

AN ORDINANCE _____

amending Section 9.13(6)(e)2., deleting Section 9.13(6)(h)4., renumbering Section 9.13(6)(h)5., amending Sections 9.13(6)(j)1.b. and c., and creating Section 9.13(6)(j)4. of the Madison General Ordinances to create procedures for non-street level restaurants to have a sidewalk cafe on the State Street Mall/Capitol Concourse, creating a priority system for assigning merchant vending and sidewalk cafe sites between businesses on different levels of the same building, and amending related licensing requirements.

Drafted by: Lara M. Mainella
Assistant City Attorney

Date: February 15, 2005

Fiscal Note: Minimal Increase in General Revenue Fund.

SPONSORS: Aids. Verveer and Thomas

PRESENTED February 22, 2005
REFERRED VOC; 3/1/05 Common Council Meeting

REREFERRED _____

REPORTED BACK _____

ADOPTED _____ POF _____

RULES SUSP. _____ TABLED _____

PUBLIC HEARING _____

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MAYOR SIGNED _____

PUBLISHED _____

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APPROVAL OF FISCAL NOTE IS NEEDED
BY THE COMPTROLLER'S OFFICE
Approved By

Comptroller's Office

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ORDINANCE NUMBER _____

ID NUMBER _____

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

1. Paragraph 2. entitled "Contiguously Located Street Level, or Corresponding non Street-level Merchant" of Subdivision (e) entitled "Definitions" of Subsection (6) entitled "Regulations and Procedures for Vending on the State Street Mall/Capitol Concourse" of Section 9.13 entitled "License For Selling On Public Streets" of the Madison General Ordinances is amended to read as follows:

- "2. a. Contiguously Located Street Level, or Corresponding non 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 Contiguously located street level, or merchant or restaurant is considered to be a corresponding non street-level, merchant means a business whose place of business is located on the ground floor abutting the sidewalk or if it is located in the same building as a contiguously located street level merchant business, but not on the ground floor, provided the business has available to it sidewalk space immediately adjacent to the street level merchant's business which space is not otherwise prohibited for vending by the Madison General Ordinances."

Approved as to form:

2. Paragraph 4. of Subdivision (h) entitled "Mall/Concourse Vending Licenses and Fees" of Subsection (6) entitled "Regulations and Procedures for Vending on the State Street Mall/Capitol Concourse" of Section 9.13 entitled "License For Selling On Public Streets" of the Madison General Ordinances is hereby repealed.

3. Paragraph 5. of Subdivision (h) entitled "Mall/Concourse Vending Licenses and Fees" of Subsection (6) entitled "Regulations and Procedures for Vending on the State Street Mall/Capitol Concourse" of Section 9.13 entitled "License For Selling On Public Streets" of the Madison General Ordinances is renumbered to Paragraph 4.

4. Subparagraph b. of Paragraph 1. entitled "Miscellaneous Restrictions on Merchant Vendors" of Subdivision (j) entitled "Miscellaneous Restrictions on Merchant Vendors and Sidewalk Cafes" of Subsection (6) entitled "Regulations and Procedures for Vending on the State Street Mall/Capitol Concourse" of Section 9.13 entitled "License For Selling On Public Streets" of the Madison General Ordinances is amended to read as follows:

"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 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). This requirement applies to vending on State Street and the sidewalks on the outside of the streets comprising the Capitol Square."

5. Subparagraph c. of Paragraph 1. entitled "Miscellaneous Restrictions on Merchant Vendors" of Subdivision (j) entitled "Miscellaneous Restrictions on Merchant Vendors and Sidewalk Cafes" of Subsection (6) entitled "Regulations and Procedures for Vending on the State Street Mall/Capitol Concourse" of Section 9.13 entitled "License For Selling On Public Streets" of the Madison General Ordinances is amended to read as follows:

"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)."

6. Paragraph 4. entitled "Assignment of Merchant Vendor and Sidewalk Cafe Sites Among Street Level and Non-Street Level Businesses" of Subdivision (j) entitled "Miscellaneous Restrictions on Merchant Vendors and Sidewalk Cafes" of Subsection (6) entitled "Regulations and Procedures for Vending on the State Street Mall/Capitol Concourse" of Section 9.13 entitled "License For Selling On Public Streets" of the Madison General Ordinances is created to read as follows:

"4. Assignment of Merchant Vendor and Sidewalk Cafe Sites Among Street-Level and Non-Street Level Businesses.

a. Merchant vendors and sidewalk cafes shall be treated the same for purposes of site eligibility. These vending sites shall be allocated 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 Development or designee.
 - iii. Multiple Addresses. If a business has more than one street address abutting a public sidewalk that is otherwise available for merchant vending or a sidewalk cafe, the business is eligible for a vending site at both addresses. 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."

EDITOR'S NOTE: Section 9.13(6)(h)4. currently reads as follows:

- "4. Merchant vendor vending sites shall be allocated among eligible street-level and non street-level merchants in accordance with the following timetable and schedule of priority:
 - a. The deadline for application for a street-level merchant wishing to vend in a site contiguous to her/his place of business and otherwise eligible for a merchant vendor license under Sec. 9.13(6)(e)5. shall be April 1 of each vending year.
 - b. After April 1 merchant vendor licenses for unused space shall be issued on a first come first served basis pursuant to Sec 9.13(6)(i) to any merchant eligible to vend at that location and who otherwise complies with the applicable license requirements. All merchants in a building are eligible to apply for any unused site contiguous to their building provided they do not already have a merchant vendor license for another site. In the event that more than one application is received for the same site on the same day the site shall be allocated by lottery by the City Clerk."