

LEGISTAR # 38522 - BODY

DRAFTER'S ANALYSIS: This ordinance creates a parks facility catering permit. Currently, it is a longstanding Parks Division practice that a limited amount of caterers have been allowed to provide food and drink catering services at the Warner Park Community Recreational Center and Olbrich Gardens facilities. This policy was meant to protect the City's facilities and the City's customers by limiting access to catering opportunities to those caterers with an established track record of working with the City and the City's customers. Under this policy, caterers were required to remit 12% of their net catering sales to the City. However, it has been discovered that the existing arrangements have not been specifically authorized by the Council nor are they expressly permitted by ordinance. As such, it has proven to be challenging to approve new caterers at these locations. There also does not appear to be a mechanism to approve caterers at other City parks facilities. This ordinance will codify the existing practices into a permit system, while opening up catering opportunities at City parks facilities to any caterer able to meet the City's standards. This will make City parks facilities more competitive with private rental spaces by providing greater catering options for the City's customers. In addition, there are currently no minority-owned caterers on the approved caterer lists. This ordinance will open up catering opportunities at parks facilities to minority-owned caterers who otherwise are unable to offer those services under existing practice, and is therefore in line with the City's equity goals. Furthermore, by charging a permit fee to recover the City's administrative costs of overseeing the catering program, the City is able to reduce the facility usage fee to 10% of net catering sales. Finally, if the Parks Division wishes to limit catering opportunities at a particular facility, it may do so by conducting an RFP process for catering services that is approved by the Common Council, at which point the parks facility catering permit will no longer apply to that facility and specific agreements will then be entered into with approved caterers. This ordinance shall be effective July 1, 2015.

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

1. Section 8.175 entitled "Parks Facility Catering Permit" of the Madison General Ordinances is created to read as follows:

"8.175 PARKS FACILITY CATERING PERMIT.

- (1) Parks Facility Catering Permit Required. No person may provide catering services at a parks facility without a valid parks facility catering permit issued under this section or contrary to any conditions thereof.
- (2) Definitions. For the purposes of this section, the following definitions apply:
 - (a) Catering Services. Food and beverage services provided by a person where the food and beverages are fully or partially prepared, stored and handled off-site, and then served by that person on-site. This definition does not include alcohol sales, delivery services where the person preparing the food does not serve the food on-site, or food and beverage service covered by a parks vending permit issued under Sec. 8.17.
 - (b) Net Catering Sales. A permittee's net sales of catering services provided at a parks facility pursuant to a permit issued under this section. Where catering services are either donated or provided at reduced rates, net catering sales shall be based upon the market value of food and beverage provided.
 - (c) Parks Facility. A public facility located within a public park that contains a kitchen or other area designated for storing, handling and preparing food or beverages. This definition does not extend to park shelters that lack a kitchenette. It also excludes any parks facility where catering services have been made available by agreement between the City and

a caterer following a request for proposals process approved by the Common Council.

- (3) Classes of Permits.
- (a) Annual Permit. An annual permit shall be valid from January 1 through December 31 of the calendar year. A permit may be issued for the upcoming calendar year no earlier than December 1 of the preceding year.
 - (b) Single-Event Permit. A single-event permit shall be valid only for the date(s) and facility stated therein.
 - (c) Multiple-Facility Permit. An annual permit may be issued for multiple parks facilities, provided the permittee meets the requirements set forth in this ordinance for each parks facility.
- (4) Permit Application. An application for a parks facility catering permit shall be made in writing to the Parks Superintendent on forms supplied by the Parks Division and shall detail the name and address of the person or organization seeking the permit, the park facility, or facilities, for which the permit is being sought, the class of permit being sought, and the dates for which a permit is being sought. The application may include any other information as may be required by the Parks Superintendent. The application shall include an application fee, the certificate of insurance as required under Subdivision (6)(f), and an agreement to abide by all conditions set forth in Subsection (6). An application for a permit shall be made at least thirty (30) days prior to the date the applicant intends to provide catering services at a parks facility. A late permit application may be accepted at the Parks Superintendent's discretion.
- (5) Permit Fee. A reasonable fee for each class of parks facility catering permits shall be set by the Board of Park Commissioners. The fee shall be paid to the City Treasurer and shall be adjusted from time-to-time to allow the City to recover its costs of administering the parks facility catering program consistent with the requirements of Wis. Stat. § 66.0628. This fee may be different for each parks facility, and may include a late fee for untimely applications and a facility orientation session fee that differentiates between group sessions and individual sessions.
- (6) Permit Conditions. Every permit issued under this section is subject to the following permit conditions:
- (a) Compliance with Laws and Rules. A permittee shall abide by all federal, state, and local laws, ordinances and regulations, as well as the specific parks facility rules and conditions. Every permit granted under this section is subject to the permittee maintaining a valid food and drink permit from Public Health Madison and Dane County.
 - (b) Facility Orientation. Prior to performing any catering services at the parks facility, the permittee must undergo a facility orientation session with Parks Division staff. This orientation session shall be required of each permittee annually, except that Parks Division staff may waive this requirement at their discretion. No facility orientation session fee shall apply if this requirement is waived.
 - (c) Facility Usage Fee. In exchange for allowing permittee's use of the City's park facilities to offer their catering services, a permittee shall agree, as a condition of the permit, to remit to the City ten percent (10%) of the permittee's net catering sales arising from catering activities at the permitted parks facilities as a usage fee. This amount shall be remitted to the City within ten (10) days of a catering service event, or as otherwise agreed to by the Superintendent and the permittee. The permittee shall provide the City any documentation necessary to substantiate the payment made.

- (d) Special Conditions. The Parks Division may require any other special conditions of a permit that are necessary to protect the City's property, and the health, safety, and welfare of the public. Any such special conditions shall be indicated in writing as an addendum to the permit, and, for annual permits, may be imposed on an event-by-event basis. A permittee may challenge a proposed special condition by appealing the proposed condition to the Parks Superintendent.
 - (e) Indemnification. As a condition of the granting of the permit, the permittee shall agree to hold harmless, defend, and indemnify the City, its officers, officials, employees and agents, from and against all claims, suits, liability, damages, expenses and penalties arising from the permittee's operations or use of the parks facilities pursuant to a permit granted under this Section, whether caused by or contributed to by the negligence of the City, its officers, officials, employees and agents.
 - (f) Insurance. At the time of the application, the permittee shall be required to furnish a Certificate of Insurance to the City of Madison Risk Manager, on a form acceptable to the City, providing evidence of commercial general liability insurance with minimum limits of one million dollars (\$1,000,000) per occurrence, naming the City of Madison, its officers, officials, agents and employees named as additional insureds. The City of Madison Risk Manager reserves the right to require higher limits and other coverage terms and conditions at his/her discretion. Applicant shall keep required insurance in full force and effect throughout the term of the permit. Said insurance shall provide that the City receive written notice thirty (30) days prior to any cancellation, nonrenewal or material change in the policy. This insurance condition may be waived in those instances where the City of Madison Risk Manager, in consultation with the City Attorney's office, determines that this requirement can be waived.
- (7) Revocation of Permit. In the event that the permittee fails to abide by any of the conditions of the permit, the City shall provide written notice to the permittee of the violation of the permit conditions, and give the permittee at least five (5) days to cure the violation. If permittee fails to cure the violation, the permit shall be revoked and the permittee shall not be eligible for a new parks facility vending permit for at least twelve (12) months, unless otherwise approved by the Parks Superintendent. However, if a determination is made that revocation is reasonably necessary to protect the health, safety or welfare of the public, the Parks Superintendent may immediately revoke a permit granted under this section.
- (8) Appeal. An appeal of the Parks Superintendent's decision to deny or revoke a permit under this section, or impose a special condition of a permit under this section, shall be made in writing and state the reasons for the denial, revocation, or special condition. This decision may be appealed to the Board of Parks Commissioners by providing written notice of the appeal to the City Clerk within thirty (30) days of the mailing of the notice to the applicant, and must state the reasons for the appeal. The Board of Parks Commissioners shall hear the appeal at its next meeting, unless the notice is received within ten (10) days of the next meeting at which point the hearing shall be at the following meeting. At the hearing, the Board of Parks Commissioners shall either affirm the action of the Parks Superintendent, or overturn the action upon a showing that the requirements of this ordinance have been met. If the decision is upheld, the Board of Parks Commissioners shall, at its next meeting, adopt a written determination of its decision, which decision shall be sent to the appellant within ten (10) days of the determination. Appeal of the Board of Parks Commissioners' decision shall be by Certiorari to Circuit Court and shall be commenced within thirty (30) days of the date of the decision sought to be reviewed or be waived.

- (9) Violations. Any person violating any of the provisions of this section shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each offense. Each day or portion thereof that a violation exists or continues shall be considered a separate offense.
- (10) This ordinance shall be effective July 1, 2015.”

2. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by creating and amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Catering at a parks facility without or contrary to a valid parks facility catering permit.”	8.175(1)	\$200

EDITOR’S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.