

AGENDA # _____

CITY OF MADISON, WISCONSIN

A SUBSTITUTE ORDINANCE _____

amending Section 9.13 to prohibit street vending in residential areas between 9:00 p.m. and 6:00 a.m., creating four areas for any food vendor to conduct "late night vending" within the boundaries of the State Street Mall/ Capitol Concourse Vending Area, and creating minimum requirements for food carts City-wide.

PRESENTED December 14, 2004

REFERRED Request Adoption Under
Suspension of the Rules, January 18 Common
Council

REREFERRED _____

REPORTED BACK _____

ADOPTED _____ POF _____

RULES SUSPENDED X

PUBLIC HEARING _____

Drafted by: Lara M. Mainella
Assistant City Attorney

Date: January 11, 2005

Fiscal Note: Minimal impact on General
Fund Revenues.

SPONSORS: Aids. Verveer and Thomas

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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 _____

ANALYSIS: This substitute ordinance amendment accomplishes two things: first, it prohibits street vending in residentially zoned areas, city-wide, after 9:00 p.m. and before 6:00 a.m. Under the current ordinance there is no time limit on street vending (except on the State Street Mall/Concourse.) Item 1. below would establish the new time restriction for residential areas only and would apply to all street vending (food, goods, etc.)

Secondly, this amendment creates four new "late night" food vending areas and accompanying regulations. The four areas are located within the "Mall/Concourse Vending Area" and would be available starting at 9:00 p. m. to 6:00 a.m. (Currently, all other vending on the Mall/Concourse must stop at 1:00 a.m. The late-night vendors could stay open until 6:00 a.m.) Only food vending would be allowed. Persons wishing to vend in the "late night" areas would need a valid street vendor license and appropriate health department food/drink licenses. They would not need a Mall/Concourse Food Vendor License, would not go through the Fall Food Cart Review, but would be required to follow certain safety standards that are currently applicable only to Mall-Concourse Food Vendors. Under current law, there are numerous safety and aesthetic regulations for Mall-Concourse Food Vendors but those regulations do not apply to persons vending food outside the perimeter. The amendment would make the health and safety regulations, but not the aesthetic regulations, applicable to all food vendors city-wide. Item 2. below creates the four new late-night vending areas. Item 3. creates the safety standards. Item 4. exempts the late-night food vendors from needing a Mall-Concourse vending license, and Item 5. exempts late-night food vendors from the Mall-Concourse closing time of 1:00 a.m.

Approved as to form:

/s/
Michael P. May, City Attorney

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

1. Subdivision (r) entitled "Vending Hours Restricted in Residential Areas" of Subsection (4) entitled "General Restrictions on Vending" of Section 9.13 entitled "License for Selling on Public Streets" the Madison General Ordinances is **created** to read as follows:

"(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."

2. Subdivision (n) entitled "Late Night Vending Areas in the Mall/Concourse" 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" the Madison General Ordinances is **created** to read as follows:

"(n) Late-night vending areas in the Mall/Concourse. The following areas are established for the purpose of street vending of food and drink only between the hours of 9:00 p.m. and 6:00 a.m. These areas shall be open to any vendor holding a valid street vendor license under Sec. 9.13(3), who offers for sale food and drink only, and is otherwise properly licensed to sell food and drink. Vendors operating under this subdivision do not need a Mall/Concourse Vending License, need not participate in food cart reviews, and shall not be subject to any other portions of this ordinance or Regulations Governing Vending on the State Street Mall/Capitol Concourse adopted under Sec. 9.13(6)(c), except those listed in Sec. 9.13(4)(s) (safety requirements for non-Mall/Concourse food vending), 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), and (6)(m) (insurance). Vendors operating under this paragraph are not considered Mall-Concourse Food Vendors.

Occupancy of these vending areas shall be on a first-come, first-served basis, except that any licensed Mall-Concourse vendor with an assigned vending site located within one of the late-night areas shall have priority within their assigned site. There shall be no other established vending sites within these areas, but vendors and equipment are subject to the location requirements of Sec. 9.13(4) and any other applicable law. Vendors who vend from a vehicle on the street are also subject to all applicable traffic laws. The late night vending areas shall be as follows:

1. The 700 block of State Street.
2. The 400 block of North Frances Street
3. The 400 block of North Broom Street
4. The 100 and 300 blocks of West Johnson Street."

3. Subdivision (s) entitled "Safety Requirements for Non-Mall/Concourse Food Vending" of Subsection (4) entitled "General Restrictions on Vending" of Section 9.13 entitled "License for Selling on Public Streets" of the Madison General Ordinances is **created** to read as follows:

"(s) Safety Requirements for Non-Mall/Concourse Food Vending. Street vendors licensed under Sec. 9.13(3) may sell food anywhere that vending is permitted with that license. Food carts are subject to inspection and regulation according to state and local health code requirements for food and drink service. Additionally, the following requirements found in the Regulations Governing Vending on the State Street Mall/Capitol Concourse shall apply to all food vendors 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 C., "Electricity," and Paragraph E., "Fire Extinguishers."

4. Section IX, "Miscellaneous Regulations, Paragraph C. only - Restrictions on Food Preparation.

4. Subdivision (g) entitled "Mall/Concourse Vending License Required" 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" the Madison General Ordinances is **amended** to read as follows:

"(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 regular street vending license required by Sec. 9.13(1) 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)."

5. Paragraph 1. entitled "Hours" of Subdivision (l) entitled "Miscellaneous Vending Restrictions" 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" the Madison General Ordinances is **amended** to read as follows:

"1. Hours. There shall be no vending and no sidewalk cafe shall be open for business on the State Street Mall/Capitol Concourse between the hours of 1:00 a.m. and 5:00 a.m., and all vending equipment (i.e. carts, tables, etc.) shall be removed by the vendor from the State Street Mall/Capitol Concourse during these hours, except by express agreement to the contrary contained in a resolution adopted under Section 9.13(6)(k) of the Madison General Ordinances, or except in the specific areas established for late-night vending under Sec. 9.13(6)(n) herein.