

DRAFT FOR DISCUSSION - FEBRUARY 2015 VOC MEETING – ID# 35338

A RESOLUTION amending the “Regulations Governing Vending on the State Street Mall/Capitol Concourse” to allow Arts and Crafts vendors to temporarily move into unoccupied food vendor sites on Saturdays, eliminating the option of allowing a food vendor to move into another food vendor’s unoccupied site for the day, and clarifying procedure for new food vendors to begin vending mid-season after the Fall Food Cart Review.

Drafted by: Lara M. Mainella

Date:

SPONSOR(S):

REFERRALS: VOC

WHEREAS, Under sec. 9.13(6) of the Madison General Ordinances, the Vending Oversight Committee (VOC) is empowered to promulgate regulations not inconsistent with Sec. 9.13, governing the sale of goods and personally prepared food on the State Street Mall and Capitol Concourse; and

WHEREAS, pursuant to Sec. 9.13 the Common Council must approve the regulations promulgated by the VOC; and

WHEREAS, the regulations are published in documents entitled “Regulations Governing Vending on the State Street Mall/Capitol Concourse;” and

WHEREAS, at its meeting(s) on _____ the VOC promulgated amendments to these Regulations as set forth below, using underlines to show new text and strike-outs to show deleted text;

NOW, THEREFORE, BE IT RESOLVED, that the Common Council approve the following amendments to the “Regulations Governing Vending on the State Street Mall/Capitol Concourse” recommended by the Vending Oversight Committee:

1. Create sec. II.F.1.b.iv. as follows to allow arts/crafts vendors to use an unoccupied food vending site on Saturdays only:

“iv. Arts/Crafts vendor using unoccupied Food Vending site (Saturday only.)
If an assigned Saturday-only food vending site remains unoccupied, as defined in sec. III.E., by the assigned vendor as of 7:30 a.m., an Arts and Crafts Vendor may use that site for the day.”

2. Amend the definition of “Unoccupied Site” in III.E. as follows:

“‘Unoccupied Site:’ A food vending site that has been assigned and accepted by a properly licensed food vendor for the vending season in question but not occupied by the vendor on a specific day. An Unoccupied food vending site may be filled by another licensed food vendor used temporarily for the day only by an

Arts and Crafts vendor under the procedures in Section V.F.II.F.1.b.iv.”

3. Amend V.E. to allow new food vendors to begin vending mid-season if a site is vacant or newly created and no existing vendor or vendor on the wait list wants the site:

E. Filling Vacant or New Sites During the Vending Season. When an assigned site is forfeited, relinquished, created, or otherwise becomes permanently vacant during the vending season, (April 15-April 14) the departmental designee shall inform all currently licensed Food Vendors of the vacancy. The responding food vendor with the highest score in the previous food cart review shall be assigned the site for the remainder of the vending season. Any subsequently vacated site shall be assigned using the same process until all food vending sites are filled. If vacant site(s) remain after this process, the departmental designee may offer the site to applicants on the waiting list according to their rank order or, November 1 or later, to a newly-licensed new food vendor who has completed the Fall Food Cart Review and qualified for a license, as described ~~under the “winter site assignment”~~ procedures in Paragraph E.2., below.

1. ~~April 15 to October 14 (Summer):~~ Sites that are Vacant (as defined in Sec. III.E.) ~~or become vacant during this period (i.e. the summer vending season) shall be offered for assignment as described in paragraph E. above.~~
2. ~~Winter (October 15-April 14):~~

Procedure to fill vacant or new food vending sites during vending season: If a food vending site is or becomes vacant (as defined in Sec. III.E.) ~~or becomes vacant any time during the vending season, from October 15 through April 14 (i.e. the winter half of the season)~~ the site shall be offered to currently-licensed food vendors or waiting list applicants under the procedures in Paragraph E. above. Beginning November 1 or later, if no such vendors are interested in the vacant site, the site may be offered to a first-time Mall/Concourse Food Vendor applicant who successfully completed the Fall Food Cart review and received a site assignment for the next vending season. The new vendor may be assigned to the vacant site and begin daily vending from that site on November 1 or later. ~~anytime after the first VOC meeting following the Fall Food Cart Review.~~ New vendors wishing to use this option must purchase all necessary vending licenses for the current season, but the Mall/Concourse Food Vending license fee shall be prorated as set forth in Sec. 9.13(6)(e) XXX, MGO., ~~which shall not be pro-rated.~~

~~If a first-time food vendor is assigned to a winter site under this procedure, the assignment does not count toward seniority and has no impact on the site assignments for the next vending season.~~

See Section III.D. for filling sites that remain unassigned after the Fall Food Review, for the upcoming vending season.

4. Amend sec. V.F. to allow Arts/Crafts vendors to move into an unoccupied food vending site on Saturday, and to make other amendments regarding moving into unoccupied sites:

“F. Transferability of Site Assignments, Occupying Food Vending Sites for the Day.

1. Transferability. Mall/Concourse Food Vending Site assignments are nontransferable between vendors, and shall be valid for the duration of the vending year, except as provided by ordinance or herein. A Mall/Concourse Food Vendor shall only use the site to which s/he was assigned after the most recent Food Cart Review, or under paragraph E. above (“Filling vacant or newly-created sites”), ~~or under the procedures herein for moving into an assigned site that has been left unoccupied for the day.~~ A vendor shall not occupy more than one (1) Mall/Concourse vending site at any given time.

2. Moving into Unoccupied Site During Current Vending Season. The definitions for “unassigned,” “vacant” and “unoccupied” sites in Sec. III.E. apply to this section.

(a) April 15 to October 14 (Weekdays only): If an assigned food vending site remains unoccupied by the assigned vendor by **4:00 p.m.** on a Monday, Tuesday, Wednesday, Thursday or Friday between April 15 and October 14, another properly licensed food vendor who has a site assignment on the Mall-Concourse for the current vending season may move into the unoccupied site at 4:00 p.m. or later, and vend from that site for the day.

(b) October 15 to April 14 (every day Weekdays only) “Winter”: If an assigned food vending site remains unoccupied by the assigned vendor by **10:30 a.m. on a Monday, Tuesday, Wednesday, Thursday or Friday** any day of the week between October 15 and April 14, a currently-licensed food vendor may move into the unoccupied site at 10:30

a.m. or later, and vend from that site for the day. ~~This option is available to food vendors with a current site assignment or first time food vendors who complete the Fall Food Cart review and have received a Mall/Concourse site assignment for the upcoming vending season. First time vendors wishing to use this option must purchase all necessary vending licenses for the current season, which shall not be pro-rated. The use of this option by first time vendors does not count toward seniority and has no impact on the site assignments for the next vending season.*~~

*Question for VOC – should a first time vendor be allowed to jump into a site for the day if they do not have their own site assignment? this seems difficult logistically. if the new vendor does not have a permanent site, they would have to hang around and buy food/supplies in the hope that a vendor would not show up for the day. I would recommend this option is only available for vendors who currently have a site assignment. The proposed strike-out reflects that.

(c) The option for a food vendor to occupy another food vendor's unoccupied site for the day is not available on Saturdays.** See question on next page

** Question for VOC: please discuss whether the rule that allows a food vendor to jump into another food vendor's site should be eliminated for **Saturdays only**, or should be eliminated **every day**. The VOC previously decided that food vendors should not be able to occupy another food vendor's site on Saturdays, in order to allow Arts and Crafts vendors to do that. (The original request was to allow A/C vendors to move into a food site on Saturday mornings if the food vendor has not shown up by 7:30.) You decided at your September meeting this should no longer be allowed for *food vendors* on Saturdays, as it would create a conflict between the A/C and food vendors and I believe it was discussed the food vendors were not using this option anyhow, on Saturdays. We are wondering if the option is necessary on weekdays either? You may wish to ask the food vendors if they are using the option, if they like the option, or if it is causing trouble. Then decide whether to eliminate it entirely, or just on Saturdays. It must be eliminated on Saturdays at a minimum, to make way for the A/C vendors under this new rule...

~~3. Filling Vacant sites During the Vending Season. See Section V.E. for procedure to fill vacant sites during the current vending season. See Section III.D. for filling sites that remain unassigned, after the Fall Food Review, for the upcoming vending season. —note – this cross reference is being moved to another section.~~

5. Proposed clean-up item: eliminate section X, Saturday Vending Site Assignment. This section is duplicative, all of the rules in this section are already covered elsewhere in the Regulations. If the City Attorney discovers any part of X

that is unique and must be preserved, keep that and move it to the appropriate section for Food or Arts/Crafts Vendors. Eliminate the rest of Section X.

~~X. SATURDAY VENDING SITE ASSIGNMENT~~

~~The process for creation and assignment of the special, additional Saturday vending sites provided by Sec. 9.13(6)(f) and located as designated on the Mall/Concourse Vending Area Site Map attached as Exhibit I will be as follows:~~

~~A. The Director of Planning and Development, or designee; and the Chair or designee of the VOC will establish and designate by number the location of the specific Saturday vending sites available, subject to the requirements of site location in sec. 9.13(6) of the Madison General Ordinances. The maximum number of Saturday only sites shall be as set forth in sec. II. A. of these Regulations.~~

~~B. Licensed vendors wishing to reserve one of these sites will make a written application in letter form no later than April 15, designating which site is desired and providing alternates. If there are any assignable/reservable sites remaining after that date, they may be assigned (or occupied) on a first come, first served basis.~~

~~C. Subsequent to April 15, the Director of Planning and Development, or designee and the Chair or designee of the VOC will assign the Saturday food sites and the Saturday craft sites for which a reservation is requested, using the methods below. The decision of the VOC and Chair shall be final and not subject to the appeal procedures in Chapter 9 of the Madison General Ordinances. The Director of Planning and Development or designee may establish additional unassigned (unreserved) Saturday food and craft sites, in addition to those set forth in Sec. II. A., as necessary to accommodate vending requests and consistent with the safe and orderly movement of traffic and pedestrians. Any such sites shall be designated on the Mall/Concourse Vending Site map, Exhibit I. All carts shall be oriented on the sites so as to maximize safety and minimize crowding and shall be reoriented at the request of the Director of Planning and Development, or designee if necessary, for those reasons.~~

~~1. Food Vendor Sites. Saturday food vending sites shall be assigned according to the procedures set forth in sec. V.~~

~~2. Craft Vendor Sites. Saturday craft vendor sites will be assigned using the _____ procedures described in sec. II. F. 1.~~

~~D. The Mall/Concourse vending license of each vendor approved for a Saturday vending site shall designate the specific site that has been~~

~~reserved. This license must be prominently displayed during all hours of Saturday vending.~~

~~E. (Reserved for future use.)~~

~~F. Vendors may occupy their assigned Saturday sites on the Capitol Square from 5:00 a.m. until fifteen minutes before public bus service resumes on the Capitol Square. All sites must be completely vacated by fifteen minutes before bus service resumes.~~