non-Mall/Concourse Food Vending, Equipment Size, Safety Requirements.
 - 1. Applicability. This Sub. (4)(s) applies to all vendors selling food in areas other than the Mall/Concourse and High Density Vending areas, except ice cream truck vendors as described in Sec. 9.13(4)(j)1.b. and except where otherwise indicated. All vendors selling food are subject to inspection, regulation and licensing according to state and local health

code requirements for food and drink service. When used in this Sub. (4)(s), "mobile grocery store" shall mean a mobile grocery store as defined in Sec. 28.211, owned and operated by a non-profit entity, operating with a Basic Street Vendor license.

2. Equipment Size in Food Vending Sites.

- a. All food carts, stands or other allowable food vending equipment, including those of Late Night food vendors licensed under Sec. 9.136(1)(n), shall be of a size that fits entirely within the dimensions of the "vending site" perimeter as required by Sec. 9.13(4)(j)1. Unless otherwise specified, each food vendor vending from an enclosed cart or push cart may only use the vending cart, one (1) chair, and one (1) trash receptacle.
- b. All food vendors, including Food Trucks, shall provide a trash receptacle of at least ten (10) gallons within their vending site for customer use.

3. Equipment Placement and Appearance. See Sec. 9.13(4)(j) and other applicable provisions of Sec. 9.13(4).

4. Additional Regulations Applicable to City-wide Food Vendors. In addition to the other provisions of Sec. 9.13(4), the following parts of the Regulations Governing Vending on the State Street Mall/Capitol Concourse adopted through Sec. 9.136 shall apply to all street vendors selling food, City-wide, as indicated below, except these regulations do not apply to food vendors in High Density Vending areas (see Sec. 9.13(7) and Regulations therein) or to ice cream trucks as described in Sec. 9.13(4)(j)1.b.:

a. City-wide Food Vendors (Other Than Food Trucks).

- Section VI, "Regulation of Vending Site Cleanliness and Safety."
- Section VII, "Non-Cart Food Vendor Physical Specifications."
- Section VIII. B. (Physical Specifications) 4 and 5 only.
- Section VIII. C. (Electricity).
- Section VIII. E. (Fire Extinguishers).
- Section IX. A. (Restrictions on Mobility).
- Section IX. B. (Removal of Carts and Equipment).
- Section IX. C. (Restrictions on Food Preparation).

b. Mobile Grocery Stores.

- Section VI, "Regulation of Vending Site Cleanliness and Safety."
- Section VIII. C. (Electricity).
- Section VIII. E. (Fire Extinguishers).

- Section IX. B. (Removal of Carts and Equipment) Par. 3 only.
- Section IX. C. (Restrictions on Food Preparation) Par. 1 only.

c. Food Trucks. See Sec. 9.13(13)(d).

(t) Changes to Assigned Vending Site Dimensions. The approved dimensions of any assigned site are not guaranteed to remain available. Public construction, street improvements or redesign may result in a vending site being moved, reduced in size or eliminated at any time. All vending site dimensions are subject to change if the City makes changes to the construction of the sidewalk and/or streetscape that affect the vending site, including but not limited to the addition or removal of planters, trees, benches, bike racks, bus shelters, sculptures, or any other public amenity.

(u) (Reserved for Future Use.)

(v) Noise Levels at Vending Site. Noise levels emanating from the vending site shall be kept to a minimum, shall not be directed toward the street or sidewalk, and shall be reasonable so as not to disturb the peace and quiet of those in the vicinity, including but not limited to residents, merchants, and customers. No sound amplification shall be permitted at a non-cart vending stand. Vendors utilizing an enclosed vending cart may use amplification inside an enclosed vending cart only, and any music or other audio shall be kept to a volume such that it cannot be heard outside of the cart beyond the first customer in line at the window or service area.

No audio or video equipment, such as speakers and video display monitors, shall be permitted at a non-cart vending stand, nor affixed to or used outside an enclosed cart. This provision shall apply in addition to the general restrictions regarding noise and amplification found in Chapter 24 of the Madison General Ordinances. Vendors shall be subject to all applicable City ordinances regarding noise and amplification and this provision shall not be interpreted to expand or contradict those other ordinances. In the event of a conflict, the more strict regulation or ordinance shall apply.

(5) (Reserved for Future Use.)

(6) (Reserved for Future Use.)

“(7) Regulations and Procedures for Vending in High Density Vending Areas.

(a) Purpose and Regulating Authority. It is the intent of the Common Council to control and regulate the use of streets and sidewalks to the end that the safe use of sidewalks by pedestrians is ensured and the health, safety and general welfare of the public is protected and maintained. Consistent with this policy, the purpose of these regulations is to assure the safe and orderly performance of selling on streets, sidewalks, alleys and public squares in "high density vending areas" as defined herein. The Vending Oversight Committee (VOC) is empowered to create additional regulations governing vending in High Density Vending Areas as defined herein, not inconsistent with the provisions of Sec. 9.13 or these Ordinances, and subject to Common Council approval. The VOC shall submit proposed regulations to the Common Council by formal resolution or report. Any such regulations shall be effective upon adoption of the sponsoring resolutions or report, and a copy of any adopted regulations shall be maintained on file at the offices of the City Clerk and the Department of Planning and Community and Economic Development.

(b) Definition of High Density Vending Area. High density vending areas are those areas which because of special circumstances, including but not limited to the location, the

proximity of a business district or public buildings, the intensity and density of vending, the amount of pedestrian and/or vehicular traffic or the proximity to fairgrounds, parks, stadiums or other areas where special events are held require special regulations and restrictions to protect the health, safety and general welfare of the public and to maintain the good order of the City. The following locations are established as high density vending areas:

1. (Reserved for Future Use.)
 2. Camp Randall High Density Vending Area includes the following: The 10-200 blocks of North Spooner Street and Lathrop Street (between University Avenue and Regent Street); the 10 block of South Breese Terrace and the 10-200 blocks of North Breese Terrace (between University Avenue and Monroe Street); the 100-200 blocks of North Randall Avenue (between Campus Drive and Monroe Street); the 1400-1700 blocks of Regent Street (between Spooner Street and Randall Avenue); the 1400-1600 blocks of Monroe Street (between Garfield Street and North Randall Avenue); the 1600 and 1700 blocks of Chadbourne Avenue, Hoyt Street and Summit Avenue (between North Spooner Street and North Breese Terrace); the 1500 block of Madison Street (between Regent Street and Oakland Avenue); the southern half of the 1500 block of Jefferson Street (from 1403 Jefferson Street south to Oakland Avenue); the 800 block of Oakland Avenue (between Regent Street and Madison Street); Crazylegs Lane from Regent Street to Monroe Street; and Little Street from Breese Terrace to Monroe Street.
- (c) High Density Vending License Required. No person shall sell or offer for sale any services, goods, foodstuffs or any other article of any kind in a high density vending area as established in this Section unless a high density vending license for the specified high density vending area, in addition to all other licenses or permits required by law or ordinance, has been obtained. All goods or services sold at the high density vending site must be capable of immediate delivery at the vending site at the time of sale. The sale of goods or services that are not immediately delivered on the site is prohibited. Each high density vending area license shall be issued subject to the applicable restrictions in the Madison General Ordinances and any regulations relating to high density vending promulgated by the Vending Oversight Committee (VOC) and approved by the Common Council. The licensee shall display the High Density Vending License conspicuously within the high density vending site.
- (d) Vendor. To be eligible for a license to vend in a high density vending area a vendor may be one, two or three individuals regularly involved in the sale of the food, merchandise or service. The vendor listed on the application and license and any other person conducting vending at the vending site must hold a valid Basic Street Vendor License under Sec. 9.13(3). A vendor may also use other individuals solely to assist as helpers at the vending site provided that these individuals may not engage in any vending activities. Activities such as operating vending vehicles, loading and unloading, food or drink preparation, arranging or stocking merchandise, may be considered acceptable assistance activities. No unlicensed assistant shall sell, offer for sale, accept money, engage in prolonged commercial interactions or other transactions with customers or engage in any other direct vending activities.
- (e) Application for High Density Vending Licenses and Fees. Application for a High Density Vending License shall be filed with the Director by the deadline set in Table A and shall contain the name of the individual responsible for all activities at the vending site, any other information required by the Director and the Regulations Governing Vending in the High Density Vending Area. Only one (1) High Density Vending License may be issued to a vendor as defined in Sec. 9.13(7)(d) for each High Density Vending Area during any

single vending period. The following types of High Density Vending licenses are available:

1. Camp Randall Football Season License. A football season license shall be effective only in the Camp Randall High Density Vending Area and only on the days on which official University of Wisconsin football games are held at the stadium. The license fee, late application fee and late payment fee for both food and goods/services vendors are set forth in Table A. Such license shall set forth the exact days on which such business may be carried on.
 2. (Reserved for Future Use.)
 3. A vendor to whom a High Density Vending License has been issued under this subsection shall inform the Director of any change of address of the primary vendor named on the license, in writing, if the address change occurs during the time period for which the license was issued.
- (f) Liability Insurance. To hold a valid high density vending area license, the vendor must have in force adequate liability insurance as defined in Sec. 9.136(1)(m).
- (g) Vending Sites. The Vending Oversight Committee (VOC), after considering the recommendations of the Department of Planning and Community and Economic Development, the Department of Transportation and the Police Department, shall determine by regulation subject to approval by the Common Council the number, size, location, and method of site assignment for vending sites in High Density Vending Areas. Each vending site may be occupied by only one vendor at a time and no vendor may occupy more than one vending site at any given time. The mere possession of a valid high density vending license shall not in and of itself entitle the vendor to the use of a high density vending site on a specific day or a minimum number of days during the vending year.
- (h) Miscellaneous Regulations.
1. Vehicles Prohibited. No vendor shall drive or permit another to drive a motor vehicle upon any sidewalk area for the purpose of depositing vending carts or other equipment thereon. This prohibition does not apply to permanent or temporarily established driveways.
 2. Vendor Parking Regulated. No vendor or any person assisting a vendor shall park, stop or leave standing within the perimeter of the high density vending area any vehicle for a period longer than the applicable time limit established in Chapter 12.
 3. Vending Hours. No vending shall occur except between the hours of 8:00 a.m. and midnight. All vending equipment including carts, tables, apparatus and merchandise shall be removed from the entire vending site during times when vending is prohibited.
 4. Relocation of Vendors. The Director has the authority to relocate designated vending sites elsewhere in the high density vending area or to eliminate them in the interest of public safety during construction or when temporary bus stops or routes are added on streets in high density vending areas and, as necessary, so as to avoid interference with activities and equipment which are part of a special event for which a street use permit has been issued pursuant to Sec. 10.056. Additionally, the Superintendent of Parks, with approval of the Director of Planning and Community and Economic Development, may relocate vending sites and create additional, temporary sites in these vending areas when deemed in the best interests of the City. Any vendor operating in such temporary sites

must hold all licenses required for vending in the relocated or temporary site and, if applicable, pay any additional daily license fee established by the City. Nothing in this paragraph shall limit the authority of the Police to temporarily relocate or remove a vending site in the case of an emergency.

5. Special Restrictions on Vending in the Camp Randall High Density Vending Area. In light of the special physical characteristics and unique needs arising in the Camp Randall High Density Vending Area, the following special restrictions shall apply:
 - a. Vending equipment and displays may be directed toward the street provided that there is a distance of at least five (5) feet between the nearest edge of the vending site and the adjacent street curb.
 - b. Vending sites established pursuant to Sec. 9.13(7)(g) may be located in unpaved portions of the street right-of-way as appropriate.
 - c. The requirement to obtain a High Density Vending Area License shall not apply to ambulatory vendors engaged solely in the resale of tickets for the stadium event of the same day provided the vendor possess a valid Basic vending license and photo identification badge issued pursuant to Sec. 9.13(3).
 - d. Camp Randall High Density sites U (former Kiwanis lease area) and V (former Shriners lease area) may include city-owned land that is not the street or sidewalk, as indicated on the official map attached to the Regulations Governing Vending in the High Density Vending Area.
6. Changes to Vending Site Dimensions. The approved dimensions of a High Density Vending site are not guaranteed to remain available. Public construction, street improvements or redesign may result in a vending site being moved, reduced in size or eliminated at any time. All vending site dimensions are subject to change if the City makes changes to the construction of the sidewalk and/or streetscape that affect the vending site, including but not limited to the addition or removal of planters, trees, benches, bike racks, bus shelters, sculptures, or any other public amenity.

(8) Procedure for Revocation, Suspension or Nonrenewal of Vending License.

- (a) General Procedure. In addition to any other penalty provided under this Chapter, any category or type of street vending license issued hereunder or under Secs. 9.135 or 9.136 may be revoked, suspended or not renewed for a stated period of time or otherwise limited by the imposition of conditions or restrictions by the Common Council, after notice and hearing as provided herein, for any of the following: any violation of Secs. 9.13, 9.135, 9.136, or regulations adopted thereto; any violation of Sec. 10.056; serious or repeated violations of Chapter 7; serious or repeated violations of Chapter 12 restrictions on parking, stopping or standing; any violations of any other Madison General Ordinance or state statute where the circumstances of the offense are substantially related to vending activities.
 1. The Director of Planning and Community and Economic Development, upon their own initiative, or with the recommendation of the Superintendent of Parks, Director of Public Health Madison and Dane County, the Traffic Engineer or the Chief of Police, may commence proceedings under Sec. 9.13(8)(a) at any time. In addition, if a licensee has committed three (3) or more violations described above within twelve (12) months, as charged in citations or civil complaints, the Director of Planning and Community and Economic Development shall

commence proceedings under this subsection. Any such proceedings shall be brought in a hearing before the Vending Oversight Committee (VOC).

2. The licensee shall be notified in writing of the charges, the right to a hearing, and the date, place and time for the hearing at least ten (10) calendar days prior to the hearing. At the hearing the Director of Planning and Community and Economic Development shall present evidence of the alleged violation(s). The parties shall have the opportunity to question witnesses, may call witnesses on their behalf, and may be represented by counsel. All testimony shall be recorded. At the conclusion of the hearing the VOC shall make findings and recommendations and shall direct the Director of Planning and Community and Economic Development to report its findings and recommendations to the Common Council and to the alleged violator within five (5) working days.
3. The Common Council shall convene to consider the report and recommendations of the Committee within thirty (30) calendar days of the Committee recommendation, or at the earliest possible time after thirty (30) days that a quorum can be attained. If the Director of Planning and Community and Economic Development or alleged violator wishes to present any additional evidence they may do so and the Common Council may upon its own motion consider additional evidence as necessary to fairly decide the issue.
4. After due consideration of the fact finding report, the recommendations of the VOC and any additional evidence presented, the Common Council may by majority vote suspend the license holder's license for a period of time not to exceed six (6) months or revoke or not renew the license for a period not to exceed one year or place conditions or restrictions on the license for the remainder of the vending year in accordance with (c) below. The violator shall be notified within five (5) working days of the findings and determination of the Common Council.
5. The decision of the Common Council shall be a final determination and shall be subject to review in court as may be provided by law. Any person aggrieved by the decision may seek review thereof within thirty (30) days after the date of the final determination.

(b) Special Procedure for Certain Complaints Relating to Mall Food and Arts/Crafts Vendor License.

1. Whenever a complaint is made that a license holder is in violation of the provisions of this Chapter or of regulations adopted hereunder relating to the requirements that all food or goods offered for sale or sold by a Mall/Concourse Food Vendor or Arts/Crafts Vendor be personally prepared or handcrafted, the complaint shall be in writing stating the specific provision violated and signed by the person making it. A complaint made upon the initiative of the Director of Planning and Community and Economic Development or the Vending Oversight Committee (VOC) shall be signed by the Director of Planning and Community and Economic Development or the chair of the Committee, respectively. The Director of Planning and Community and Economic Development will immediately send a copy of the complaint to the alleged violator.
2. Thereafter, the Director of Planning and Community and Economic Development and one member of the VOC who is not the Chair shall promptly investigate the allegations made in the complaint. This investigation may include inspection of the alleged violator's work place and method of operation, review of written evidence in the form of invoices and other business records, interview of witnesses and other relevant areas of inquiry. The investigation and a written

report of the fact-finding shall be completed within ten (10) business days. If the report determines that there is probable cause to believe that a violation has been committed relating to the requirements that all food be personally prepared and all goods be handcrafted, the process set forth in Sec. (8)(a)1. through 5. above shall be instituted. If the fact-finding concludes that the allegations are unsubstantiated, the report shall be submitted to the VOC at its next regular meeting. The VOC may, by majority vote, accept the report or request that further investigation be conducted.

- (c) Placement of Restrictions or Conditions. In lieu of revocation or suspension, the Common Council may by majority vote place reasonable conditions or restrictions on the license for the remainder of the vending year or license duration in order to effectuate the provisions of this chapter and ensure compliance by the license holder. No condition imposed may be contrary to or inconsistent with any ordinance, regulation or statute regulating vending activities. Permitted restrictions or conditions may only include the following: quantity and size of display tables and other equipment; days or hours of operation; monitoring of vending site by licensee; number of attendants or sales persons at site. If any licensee shall fail or neglect to comply with the conditions or restrictions imposed by the Common Council their license may be suspended or revoked in accordance with this Section.
- (d) Vending While License is Suspended or Revoked Prohibited. No person or business whose vending license issued under Secs. 9.13, 9.135 or 9.136 has been suspended or revoked under Sub. (8) shall participate in street vending as described in Sec. 9.13(1), or conduct any other activity for which the license in question is required, while that license is suspended or revoked. Any such violation shall be punishable by forfeiture under Sec. 9.13(9) and this penalty shall be in addition to any other penalty or consequence available under these Ordinances.
- (9) Enforcement; Penalties. Any person or licensee violating any provision of Sec. 9.13 or the regulations adopted hereto shall be subject to a forfeiture of not less than thirty dollars (\$30) nor more than three hundred dollars (\$300.00) for each separate violation of the ordinance or regulation.

Enforcement action under this subsection shall not bar proceedings under Sec. 9.13(8), "Procedure for Revocation, Suspension or Nonrenewal of Vending License," nor shall proceedings under Sec. 9.13(8) bar the City from prosecuting for violations of Sec. 9.13 or any other law or ordinance.

- (10) Southeast Campus Vending Area. The Southeast Campus Vending Area is established due to circumstances present within this geographic location, including but not limited to the proximity of business, university, and residential uses, buildings situated primarily with zero setbacks, high volume of pedestrian traffic, varying sidewalk space, and the volume of vehicle traffic, making this area appropriate to limit street vending to assigned sites only with regulations in addition to the city-wide vending requirements elsewhere in this Section.
 - (a) Vending Area. The Southeast Campus Vending Area shall be established within a perimeter specified on an official vending area map, approved by the Vending Oversight Committee and maintained in the Office of Business Resources. The Vending Oversight Committee (VOC) shall approve the perimeter of the area by approving the official map. Any subsequent changes to the perimeter shall be upon the recommendation of the VOC to the Common Council as an amendment of this Ordinance.
 - (b) Limited Hours. Vending in the Southeast Campus Vending area shall be from 9:00 a.m. to 8:00 p.m. Vending at any other time in this area is prohibited.
 - (c) Type of Vending Permitted in Southeast Campus Vending Area, Equipment. Vending in this area shall be limited to food vending and vending of any non-food items. Equipment

permitted within the vending site shall be limited to the following: for food vendors, one food cart, table or stand as allowed for the size of the assigned site, one trash receptacle required by Sec. 9.13(4)(u), and one portable chair may be used. For non-food vendors, one cart, stand or table and one portable chair may be used. All other equipment or loose items are prohibited.

- (d) Vending From Assigned Sites Only, Site Size, Locations. Vending in this area shall be from assigned sites only and is prohibited in any other location. The Director shall recommend and the Vending Oversight Committee (VOC) shall establish the number and location of vending sites in the Southeast Campus Vending Area consistent with Sec. 9.13(4) on an official map that shall be maintained by and available at the Office of Business Resources. The VOC may approve subsequent changes to the number and location of vending sites. Any changes to the vending sites shall take effect ten (10) business days after the VOC meeting at which the change was approved. The vending site size shall be the default of 10 x 12 feet under Sec. 9.13(4)(t), or 4 x 8 feet, and the size shall be specified on the official map. Some sites may be restricted to use by push-cart food vendors only. "Push-cart" shall have the meaning given in Sec. 9.136(1)(n)6.a. (Late Night Vending). All vending activities must take place within the dimensions of the assigned site. All applicable provisions of Sec. 9.13(4) not in conflict with this Section shall apply to vending in this area.
- (e) No Electrical Sites. There will be no electrical sites, all carts/equipment must be self-powered.
- (f) Vending Licenses Required. An annual Southeast Campus Vending Area license, and a Basic Street Vendor license (or Umbrella Basic License if eligible) shall be required to vend in this area. The license fees, application and payment deadlines, and license duration are set forth in Table A. Additionally, every person working or performing vending activities at an assigned site in this area must hold a valid basic street vendor license, or be listed on an Umbrella Basic license under Sec. 9.13(3). No person shall vend (as defined in Sec. 9.13(1)) in the Southeast Campus Vending area without the licenses required hereunder.
- (g) Application, Site Assignment Procedure.
 1. Application. Application for a site assignment and a Southeast Campus Vending License shall be made with the Office of Business Resources, using an application process designed for that purpose. Applications must be filed by the Application Due Date in Table A to be eligible for site assignment for the upcoming vending season (April 15-April 14). The vendor must accept the site in writing within ten (10) calendar days of receiving notification of the site assignment, or will forfeit the site assignment, and shall purchase the license by the due date in Table A. Failure to use an assigned vending site by June 1st will result in forfeiture of the site assignment. Only one (1) Southeast Campus site will be assigned per vendor, and site assignments are not transferrable.
 2. Site Assignment (Seniority System). Site assignment shall be determined by seniority. Seniority shall be calculated by counting the number of consecutive, uninterrupted years the applicant has purchased a basic street vendor license (of any duration) under Sec. 9.13(3)(a)1. or 2., counting backwards from the present and subtracting any demerit points. However, a vendor may take one (1) vending season as a sabbatical (not purchase a license that season) without losing seniority, but that year will not be counted toward the vendor's total number of years of seniority. If a vendor takes two (2) sabbaticals in a three (3) year period, the vendor will lose all years of seniority and be placed at the bottom of the seniority list upon their next application for a site. For individual applicants, the name on the Southeast Campus application and the basic street vendor license

used for seniority must be the same. If the applicant is a business organization, the basic street vendor license used for seniority must be in the name of an officer, member, partner, or the sole proprietor of the business. If more than one applicant has held a basic street vendor license for the same number of years, the date, and if necessary, time of day the license was issued, will determine seniority. If the date and/or time is not available, seniority will be determined by a coin toss conducted by the Director. Applicants shall list three (3) site preferences on the application. The vendor with the most seniority (minus any demerit points) will be assigned their first preferred site, the next vendor assigned to their first available preferred site, and so on; until all applicants have been assigned a late night site or until the sites are full. If applicants remain after all sites are filled, a waiting list will be created, using the same seniority system. Late applicants and vendors who forfeit their Southeast Campus assignment will be placed at the bottom of the waiting list. Any site that becomes available after initial site assignments have been made shall be offered to the highest-ranking vendor on the waiting list.

3. Demerit Points. One (1) year of seniority will be subtracted for each demerit point described below:
 - a. One (1) demerit point will be assessed for any violation of Secs. 9.13, 9.135, 9.136 and the Regulations adopted thereto, or any other violation listed in Sec. 9.13(8)(a) (except for serious health code violations described below). A violation counts as a demerit point if charged in a citation or civil or criminal complaint with a date of violation in the previous vending season.
 - b. Serious Health Code Violations. Five (5) demerit points will be assessed if the applicant's food and drink permit has been suspended or revoked for seven (7) or more consecutive days during the previous vending season, or if the applicant's vending cart or mobile base kitchen has been ordered by Public Health Madison and Dane County to suspend or cease all operations for seven (7) or more consecutive days during the previous vending season.
 - c. For purposes of Sec. 9.136(1)(n)5.a. and b., violations issued to the person named on the basic street vending license, the holder of the mobile cart license(s), if applicable, and the person or business listed as the applicant for the Southeast Campus vending site will all be counted.
 - d. If an applicant's vending license has ever been suspended or revoked under Sec. 9.13(8), the number of days the license was been suspended or revoked shall be subtracted from the total number of days counted for seniority. Suspensions or revocations against the person named on the basic street vending license and the person or business applying for the late night vending license shall be counted.
- (h) Relocation of Vendors. The Director of Planning and Community and Economic Development and the Chief of Police, or designees, have the authority to temporarily relocate vending sites elsewhere within the Southeast Campus Vending Area, or to eliminate them in the interest of public safety during construction or emergencies or for other reasons expressly provided elsewhere in these ordinances. The Superintendent of Parks, with approval of the Director of Planning and Community and Economic Development, may relocate vending sites and create additional, temporary sites in this vending area and offer such sites to licensed vendors for a daily license fee, when deemed in the best interests of the City. Any vendors operating in such sites must hold all licenses required for Southeast Campus vending and, if applicable, pay any additional

daily license fee established by the Superintendent of Parks. Nothing in this Section shall be construed to limit the authority of the police to temporarily relocate or eliminate a vending site in the case of an emergency.

- (11) UW Football Game Day Vending Area. The purpose of the UW Football Game Day vending area is to establish assigned sites for Basic Street Vending on Regent Street and other streets near Camp Randall Stadium on days when there is a UW home football game. This area is outside the perimeter of the Camp Randall High Density Area but close enough to the stadium to require assigned vending sites due to the very high volume of vehicle and pedestrian traffic on UW home football game days.
- (a) Vending Area. The UW Football Game Day Vending Area shall be established within a perimeter specified on an official vending area map, approved by the Vending Oversight Committee (VOC) and maintained in the Office of Business Resources. The VOC shall approve perimeter of the area by approving the official map at meeting of the VOC. Any subsequent changes to the perimeter shall be voted on by the VOC at a properly-noticed meeting.
 - (b) Dates and Times. The UW Football Game Day Vending Area is only in effect from 12:00 a.m. to 11:59 p.m. on days when the University of Wisconsin Football team has a home game at Camp Randall Stadium. The time restrictions applicable to city-wide vending in residential areas in Sec. 9.13(4)(r) apply to all street vending in this area, including on game days.
 - (c) Vending License Required. Every person working or performing vending activities at an assigned site in this area must hold a valid basic street vendor license under Sec. 9.13(3). No additional vending license is required. No person shall vend (as defined in Sec. 9.13(1)) in the UW Football Game Day Vending Area without the licenses required hereunder.
 - (d) Vending From Assigned Sites Only, Site Size, Locations. All street vending in this area shall be from assigned sites only and is prohibited in any other location within the vending area, with the exception of vendors holding a valid basic street vending license and conducting entirely mobile vending of non-food items only, without the placement of any equipment, merchandise or other supplies on the ground. Such licensed street vendors may vend merchandise in this area with or without an assigned site, in compliance with all other applicable requirements of Sec. 9.13. The Director shall recommend and the VOC shall establish and make changes to the number and location of assigned vending sites on the official map adopted under Sub. (a) above. Once established by the VOC, a site may be limited to food or non-food only by the Director. The default vending site size for this area shall be four feet by eight feet (4' x 8') for non-food and ten feet by twelve feet (10' x 12') for food, unless another size is specified on the official map. All vending activities must take place within the dimensions of the assigned site. All applicable provisions of Sec. 9.13(4) not in conflict with this Section shall apply to vending in this area.
 - (e) Type of Vending Permitted in Regent Street UW Football Game Day Vending Area. Any items that may be sold with a basic street vending license may be sold in this vending area, subject to applicable health codes and other laws, and subject to the Director's designation of the site as a food-only or non-food only, under Sec. 9.13(11)(d) above.
 - (f) Equipment. All equipment must fit into the footprint of the assigned vending site and must comply with all applicable provisions of Sec. 9.13(4) not in conflict with this Section.
 - (g) No Electrical Sites. There will be no electrical sites, all equipment must be self-powered.
 - (h) Application, Site Assignment Procedure.

1. Application. Applications for a site assignment in the UW Football Game Day Vending Area shall be filed with the City using the process designed for that purpose. To be guaranteed an assigned site for the first home football game, applications shall be filed by the last Friday in July. Applications will be accepted after this date and throughout the UW Football season if spaces remain available. Site assignments are valid for the duration of the UW football season. Once approved, the vendor must accept the assigned site in writing and obtain a current Basic Street Vendor license within ten (10) calendar days of receiving notification of the site assignment, or will forfeit the site assignment. Only one (1) UW Football Game Day Vending Area site will be assigned per vendor, and site assignments are not transferrable.
2. Site Assignment (Seniority System). Site assignment shall be determined by consecutive years of seniority. Seniority shall be calculated by counting the number of consecutive, uninterrupted years the applicant has purchased a basic street vendor license (of any duration) under Sec. 9.13(3)(a)1. or 2., counting backwards from the present and subtracting any demerit points. However, a vendor may take one (1) vending season as a sabbatical (not purchase a license that season) without losing seniority, but that year will not be counted toward the vendor's total number of years of seniority. If a vendor takes two (2) sabbaticals in a three (3) year period, the vendor will lose all years of seniority and be placed at the bottom of the seniority list upon their next application for a site. For individual applicants, the name on the application and the basic street vendor license used for seniority must be the same. If the applicant is a business organization, the basic street vendor license used for seniority must be in the name of an officer, member, partner, or the sole proprietor of the business. If more than one applicant has held a basic street vendor license for the same number of years, the date, and if necessary, time of day the license was issued, will determine seniority. If the date and/or time is not available, seniority will be determined by a coin toss conducted by the Director. Applicants shall list three (3) site preferences on the application. The vendor with the most seniority (minus any demerit points) will be assigned their first preferred site, the next vendor assigned to their first available preferred site, and so on; until all applicants have been assigned a site or until the sites are full. If applicants remain after all sites are filled, a waiting list will be created, using the same seniority system. Late applicants and vendors who forfeit their UW Football Game Day Vending Area assignment will be placed at the bottom of the waiting list. Any site that becomes available after initial site assignments have been made shall be offered to the highest-ranking vendor on the waiting list.
3. Demerit Points. One (1) year of seniority will be subtracted for each demerit point described below:
 - a. One (1) demerit point will be assessed for any violation of Sec. 9.13, the Regulations adopted thereto, or any other violation listed in Sec. 9.13(8)(a) (except for serious health code violations described below). A violation counts as a demerit point if charged in a citation or civil or criminal complaint with a date of violation in the previous vending season.
 - b. Serious Health Code Violations. Five (5) demerit points will be assessed if the applicant's food and drink permit has been suspended or revoked for seven (7) or more consecutive days during the previous vending season, or if the applicant's vending cart or mobile base kitchen has been ordered by Public Health Madison and Dane County to suspend or cease all operations for seven (7) or more consecutive days during the previous vending season.

- c. For purposes of Sec. 9.136(1)(n)5.a. and b., violations issued to the person named on the basic street vending license, the holder of the mobile cart license(s), if applicable, and the person or business listed as the applicant for the UW Football Game Day site will all be counted.
 - d. If an applicant's vending license has ever been suspended or revoked under Sec. 9.13(8), the number of days the license was suspended or revoked shall be subtracted from the total number of days counted for seniority. Suspensions or revocations against the person named on the basic street vending license and the person or business applying for the UW Football Game Day site shall be counted.
 - (i) Relocation of Vendors. The Director of Planning and Community and Economic Development and the Chief of Police, or designees, have the authority to temporarily relocate vending sites elsewhere within the UW Football Game Day Vending Area, or to eliminate them in the interest of public safety during construction or emergencies or for other reasons expressly provided elsewhere in these ordinances. Additionally, the Superintendent of Parks, with approval of the Director of Planning and Community and Economic Development, may relocate vending sites and create additional, temporary sites in this vending area when deemed in the best interests of the City. Any vendor operating in such temporary food sites must hold all licenses required for vending in the relocated or temporary site and, if applicable, pay any additional daily license fee established by the City. Nothing in this Section shall be construed to limit the authority of the police to temporarily relocate or eliminate a vending site in the case of an emergency.
- (12) Top of State Vending Overlay District Area. The Top of State Vending Overlay District ("TOSVOD") is established due to circumstances present within this geographic location within the State Street Mall/Capitol Concourse Vending Area. Those circumstances include the proximity of business, museums, the State Capitol, and residential uses; varying sidewalk space with some buildings with zero setbacks in close proximity to large open spaces on North Carroll and West Mifflin Streets; high volume of pedestrian traffic; the volume of transit, delivery and vehicle traffic; all making this area appropriate for additional street vending opportunities beyond those currently permitted in the Mall/Concourse vending area, including those that encourage retail business incubators, micro-business, and entrepreneur opportunities with an emphasis on products that translate to brick and mortar retail.
 - (a) Definitions.

Mall/Concourse Regulations shall mean the Regulations Governing Vending in the State Street Mall/Capitol Concourse Vending Area.

Satellite Cafe shall mean a Sidewalk Cafe located in the TOSVOD as described in Sub. (d)7. herein.

Sidewalk Cafe when used in this Sec. 9.13(12) shall mean a Regular Sidewalk Cafe on the Mall/Concourse as defined in Sec. 9.135(2).
 - (b) Vending Area. The Top of State Vending Overlay District is established as an overlay area within the Mall/Concourse Vending Area, with its perimeter specified on an official map approved by the Vending Oversight Committee and maintained in the Office of Business Resources. The Vending Oversight Committee (VOC) shall approve the perimeter of the area by approving the official map and may approve changes to the perimeter using the same process.
 - (c) Vending Sites. Vending sites in this area will be as follows:
 - 1. A variety of TOSVOD sites with the exact number and location will be determined by the Director and set forth on the official TOSVOD map created under Sub. (b)

and maintained on file at the Office of Business Resources. Vending site size shall be 10x12 feet as required by Sec. 9.13(4)(t). In determining the number and location of sites the Director shall comply with all applicable provisions of Sec. 9.13(4). All vending activities must take place within the dimensions of the assigned site.

2. Satellite Sidewalk Cafe sites.
3. Existing Mall/Concourse food vending sites.

(d) Vending Permitted in Top of State Vending Overlay District. Vending in this area shall be limited to the following enumerated items:

1. Mall/Concourse Food Vending. Any designated Mall/Concourse food vending sites within the TOSVOD shall remain in effect and vending from these sites is regulated by Sec. 9.136(1) and the regulations adopted therein.
2. Mobile Merchant Vending. Businesses holding a current Merchant Vending License under Sec. 9.136(1)(h)1.d. may vend merchandise from their business and the other items permitted for licensed TOSVOD vendors, in a TOSVOD site.
3. Food. Licensed TOSVOD vendors may sell farmers market products and value-added food products from a TOSVOD site.
4. Handcrafted Goods. Licensed TOSVOD vendors and licensed Arts and Crafts Vendors may sell handcrafted goods as defined in Sec. 9.136(1)(e)3. from a TOSVOD site.
5. Upcycled Goods. Goods that are created by re-using discarded objects or material in such a way as to create a product of higher value than the original parts may be sold by a licensed TOSVOD vendor in a TOSVOD site.
6. Other Goods. Licensed TOSVOD vendors may sell other goods, not listed above, that may lawfully be sold with a Basic street vending license and which the Director determines:
 - a. Are sold with the intent that the vendor could eventually become a brick and mortar retailer, and
 - b. Are not merchandise that derives from a consultant-driven business that prohibits brick and mortar stores as a part of its businesses model.
7. Satellite Sidewalk Cafes.
 - a. Eligibility. A restaurant holding a food and drink license located within or directly adjacent to the TOSVOD perimeter is eligible for a satellite sidewalk cafe in the TOSVOD as set forth herein.
 - b. Location, Equipment. Size and placement of a Satellite Cafe shall be on a case-by-case basis at the discretion of the Director taking into account the location of other sites in the TOSVOD, the placement criteria below and applicable provisions of Sec. 9.13(4). Such cafes shall be subject to the furniture, enclosure and equipment requirements for sidewalk cafes in Sec. 9.135, except that the Director may approve modified enclosures when existing features of the streetscape provide a sufficient barrier to serve as a portion of the enclosure for the cafe space that will comply with ADA requirements and other safety concerns, upon consultation with the Mall Maintenance crew and the Police Department. In addition, each

Satellite Cafe shall include, within the confines of the cafe enclosure, or on the enclosure, signage not to exceed 10 x 12 inches in area, to identify the restaurant holding the license.

- c. Placement Criteria. The paved portion of the adjacent sidewalk must be at least nine (9) feet wide, the entire sidewalk area proposed for cafe placement must be paved with concrete, asphalt, cement, brick, pavers or other impervious surface, and placement of the cafe must allow at least seven (7) feet of unobstructed public pedestrian walkway on the adjacent public sidewalk. A Satellite Cafe shall not be placed in a location where, in the opinion of the Director, the grade or slope is prohibitive, if the location does not offer a sufficiently level surface for food and drink service, or if cafe placement would present a safety hazard due to any other elements of the topography or layout of the sidewalk, regardless of the width or available square footage of the right-of-way within the TOSVOD.
 - d. Satellite Cafe Fee. The license fee for a Satellite Cafe for an establishment that does not already hold a sidewalk cafe license shall be the same as a regular Mall/Concourse Sidewalk Cafe under Sec. 9.135(4). Establishments that hold a current license for a regular Mall/Concourse sidewalk cafe are eligible for a Satellite Cafe license without an additional license fee.
 - e. Eligibility, size, placement and total number of Satellite Cafes within the TOSVOD shall be at the discretion of the Director, subject to the express requirements herein.
 - f. No Alcohol Service. There shall be no service or consumption of alcohol beverages in a satellite sidewalk cafe.
8. Other Mall/Concourse Vending. Because the TOSVOD overlays the Mall/Concourse Vending Area, any vending permissible in the Mall/Concourse Vending Area may occur within the TOSVOD with the appropriate license(s) and in compliance with all ordinances and regulations governing such vending.
- (e) Hours. The hours for vending in the TOSVOD shall be from 9:00 a.m. to 8:00 p.m., Sunday through Friday, and 3:00 pm. to 8:00 p.m. on Saturdays, with the following exceptions:
- 1. Licensed Mall/Concourse Food Vendors with a food vending site within the TOSVOD may vend during hours permitted for that license.
 - 2. On dates and times during which a Street Use Permit has been issued for an event in this area, the Street Use Permit shall supersede the TOSVOD vending activities whether or not invalidation of vending licenses have been granted for the event.
 - 3. Vending in the TOSVOD shall be subject to the Snowfall Procedures for Food, Arts/Crafts and Late Night Vendors in Sec. 9.136(1)(l)6.
- (f) Equipment. Equipment permitted within this area shall be limited to:
- 1. TOSVOD Sites. Equipment permitted to be used in an Arts and Crafts Vending site under Sec. 9.136(1)(f) and the Regulations Governing Vending on the State Street Mall/Capitol Concourse Vending Area may be used in a TOSVOD site. Vendors using a TOSVOD site for food under Sub. (d)3. herein shall also provide a trash receptacle within their vending site perimeter.

2. Mall/Concourse Food Vending Sites. All equipment permitted for licensed Mall/Concourse Food Vendors may be used in a Mall/Concourse food vending site within the TOSVOD, and all equipment that is required for such vendors shall be used as required elsewhere in this Section, Secs. 9.13, 9.136, or the Mall/Concourse Regulations.
 3. Satellite Sidewalk Cafes. Equipment permitted for a Regular Sidewalk Cafe on the Mall/Concourse under Sec. 9.135(5) and (6) and Sub. (12)(d)7. herein shall be permitted in a Satellite Sidewalk Cafe, subject to adequate space at the discretion of the Director.
 4. Electricity. None of the TOSVOD sites will have electrical access and all vending operations must be self-powered.
- (g) Vending Licenses Required. An annual TOSVOD license, and a Basic Street Vendor license, shall be required to vend from a TOSVOD site. TOSVOD license fees and late payment fees are set forth in Table A. A TOSVOD license will be valid from April 15 to April 14 and must be purchased prior to using the reservation process in Sub. (h)2. Additionally, every person working or performing vending activities at an assigned site in this area must hold a valid Basic Street Vendor license under Sec. 9.13(3). Merchant Vendors defined in Sec. 9.136(1)(h)1.b. holding a valid merchant vending license and vendors holding a valid Mall/Concourse Arts and Crafts vending license under Sec. 9.136(1)(e)1.a. are exempt from paying the TOSVOD license fee in this paragraph and will be issued TOSVOD licenses upon meeting application requirements established by the Director. A separate sidewalk cafe license shall be required for Satellite Sidewalk cafes under Sub. (d)7.d. herein. No person shall vend, as that term is defined in Sec. 9.13(1), in the Top of State Vending Overlay District without the license(s) required hereunder.
- (h) Application, Site Assignment Procedure.
1. Application. Vendors may apply for a Basic Street Vendor license and a TOSVOD license through an application process established by the Office of Business Resources, by the Application Due Date in Table A. The Director shall establish an application process for those holding a current Sidewalk Cafe, Merchant Vending or Arts/Crafts license wishing to vend in the TOSVOD.
 2. Site Assignment Calendar for TOSVOD Sites. Reservations for TOSVOD site assignments will be made on a first-come, first-served basis, at the discretion of the Director. The Director shall exercise discretion to curate an appropriate mix of vendors and goods consistent with the purpose of this area. The Director shall establish a calendar system that allows eligible vendors to view and request certain sites and dates and the Director to assign sites on a month-by-month basis. Holding a TOSVOD license does not guarantee a site assignment on all desired dates and times. Vendors may view the sign-up calendar prior to purchasing a license. Vendors may not sign up for more than six (6) consecutive (excluding Saturdays) days at the same site unless approved in advance by the Director. If applicants remain after all sites are filled, or there are late applications for a monthly assignment cycle, the Director shall create, maintain and administer a waiting list and assign sites to those on the waiting list if any sites become available.
 3. Application for Satellite Cafe. Businesses eligible for a Satellite Cafe shall apply with the Director using the existing Sidewalk Cafe application procedures set forth in Sec. 9.135. If all requirements are met, a separate Satellite Cafe license shall be issued that includes all of the information required for a Sidewalk cafe license in Sec. 9.135(3).

- (i) Relocation of Vendors. In addition to the authority set forth elsewhere in this Section, the Director and the Chief of Police, or designees, have the authority to temporarily relocate or eliminate vending sites within the Top of State Vending Overlay District Area in the interest of public safety during construction or emergencies or for other reasons expressly provided elsewhere in these ordinances. Nothing in this Section shall be construed to limit the authority of the police to temporarily relocate or eliminate vending equipment, activities or sites in an emergency.
- (13) Food Trucks. Street vending of food and beverages may occur from a truck or trailer meeting all requirements below, with a Basic Street vending license, anywhere in the City other than the specialized vending areas, subject to the following requirements:
- (a) A Food Truck is a motor vehicle or trailer that includes a mobile food preparation area that meets the requirements elsewhere in this Section and Sec. 9.136 for food vending but exceeds the size restrictions for Mall/Concourse Food vending carts and other street vending equipment. To be eligible to vend as a Food Truck, the vehicle shall meet the following size restrictions:
1. A maximum of 8'6" in width, 13'6" in height, and not more than 28 feet in total length, including any attachments for generators or other vending supplies.
 2. If a truck, it must be a single unit such as a step van, box van or light duty box truck, not a semi-trailer or tractor-trailer combination.
 3. If using a trailer, it must be detached from the tow vehicle while open for business.
- (b) The vehicle is currently registered as required by Wis. Stat. ch. 341.
- (c) Food Trucks that comply with all of the requirements of this Section are exempt from restrictions on the size of vending equipment, vending site perimeters and footprints found elsewhere in this Section.
- (d) All necessary, applicable licenses required by state and local health codes for mobile food and drink service have been issued for the food and beverage services occurring from the Food Truck.
- (e) Except for the size exemption in Sub. (c), and except where expressly exempt elsewhere in this Section, Food Trucks shall be subject to Sec. 9.13(4) and all other applicable requirements for Basic street vending in this Section.
- (f) The food preparation area of the truck shall comply with the following sections of the Regulations Governing Vending on the State Street Mall/Capitol Concourse:
- Sec. VI, "Regulation of Vending Site Cleanliness and Safety."
 - Sec. VIII. C. (Electricity) Pars. 6, 7 and 8 only, and a circuit breaker installed in accordance with the National Electrical Code (NEC) not exceeding 15 amps on line between the appliance and the power source.
 - Sec. VIII. E. (Fire Extinguishers).
 - Sec. IX. B. (Removal of Carts and Equipment) Par. 3 only.
 - Sec. IX. C. (Restrictions on Food Preparation) Pars. 1 and 2 only.
 - Food Trucks shall provide a trash receptacle of at least ten (10) gallons accessible to their customers while open for business.

- The service window for customers shall be oriented toward the sidewalk and away from the roadway. No customer interactions shall take place with the customer standing on any portion of the roadway.
- (g) All applicable motor vehicle and traffic laws, rules of the road, including all applicable local parking ordinances shall be obeyed at all times.
- (h) All parts of the vehicle shall be maintained in good repair and in a safe and sanitary condition.
- (i) Power Source and Idling. Power for the vending operations shall be generated from a source that is not the vehicle engine, not a City of Madison electrical source, and the power source shall emit not more than 60 decibels. Sec. 12.1291, Motor Vehicle Idling, shall apply to Food Trucks.
- (j) Signage. Any signage and accessories affixed to the vehicle shall comply with state law requirements for such motor vehicle. The Food Truck must include a sign prominently displayed that identifies the business name and lists all food and beverages menu items, but no signage shall be erected on the vehicle in such a way that it projects in any direction beyond the body of the vehicle, and no free-standing signs shall be placed in or upon the City or highway right-of-way.
- (k) Food Trucks holding a Basic license and operating in compliance with the requirements of this Section are eligible for free-standing vending on private property as allowed by Chapter 28, Zoning Code.

4. Section 9.12 entitled "Vending Oversight Committee" of the Madison General Ordinances is amended as follows:

"9.12 - Vending Oversight Committee.

- (1) Creation. The Common Council finds that it is in the public interest, effective May 31, 1998, that the Mall/Concourse Operating Committee, created by Substitute Resolution 44.669 adopted June 7, 1988, be dissolved. In place of the Mall/Concourse Operating Committee, there is hereby created for the City of Madison a Vending Oversight Committee ("VOC").
- (2) Composition, Appointments and Terms. The Vending Oversight Committee shall consist of five (5) voting members, one (1) alternate voting member, and up to four (4) non-voting, technical advisors, as follows:
 - (a) Five (5) voting members and one (1) alternate. The voting membership shall include one (1) alderperson from a downtown district and one (1) from another part of the City, one (1) resident of the State Street or Capitol Concourse area eligible to vote in the City, two (2) residents, and (1) alternate. As of the effective date of this Ordinance (ORD-07-00138) no person who currently holds a City of Madison vending license under Secs. 9.13, 9.135 or 9.136 shall be appointed as a voting member of the VOC or any subcommittee of the VOC.
 - (b) Not more than four (4) non-voting technical advisors, who shall be vendors holding a valid vending license under Secs. 9.13, 9.135 or 9.136 from the City of Madison, or others with specialized knowledge or interest in street vending and the duties and responsibilities of the VOC. Technical advisors shall serve a regular term of appointment, may sit at the table and participate in discussion of all matters before the VOC (except a matter affecting that vendor's license ~~under Sec. 9.13~~), but shall not vote on any matters. Technical advisors may be appointed to subcommittees but only in their non-voting, advisory capacity. If a technical advisor's vending license is suspended, revoked, non-renewed or other

adverse action is taken against the license, ~~s/he they~~ shall not sit at the table or participate in any discussions at the meeting(s) at which the license is scheduled for action, and ~~s/he they~~ shall lose their VOC appointment and the position is deemed vacated as of the date of the VOC's decision taking action against the license. If no action is taken against the license, the vendor may remain in ~~his/her~~ their position as technical advisor.

- (c) The Greater State Street Business Association ("GSSBA") or successor organization may recommend a voting member or a non-voting technical advisor, subject to Sub. (2)(d) below.
 - (d) Appointments of all members and non-voting technical advisors shall be made by the Mayor, subject to approval of the Common Council.
 - (e) Quorum. The quorum shall be determined according to Sec. 33.01(3)(c). Non-voting advisors shall not be counted for purposes of establishing a quorum.
 - (f) Appointment Terms. The full term for alderperson members shall be two (2) years. The full term for resident members and non-voting technical advisors shall be three (3) years. All vacancies shall be filled by the Mayor, subject to approval of the Common Council, for a term filling out the remainder of the vacated member's term.
- (3) Officers. The members of the VOC shall annually elect a chairperson and vice chairperson from among its voting membership at the Committee's first meeting in June. See Sec. 33.01(2) regarding eligibility of alderpersons as officers. The Director of Planning and Community and Economic Development or designee, a non-member, shall act as Executive Secretary to the VOC. The Executive Secretary shall prepare the agenda and minutes of the VOC's meetings and shall perform such other duties as the VOC shall direct.
- (4) Duties and Responsibilities.
- (a) ~~Administer Act on matters of the VOC's jurisdiction as set forth in Sections. 9.13, 9.135 and 9.136, Madison General Ordinances,~~ the regulations promulgated under Secs. 9.13 and 9.136, ~~Madison General Ordinances,~~ and any other regulations or procedures relating to street vending within the City.
 - (b) Ensure a venue for public input into street vending regulations within the City.
 - (c) Conduct investigations, hearings and miscellaneous proceedings as required by ~~Sections. 9.13, 9.135 and 9.136, Madison General Ordinances.~~
 - (d) Duties of Non-voting Technical Advisors. Participate in discussions and provide technical advice and input to the VOC, as described in Sub. (2)(b).
- (5) Rules of Procedure. The VOC shall adopt Rules of Procedure and Basic Policies which may from time to time be amended by the VOC. Such rules may include provision for delegation of the powers and responsibilities of the VOC to a Subcommittee or Subcommittees composed exclusively of VOC members.
- (6) Compensation. Members of the VOC shall serve without compensation."

5. 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:

"Offense

Ord. No./Adopted Statute No.

Deposit

No street vendors license. <u>Street Vending Licenses</u>	9.13(4)	\$200 \$250, 2nd in 1 yr. \$300, 3rd & subsequent in 1 yr.
General restrictions on <u>street</u> vending.	9.13(4)	\$200, 1st in 1 yr. \$250, 2nd in 1 yr. \$300, 3rd & subsequent in 1 yr.
<u>Sidewalk Cafe and Roadway Cafe Expansion Licenses</u>	9.135	\$200, 1st in 1 yr. \$250, 2nd in 1 yr. \$300, 3rd & subsequent in 1 yr.
Violations of <u>Sec. 9.136</u> or the "Regulations governing vending on State Street Mall/Capitol Concourse."	9.136(1) (6)	\$200, 1st in 1 yr. \$250, 2nd in 1 yr. \$300, 3rd & subsequent in 1 yr.
Violations of <u>Section 9.13(7)</u> or the "Regulations governing vending in high density vending areas."	9.13(7)	\$200, 1st in 1 yr. \$250, 2nd in 1 yr. \$300, 3rd & subsequent 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."

6. Subsection (4) entitled "Issuance of Citations" of Section 1.08 entitled "Issuance of Citations and Complaints for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended as follows:

"Enforcement Official	Ordinance Chapter or Section and Title
Director of the Building Inspection Division of the Department of Planning and Community and Economic Development or designee.	Section 7.55, Outdoor Wood Boilers Prohibited; Section 8.15, Regulating Private Use of Greenways and Park Lands, and the Southwest Bike Path; Section 9.13, <u>Street Vending Licenses for Selling on Public Streets</u> ; Section 9.135, Sidewalk Cafe and Roadway Cafe Expansion Licenses ; Section 9.136, <u>Street Vending on the State Street Mall/Capitol Concourse</u> ; Section 9.25, Licensing of Landlords of Chronic Nuisance Properties; Section 9.54, Equipment Placement on Sidewalks and Terraces, Permits for Information Tables and Expressive Street Vending; Section 12.128(14), Off-Driveway Parking; Section 12.145(1)(d), No Street Vending from Parking Meter; Chapter 22, Consumer Protection and Weights and Measures; Section 23.29, Noxious Weed Control; Section 24.04(7), Noise Disturbances, Refuse Collection Vehicles; Section 24.08, Noise Control Regulation; Chapters 10, 18, 19, 27, 28, 29, 30, 31, 37; Section 33.24 (Urban Design Commission,) and Chapter 41 (Historic Preservation).
Director of the Department of Planning and Community and Economic Development or his/her designee.	Section 9.13, Street Vending Licenses for Selling on Public Streets ; Section 9.135, Sidewalk Cafe and Roadway Cafe Expansion Licenses ; Section 9.136, <u>Street Vending on the State Street Mall/Capitol Concourse</u> ; Section 9.54, Equipment Placement on Sidewalks and Terraces, Permits for Information Tables and Expressive Street Vending; Section 10.32, Regulation of News Boxes in Public Right-of-Way; Section 12.145(1)(d), No Street Vending from Parking Meter."

7. All cross references to Section 9.13 affected by this ordinance amendment throughout all Chapters of the Madison General Ordinances are hereby deemed amended accordingly and the City Attorney as Revisor of Ordinances shall make such amendments as needed.