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12-4-13 agenda, items 2,3, and 4

A RESOLUTION authorizing amendments to the "Regulations Governing Vending on the State Street Mall/Capitol Concourse" and "Regulations Governing Vending in High Density Vending Areas" to add waiting list procedures to all types of City of Madison Street Vending Licenses; amending the method of counting a "sabbatical" for purposes of seniority, and eliminating the highest and lowest score on fall food cart review score sheets for each vendor.

Drafted by: Lara M. Mainella,
Assistant City Attorney

Date:

SPONSOR(S):

REFERRALS:

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, Under sec. 9.13(7) of the Madison General Ordinances, the VOC is also empowered to promulgate regulations not inconsistent with Sec. 9.13, governing the sale of goods and food in High Density Vending Areas; and

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

WHEREAS, those regulations are published in documents entitled "Regulations Governing Vending on the State Street Mall/Capitol Concourse" and "Regulations Governing Vending in High Density Vending Areas;" and

WHEREAS, at meetings on (date) and (date) the VOC promulgated amendments to these Regulations to create a waiting list procedure for all types of City of Madison Street Vending Licenses;

WHEREAS, said amendments are set forth in this Resolution 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" and the "Regulations Governing Vending in High Density Vending Areas" recommended by the Vending Oversight Committee:

1. **Amending subsection A. of Section V., "Food Vendor Site Assignment," of the Regulations Governing Vending on the State Street Mall/Capitol Concourse as follows:**

V. FOOD VENDOR SITE ASSIGNMENT

- A. Initial Site Assignment Based on Food Cart Review. The Director of the Department of Planning and Development, or designee, shall assign food vending sites beginning with the highest-scoring vendor assigned to his/her first preference, and the next highest-scoring vendor assigned to his/her first preference, or if that site has already been assigned, his/her next highest-preference, and so on; until all sites are filled. In addition, the designee of the department may consider whether the site assignments under the above system result in an inappropriate mix and balance, and

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may, upon consultation and approval of the applicant vendors affected, rearrange site assignment to achieve an appropriate balance. The designee may consider the extent to which the food sold at one site is different from that sold at adjacent sites or otherwise proximately available, and the designee may give great consideration to maintaining the diversity of vending in order to achieve a better balance of vendors and products so as to better serve the public. Once all sites have been assigned, any remaining applicants will be placed onto a rank-ordered waiting list and may be assigned a site if a site is forfeited, relinquished, ~~created~~, or otherwise becomes available, using the applicable procedures below.

2. Amend Arts & Crafts - II. F. a. 3., paragraph entitled "Rank-Ordered List:"

Note - it's not really part of sub. 3. Consider re-numbering that section.

Rank-Ordered List: Each vending season, a rank-ordered list will be established with the vendor with the highest seniority ranked number 1, and so on. Each vendor will be assigned a number to indicate their rank. Each vendor shall indicate three site preferences on their Application for Mall/Concourse Craft Vendor License. The Director of the Department of Planning and Development, or designee, shall assign sites beginning with the highest-ranking vendor assigned to his/her first preference, the next-highest ranking vendor assigned to his/her first preference, or if that site has already been assigned, his/her next-highest preference, and so on; until all qualified applicants have received an assigned site or all sites have been filled. Once all sites have been filled, any remaining applicants from the rank-ordered list will be placed onto a waiting list, in the same order as the rank-ordered list, and will be offered a site if a site is forfeited, relinquished, or otherwise becomes available, in that order."

There is already a seniority rank ordered list for A & C. The current language doesn't address what happens w/ those that are left waiting for a site once they are all full, but the language already has a waiting list so we just need to say that anyone on the wait list after all sites are full will stay on the list / move to the top?

3. Amending the Regulations Governing Vending in High Density Vending Areas, Sec. VI.

C. 1. a.

C. Langdon Street High Density Vending Site Assignment:

1. Langdon Street High Density Vending Area.

- a. Site Assignment. Site assignment for the Langdon Street High Density Area shall be determined by seniority. Once all sites have been assigned, any remaining applicants will be placed onto a rank-ordered waiting list with rank based on seniority, and may be offered a site if a site is forfeited, relinquished, created, or otherwise becomes available.

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4. **Tabling - ~~Would have to go in MGO.~~ – do we need a waiting list for E permit sites?**
5. **Sabbatical changes – see separate hand-out for uniform draft language for all license types.**
(language to be inserted after uniform language is agreed upon)
6. **Amend Mall/Concourse Regulations to eliminate lowest and highest food cart review score from the calculation of the average score for each vendor:**

IV. FOOD VENDING REVIEW JUDGING GUIDELINES AND SITE ASSIGNMENT CRITERIA

- E. Final Score Tabulation. The Director of the Department of Planning and Development, or designee, shall compute the average score for each applicant vendor, based upon the score sheets (Appendix A) submitted by each review panelist. Only those score sheets (~~Appendix A~~) on which eighty percent (80%) or more of participating vendors have been evaluated will be counted for purposes of the review. From those remaining score sheets, the highest and lowest overall score for each vendor will not be included in the calculation. After calculating the average from among those scores, the designee shall add to the average score one (1) point for each year of an applicant's seniority, with a maximum of seven (7) points. The designee shall then subtract one (1) point for each and any health or vending violation, citation or civil complaint ("demerit") issued to the applicant within the twelve-month period beginning July 1 of the previous year and ending June 30 of the year the Review is held, to arrive at a final score. The designee shall establish a rank-ordered list for use in the final site assignment process based upon first, second and third-choice site preferences listed by the applicant on the Application for Mall/Concourse Food Vendor form. Applicants receiving a final score of seventy (70) or more points, including seniority and demerit points, will be eligible to be assigned a site.

7. **Amend Sections III. B., C.3. and V.A. to make it clear that Mall/Concourse food vendors cannot change their requested site preferences after September 1 of the preceding year:**

III. ADDITIONAL PROCEDURES FOR FOOD VENDING SITE ASSIGNMENT

- B. Supplementary Information, Site Requests. Along with the application and any other information requested by the Director of Planning and Development, or designee, or the Vendor shall submit a list of preferred vending sites in order of preference; a list of all citations and civil complaints within the previous twelve

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(12) months issued to any vendor, individual primary vendors(s) to be named on the license and any citation(s) issued to any individual for vending without a vending license at the vendor's site with the vendor's permission within the same period; and each individual vendor's seniority as defined in Section to IV.A.1. Also, relevant informational materials must be provided to enable the Review Panel to assess the degree and manner of the applicant's fulfilling the criteria set forth in Section IV.

C. Fall Food Vending Review

3. Site assignments shall be made on the basis of the review panel rating using the criteria and scoring system set forth in Section IV.; and the site preference list submitted by the vendor at the time of the application (i.e. no later than September 1); except that a vendor who participates in the Fall Food Vending Review must obtain a review rating of at least 70 out of 100 possible points to be eligible to receive a site assignment at that time.

V. FOOD VENDOR SITE ASSIGNMENT

- A. Initial Site Assignment Based on Food Cart Review. The Director of the Department of Planning and Development, or designee, shall assign food vending sites beginning with the highest-scoring vendor assigned to his/her first preference, and the next highest-scoring vendor assigned to his/her first preference, or if that site has already been assigned, his/her next highest-preference, and so on; until all sites are filled. The vendor's site preferences shall be those indicated on the application filed the preceding fall. Site requests cannot be changed after the application is filed.

Mix and balance: ~~In addition,~~ When assigning sites, the designee of the department may consider whether the site assignments under the above system result in an inappropriate mix and balance, and may, upon consultation and approval of the applicant vendors affected, rearrange site assignment to achieve an appropriate balance. The designee may consider the extent to which the food sold at one site is different from that sold at adjacent sites or otherwise proximately available, and the designee may give great consideration to maintaining the diversity of vending in order to achieve a better balance of vendors and products so as to better serve the public.

Waiting List: Once all sites have been assigned, any remaining applicants will be placed onto a rank-ordered waiting list and may be assigned a site if a site is forfeited, relinquished, created, or otherwise becomes available, using the applicable procedures below.