

Legistar File No. 69382 - Body – Version 2 (AMENDED)

DRAFTER'S ANALYSIS: File Nos. 69379 and 69380, establish the Roadway Cafe permit program; an alternative to a privilege in street that would otherwise be required under Section 10.31 of the Madison General Ordinances (MGO) and Wis. Stat. § 66.0425, and would allow for a licensed sidewalk cafe to expand into portions of certain roadways. While the companion ordinances will allow for expanded outdoor dining options in the right-of-way, this ordinance will allow for expanded outdoor dining areas on private zoning lots.

This ordinance creates a use category – “outdoor eating area, temporary, associated with food and beverage establishment” and establishes it in mixed-use and commercial districts, downtown and urban districts, and employment districts. The new use category is established as a permitted use if the establishment follows conditions in the newly-created companion supplemental regulations. Amplified noise and extended hours can be established through the conditional use process. Tables 28D-2, 28E-2, 28F-1 and 28G-1 are amended to include this new use category in the afore-mentioned districts.

MGO Sec. 28.211 is amended to create definitions for both the new “outdoor eating area, temporary, associated with a food and beverage establishment” and the previously existing use category “outdoor eating area associated with a food and beverage establishment.” Finally, supplemental regulations are created for “outdoor eating area, temporary, associated with a food and beverage establishment.” The supplemental regulations are based on the best-practices established during the successful Streatery program. The regulations include limits on hours and amplified noise (highlighted above), as well as specifications on enclosures, lighting and other safety measures.

The Amendment from the floor at the March 29, 2002 Common Council Meeting added language regarding fencing requirements to the last sentence of (c) in 28.151 – Applicability, Outdoor Eating Areas, Temporary, Associated with Food and Beverage Establishments. The change allowed the Zoning Administrator or designee to use their discretion to allow fencing higher than forty-two (42) inches which was a recommendation made by Plan Commission.

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

1. Table 28D-2 entitled “Mixed-Use and Commercial Districts” of Section 28.061 entitled “Mixed-Use and Commercial Districts Uses” is amended as follows:

“28.061 - MIXED-USE AND COMMERCIAL DISTRICTS USES.

- (1) Table 28D-2 lists all permitted and conditional uses in the mixed-use and commercial districts.
 - (a) "P" means permitted in the districts where designated.
 - (b) "C" means allowed as conditional uses in the districts where designated, in compliance with all applicable standards.
 - (c) Uses indicated as "P/C" means permitted or conditional, depending on specific requirements in Supplemental Regulations, Subchapter 28J.
 - (d) "Y" means that there are specific requirements in Subchapter 28J associated with a use.

- (e) "LMX" means Limited Mixed-Use District.
- (f) "NMX" means Neighborhood Mixed-Use District.
- (g) "TSS" means Traditional Shopping Street District.
- (h) "MXC" means Mixed-Use Center District.
- (i) "CC-T" means Commercial Corridor - Transitional District.
- (j) "CC" means Commercial Center District.
- (k) "RMX" means Regional Mixed Use District.
- (l) "THV" means Tiny House Village District.

Table 28D-2.

Mixed-Use and Commercial Districts									
	LMX	NMX	TSS	MXC	CC-T	CC	RMX	THV	Supplemental Regulations
Accessory Uses and Structures									
Outdoor eating area associated with food & beverage establishment	<u>C</u> P/C	<u>C</u> P/C	<u>C</u> P/C	P	<u>C</u> P/C	P	P		Y
<u>Outdoor eating area, temporary, associated with food and beverage establishment</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P</u>	<u>P/C</u>	<u>P</u>	<u>P</u>		<u>Y</u>

2. Table 28E-2 entitled "Downtown and Urban Districts" of Section 28.072 entitled "Downtown District Uses" is amended as follows:

"28.072 - DOWNTOWN DISTRICT USES.

- (1) Table 28E-2 lists all permitted and conditional uses in the downtown and urban districts.
 - (a) "P" means permitted in the districts where designated.
 - (b) "C" means allows as conditional uses in the districts where designated, in compliance with all applicable standards.
 - (c) "P/C" means permitted or conditional, depending on specific requirements in Supplemental Regulations, Subchapter 28J.

- (d) "Y" means there are specific requirements in Subchapter 28J associated with the use.
- (e) "DC" means Downtown Core District.
- (f) "UOR" means Urban Office Residential District.
- (g) "UMX" means Urban Mixed-Use Districts.
- (h) "DR1" means Downtown Residential 1 District.
- (i) "DR2" means Downtown Residential 2 District.

Table 28E-2.

Downtown and Urban Districts						
	DC	UOR	UMX	DR1	DR2	Supplemental Regulations
Accessory Uses and Structures						
Outdoor eating area associated with food & <u>and beverage establishment</u>	<u>⊖</u> <u>P/C</u>		<u>⊖</u> <u>P/C</u>		<u>⊖</u> <u>P/C</u>	Y
<u>Outdoor eating area, temporary, associated with food and beverage establishment</u>	<u>P/C</u>		<u>P/C</u>		<u>P/C</u>	<u>Y</u>

3. Table 28F-1 entitled "Employment Districts" of Section 28.082 entitled "Employment District Uses" is amended as follows:

"28.082 - EMPLOYMENT DISTRICT USES.

- (1) Table 28F-1 lists all permitted and conditional uses in the employment districts.
 - (a) "P" means permitted in the districts where designated.
 - (b) "C" means allowed as conditional uses in the districts where designated, in compliance with all applicable standards.
 - (c) "P/C" means permitted or conditional, depending on specific requirements in Supplemental Regulations, Subchapter 28J, as specified.
 - (d) "Y" means that there are specific requirements in Subchapter 28J associated with a use.
 - (e) "TE" means Traditional Employment District.
 - (f) "SE" means Suburban Employment District.

- (g) "SEC" means Suburban Employment Center District.
- (h) "EC" means Employment Campus District.
- (i) "IL" means Industrial - Limited District.
- (j) "IG" Industrial - General District.

Table 28F-1.

Employment Districts							
	TE	SE	SEC	EC	IL	IG	Supplemental Regulations
Accessory Uses and Structures							
Outdoor eating area associated with food & and beverage establishment	<u>C</u> P/C	<u>C</u> P/C	<u>C</u> P/C	<u>C</u> P/C	<u>C</u> P/C	<u>C</u> P/C	Y
<u>Outdoor eating area, temporary, associated with food and beverage establishment</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 28G-1 entitled "Special Districts" of Section 28.091 entitled "Special District Uses" is amended as follows:

"28.091 - SPECIAL DISTRICT USES.

- (1) Table 28G-1 lists all permitted and conditional uses in the Special Districts, except that uses allowed within the Campus Institutional District are listed separately in Sec. 28.096.
 - (a) "P" means permitted in the districts where designated.
 - (b) "C" means allowed as conditional uses in the districts where designated, in compliance with all applicable standards.
 - (c) "P/C" means permitted or conditional, depending on specific requirements in Supplemental Regulations, Subchapter 28J.
 - (d) "Y" means that there are specific requirements in Subchapter 28J associated with a use.
 - (e) "A" means Agricultural District.
 - (f) "UA" means Urban Agriculture District.
 - (g) "CN" means Conservancy District.
 - (h) "PR" means Parks and Recreation District.

- (i) "AP" means Airport District.
- (j) "MC" means Mission Camp District.

Table 28G-1.

Special Districts							
	A	UA	CN	PR	AP	MC	Supplemental Regulations
Accessory Uses and Structures							
Outdoor eating area associated with food & <u>and</u> beverage establishment				<u>€</u> <u>P/C</u>			Y
<u>Outdoor eating area, temporary, associated with food and beverage establishment</u>				<u>P/C</u>			<u>Y</u>

5. Section 28.151 entitled "Applicability" is amended as follows:

"Outdoor Eating Areas Associated With Food and Beverage Establishments.

- (a) Primary access to the area shall be from within the establishment.
- (b) Hours of operation ~~may be restricted and noise and lighting limits imposed shall end at 9:00 p.m. in all districts except for MXC, CC and RMX, unless extended as part of the conditional use approval.~~
- (c) ~~No amplified sound is permitted in all districts except MXC, CC and RMX, unless allowed as part of the conditional use approval.~~
- (ed) Where the use is conditional, an appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood.

Outdoor Eating Areas, Temporary, Associated with Food and Beverage Establishments.

- (a) Hours of operation shall end at 9:00 p.m. in all districts, except for MXC, CC and RMX, unless extended as part of the conditional use approval.
- (b) No amplified sound is permitted in all districts, except MXC, CC and RMX, unless allowed as part of the conditional use approval.
- (c) Enclosures shall be required, and shall be between thirty-six (36) and forty-two (42) inches in height, may be flush to the ground, and the bottom of the structure shall be no more than six (6) inches from the ground. All sides of the enclosure shall be constructed of a stable, rigid, wind-resistant, self-supporting framework, capable of maintaining all furniture and other objects within the confines of the cafe and free from any supporting structures which may cause a tripping hazard either within or outside of the cafe.

Fencing may exceed forty-two (42) inches in height if approved by the Zoning Administrator or designee.

- (d) Enclosures shall make sure that vertical railings or elements do not interfere with intersection sight distance, per Sec. 27.05(2)(bb).
- (e) Tables, chairs, barricades, and fencing shall be safely secured on site when not in use.
- (f) If alcohol is served, signs shall be displayed for patrons stating that alcohol must stay within the seating area.
- (g) Additional exterior lighting required for any seating areas operating after dusk shall comply with all applicable local and state code requirements.
- (h) Shall be approved by the Zoning Administrator or designee, the Traffic Engineer or designee and the City of Madison Fire Department.
- (i) Permissible from April 15 to November 15.”

6. Section 28.211 entitled “Definitions” is amended as follows:

“Outdoor Eating Area Associated with Food and Beverage Establishment: An extension of a premise outside an enclosed building which is open to the public, where food and beverages are served and consumed.

Outdoor Eating Area, Temporary, Associated with Food and Beverage Establishment: An extension of a premise, in parking lots or other on-site areas, temporarily repurposed for the public service and consumption of food and beverages.”