

**LEGISTAR #51574 – Substitute Body**

DRAFTER'S ANALYSIS: This substitute ordinance was necessary to substitute a new definition for free-standing vending, add technical requirements, and to change the use status in various zoning districts.

Under this substitute ordinance, free-standing vending continues to be prohibited in all districts if located on a zoning lot containing residential uses. In non-residential districts, free-standing vending is a permitted use if it located more than 200 feet from the property line of a lot with a residential use and is a conditional use if located 200 feet or less from the property line of a lot with a residential use.

The supplemental regulations also 1) set hours of operations, 2) set licensing and operations requirements, 3) require a City-approved site plan, 4) provide a 25-foot distance separation requirement between any free-standing vending operation and a brick and mortar restaurant or restaurant-tavern (unless specifically allowed by that business owner), and provide other regulations to be enforced by the Zoning Administrator.

Finally, in adopting many of the same operational requirements contained in the street vending ordinance (Sec. 9.13, MGO) this ordinance ensures that the City is not creating a new class of vending carts in terms of cart size, noise requirements, and other aspects of on-street food vending cart.

This ordinance will have the effect of allowing food carts on private property in many areas where they are currently prohibited and thus responds to a long-history of requests from employers and other business owners who wish to have more convenient access to food for their employees or customers.

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

1. Section 28.211 entitled “Definitions” of the Madison General Ordinances is amended by creating therein the following:

“Free-Standing Vending. The activity of selling or offering for sale of any foodstuffs by placing a cart or equipment on private property; preparing food, beverage or articles for sale; or in any other manner participating in the vending operation or attempting to publicly sell or offer for sale any foodstuffs from private property.”

2. Table 28C-1 of Subsection (1) of Section 28.032 entitled “Residential District Uses” of the Madison General Ordinances is amended by amending therein the following:

Residential Districts																
	SR-C1	SR-C2	SR-C3	SR-V1	SR-V2	TR-C1	TR-C2	TR-C3	TR-C4	TR-V1	TR-V2	TR-U1	TR-U2	TR-R	TR-P	Supplemental Regulations
<b>Retail, Service, Recreation and Other Uses</b>																
Free-standing vending	IC	IC	IC	IC	IC	IC	IC	IC	IC	IC	IC	IC	IC	IC	IC	IC

3. Table 28D-2 of Section 28.061 entitled “Mixed-Use and Commercial Districts Uses” of the Madison General Ordinances is amended by amending and creating therein the following:

<b>“Mixed-Use and Commercial Districts</b>							
	<b>LMX</b>	<b>NMX</b>	<b>TSS</b>	<b>MXC</b>	<b>CC-T</b>	<b>CC</b>	<b>Supplemental Regulations</b>
<b>Retail Sales and Services</b>							
<u>Free-standing vending</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>Y</u> ”

4. Table 28E-2 of Subsection (1) of Section 28.072 entitled “Downtown District Uses” of the Madison General Ordinances is amended by amending therein the following:

<b>“Downtown and Urban Districts</b>						
	<b>DC</b>	<b>UOR</b>	<b>UMX</b>	<b>DR1</b>	<b>DR2</b>	<b>Supplemental Regulations</b>
<b>Retail Sales and Services</b>						
<u>Free-standing vending carts</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>C</u>	<u>C</u>	<u>Y</u> ”

5. Table 28F-1 of Subsection (1) of Section 28.082 entitled “Employment District Uses” of the Madison General Ordinances is amended by amending therein the following:

<b>“Employment Districts</b>							
	<b>TE</b>	<b>SE</b>	<b>SEC</b>	<b>EC</b>	<b>IL</b>	<b>IG</b>	<b>Supplemental Regulations</b>
<b>Retail Sales and Services</b>							
<u>Free-standing vending</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>Y</u> ”

6. The Table 28G-1 of Subsection (1) of Section 28.091 entitled “Special District Uses” of the Madison General Ordinances is amended by amending therein the following:

<b>“Special Districts</b>						
	<b>A</b>	<b>UA</b>	<b>CN</b>	<b>PR</b>	<b>AP</b>	<b>Supplemental Regulations</b>
<b>Retail Sales and Services</b>						
<u>Free-standing vending</u>	<u>P/C</u>	<u>P/C</u>		<u>P/C</u>		<u>Y</u> ”

7. Section 28.151 entitled "Applicability" of the Madison General Ordinances is amended by creating therein the following:

"Free-Standing Vending.

- (a) In all districts, free-standing vending is prohibited if located on zoning lots that contain residential uses.
- (b) In residential districts, including the DR1 and DR2 districts, free-standing vending requires conditional use approval.
- (c) In non-residential districts, free-standing vending is a permitted use if located more than 200 feet from the property line of a lot with a residential use and is a conditional use if located 200 feet or less from the property line of a lot with a residential use.
- (d) Hours of operations shall be between the hours of 7:30 a.m. and 11:30 p.m., including set up and take down. No part of the operator's free-standing vending equipment or operation may remain on the property outside the hours of operation.
- (e) No free-standing vending operation may be located within twenty-five (25) feet of a restaurant or restaurant-tavern, unless the food and beverage business is located on the same property as the proposed vending and the business has approved the vending.
- (f) Operators of free-standing vending operations shall provide the Zoning Administrator with a letter of permission from the owner of the property giving permission to conduct free-standing vending operations on the property.
- (g) Operators of free-standing vending operations must obtain an approved site plan from the City showing the location of the vending operation on the property in relation to existing parking lots, streets, driveways, and public rights of way.
- (h) Operators of free-standing vending operations shall obtain and maintain all applicable food and/or beverage licenses for their operation as determined to be required by Public Health-Madison and Dane County.
- (i) Any person vending pursuant to this ordinance either as an operator or employee of the operator shall maintain license(s) as required by Sec. 9.13(1) and (3)(j), MGO. When vending on private property pursuant to this ordinance, operators of free-standing vending operations shall follow the requirements in Sec. 9.13(4)(a), (b), (j), (p), (s), and (v)."