

1-25-12 VOC Meeting - DRAFT ORDINANCE AMENDMENTS TO ESTABLISH SPECIAL SPRAY PAINT ARTIST SITES AS A CATEGORY OF ARTS/CRAFTS VENDOR ON THE MALL/CONCOURSE: LM Weds. update

ORDINANCE AMENDMENTS:

**1. Amend Sec. 9.13(6)(e)1.a., definition of “Arts and Crafts Vendor,” as follows:**

9.13(6) (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. 9.13(6)(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, Section II.F.1.e. All sections of this ordinance applicable to an Arts and Crafts vendor (or “craft” vendor) shall apply to a Spray Paint Artist unless explicitly stated otherwise.

**2. Amend Sec. 9.13(6)(f), “Arts/Crafts and Food Vending Sites,” as follows:**

9.13(6) (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 ordinance. 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. 9.13(6)(k) shall apply to all vendors. (Am. by Ord. 12,793, 4-9-01)

AMENDMENTS TO THE MALL/CONCOURSE REGULATIONS TO ALLOW SPRAY PAINT ARTISTS:

**1. Amend Section II.E., "Classification of Vending Sites," of the Mall/Concourse Regulations, as follows:**

II. FOOD AND CRAFT VENDING SITES

E. Classification of Vending Sites

There shall be three (3) classifications of vending sites:

1. Vending sites for the sale of handcrafted goods (Craft vending sites). Craft vending sites shall be of three categories: Regular craft vending sites, Spray Paint Artist sites, and craft sites for the sale of handcrafted goods by Senior Citizens (i.e., licensed arts and crafts vendors who are 60 years of age or older). *FYI - Senior citizen sites moved up from no. 3 below, since all three of these are craft sites.*
2. Vending sites for the sale of personally prepared food and beverages (food vending sites).
- ~~3. Vending sites for the sale of handcrafted goods by Senior Citizens (i.e., licensed arts and crafts vendors who are 60 years of age or older).~~

**2. Amend Sec. II.F.1. of the Regulations....**

**F. Allocation and Assignment of Vending Sites**

1. Arts & Crafts. All Mall/Concourse Arts and Crafts vending sites shall be numbered and designated as Daily or Saturday-only sites, as shown on Exhibit 1. All Arts & Crafts vending sites (Daily and Saturday) are available to be reserved for an additional reservation fee by vendors purchasing an annual Arts & Crafts license. The annual license fee and additional reservation fees are described in sec. 9.13(6)(h). The following procedure\* applies to all Arts & Craft vendors, except for Spray Paint Artists, whose sites shall be assigned according to Section II.F.1.e.

*\*the “following procedure” is the seniority assignment process....not reprinted here. I am recommending that Seniority will not apply to Spray Paint Artists. There will only be two Spray Paint sites and they should probably just be assigned first come, first served....*

**3. Creating Sec. II.F.1.e. of the Regulations, “Spray Paint Artist Sites:”**

e. Spray Paint Artist Sites: The Vending Coordinator shall recommend to the VOC for approval not more than two (2) Arts & Crafts vending sites of 10 feet by 12 feet, for licensed Arts & Crafts vendors to operate as Spray Paint Artists. A vendor may prepare and sell homemade paintings or drawings, as defined herein, by applying **spray paint** to paper or fabric or other media at the vending site, in accordance with the following:

i. Artist may only use lawful aerosol **spray paint cans** (?) or non-flammable, non-combustible spray paint substances consistent with all applicable health, fire and environmental codes. If using paint or substance that meets the definition of a “flammable liquid,” “combustible liquid,” or results in a “flammable finish,” as defined in the International Fire Code adopted through Chapter 34, MGO, no power equipment shall be used to dispense or apply the paint, such as air-brush and/or air compressor equipment.

*Do we know what type of paint supply they use? just cans? Airbrush equipment? both?  
My notes from 6-29 meeting says “Andy uses oil-based acrylics.” Water-based doesn’t work.  
According to the fire marshall, typical cans of spray paint are flammable and combustible, so we would not want to allow power equipment or sources of ignition in those sites.  
Spray paint applied with air brush equipment might be water based and OK.  
Do we want to allow the option for non-flammable, water based paint to be airbrushed with power equipment, or should we just say they can’t use power equipment – limit it just to spray cans?*

ii. If using paint or substance that results in a “flammable finish” as defined in Chapter 15 of the International Fire Code, the aggregate surface area to be sprayed shall not exceed nine (9) square feet in area (IFC 1504.9.1.)

iii. No sources of ignition, such as electrical equipment or wiring, as defined in the International Fire Code, are allowed in the site or within five (5) feet of the site. Vendor is responsible to enforce this rule with respect to any person who gathers around the site by informing any such person of this rule and if necessary, ceasing spray paint activities until the person leaves or removes the source of ignition. Vendor will be held responsible and can be cited for violations of this rule occurring at or near the vending site.

iv. No smoking of any kind, open flames or sparks are allowed within the site or within twenty (20) feet of the site. Vendor is responsible to enforce this rule with respect to any person who gathers around the site by posting the site as “No Smoking,” informing any such person of this rule and if necessary, ceasing spray paint activities until the person leaves or extinguishes the source of smoke, flame or sparks. Vendor will be held responsible and can be cited for violations of this rule occurring at or near the vending site.

v. All spray paint activities shall be conducted entirely within the boundaries of the designated Spray Paint Artist vending site.

vi. The vendor shall keep the site prepared and protected to assure that no paint or other substance gets on the sidewalk, terrace, street surface, landscaping of any kind, amenity or any other surface or equipment, whether publicly or privately owned. Any paint or other substance found on or near the vending site shall be presumed to have resulted from the vendor’s spray painting operation.

vii. Spray paint art prepared and sold at the site must meet all other definitional requirements for homemade/handcrafted goods established elsewhere in these Regulations and sec. 9.13 of the Madison General Ordinances.

viii. Crowds at Vending Site. The VOC will choose the location of Spray Paint Artist sites to minimize interference with other vendors, merchants and building occupants, and to allow sufficient sidewalk area for vendors’ customers to watch the vendors paint without blocking sidewalk access. However, it is the vendor’s responsibility to ensure that a crowd does not gather to the point that pedestrian traffic is obstructed. An unobstructed walkway of not less than six (6) feet shall be maintained between any person gathering at the vending site and the adjacent curb. Vendor is responsible to enforce this rule with respect to any person who gathers around the site by informing any such person of this rule and if necessary, ceasing spray paint activities until the crowd size is reduced. Vendor will be held responsible and can be cited for violations of this rule occurring at or near the vending site.

ix. Spray Paint Artist Site Assignment: Spray Paint sites will be available on a first-come, first-served basis to vendors holding an annual or monthly Arts and Crafts Vending license. A licensed Arts/Crafts vendor may apply with the Vending Coordinator at any time after January 1 for the upcoming vending season (April 15-April 14), stating the vendor’s site preference. If both Spray Paint Sites are assigned for the entire vending season (or for the month for which a monthly license-holder is requesting a site) a waiting list will be established. If a Spray Paint Site becomes available during the vending season, it will be offered to the first vendor on the waiting list, and so on.

x. Any other safety or other rules???