

(4) Duties and Responsibilities.

- (a) Administer Section 9.13, Madison General Ordinances, the regulations promulgated under Sec. 9.13 Madison General Ordinances, and any other regulations or procedures relating to vending within the City.
- (b) Ensure a venue for public input into vending regulations within the City.
- (c) Conduct investigations, hearings and miscellaneous proceedings as required by Section 9.13, 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).

(Am. by Ord. 12,557, Adopted 3-21-00)

- (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.

(Sec. 9.12 Cr. by Ord. 12,144, 6-1-98; Am. by ORD-07-00138, 10-18-07)

9.13 LICENSE FOR SELLING ON PUBLIC STREETS.

- (1) It shall be unlawful for any person 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 putting up a booth, preparing or setting up the vending cart, stand or equipment, 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, 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 Ordinance.

For purposes of this subsection and the licenses described under 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 or stand is open for business. "Vending" does not include the act of delivering the cart, equipment, or necessary equipment and supplies to and from the vending site. However, unlicensed individuals shall not remain in or around a vending cart, stand or site for any length of time, whether open or closed for business, unless expressly permitted under another subsection of this Ordinance or unless they are customers waiting to be served. Subsections 9.13(6) and (7) set forth specific criteria for licensing and persons permitted at the vending site in specific vending areas. In case of a conflict between this subsection and subs. (6) and (7), subs. (6) and (7) shall control.

No license issued under this Ordinance shall be denied for reasons prohibited under Sec. 39.03(5) of the Madison General Ordinances.

(Am. by Ord. 12,009, Adopted 1-6-98; Am. by ORD-08-00130, 11-22-08)

- (a) Sales on the State Street Mall and the Capitol Concourse and adjacent streets are subject to further regulations set forth in Subsection (6) hereunder.

- (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 Section 8.17 of the Madison General Ordinances. No street vending license shall be issued for the locations defined above unless the applicant demonstrates compliance with the requirements of Sec. 8.17, MGO.
- 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 paragraph 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 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 his/her 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.

(Sec. 9.13(1)(b)2. Am. by ORD-09-00172, 12-31-09)

(Sec. 9.13(1)(b) Am. by ORD-09-00150, 11-2-09)

- (c) Sales upon any street, alley, sidewalk, public square or pleasure drive located in a “high density vending area” as defined in Sec. 9.13(7)(b) of the Madison General Ordinances are subject to further regulations set forth in subsection 9.13(7) hereunder.
- (d) All Basic Street Vendor licenses issued by the City Clerk shall contain the following language on the face of the license: “NOTE: An additional license is required for sales on the State Street Mall and Capitol Concourse vicinity or in any “high density vending area” as defined in Section 9.13(6)(a) and 9.13(7)(b) respectively of the Madison General Ordinances. In addition, this license is not valid for streets, alleys, sidewalks, public squares or pleasure drives located upon or adjacent to any park, playground, recreation area, bathing beach or athletic field owned or operated by the City of Madison unless prior approval pursuant to Sec. 8.17 of the Madison General Ordinances has been obtained.” (Am. by Ord. 12,009, Adopted 1-6-98)
- (e) Any license issued under this chapter and any vending site assignment made under this chapter or under regulations adopted pursuant to it shall be nontransferable. (Cr. by Ord. 12,009, Adopted 1-6-98)

(Am. by ORD-09-00066, 4-2-09)

- (2) Special Event Umbrella License. An umbrella Special Event Vending License is available to cover the vending activities of all persons who will be vending solely as a participant in a special event for which a street use permit has been issued pursuant to Sec. 10.056 of these ordinances. 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 a list of all participants who will be vending during the event, 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 an employee of the state that a seller’s permit will be issued, and proof that the event sponsor holds adequate liability insurance as required in Sec. 9.13(6)(m). The license shall also be subject to any rules and regulations established pursuant to Sec. 9.13(6)(k). Special Event Vending Licenses shall be issued in the name of the special 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 individuals conducting the vending activities under such license. The fees for a Special Event Vending License shall be based on the number of vendors participating in the special event, and shall cover all street vending activities for the duration of the special event. 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 approved location of the special event, including vending locations, and shall be valid only during the date(s) and at the location(s) specified. Fees for a Special Event Vending License approved by the Parks Division are payable to the City Treasurer as follows:

1-25 vendors	\$300
26-100 vendors	\$500
101-300 vendors	\$700
301 or more vendors	\$1200

(Am. by Ord. 10,552, Adopted 11-24-92; Ord. 12,793, 4-9-01; Ord. 13,272, 3-11-03; Ord. 13,615, 5-21-04; ORD-09-00171, 12-31-09)

(3) Application for any street vending license (except the Special Event vending license) shall be filed with the Director of Planning and Community and Economic Development or designee, shall contain such information as she/he may require, shall specify in detail the food, goods or services to be offered for sale, shall be approved by her/him if all applicable ordinance and regulation requirements have been met, and shall then be issued by the City Clerk. Licenses shall be issued and signed by the City Clerk and shall be conspicuously displayed at the place where such sales are being made. In addition to the Licenses in this section, special licenses are required for vending in the Mall/Concourse Vending Area, under Sec. 9.13(6), Late Night Vending under Sec. 9.13(6)(n), and High Density Vending Areas under Sec. 9.13(7). Street vending licenses are not transferable.

(a) Basic Street Vendor License Fees and Durations:

1. Basic Street Vendor License (Annual). One-hundred and fifty dollars (\$150) payable to the City Treasurer. Annual licenses shall be issued on the fifteenth (15th) day of April each year, or thereafter when applied for, and shall expire on the fourteenth (14th) day of April following its issuance.
2. Basic Street Vendor License (Monthly). Seventy-five dollars (\$75) payable to the City Treasurer. Such license shall be issued for thirty (30) days and shall set forth the date of expiration.

(Am. by Ord. 13,506, 2-10-04; Ord. 13,615, 5-21-04; ORD-06-00154, 11-23-06)

(Sec. 9.13(3) Am. by ORD-09-00171, 12-31-09)

(b) Insurance. In addition, to hold a valid license, the vendor shall have in force adequate liability insurance as defined in Sec. 9.13(6)(m) of these ordinances.

(Am. by Ord. 12,793, 4-9-01)

(c) Change of Address. A vendor to whom a street vending license has been issued under this subsection shall inform the designee of the Director of the Department of Planning and Community and Economic Development 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. (Cr. by Ord. 13,046, 4-9-02)

(Sec. 9.13(3) Am. by Ord. 12,009, Adopted 1-6-98; Ord. 12,022, 2-16-98; Ord. 12,358, 3-30-99; ORD-09-00066, 4-2-09)

(4) General Restrictions on Vending. The Director of Planning and Community and Economic Development, or designee, shall have concurrent authority with the Chief of Police, or designee, to enforce the following city-wide restrictions on street vending. Any vending conducted pursuant to Sec. 9.13 of the Madison General Ordinances shall be subject to the following, unless a different standard is established herein for vending in specified 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 which interferes with the use of the bus stop or with ingress or egress to the bus shelters.

(c) Unless otherwise authorized within Sec. 9.13, regulations established pursuant to Sec. 9.13 or Sec. 10.056 of the Madison General Ordinances, 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. (Am. by Ord. 12,419, 7-23-99; Ord. 12,557, Adopted 3-21-00)

(d) 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.

(e) Equipment placement. Except as indicated below, or otherwise permitted in Sec. 9.13 or Sec. 10.056 of the Madison General Ordinances or in regulations adopted pursuant to authority granted thereunder, no vending equipment, including sidewalk café 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 Sec. 340.01(58) of the Wisconsin Statutes. This section shall not apply to sidewalk cafes under Sec. 9.13(6)(j)2.e. (Am. by Ord. 12,793, 4-9-01; ORD-05-00135, 8-5-05)

- (f) No vending equipment or vending activities shall be permitted adjacent to any truck, freight or passenger loading zone or adjacent to any parking space for people with disabilities or loading zone. (Am. by ORD-06-00099, 8-2-06)
- (g) No vending equipment shall be permitted within two (2) feet of the adjacent street curb or within two and one-half (2-1/2) feet of a parking meter.
- (h) No vendor shall be permitted to use any of the amenities, such as benches, flower planters, trees, bus shelters, kiosks, light poles or any other utility poles for display of merchandise or to 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) Vendors must maintain their vending areas in a clean and hazard-free conditions.
- (k) A vendor shall be present within the vending site at all times during which items are displayed or sold.
- (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 issued under Sec. 10.056 of these ordinances or pursuant to regulations adopted under this chapter.
- (m) All vending equipment, including 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 issued under Sec. 10.056 of these ordinances or pursuant to regulations adopted under this chapter.
- (n) It shall be unlawful for any person, after having been warned that such activity is prohibited, to engage in any vending or solicitation whether for charitable or commercial purposes in the sidewalk area between the imaginary line connecting the sparkle light poles and the face of the adjacent building of any sidewalks on State Street and of the outside sidewalks on the Capitol Square, unless such activity has been approved as part of a Street Use Permit issued under Sec. 10.056 or is otherwise authorized pursuant to Sec. 9.13(6) as it relates to vending from a vending site.
- (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 Sec. 9.13 to permit any other person to vend at that vendor's vending site, unless that person is properly licensed or otherwise authorized under Sec. 9.13 to vend from that vendor's site. (Am. by Ord. 12,793, 4-9-01)
- (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 Sec. 9.13 or Sec. 10.056 of the Madison General Ordinances or any regulations established pursuant thereto. 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 under Sec. 28.06(1)(b) and as indicated on official Zoning District Maps on file in the office of the City Zoning Administrator.
- (s) Safety Requirements for Non-Mall/Concourse Food Vending. Street vendors holding a basic street vendor license under Sec. 9.13(3) may sell food anywhere that vending is permitted with that license. Food carts are subject to inspection, regulation and licensing according to state and local health code requirements for food and drink service. The

following requirements found in the Regulations Governing Vending on the State Street Mall/Capitol Concourse shall also apply to all street vendors selling food, City-wide:

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

(Am. by ORD-09-00066, 4-2-09)

- (t) Size of Food Vending Carts and Equipment. All food vending carts, stands and equipment, including those of Late Night food vendors, shall fit entirely within a 10' x 12' footprint unless another size (smaller or larger) is specified elsewhere in this ordinance, the Regulations promulgated under this ordinance, or the maps created by Regulation. (Cr. by ORD-06-00060, 5-2-06; Am. by ORD-09-00066, 4-2-09)
- (u) All food vendors shall provide a trash receptacle of at least 10 (ten) gallons or larger within their vending site, available for customer use. (Cr. by ORD-06-00060, 5-2-06)
- (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 a vending cart. This ordinance 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 ordinance 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. (Cr. by ORD-09-00037, 3-14-09)

(Sec. 9.13(4) Am. by Ord. 12,009, Adopted 1-6-98; Ord. 12,557, Adopted 3-21-00; ORD-05-00018, 02-15-05)

- (5) Citywide (Non-Mall/Concourse) Sidewalk Cafe Licenses. Establishments holding a food and drink permit, and located anywhere in the City but the State Street Mall/Capitol Concourse (as defined in 9.13(6)(c), may be eligible for a Citywide Sidewalk Cafe License, to allow sidewalk café seating for service of food and beverages on the public sidewalk directly adjacent to the establishment. Citywide Sidewalk Cafés shall be located against the building except as allowed under sub. (e).

- (a) Eligibility. An establishment holding a food and drink permit is eligible for a citywide sidewalk café only if it meets all of the following eligibility criteria:
 1. The entire sidewalk surface for the proposed sidewalk café must be paved. For purposes of this section, a paved surface includes 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 café, if immediately adjacent to the paved public sidewalk.
 2. The paved portion of the adjacent public sidewalk must be at least nine (9) feet wide;

3. An establishment is not eligible if sidewalk café placement would result in a violation of Sec. 9.13(4)(d) (requiring a minimum of a six (6)-foot wide unobstructed public pedestrian walkway on the public sidewalk adjacent to all vending sites).
4. An establishment is not eligible if, in the opinion of the Vending Coordinator, immovable, obtrusive or too numerous public amenities on the adjacent sidewalk make café placement impractical, or when existing amenities would create obstacles to accessibility if a sidewalk café were added to that location.
5. An establishment is not eligible if, in the opinion of the Vending Coordinator, 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 café 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.

(b) Application. Establishments holding a food and drink permit, and meeting the eligibility criteria in sub. (a), may apply for a Citywide Sidewalk Cafe License. The Vending Coordinator or designee shall inspect the proposed café location for compliance with sub. (a) and to make placement suggestions upon receipt of application, or prior to submission, if requested by the applicant. The application procedure for a Citywide sidewalk café shall be the same as for Sidewalk Cafes on the Mall/Concourse, under 9.13(6)(i).

(c) License Fees. The fee for a Citywide Sidewalk Café vendor license shall be the same as for a Sidewalk Café on the Mall/Concourse, under 9.13(6)(h), and the information required to be displayed on the license shall also be the same.

(d) Café Placement and Dimensions. Sidewalk cafes permitted under this section shall be located next to the building, except as allowed in sub.(e). All sidewalk cafes shall be placed within the approved boundaries of the sidewalk cafe site as set forth on the approved application. All components of the sidewalk café shall be placed in compliance with sub. (a), "Eligibility", and the following criteria:

1. Sidewalk cafes shall be placed against the building.
2. Sidewalk cafes shall extend no further than the side property lines of the establishment's street frontage.
3. No sidewalk cafe may obstruct the minimum of six feet (6') unobstructed public pedestrian walkway required to be maintained on the adjacent public sidewalk. This 6' walkway shall be measured from the outside of the café 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 café and shall be otherwise free from obstructions and public amenities. The points of measurement shall be determined by the Vending Coordinator, according to these standards.
4. Café Width. The maximum café width shall be determined by the width of the adjacent public sidewalk, according to Table 1. below. Sidewalk width shall be measured from the building face to the edge of the curb (or roadside edge of the sidewalk if there is an unpaved terrace)
5. Café Furniture. Maximum table size and furniture configuration shall be as required by Table 1. below.

TABLE 1:

<u>Sidewalk Width</u>	<u>Maximum Café Width</u>	<u>Maximum Table Size & configuration</u>
less than 9'	café not permitted	n/a
9'-10'11"	3' café	24" in diameter, single file row
11' - 15'	5' café	(see Regulations Governing Vending on Mall/Concourse)
15' or more	5' or wider, at discretion of the Vending Coordinator	(see Regulations)

6. shall be enclosed on all sides (the building face may serve as one side of the enclosure), following the sidewalk café enclosure requirements of the Regulations Governing Vending on the State Street Mall/Capitol Concourse.
7. shall have at least one (1) unobstructed entrance of at least three feet (3') and not more than five feet (5') in width, the position of which allows sufficient access to the public entrance to/egress from the restaurant.
8. shall not be placed on any grass, lawn or other non-paved areas of the right-of-way.
9. shall comply with all other applicable requirements of this ordinance. In the event of a conflict with another section, the more strict requirement shall control.

(e) Alternate Placement: Case-by-Case Determination: The Vending Coordinator may, on a case-by-case basis and at his/her discretion, allow variances to sections 9.13(5)(d) 1., 4., 5., and 6. and approve a sidewalk café accordingly, after inspection of the site, if in the opinion of the Vending Coordinator such a variance is necessary in order to permit a sidewalk café for an otherwise eligible establishment.

(f) Other Regulations. Citywide sidewalk cafes shall be subject to sec. 9.13(4), "General Restrictions on Vending," all sections of 9.13 that apply to sidewalk cafes on the Mall/Concourse, and the "Regulations Governing Vending on the State Street Mall / Capitol Concourse," except when explicitly otherwise stated. In the event of a conflict in language which cannot be resolved by the express language of the sections in question, the more strict requirement shall apply.

(g) Appeals. A decision to grant or deny a citywide sidewalk café license under this section may be appealed under the procedures set forth in sec. 9.13(6)(i)2.

(Subsec. (5) R./ReCr. by Ord. 12,009, Adopted 1-6-98; Am. by ORD-07-00101, 8-23-07)

(6) Regulations and Procedures for Vending on the State Street Mall/Capitol Concourse.

(a) Scope and Definition of Mall/Concourse: The physical design of the State Street Mall/Capitol Concourse Improvement District as defined by Resolution No. 25,620, adopted by the Common Council on November 13, 1973; Resolution No. 33,431, adopted by the Common Council on September 12, 1978; and by Resolution No. 35,194, adopted by the Common Council on December 11, 1979, is 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. The Mall/Concourse is defined to include the 100 through 800 blocks of the State Street Mall and 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 as well as the additional areas included in the State Street Mall/Capitol Concourse Improvement District, Elizabeth Link Peace Park and the Municipal Building Vending Area. (Am. by ORD-07-00193, 12-20-07)

(b) Limitation on Products to be Sold Within the Mall/Concourse. Only handcrafted goods and personally prepared food as defined in Section 9.13(6)(e)3. and 7. of the Madison General Ordinances and in any regulations approved by the Common Council pursuant to Sec. 9.13(6)(c) of the Madison General Ordinances 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 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. (Am. by Ord. 12,793, 4-9-01)

(c) Regulating Authority and Intent.

1. The Vending Oversight Committee (VOC) is empowered to create additional regulations not inconsistent with the provisions of Sec. 9.13 or these 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:

- a. The number, size and location of vending sites and sidewalk cafes, except that all site locations within the State Street Mall/Capitol Concourse area shall also be approved by the Superintendent of Parks, or designee.
- 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 or in High Density Vending Districts.

(Am. by Ord. 12,419, 7-23-99; Ord. 12,557, Adopted 3-21-00)

2. The Common Council may at any time by ordinance or resolution adopt rules and regulations governing vending on the Mall/Concourse.

- (d) Events Programming and Enforcement. The Superintendent of Parks or designee may initiate and shall coordinate the programming of all events on the State Street Mall/Capitol Concourse. The Director of Planning and Community and Economic Development, or designee, shall apply and enforce the provisions of Sec. 9.13 and any regulations adopted pursuant to the procedures set forth in Sec. 9.13. (Am. by Ord. 12,419, 7-23-99; Ord. 12,557, Adopted 3-21-00)
- (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. (Am. by Ord. 13,064, 4-9-02; Ord. 13,272, 3-11-03)
 - 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 who are responsible for the vending operation and who holds a valid street vending license issued pursuant to Sec. 9.13(1) herein. A food vendor may employ up to five (5) supplemental vendors who need not be individually named on the application or license. Any supplemental vendors under this paragraph must hold valid basic street vendor licenses under Sec. 9.13(3). All food vendors required to be licensed under Chapter 7 of the Madison General Ordinances shall obtain a food and drink permit and a mobile restaurant base license and operate from a licensed restaurant for food preparation, food storage and utensil cleaning activities. 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. (Am. by Ord. 12,793, 4-9-01; ORD-09-00066, 4-2-09)
 - c. Persons Permitted at Arts and Crafts and Food Vending 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. In addition, properly-licensed supplemental vendors may be present at food vending sites as described in Paragraph b., above and other individuals who are not licensed as primary or supplemental other individuals who are not licensed as vendors, may be present at the vending site solely to assist. Activities such as operating vending vehicles, loading and unloading, food or drink preparation, or working on handcrafted items 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. (Am. by Ord, 12,793, 4-9-01)
2.
 - a. Contiguously Located Street Level Merchant or Restaurant.
A merchant or restaurant 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 Restaurant A merchant or restaurant 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. 9.13(6)(e)1.a., with his or her 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. (Am. by Ord. 13,272, 3-11-03)
 4. Licensed Mall/Concourse Vendor. A Mall/Concourse vendor is a Food Vendor, Arts and Crafts Vendor, Merchant Vendor or Sidewalk Café, as those terms are defined within Sec. 9.13(6)(e) to whom a valid Mall/Concourse vending license has been issued pursuant to this section. In addition, to be considered a fully licensed Mall/Concourse vendor under this section, the vendor must hold a valid basic street vendor license issued pursuant to Sec. 9.13(3) herein, and must have adequate liability insurance in force as required in Sec. 9.13(3) herein. Persons acting solely as the primary designated vendor of a corporation, cooperative or partnership, assistants under Sec. 9.13(6)(e)1.c., or supplemental food vendors under Sec. 9.13(6)(e)1.b. are not required to provide separate proof of insurance, and persons acting solely as assistants are not required to hold a basic street vendor license under Sec. 9.13(3). (Am. by Ord. 12,793, 4-9-01; ORD-09-00066, 4-2-09)
 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 adequate liability insurance in force as required in Subdivision (m) of this ordinance and who has a basic street vendor issued pursuant to Section 9.13(3) of the Madison General Ordinances. However a restaurant contiguously located to the Mall/Concourse shall not be construed to be a merchant vendor. (Am. by ORD-09-00066, 4-2-09)
 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 roasted and ground by the vendor and tea brewed from loose ingredients by the vendor.
 - d. Food grown or raised by vendor.
 - e. Hotdogs, bratwurst or other sausages, and commercially produced buns. (Am. by ORD-08-00034, 3-21-08)
 - 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 shall mean any group of tables, chairs, benches, barriers or partitions, trash containers and suitable decorative devices maintained upon any part of the public right-of-way for use by an establishment with a valid food and drink permit in the sale to the public of food, refreshments, and beverages of all kinds.
9. Vending Year. Vending year shall mean the calendar year beginning April 15 and ending April 14 of the immediately following year.
- (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. 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)

(g) Mall/Concourse Vending License Required. No person shall sell or offer to sell, any goods, foodstuffs, or any other article of any kind 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, or being one of five supplemental food vendors employed by a licensed Food Vendor, or being one of two primary vendors named on a valid Mall/Concourse Arts and Crafts vending license in addition to holding all other licenses and permits which may be required by law or ordinance. A Mall/Concourse Vending license shall not be required when the vendor holds a valid Special Event Vending License pursuant to Sec. 9.13(2) herein. Only one Mall/Concourse Vending License in each category listed in Sec. 9.13(6)(h)2., i.e., arts and crafts, food, sidewalk cafe, merchant vendor, may be issued to a vendor for any single vending period. A Mall/Concourse license issued under this section shall be valid only for the duration of the basic street vendor license required by Sec. 9.13(3) and issued to the vendor under Sub. 9.13(3), herein. This paragraph shall not apply to vendors operating in late-night food vending areas under Sec. 9.13(6)(n). (Am. by Ord. 12,793, 4-9-01; Ord. 13,046, 4-9-02; ORD-05-00018, 2-15-05; ORD-09-00066, 4-2-09)

(h) Mall/Concourse Vending Licenses and Fees.

1. Each Food Vending License, Arts and Crafts Vending License, Sidewalk Cafe License, and Merchant Vendor License shall contain such information on its face as the Vending Oversight Committee shall establish in the Regulations for Vending on State Street Mall/Capitol Concourse.
2. In addition to other permits, the Mall/Concourse Vending License shall be conspicuously displayed by the vendor at the vending area occupied by the vendor. Vending licenses under this section shall be divided into four (4) categories as follows:
 - a. Food Vending Licenses to be issued to food vendors.
 - b. Arts and Crafts Vending Licenses to be issued to arts and crafts vendors.
 - c. Sidewalk Cafe Licenses to be issued to sidewalk cafes.
 - d. Merchant Vendor Licenses to be issued to contiguously located street level merchants or corresponding non street-level merchants in the same building by order of priority established in Sec. 9.13(6)(h)4. below.
3. Vending licenses and fees under each category shall be as indicated below. A Mall/Concourse vending license shall be issued for the same duration as the regular Street Vending License required under Sec. 9.13(1) and issued to the vendor under Sec. 9.13(3). (Am. by Ord. 13,046, 4-9-02)
 - a. Annual License - The fees for an Annual License shall be as set forth below. Annual licenses shall be issued on the fifteenth (15th) day of April each year or thereafter when applied for and shall expire on the fourteenth (14th) day of April of the year following its issuance. The license fee shall be paid to the City Treasurer:
 - i. Food Vendors: eight hundred fifty dollars (\$850.)
 - ii. Arts and Craft Vendors: four hundred dollars (\$400.)
 - iii. Merchant Vendors: two hundred dollars (\$200), except as indicated in v. below.
 - iv. Sidewalk Cafes: Except as indicated in v. below, the sidewalk café license fee shall be determined by the size of the café, based on the number of chairs shown on the approved sidewalk café application:
 - 1 to 10 chairs: \$300/year
 - 11 to 20 chairs: \$400/year
 - 21 or more chairs: \$500/year

- v. For sidewalk cafes and merchant vendors located on a block of State Street that is scheduled for reconstruction anytime during the vending season pursuant to the "State Street and Adjacent Street Reconstruction Assessment District" project commencing in 2004 ("State Street Reconstruction") the annual fee for a sidewalk cafe license shall be \$50 and the fee for a merchant vendor license shall be \$25. 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, specifications and schedule of assessments for a phase of the State Street Reconstruction to take place anytime during the vending season in question, for any portion of the block on which that vendor is located, as indicated by the plans that are approved for the project number(s) listed in that resolution.

These reduced \$50 and \$25 annual fees shall only be available until the last day before the first full vending season after the street reconstruction for that block has been completed. This provision shall have no further effect for vendors in those blocks after that date. This provision, in its entirety, shall expire the day before the first full vending season after street reconstruction for all blocks of State Street have been completed under the State Street Reconstruction project.

The license fee shall be paid to the City Treasurer. Annual licenses shall be issued on the fifteenth (15th) day of April each year or thereafter when applied for and shall expire on the fourteenth (14th) day of April of the year following its issuance. (Am. by Ord. 13,506, 2-10-04)

- vi. Late Night Vending License. See Sec. 9.13(6)(n) for Late Night Vending license fees.

(Sec. 9.13(6)(h)3.a. Am. by ORD-09-00066, 4-2-09)

- b. Monthly License - Only arts and crafts vendors are eligible for a Monthly License. The fee shall be as follows:

- i. Arts and Crafts Vendors: one hundred twenty-five dollars (\$125).

The license fee shall be paid to the City Treasurer. Monthly licenses shall expire thirty (30) days from the date of issuance.

- c. Additional Mall/Concourse Vending Fees. In addition to the license fees set forth above, there shall be the following additional fees:

- i. A separate site reservation fee of one hundred dollars (\$100) for craft vendors who wish to reserve a specific vending site until 8:00 a.m. at the Saturday craft vending area which site shall be assigned to them by the Director of Planning and Community and Economic Development or designee pursuant to the regulations on Saturday Vending Site Assignment adopted pursuant to Section 9.13(6)(c) and (f).

- ii. A separate site reservation fee of one hundred dollars (\$100) dollars for craft vendors who wish to reserve a specific craft vending site on the 400, 500, and 700 blocks of State Street, which shall be assigned to them by the Director of Planning and Community and Economic Development, or designee, and be subject to the to the regulations adopted pursuant to Section 9.13(6)(c) and (f).

- d. (R. by ORD-07-00137, 10-18-07)
- e. Non-profit Exemption. Qualified non-profit organizations, otherwise meeting the criteria for Mall/Concourse vending, may apply for an annual license under subparagraph (h)3.a. and may be exempt from paying the annual license fee, upon approval of the Vending Oversight Committee. (Am. by Ord. 13,046, 4-9-02)

(Sec. 9.13(6)(h)3. Am. by Ord. 12,022, 2-16-98; Ord. 12,358, 3-30-99; Ord. 12,557, Adopted 3-21-00; Am. by Ord. 12,793, 4-9-01; Ord. 13,506, 2-10-04; ORD-09-00160, 12-5-09)

- 4. A vendor to whom a Mall/Concourse vending license has been issued under this subsection shall inform the designee of the Director of the Department of Planning and Community and Economic Development 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. (Cr. by Ord. 13,046, 4-9-02; Renumbered by ORD-06-00013, 2-24-06)

(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 or for vending in a particular specified area. In addition, the Vending Oversight Committee (VOC) may establish additional or distinct procedures and criteria for the granting of licenses under any vending category including, without limitation, the establishment of a committee to review applicants for any one or more category or class of vending license or aspect or regulation of a category or class.

- a. Application for a Food Vending License, an Arts And Crafts Vending License or a Special Event Vending License shall be filed with the Director of Planning and Community and Economic Development, or designee and shall contain such information as shall be required by regulation and such additional information as s/he shall require in order to determine whether the requirements of the ordinance 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.

- b. Application for a Mall/Concourse Sidewalk Cafe or Merchant Vendor License shall be filed with the Director of Planning and Community and Economic Development, or designee on a form prescribed by the Vending Oversight Committee (VOC). The application for new and returning sidewalk cafes shall include a scale drawing of the site, including the location of all trees, poles, benches, gratings, and other amenities or obstructions, and the location of the proposed furniture and other vending equipment. All applications shall be accompanied by a photograph, catalogue page(s) or detailed renderings of the tables, chairs barriers or other furniture or equipment being considered for use, including the location and number of chairs, with dimensions and color included. The application shall also contain any information required by regulation or by the Director of Planning and Community and Economic Development. (Am. by Ord. 12,419, 7-23-99; Ord. 12,557, 3-21-00; ORD-09-00066, 4-2-09)

- c. Any applicant for a Sidewalk Cafe License who wishes to sell alcohol beverages must also follow the procedures set forth in Chapter 38 for obtaining an alcohol beverage permit. All actions by the ALRC shall also require the approval of the Common Council.
 - d. A copy of the Application and all attachments shall be transmitted by the Director of Planning and Community and Economic Development, or designee, to the City Clerk. (Am. by Ord. 12,557, 3-21-00)
2. Initial Determination Appeal and Review. Upon receipt of an application for a license the Director of Planning and Community and Economic Development, or designee, 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 within ten (10) days of the date of the application using the procedures below.
- a. If all the applicable requirements are clearly and unambiguously met in the opinion of the Director of Planning and Community and Economic Development, or designee, the appropriate license shall be promptly approved by her/him and issued by the City Clerk, with the following exceptions: an applicant for a Food Vendor License must first participate and obtain a satisfactory rating in an annual Food Vending Review pursuant to regulations established under this chapter, and no applicant who has been issued one (1) or more health ordinance citation or civil complaint or two (2) or more vending ordinance citations or complaints may participate in the Fall Food Vending Review nor be issued a Food Vending License.
 - b. If the Director of Planning and Community and Economic Development or designee determines that the applicable requirements of the ordinance and regulations are not met, s/he 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. (Am. by Ord. 13,272, 3-11-03)
 - c. The sole issue at the hearing shall be whether the correct decision was made by the Director of Planning and Community and Economic Development, or designee, 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 of Planning and Community and Economic Development, or designee, under this Chapter. At any such hearing the parties shall have the opportunity to question witnesses, may call witnesses in her or his own behalf or 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 of Planning and Community and Economic Development, or designee, 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 of Planning and Community and Economic Development, or designee, shall sign the application and the license shall be issued by the City Clerk 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 of Planning and Community and Economic Development, or designee, or Common Council of any category of Mall/Concourse vending license shall be deemed to be a conditional approval in the absence of approval by other necessary City agencies.
3. Renewal of Mall/Concourse Vending Licenses. There shall be no renewal of any Mall/Concourse Vending License. All applicants shall follow the process above for granting an initial license.
- 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 of the Department of Planning and Community and Economic Development on the 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 of the Department of Planning and Community and Economic Development and the license shall be deemed denied. (Am. by Ord. 12,793, 4-9-01)
 - 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 of the Department of Planning and Community and Economic Development 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. 9.13(6)(i)2. above. (Am. by Ord. 12,793, 4-9-01)
(Am. by Ord. 13,272, 3-11-03)

(j) Miscellaneous Restrictions on Merchant Vendors and Sidewalk Cafes.

1. Miscellaneous Restrictions on Merchant Vendors.

- a. Merchandise may only be displayed during normal business hours on Thursdays, Fridays, Saturdays, Sundays and the following federal public holidays established under 5 U.S.C. § 6103 (New Year's Day, Washington's Birthday, Martin Luther King Jr.'s Birthday, Memorial Day, Independence, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day). Mall/Concourse merchant vendors

- may display merchandise on other days, if approved by the Vending Oversight Committee (VOC) in conjunction with a special event for which a street use permit has been granted, upon the VOC's determination that such merchant vending will not interfere with the events and will enhance the public use and enjoyment of the Mall/Concourse. (Am. by Ord. 13,614, 5-21-04; ORD-06-00059, 5-20-06; Am. by ORD-07-00063, 5-18-07)
- b. Merchandise may only be displayed in specific sites defined by the street frontage of the street level merchant's or restaurant's place of business and otherwise complying with the requirements of Sec. 9.13, between the imaginary line connecting the sparkle light poles on one side (or no closer than six (6) feet to the building face, allowing a minimum of six (6) feet unobstructed pedestrian walkway, if there are no sparkle light poles) and no closer than two feet from the face of the adjacent street curb on the other side in the specific location and configuration approved on the application pursuant to Sec. 9.13(6)(i). This requirement applies to vending on State Street and the sidewalks on the outside of the streets comprising the Capitol Square. (Am. by Ord. 12,793, 4-9-01; ORD-06-00013, 2-24-06; ORD-06-00147, 11-2-06)
 - c. Vending in the State Street Mall/Capitol Concourse Improvement District on streets or sidewalks other than State Street and the Capitol Square, is only permitted in specific sites defined by the street level merchant's or restaurant's place of business and otherwise complying with the requirements of Sec. 9.13, between six feet from the inside edge of the sidewalk on one side and no closer than two feet from the face of the adjacent street curb on the other side in the specific location and configuration approved pursuant to Sec. 9.13(6)(i). (Am. by Ord. 12,793, 4-9-01; ORD-06-00013, 2-24-06)
 - 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. Miscellaneous Restrictions on Sidewalk Cafes.
 - a. The space specifications in Sec. 9.13(6)(j)1.b. above shall apply to all sidewalk cafes located on State Street Mall or the Capitol Concourse as defined herein, except sidewalk cafes at locations described in Subparagraph e., below. The space specifications in Sec. 9.13(6)(j)1.c. shall apply to sidewalk cafes on any other streets within the district. The remainder of this paragraph shall apply to all sidewalk cafes within the Mall/Concourse: No sidewalk cafes may obstruct the pedestrian right of way required by the City to be maintained adjacent to the sidewalk cafe. All sidewalk cafes shall remain within the approved boundaries of the sidewalk cafe site as set forth on the approved application and shall be surrounded by enclosure(s) as required by the Regulations Governing Vending on the State Street Mall/Capitol Concourse. See those Regulations and sec. 9.13(4) for additional placement requirements. (Am. by Ord. 12,557, Adopted 3-21-00; Ord. 12,793, 4-9-01; ORD-05-00135, 8-5-05)

- b. R. by ORD-06-0047, 4-22-06.
- c. Except in the case of sidewalk cafes having permanent facilities approved as a conditional use by the Plan Commission, all tables, chairs, and all other materials and equipment must be removed from the site from close of business until normal opening of business each day. Nothing herein shall in any way be deemed to limit the right of the Plan Commission to review any matters within the Plan Commission's jurisdiction. (Am. by ORD-09-00052, Pub. 4-2-09, Eff. 8-1-09)
- d. The procedures in Sec. 9.13(8)(a) for revocation, suspension or nonrenewal of a Vending License shall govern revocation, suspension or nonrenewal of a Sidewalk Cafe License issued under this section. Revocation or suspension of an alcohol beverage license for a sidewalk cafe shall follow the procedures in Section 38.10 of the Madison General Ordinances.

e. Alternative Sidewalk Café Placement.

- i. Sidewalk Cafes in 100 Block of Martin Luther King Jr. Boulevard. Sidewalk cafes located 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 not be wider than the side property lines of the corresponding restaurant's street frontage. (Cr. by Ord.12,793, 4-9-01)
- ii. Sidewalk Cafes on the Capitol Square. Due to the width and unique design and layout of sidewalks on the Capitol Square, restaurants 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 9.13(6)(j)2.a. 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 be no wider than the side property lines of corresponding restaurant's street frontage, shall extend no more than five (5) feet from the building face, shall be enclosed on all sides (except the building face may serve as one side of the enclosure), and shall otherwise comply with all applicable requirements of this ordinance and the Regulations Governing Vending on the State Street Mall/Capitol Concourse.

(Am. by ORD-05-00135, 8-5-05)

- iii. 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 be no wider than the side property lines of corresponding restaurant's street frontage, shall extend no more than five (5) feet from the building face, shall be enclosed on all sides, (except the building face may serve as one side of the enclosure), and shall otherwise comply with all applicable requirements of this ordinance

and the Regulations Governing Vending on the State Street Mall/Capitol Concourse.

(Cr. by ORD-07-00102, 8-23-07)

- iv. Alternate Placement: Case-by-Case Determination. The Vending Coordinator may, on a case-by-case basis and at his/her discretion, allow a sidewalk café on portions of the Mall/Concourse other than State Street to be placed up against the building using the criteria in sub. i. above, or to split a sidewalk café into two (2) sections for one establishment if, after inspection of the site, in the opinion of the Vending Coordinator, such a variance is necessary to permit a sidewalk café for an otherwise eligible establishment.

In order to be eligible, the paved portion of the adjacent sidewalk must be at least nine (9) feet wide, the entire sidewalk area proposed for café placement must be paved with concrete, asphalt, cement, brick, pavers or other impervious surface, and placement of the café must allow at least six (6) feet of unobstructed public pedestrian walkway on the adjacent public sidewalk. An establishment is not eligible for a sidewalk café if, in the opinion of the Vending Coordinator, 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 the café 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 adjacent public sidewalk.

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

An establishment is eligible for two separate sidewalk cafés if located on a street corner or if it has two street frontages and both adjacent sidewalk areas are otherwise eligible. The café on the State Street side shall conform to the rules above for placement on State Street. The café on the other side shall be placed against the curb under the general rule in sub. 2.a. above if space allows, or may be placed against the building under the rules of sub. i. if, in the opinion of the Vending Coordinator, 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 café licenses. The placement rules in this paragraph shall also apply to an establishment with multiple addresses, under Sec. 9.13(6)(j)4.a.iii.

(Cr. by ORD-07-00139, 10-18-07)

3. Sidewalk Cafes with Alcohol Beverage License.
 - a. Consumption of alcohol beverages in all sidewalk cafes shall be limited to persons seated at tables in the sidewalk cafe site. In the case of sidewalk cafes having an alcohol beverage license, food service shall be required to be available at all times the sidewalk cafe is open. (ORD-06-00047, 4-22-06)
 - b. Liability insurance covering the City of Madison and the sidewalk cafe owner for the licensed sidewalk cafe site will be required, including insurance to cover liquor liability, to the extent specified by the City of Madison Risk Management Department.
 - c. Each sidewalk cafe serving alcohol beverages shall be responsible for policing the area of the sidewalk cafe to be sure that customers are of the legal drinking age and that alcohol beverages are not removed from the premises.
 - d. There shall be no sale of alcohol for consumption at a sidewalk cafe after the time approved by the ALRC and specifically indicated on the owner's alcohol beverage license until normal opening of business each day. In addition, all containers of intoxicating beverages shall be removed from the tables of the sidewalk cafe and the sidewalk cafe area during those times.
 - i. For the State Street Special Assessment District, with the exception of the Capitol Concourse, but including Gorham Street from Wisconsin Avenue to University Avenue and University Avenue to Park Street, service of alcohol in sidewalk cafes shall stop no later than 11:30 p.m., with all alcohol off the table by 12:00 a.m. and the sidewalk café closing at 1:00 a.m. (Am. by Ord. 13,613, 5-21-04)
 - ii. In all other areas of the City of Madison, alcohol shall be off of the table by 1:00 a.m.
 - e. (R. by Ord. 13,616, 5-21-04)
 - f. All Sidewalk Cafe alcohol beverage licenses within the jurisdiction of the ALRC shall expire on June 30 each year and be subject to renewal pursuant to Chapter 38 of the Madison General Ordinances. (Cr. by Ord. 13,272, 3-11-03)

(Am. by ORD-07-00062, 5-18-07)

4. Assignment of Merchant Vendor and Sidewalk Cafe Sites Among Street-Level and Non- Street Level Businesses.
 - a. Merchant vendor and sidewalk cafe site eligibility shall be determined as follows:
 - i. Contiguous Street-Level Businesses. A contiguously-located street-level merchant or restaurant, as defined in sec. 9.13(6)(e)2.a., shall apply for the appropriate merchant vendor or sidewalk cafe license and site by March 15 prior to the vending season. The site shall be assigned to that vendor if all other applicable licensing criteria is met.

- ii. Corresponding Non-Street Level Businesses. If a merchant or sidewalk cafe' vending site is not assigned to the street-level business after March 15, any merchant or restaurant in the building including non-street level businesses defined in 9.13(6)(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 of Planning and Community and Economic Development or designee.
- iii. Multiple Addresses. If a restaurant has more than one street address abutting a public sidewalk that is otherwise available for a sidewalk cafe, the restaurant is eligible for a sidewalk café vending site at both addresses. Merchants with 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. (Am. by ORD-06-00147, 11-02-06

(Cr. by ORD-06-00013, 2-24-06)

(Am. by Ord. 12,608, 3-22-00)

(k) Vending and Exclusive Vending Rights During Special Events.

- 1. Authority. During a special event the Common Council may by resolution and after public hearing suspend specifically enumerated vending ordinances or regulations on any street, alley, sidewalk or public square and on designated portions of the Mall/Concourse which are established pursuant to this Ordinance. Alternative rules and procedures may be established by the Common Council for the special event. This subdivision does not apply to special events which occur solely at the podium area of the 700 block of State Street or in the 800 block of State Street.
- 2. 700 and 800 Blocks of State Street. During a special event which is to be conducted solely within the podium area of the 700 block of State Street or anywhere in the 800 block of State Street, the Superintendent of Parks, or designee, upon written request of the event sponsor may approve the suspension of specifically enumerated vending ordinances or regulations in order to allow properly licensed participants in the special event to vend non-personally prepared food and non-handcrafted promotional items which promote the event and/or its sponsor in order to ensure the integrity and success of the special event. Upon any such approval, the Superintendent of Parks or designee shall provide written notice to the Director of Planning and Community and Economic Development or designee, prior to the issuance of any street use permit. Any approved suspension of ordinances or regulations pursuant to this paragraph. Any such approval shall be made a special provision of the street use permit issued pursuant to Sec. 10.056(4)(c) of the Madison General Ordinances.

3. Invalidation of Vending Licenses - "Exclusive Vending Use". To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk or public square or on any part or all of the State Street Mall/Capitol Concourse, the Common Council may by resolution and after public hearing reserve up to ten (10) days during any vending year when street vending licenses will not be valid at a particular location and when some or all categories of Mall/Concourse vending or sidewalk cafe licenses will not be valid within the perimeter of a special event. Such action shall not be taken by the Common Council, however, unless the sponsor of the special event satisfactorily demonstrates that special conditions exist which warrant granting the exclusive vending rights. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Common Council shall take precedence over any conflicting vending ordinance or regulation to the contrary.
4. Notice Procedure for Invalidation of Vending Licenses. For each such specific day during which certain or all street vending licenses or Mall/Concourse vending licenses have been declared to be not valid, the Common Council may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, salespersons and vending sites for the duration of the special event within its perimeter. The event sponsor shall provide written notice of the public hearing, at least one (1) week before the hearing, to the following: the Superintendent of Parks, or designee; the Director of Planning and Community and Economic Development or designee; and any vendor or sidewalk cafe licensee(s) on file with the Department of Planning and Community and Economic Development within the perimeter of the proposed special event area. The written notice shall contain an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Common Council as to any specific day during which a street vending license or a Mall/Concourse vending license will not be valid shall be by resolution adopted at least four (4) weeks in advance of such specific day. Street vending licenses and non-Mall/Concourse sidewalk cafe licenses shall be subject to invalidation for up to ten (10) days each vending year at any one location as provided in this subdivision. Any Mall/Concourse vending or sidewalk cafe license issued pursuant to Section 9.13(6) of the Madison General Ordinances shall be subject to invalidation for up to ten (10) days each vending year as provided in this subdivision. A fee of twenty-five dollars (\$25) for each block for which Exclusive Vending Rights is requested shall be charged.
5. Relocation For Other Special Events. Except in cases where Mall/Concourse vending licenses have been declared to be not valid by the Common Council pursuant to Paragraph 3. above, the Director of Planning and Community and Economic Development, or designee; or the Superintendent of Parks with the prior approval of the Director of Planning and Community and Economic Development; may relocate Mall/Concourse vending sites situated within the perimeter of a special event as necessary elsewhere on the Mall/Concourse so as to avoid interference with activities and equipment which are part of the special event. Any such relocated vending sites shall be in addition to existing vending sites on the Mall/Concourse.
6. Prohibition Against Vending During Special Event. No person holding a Mall/Concourse Vending License, a Sidewalk Cafe License or a Merchant Vendor License may sell or offer for sale any goods or food during a special event when his/her license is not valid.

- (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 700 block of State Street shall be from 5:00 a.m. to 8:00 p.m., except that Mall/Concourse food vendors with a Late Night Vending License for their assigned site may continue vending from 8:00 p.m. through the Late Night Vending hours under Sec. 9.13(6)(n).
 - b. Permitted hours in the Late Night Vending areas shall be as established in Sec. 9.13(6)(n).
 - c. Permitted hours for vending may be modified pursuant to a resolution adopted by the Common Council under Sec. 9.13(6)(k).
 - d. All vending equipment (including sidewalk cafés licensed under this section) shall be completely removed during the hours in which vending is not permitted.

(Am. by ORD-05-00018, 2-15-05; ORD-09-00066, 4-2-09)
 2. Use of Electricity. Use of AC electricity may occur on the Mall/Concourse only upon compliance with this ordinance, the "Regulations Governing Vending on the State Street Mall/Capitol Concourse" and the rules and regulations of the Traffic Engineering Division. Except in emergency situations, the Traffic Engineer's rules or regulations effecting use of electricity applicable to vendors, including any changes in fee structure applicable to vendors, on the Mall/Concourse shall be referred to the Vending Oversight Committee (VOC) before taking effect and shall be approved by the Common Council after consideration of the recommendations of the VOC.

The following restrictions shall apply to electrical use by vendors on the Mall/concourse, in addition to the rules and regulations of the Traffic Engineering Division:

 - a. Vendors shall only be eligible to use the city's 110 volt outlets.
 - b. The use of generators to run equipment at vending sites located in the 700 and 800 blocks of the State Street Mall is strictly prohibited, except as a back-up energy source for a vendor at an assigned electrical site, on a short-term basis when necessary in case of an emergency or sudden loss of power. (Am. by ORD-08-00033, 3-21-08)
 - c. Vendors using AC electricity shall have a circuit breaker not exceeding 15 amps on line between the appliance and the power source (City electric receptacle). (Am. by Ord. 12,419, 7-23-99)
 - d. Any other regulations for electrical use promulgated in the "Regulations Governing Vending on the State Street Mall/Capitol Concourse.

(Am. by ORD-06-00147, 11-2-06)
 3. Emergency Vehicle Access. In the exercise of its authority under Section 9.13(6), Madison General Ordinances, the VOC, subject to the approval of the Common Council, shall locate the vending areas in the 700 and 800 blocks of the State Street Mall 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. In the event that the Superintendent of Parks or designee requires the relocation or elimination of a vending site, s/he or designee shall notify the Department of Planning and Community and Economic Development. Nothing in this ordinance shall be construed to limit the authority of the police to temporarily relocate or eliminate a vending site in the case of an emergency. (Am. by Ord. 13,272, 3-11-03)
- (m) Liability Insurance. To hold a valid license, the vendor must have in force adequate liability insurance and must agree to indemnify, defend, and hold the City, its employees and agents harmless against all claims, liability, loss, damage, or expense 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. As evidence of liability insurance, the applicant shall furnish a Certificate of Insurance, on a form acceptable to the City, evidencing the existence of commercial general liability insurance (including contractual liability insurance) naming the City of Madison, its employees and agents as additional insureds, with minimum limits of one million dollars (\$1,000,000.00) in the aggregate. The Certificate of Insurance shall provide thirty (30) days written notice to the City upon cancellation, or nonrenewal or material change in the policy.

To hold a valid sidewalk cafe license or merchant vendor license, the vendor must have in full force adequate liability insurance. Adequate liability insurance is insurance the terms and conditions of which shall at minimum comply with those terms and conditions specified in paragraph 1 of this subdivision (m) and may include any additional terms and conditions required by the City Real Estate office or agreement of the parties. (Am. by Ord. 13,272, 3-11-03; ORD-09-00052, Pub. 4-2-09, Eff. 8-1-09)

(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 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. Occupancy of these two late night vending areas shall be on a first-come, first-served basis, except that any licensed Mall-Concourse vendor with an assigned site in one of these areas shall have priority within their assigned site.

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.

All other applicants shall be ranked according to a seniority system, using the date the vendor was first issued a basic street vendor license under ss. 9.13(3)(a) 1. or 2., minus any demerit points (see Sec. 9.13(6)(n)3.) 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 issuance will determine seniority. If the time is not available, seniority will be determined alphabetically using the last name on the basic street vendor license.

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 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)

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.

(Sec. 9.13(6)(n) Am. by ORD-09-00037, 3-14-09)

(Sec. 9.13(6) Am. by Ord. 12,009, Adopted 1-6-98; Am. by Ord. 12,557, Adopted 3-21-00)

(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. “Langdon Street High Density Vending Area” includes the 700-800 blocks of Langdon Street between Park and Lake streets on both the north and south sides of the street. (Am. by Ord. 13,046, 4-9-02)
 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 blocks of Jefferson and Madison streets (between Regent Street and 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. (Am. by Ord. 12,793, 4-9-01; Ord. 13,046, 4-9-02)
- (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. (Am. by Ord. 12,793, 4-9-01; Ord. 13,046, 4-9-02; ORD-09-00066, 4-2-09)

(e) Application for High Density Vending Licenses and Fees. Application for a high density vending license shall be filed with the City Clerk and shall contain the name and photograph of the individual responsible for all activities at the vending site, any other information as the Clerk or Director of Planning and Community and Economic Development, or designee may require or as may be required in the Regulations Governing Vending in the High Density Vending Area. A separate high density vending license shall be required for each specific high density vending site. Only one 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. All license fees shall be paid to the City Treasurer. High density vending licenses shall be of three (3) classes, based upon duration:

1. Annual License. An annual license under this section shall be effective for the Langdon Street High Density Vending Area only, and shall be issued on the 15th day of April each year, or thereafter when applied for, and shall expire on the 14th day of April following its issuance. The fee shall be as follows:

High Density Vending Area	Goods/Services
Langdon Street	\$950

2. 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 fee for a football season license shall be four hundred seventy-five dollars (\$475). Such license shall set forth the exact days on which such business may be carried on.
3. Monthly License. A monthly license under this section shall be effective for the Langdon Street High Density Vending Area only, and shall be issued for 30 days as follows:

High Density Vending Area	Goods/Services
Langdon Street	\$500

4. A vendor to whom a high density vending license has been issued under this subsection shall inform the designee of the Director of the Department of Planning and Community and Economic Development 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.

(Sec. 9.13(7)(e) Am. by Ord. 12,022, 2-16-98; 12,358, 3-30-99; 12,557, Adopted 3-21-00; Am. by Ord. 12,793, 4-9-01; Ord. 13,046, 4-9-02; Ord. 13,506, 2-10-04)

(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. 9.13(6)(m) of the Madison General Ordinances.

(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. (Am. by Ord. 12,793, 4-9-01; Am. by Ord. 13,272, 3-11-03)

- (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 of the Madison General Ordinances.
 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 street and sidewalks during times when vending is prohibited.
 4. Relocation of Vendors. The Director of Planning and Community and Economic Development or designee 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 of the Madison General Ordinances. 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 Section 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 vending license issued pursuant to Section 9.13(l) of the Madison General Ordinances.

(Sec. 9.13(7) Am. by Ord. 12,009, Adopted 1-6-98)

(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 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 Sec. 9.13 or any rules adopted pursuant 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. (Am. by ORD-09-00066, 4-2-09)
1. The Director of Planning and Community and Economic Development, upon his/her own initiative, or with the recommendation of the Superintendent of Parks, Director of Public Health, 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 or designee 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, or designee, shall present evidence of the alleged violation(s). The parties shall have the opportunity to question witnesses, may call witnesses in their own behalf or 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, or designee, 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 designee, 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 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 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 designee, or the Vending Oversight Committee (VOC) shall be signed by the Director of Planning and Community and Economic Development or designee or the chair of the Committee respectively. The Director of Planning and Community and Economic Development, or designee will immediately send a copy of the complaint to the alleged violator.
 2. Thereafter, the Director of Planning and Community and Economic Development, or designee, 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 (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.

(Am. by Ord. 12,419, 7-23-99)

- (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 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 her/his 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 Sec. 9.13 has been suspended or revoked under sub. (8) shall participate in street vending as described in 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. (Cr. by ORD-08-00130, 11-22-08)

(Sec. 9.13(8) Cr. by Ord. 12,009, Adopted 1-6-98)

- (9) **Enforcement; Penalties.** The Director of Planning and Community and Economic Development, or designee, is authorized to enforce the provisions of Sec. 9.13 and any regulations adopted pursuant to the procedures set forth in Sec. 9.13. Any person or licensee violating any provision of Section 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.

Nothing in this subsection shall bar or in any way affect proceedings under Section 9.13(8) entitled "Procedure for Revocation, Suspension or Nonrenewal of Vending License." Neither shall proceedings under Section 9.13(8) bar the City from prosecuting for violations of Sec. 9.13 or any other law or ordinance.

(Sec. 9.13(9) Cr. by Ord. 12,009, Adopted 1-6-98; Am. by Ord. 12,557, Adopted 3-21-00; Am. by ORD-08-00130, 11-22-08)

9.14 SOLICITOR'S AND CANVASSER'S PERMITS.

- (1) **Permit Required.** No person shall travel from house to house for the purpose of soliciting contributions for any cause from the occupants thereof, or to canvass for orders for goods, wares, merchandise, or services of any character or description, or for the purposes of offering to give or to furnish any goods, wares, merchandise, or services to any such occupant or to induce or invite such orders, without having first applied for and received from the City Clerk a Solicitor's Permit so to do.
- (2) **Exemptions.** The provisions of this section shall not apply to the following: representatives of Junior Achievement of Madison and the Madison Chapter of the Distributive Education Club; real estate brokers and insurance agents licensed by the state of Wisconsin; candidates for political office; merchants delivering goods in the regular course of business; governmental agents in the performance of their official duties; nor to peddlers licensed under Section 9.15 of the Madison General Ordinances.
- (3) **Application.** Any person desiring to secure such a Solicitor's Permit shall apply therefor in writing over his signature to the City Clerk on forms provided by the City, and such application shall state the following:
- (a) Name, description and signature of applicant.
 - (b) A copy of applicant's fingerprints taken by an authorized law enforcement agency, either Municipal, County, State or Federal.
 - (c) A photograph approximately two inches by two inches (2" x 2") showing the head and shoulders of said person, which has been taken not more than one (1) year prior to such application.
 - (d) Permanent home address and full local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
 - (e) A brief description of the nature of the business and the goods to be sold.
 - (f) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 - (g) The length of time for which the right to do business is desired.
 - (h) The source of supply of the goods or property proposed to be sold or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery.
 - (i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
 - (j) The three cities or villages where applicant carried on business immediately preceding date of application and the addresses from which such business was conducted in those municipalities.
 - (k) At the time of filing the application, a nonrefundable fee of fifty-five dollars (\$55.00) shall be paid to the City Clerk to cover the cost of investigation of the facts stated therein. The fee for an annual renewal application shall be fifty-five dollars (\$55.00). (Am. by Ord. 9367, 12-21-87; Ord. 13,601, 5-11-04; ORD-06-00154, 11-23-06)