

DRAFT AMENDMENT RE: BROOM STREET LATE NIGHT VENDING AREA

(n) Late-Night Vending Areas in the Mall/Concourse.

1. Certain areas within the Mall/Concourse are established for vending food and drink between the hours of 9:00 p.m. and 6:00 a.m. 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 Section 9.13(6) or the Regulations Governing Vending on the State Street Mall/Capitol Concourse adopted under Sec. 9.13(6)(c), except Secs. 9.13(6)(k), (exclusive use and special events), (6)(l)2. (use of electricity), (6)(l)3. (emergency vehicle access), (6)(l) 4. (relocation), (6)(m) (insurance), 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 Ordinance, and applicable traffic and parking laws.

2. Licenses Required: One (1) Late Night Vending License shall be required for each vending cart or food stand. Additionally, every person working or performing vending activities as defined in Sec. 9.13(1) must hold a valid basic street vendor license under 9.13(3). No person shall vend (as defined in Sec. 9.13(1)) in a Late Night Vending area during late night vending hours without the licenses required hereunder.

3. Late Night Vending Areas:

- a. 700 block of State Street (Library Mall). Late Night Vending in this area shall be from assigned sites only and is prohibited in any other location including any part of the roadway, parking lanes or legal parking spaces (i.e. the street). Late Night sites will be assigned under Sec. 9.13(6)(n)4.
- b. 300 and 400 blocks of North Frances Street (Frances Street). Late Night Vending in this area shall be restricted to small push carts only, from assigned sites only, and is prohibited in any other location including any part of the roadway, parking lanes or legal parking spaces (i.e. the street). Late Night sites will be assigned under 9.13(6)(n)4. See Sec. 9.13(6)(n)4. for the definition of small push carts.
- c. 400 block of North Broom Street, and 100 and 300 blocks of West Johnson Street. This late night area consists of the portions of the roadway in the 400 block of N. Broom Street as shown on a Late Night Vending Map approved by the VOC and on file at the Office of Business Resources. A maximum of three (3) late night vendors may vend in this area at a time. Occupancy of these two late night vending areas shall be on a first-come, first-served basis, with priority given to the vendors with the most seniority based on the date the vendor first purchased a Late Night Vending License, except that any licensed Mall Concourse vendor with an assigned site in one of these areas shall have priority within their assigned site.
- d. 100 and 300 blocks of West Johnson Street. Occupancy of these two blocks for Late Night Vending shall be on a first-come, first-served basis, except that any licensed Mall-Concourse vendor with an assigned site in one of these blocks shall have priority within their assigned site.

Please discuss whether it will be practical to enforce the maximum of 3 vendors based on seniority. This will require somebody out there every night to monitor who shows up. Compared to first come, first served.

The new and improved area for 400 N. Broom will require a map - please discuss what that should look like. Or if it's easy enough to describe verbally, such as "only the east side of 400 N. Broom" let me know.

There shouldn't be any mall/concourse sites in the roadway - i.e. in a parking stall. Are there any sites on the sidewalk adjacent to where LNV set up, or any sidewalk cafes, in the Broom St. Area?

I assumed we don't need the new rules for Johnson St. so I moved Johnson St. to its own paragraph. Same question about whether there would be any assigned sites in the roadway on Johnson (or whether there are any spots for late night vending on the sidewalk on Johnson.)

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4. Application, Site Assignment. Vendors holding a basic street vendor license may apply for a Late Night Vending License at the Office of Business Resources, using an application form created by the Vending Coordinator, as follows:
- a. Unassigned Late Night Vending Areas: If not applying for an assigned site, applications may be filed at any time. Approval and issuance of the license shall follow the general procedure in Sec. 9.13(3).
 - b. Assigned Late Night Sites: Applications for an assigned site (Library Mall or Frances Street only) must be filed no later than April 1 to be eligible for site assignment for the upcoming vending season (April 15-April 14). The vendor must accept the site in writing and purchase a Late Night Vending License within ten (10) calendar days of receiving notification of the site assignment, or will forfeit the site assignment. Failure to use an assigned vending site by June 1st will result in forfeiture of the site assignment. Only one (1) Late Night site will be assigned per vendor, and site assignments are not transferrable.

Late Night Site Assignment Procedure. The Vending Coordinator shall establish vending sites in the Library Mall and Frances Street areas consistent with Secs. 9.13(6)(n)3.a. and b., on an official map available at the Office of Business Resources,

Mall/Concourse food vendors with an assigned site in one of these areas will have first priority to use their site for Late Night vending, but must follow the application process in Sec. 9.13(6)(n)4.b. and purchase a Late Night Vending License.

The next section will have to be modified to describe special rules for Broom St. vendors based on what you decide about how to determine the "top 3" vendors in that area.

All other applicants shall be ranked according to a seniority system. Seniority shall be calculated by counting the number of vending seasons that the vendor has purchased a Basic Street Vendor license (of any duration) issued under Secs. 9.13(3)(a) 1. or 2., counting backwards from the present, and subtracting any demerit points (see Sec. 9.13(6)(n)5.). 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 late night application and the basic street vendor license used for seniority must be the same. If the late night license 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 was issued a basic 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 Vending Coordinator or designee.

Applicants shall list three (3) site preferences on the application. The vendor with the most seniority (minus any demerit points) will be assigned his/her first preferred site, the next vendor assigned to his/her first available preferred site, and so on; until all applicants have been

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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 Late Night 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.

(Am. by ORD-09-00066, 4-2-09; ORD-11-00064, 5-4-11)

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 department to suspend or cease all operations for seven (7) or more consecutive days during the previous vending season.
 - c. For purposes of Sec. 9.13(6)(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 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 per food vending cart or stand, 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) (2007-2008) and that fit entirely within a footprint of 4 feet by 8 feet: \$125/annual.
 - b. All other food vending carts or stands: \$350/annual.