

**AGENDA # \_\_\_\_\_**  
Copy Mailed to Alderpersons \_\_\_\_\_

**CITY OF MADISON, WISCONSIN**

AN ORDINANCE \_\_\_\_\_

Amending Sections 9.13(6)(j)2. and 9.13(6)(j)3, to eliminate the requirement that restaurant wait staff must carry and serve all food, beverage and alcohol beverages to patrons within a sidewalk cafe, and to allow patrons of all types of sidewalk cafes to carry out their own food, beverage and alcohol beverages from the restaurant to the sidewalk cafe.

PRESENTED March 29, 2005  
REFERRED VOC; ALRC  
REREFERRED \_\_\_\_\_  
REPORTED BACK \_\_\_\_\_  
ADOPTED \_\_\_\_\_ POF \_\_\_\_\_  
RULES SUSP. \_\_\_\_\_ Tabled \_\_\_\_\_  
PUBLIC HEARING \_\_\_\_\_

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MAYOR SIGNED \_\_\_\_\_  
PUBLISHED \_\_\_\_\_

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Drafted by: Lara M. Mainella  
Assistant City Attorney

Date: March 24, 2005

Fiscal Note:

SPONSORS: Ald. King

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 "Miscellaneous Restrictions on Sidewalk Cafes" 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:

"2. Miscellaneous Restrictions on Sidewalk Cafes.

- a. The space specifications in Sec. 9.13(6)(j)1.b. above shall apply to all sidewalk cafes located on State Street Mall or the Capitol Concourse as defined herein, except sidewalk cafes located in the 100 block of Martin Luther King Jr. Boulevard, which shall be subject to the requirements in Subparagraph e., below. The space specifications in Sec. 9.13(6)(j)1.c. shall apply to sidewalk cafes on any other streets within the district. No sidewalk cafes may obstruct the pedestrian right of way required by the City to be maintained adjacent to the sidewalk cafe. No sidewalk cafe furniture shall be placed closer than two (2) feet to the street side and at least two other sides by a barricade of not less than thirty (30) inches and not more than forty (40) inches high. All sidewalk cafes shall remain within the approved boundaries of the sidewalk cafe site as set forth on the approved application. Pursuant to Sec. 9.13(6)(c)1.a., the VOC shall establish additional criteria for sidewalk cafes by regulation, not inconsistent with this subsection.
- b. ~~All sidewalk cafes, except those of establishments with solely over-the-counter service, shall be required to have staff of the establishments owning such sidewalk cafes serve all food, beverages, or other items in the sidewalk cafe site.~~

**Approved as to form:**

- c. Except in the case of sidewalk cafes having permanent facilities approved as a conditional use by the Plan Commission and the Street Encroachment Committee, all tables, chairs, and all other materials and equipment must be removed from the site from close of business until normal opening of business each day. Nothing herein shall in any way be deemed to limit the right of the Street Encroachment Committee or the Plan Commission to review any matters within the Street Encroachment Committee's or Plan Commission's jurisdiction.
- d. The procedures in Sec. 9.13(8)(a) for revocation, suspension or nonrenewal of a Vending License shall govern revocation, suspension or nonrenewal of a Sidewalk Cafe License issued under this section. Revocation or suspension of an alcohol beverage license for a sidewalk cafe shall follow the procedures in Section 38.10 of the Madison General Ordinances.
- e. Sidewalk Cafes in 100 Block of Martin Luther King Jr. Boulevard. Sidewalk cafes located within the 100 block of Martin Luther King Jr. Boulevard, due to the unusual width and design of the sidewalk between the roadway and the property line of adjacent buildings, shall be located between the building face and a distance of twelve (12) feet from the building face, and shall not be wider than the side property lines of the corresponding merchant's street frontage."

2. Paragraph 3. entitled "Sidewalk Cafes with Alcohol Beverage License" 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:

"3. Sidewalk Cafes with Alcohol Beverage License.

- a. ~~All sidewalk cafes having an alcohol beverage license shall be required to have staff of the establishments owning such sidewalk cafes serve all food, alcohol and non-alcoholic beverages in the sidewalk cafe area; except that establishments with solely over-the-counter service may allow patrons to carry out food, non-alcoholic beverages and other non-alcoholic items.~~
- b. Service of alcohol beverages in all sidewalk cafes shall be limited to persons seated at tables in the sidewalk cafe site. In the case of sidewalk cafes having an alcohol beverage license, food service shall be required to be available at all times the sidewalk cafe is open.
- c. Liability insurance covering the City of Madison and the sidewalk cafe owner for the licensed sidewalk cafe site will be required, including insurance to cover liquor liability, to the extent specified by the City of Madison Risk Management Department.
- d. Each sidewalk cafe serving alcohol beverages shall be responsible for policing the area of the sidewalk cafe to be sure that customers are of the legal drinking age and that alcohol beverages are not removed from the premises.
- e. There shall be no sale of alcohol for consumption at a sidewalk cafe after the time approved by the ALRC and specifically indicated on the owner's alcohol beverage license until normal opening of business each day. In addition, all containers of intoxicating beverages shall be removed from the tables of the sidewalk cafe and the sidewalk cafe area during those times.
  - i. For the State Street Special Assessment District, with the exception of the Capitol Concourse, but including Gorham Street from Wisconsin Avenue to University Avenue and University Avenue to Park Street, service of alcohol in sidewalk cafes shall stop no later than 11:30 p.m., with all alcohol off the table by 12:00 a.m. and the sidewalk café closing at 1:00 a.m.
  - ii. In all other areas of the City of Madison, alcohol shall be off of the table by 1:00 a.m.
- f. (R. by Ord. 13,616, 5-21-04)
- g. All Sidewalk Cafe alcohol beverage licenses within the jurisdiction of the ALRC shall expire on June 30 each year and be subject to renewal pursuant to Chapter 38 of the Madison General Ordinance."