

**CITY OF MADISON, WISCONSIN**

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

PRESENTED September 1, 2015  
REFERRED VOC

Amending Sections 9.13(1), (1)(d), (3), (3)(a).3., (6)(e)1.b. & c., (6)(g), (6)(h), and (6)(i)1.a., and repealing Section 9.13(1)(a) & (c) of the Madison General Ordinances to create an Umbrella Basic Street Vendor License for Mall/Concourse Food Vendors, to update and clarify the licensing requirements for individuals present in a Food Vending Cart, and make minor editorial improvements.

Drafted by: Lara Mainella

Date: August 25, 2015

SPONSOR: Alder Verveer

DRAFTER'S ANALYSIS: This ordinance creates an "umbrella basic street vendor license" to allow Mall/Concourse food vendors to provide necessary vending licensing for individuals working in the vending cart. Under current ordinance, all Mall/Concourse vendors must hold a "basic" annual street vending license, currently priced at \$150/year in addition to the specialty license for food vending, arts and crafts, etc. Further, anyone other than the primary licensed vendor working in a food vending cart who takes money and interacts with the public must also hold an individual Basic vending license. This ordinance would allow the food cart owner the option to purchase an umbrella license for \$450/year to cover an unlimited number of workers. The vendor must register all such workers' names, addresses and dates of birth with the City and notify the City of any changes in the individuals listed on the umbrella license.

This ordinance also reorganizes the section describing who may work or be present with in a food vending cart and makes changes to the Mall/Concourse license section for ease of reading. This amendment also clarifies that Sidewalk Cafes and Merchant Vendors need not hold a Basic Street vending license. Finally, this ordinance cleans up Sections 9.13(1) and (3) to delete outdated references to the City Clerk and make other editorial updates.

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

1. Subdivision (1) of Section 9.13 entitled "License for Selling on Public Streets" of the Madison General Ordinances is amended to read as follows:

"(1) Unless otherwise provided for in a subsection of this ordinance, it shall be unlawful for any person to vend, sell or offer for sale or procure the sale of any services, goods, wares, tokens, or foodstuffs, or any other article of any kind by putting up a booth, preparing or setting up the vending cart, stand or equipment, preparing food, beverage or articles for sale, stopping a vehicle or person on foot, interacting with potential customers in or around the vending site, taking names for the purpose of making future sales, offering applications or other materials for future sales, or in any other manner participating in the vending operation or attempting to publicly sell or offer for sale any such articles or services upon any highway, street, alley, sidewalk, or public square, unless such person shall have first applied for and obtained the appropriate license(s) required by this Ordinance.

**Approved as to form:**

For purposes of this subsection and the licenses described under 9.13(3)(a), “vending” includes the activities described above and any other activity that furthers the vending operation at the vending site, whether or not the vending cart or stand is open for business. “Vending” does not include the act of delivering the cart, equipment, or necessary equipment and supplies to and from the vending site. However, unlicensed individuals shall not remain in or around a vending cart, stand or site for any length of time, whether open or closed for business, unless expressly permitted under another subsection of this Ordinance or unless they are customers waiting to be served. Subsections 9.13(6), ~~and (7), (10) and (11)~~ set forth specific criteria for licensing and persons permitted at the vending site in specific vending areas. In case of a conflict between this subsection and subs. (6), ~~and (7), (10) and (11)~~, subs. (6), ~~and (7), (10) and (11)~~ shall control.

No license issued under this Ordinance shall be denied for reasons prohibited under Sec. 39.03(5) of the Madison General Ordinances.”

2. Subdivisions (a) and (c) of Subsection (1) of Section 9.13 entitled “License for Selling on Public Streets” of the Madison General Ordinances are hereby repealed.

3. Subdivision (d) of Section 9.13 entitled “License for Selling on Public Streets” of the Madison General Ordinances is amended to read as follows:

“(d) All Basic Street Vendor licenses ~~issued by the City Clerk~~ shall contain the following language on the face of the license: “NOTE: ~~An additional license is required for sales on the State Street Mall and Capitol Concourse vicinity or in any “high density vending area” as defined in Section 9.13(6)(a) and 9.13(7)(b) respectively of the Madison General Ordinances. In addition, this license is not valid for streets, alleys, sidewalks, public squares or pleasure drives located upon or adjacent to any park, playground, recreation area, bathing beach or athletic field owned or operated by the City of Madison unless prior approval pursuant to Sec. 8.17 of the Madison General Ordinances has been obtained~~ Additional licenses are required to vend in these areas: State Street Mall/Capitol Concourse, Langdon Street and Camp Randall high density areas, Southeast Campus area, Late Night Vending, and certain streets over 25 mph adjacent to a school. Vending may be limited to certain sites in the UW Game Day Vending area. Vending in a City Park or on a street, sidewalk or pleasure drive adjacent to any park, playground, recreation area, beach or athletic field requires an additional license from the Parks Division under Sec. 8.17, MGO. Street vending is prohibited on a bike path, bicycle way or recreational trail. Street vending may be prohibited near convention centers, by Resolution. See Sec. 9.13, MGO for details.”

4. Subsection (3) of Section 9.13 entitled “License for Selling on Public Streets” of the Madison General Ordinances is amended to read as follows:

“(3) Application for any street vending license (except the Special Event vending license) shall be filed with the Director of Planning and Community and Economic Development or designee, shall contain such information as she/he may require, shall specify in detail the food, goods or services to be offered for sale, shall be approved ~~and issued by her/him if all applicable ordinance and regulation requirements have been met, and shall then be issued by the City Clerk.~~ Licenses shall be ~~issued and signed by the City Clerk and shall be~~ conspicuously displayed at the place where such sales are being made. In addition to the Licenses in this section, special licenses ~~and/or site assignments are~~ required for vending in the Mall/Concourse Vending Area, under Sec. 9.13(6), Late Night Vending under Sec. 9.13(6)(n), ~~and High Density Vending Areas under Sec. 9.13(7).~~ Southeast Campus Vending Area under Sec. 9.13(10), and UW Football Game Day Vending Area under Sec. 9.13(11). Street vending licenses are not transferable.”

5. Paragraph 3. entitled “Umbrella Basic License (Mall/Concourse Food Vendors only)” of Subdivision (a) entitled “Basic Street Vendor License Fees and Durations” of Subsection (3) of Section 9.13 entitled “License for Selling on Public Streets” of the Madison General Ordinances is created to read as follows:

“3. Umbrella Basic License (Mall/Concourse Food Vendors only). Four-hundred and fifty dollars (\$450) for an annual license, payable to the City Treasurer, issued on April 15 or thereafter when applied for, and expiring on April 14 following its issuance. This license is available to a licensed Mall/Concourse Food Vendor to provide the basic licensing necessary for any supplemental vendors working in the

Food Vendor's vending site, per Sec. 9.13(6)(e)1.c. The Food Vendor shall provide the Street Vending Coordinator, in writing, the name, date of birth and address of each worker listed on the Umbrella Basic License, and any workers added to or deleted to the license during the licensing period, within fourteen (14) days of the change."

6. Subparagraph b. entitled "Food Vendor" of Paragraph 1. entitled "Art and Crafts or Food Vendor" of Subdivision (e) entitled "Definitions" 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:

"b. Food Vendor. A Food Vendor is an individual who offers for sale only personally prepared food for which that individual is regularly involved in all phases of both the production and the sale of the food. In addition, a food vendor may be a corporation, cooperative or partnership; however, the application and license shall designate a primary individual who is all regularly involved in all phases of the production process and ~~who are~~ responsible for the vending operation and who holds a valid Basic street vending license issued pursuant to or is included on a Umbrella Basic License held by the food vendor under Sec. 9.13(43) herein. A food vendor may employ up to five (5) supplemental vendors who need not be individually named on the application or license. Any supplemental vendors under this paragraph must hold valid basic street vendor licenses under Sec. 9.13(3) within fourteen (14) days of being employed by the food vendor. All food vendors required to be licensed under Chapter 7 of the Madison General Ordinances shall obtain a food and drink permit and a mobile restaurant base license and operate from a licensed restaurant for food preparation, food storage and utensil cleaning activities. A Food Vendor shall be licensed to sell only the personally prepared food items indicated on the face of the license from one assigned food vending site."

7. Subparagraph c. entitled "Persons Permitted at Arts and Crafts and Food Vending Sites" of Paragraph 1. entitled "Art and Crafts or Food Vendor" of Subdivision (e) entitled "Definitions" 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:

"c. Persons Permitted at Arts and Crafts and Food Vending Sites.

i. Persons Permitted at Arts and Crafts Sites. The individually licensed vendor, at least one of the primary individual vendors listed on an arts and craft vending license, or the primary individual designated on a license issued to a corporation, cooperative or partnership must be present at the vending site at all times during which items are displayed, offered for sale or sold. Other individuals who work on handcrafted items may be present at the vending site solely to assist and need not be named on the license or hold a Basic license. No unlicensed assistant shall sell, offer for sale, accept money, engage in prolonged commercial interactions or other transactions with customers or engage in any other direct vending activities.

ii. Persons Permitted at Food Vending Sites. The individually licensed food vendor, or the primary individual designated on a license issued to a corporation, cooperative or partnership must be present at the vending site at all times when open for business. Primary vendors must hold a Basic license or be included on the Umbrella Basic license held by the food vendor. Properly licensed supplemental vendors may also be present at food vending sites as described in Paragraph b. above.

Supplemental Food Vendors. A food vendor may employ supplemental vendors who need not be individually named on the food vending application or license and who conducts vending activities such as selling, accepting money, and engaging in commercial interactions with customers. Any supplemental vendors under this paragraph must hold valid basic street vendor licenses or be included on an Umbrella Basic License held by the food vendor, within fourteen (14) days of being employed by the food vendor.

New Employees. In addition, new employees of food vendors may be present at food vending sites without holding a valid Basic street vending license or without being named on an Umbrella Basic License, for up to fourteen (14) days from the date of hire as provided in b. above, provided that the food vendor provides written notice to the Street Vending Coordinator of the employee's name and date of hire. Such properly-noticed new employees may assist the food vendor in vending activities, such as selling, offering for sale,

accepting money, and engaging in prolonged commercial interactions with customers or engage in any other direct vending activities.

Helpers. ~~Other individuals who are not licensed as primary or supplemental vendors and who are not new employees as provided above,~~ may be present at the vending site solely to assist and need not hold a Basic license . Activities such as operating vending vehicles, loading and unloading, food or drink preparation, or working on handcrafted items ~~may be considered~~ are acceptable assistance activities. No unlicensed assistant or person not named on the Food Vending License or covered by a Basic or Umbrella Basic license shall sell, offer for sale, accept money, engage in prolonged commercial interactions or other transactions with customers or engage in any other direct vending activities.”

8. 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” of 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 or otherwise conduct any of the activities described in Sec. 9.13(1) 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 and without all of the other necessary licenses required under this ordinance or another ordinance or law.~~ A Mall/Concourse Vending license is not required for a vendor participating under 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 basic street vendor license required by Sec. 9.13(3) 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).”

9. Subdivision (h) entitled “Mall/Concourse Vending Licenses and Fees” 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:

“(h) Mall/Concourse Vending Licenses and Fees.

1. ~~Each Food Vending License, Arts and Crafts Vending License, Sidewalk Cafe License, and Merchant Vendor License shall contain such information on its face as the Vending Oversight Committee shall establish in the Regulations for Vending on State Street Mall/Capitol Concourse.~~
2. ~~In addition to other permits, the Mall/Concourse Vending License shall be conspicuously displayed by the vendor at the vending area occupied by the vendor. Vending licenses under this section shall be divided into four (4) categories as follows:~~

Categories of Mall/Concourse Vending Licenses:

  - a. Food Vending Licenses ~~to be~~ issued to food vendors.
  - b. Arts and Crafts Vending Licenses ~~to be~~ issued to arts and crafts vendors.
  - c. Sidewalk Cafe Licenses ~~to be~~ issued to establishments eligible for sidewalk cafes.
  - d. Merchant Vendor Licenses ~~to be~~ issued to contiguously-located, street-level merchants or corresponding non-street-level merchants in the same building by order of priority established in Sec. 9.13(6)(h)4. below.
2. Additional License Requirements.
  - a. Basic License. Food Vendors, Arts and Crafts Vendors and individuals working in the vending site (except helpers as described in Sec. 9.13(6)(e)1.c.ii.) must also hold a Basic Street Vending license or Umbrella Food Vending License, if applicable, under Sec. 9.13(3). Merchant Vendors and Sidewalk Cafes do not require a Basic Street Vending License.

b. Health Licensing. All food vendors required to be licensed under Chapter 7 of the Madison General Ordinances shall obtain a food and drink permit and a mobile restaurant base license and operate from a licensed restaurant for food preparation, food storage and utensil cleaning activities.

3. Vending licenses and fees. under each category shall be as indicated below. A Mall/Concourse vending license shall be issued for the same duration as the Basic Street Vending License required under Sec. 9.13(1) and issued to the vendor under Sec. 9.13(3). Mall/Concourse licenses and fees are as set forth below. All fees are paid to the City Treasurer:

a. Annual License. ~~The fees for an Annual License shall be as set forth below.~~ Annual licenses shall be issued on the ~~fifteenth (15th) day of April 15~~ of each year or thereafter when applied for and shall expire on the ~~fourteenth (14th) day of April 14~~ of the year following its issuance. ~~The license fee shall be paid to the City Treasurer:~~

- i. Food Vendors: eight hundred fifty dollars (\$850) for the full season and prorated to four hundred and twenty-five dollars (\$425) for a license issued November 1 or later to a first-time food vendor, as described in Sec. V.E. of the Regulations Governing Vending on the State Street Mall/Capitol Concourse.
- ii. Arts and Craft Vendors: four hundred dollars (\$400.)
- iii. Merchant Vendors: two hundred fifty dollars (\$250), except as indicated in v. below.
- iv. Sidewalk Cafes: Except as indicated in v. below, the sidewalk café license fee shall be determined by the size of the café, based on the number of chairs shown on the approved sidewalk café application:
  - 9 or fewer chairs: \$400/year
  - 10 to 15 chairs: \$550/year
  - 16 to 20 chairs: \$650/year
  - 21 or more chairs: \$750/year

*[Drafter's Note: Changes are pending to Sec. 9.13(6)(h)3.a.iv. to modify the fee structure for sidewalk cafes. See Legistar ID# 39140. If ID# 39140 is adopted, the fees shown here will no longer be in effect.]*

v. For sidewalk cafes and merchant vendors located on a block of State Street that is scheduled for reconstruction anytime during the vending season pursuant to the "State Street and Adjacent Street Reconstruction Assessment District" project commencing in 2004 ("State Street Reconstruction") the annual fee for a sidewalk cafe license shall be \$50 and the fee for a merchant vendor license shall be \$25. A vendor shall be entitled to this reduced fee if, at the time the vendor applies for the annual license, the Common Council has adopted a resolution approving plans, specifications and schedule of assessments for a phase of the State Street Reconstruction to take place anytime during the vending season in question, for any portion of the block on which that vendor is located, as indicated by the plans that are approved for the project number(s) listed in that resolution.

These reduced \$50 and \$25 annual fees shall only be available until the last day before the first full vending season after the street reconstruction for that block has been completed. This provision shall have no further effect for vendors in those blocks after that date. This provision, in its entirety, shall expire the day before the first full vending season after street reconstruction for all blocks of State Street have been completed under the State Street Reconstruction project.

The license fee shall be paid to the City Treasurer. Annual licenses shall be issued on the fifteenth (15th) day of April each year or thereafter when applied for and shall expire on the fourteenth (14th) day of April of the year following its issuance. (Am. by Ord. 13,506, 2-10-04)

vi. Late Night Vending License. See Sec. 9.13(6)(n) for Late Night Vending license fees.

b. Monthly License - Only arts and crafts vendors are eligible for a Monthly License. The fee shall be as follows:

- i. Arts and Crafts Vendors: one hundred twenty-five dollars (\$125).  
~~The license fee shall be paid to the City Treasurer.~~ Monthly licenses shall expire thirty (30) days from the date of issuance.
- c. Additional Mall/Concourse Vending Fees. In addition to the license fees set forth above, there shall be the following additional fees:
  - i. Saturday-Only Arts/Crafts Site Reservation. A separate site reservation fee of one hundred dollars (\$100) for craft vendors who wish to reserve a specific vending site until 7:30 a.m. at the Saturday craft vending area which site shall be assigned to them by the Director of Planning and Community and Economic Development or designee pursuant to the regulations on Saturday Vending Site Assignment adopted pursuant to Section 9.13(6)(c) and (f).
  - ii. Daily Arts/Crafts Site Reservation. A separate site reservation fee of one hundred dollars (\$100) dollars for craft vendors who wish to reserve a specific craft vending site on the 400, 500, and 700 blocks of State Street until 11:00 a.m. each day, which shall be assigned to them by the Director of Planning and Community and Economic Development, or designee, and be subject to the to the regulations adopted pursuant to Section 9.13(6)(c) and (f).
- d. Reserved for Future Use.
- e. Non-profit Exemption. Qualified non-profit organizations, otherwise meeting the criteria for Mall/Concourse vending, may apply for an annual license under subparagraph (h)3.a. and may be exempt from paying the annual license fee, upon approval of the Vending Oversight Committee.
- 4. ~~A licensed Mall/Concourse vendor to whom a Mall/Concourse vending license has been issued under this subsection shall inform the designee of the Director of the Department of Planning and Community and Economic Development of any change of address of the vendor or the primary vendor named on the license, in writing, if the address change occurring during the time period for which the license period was issued.~~
- 5. Each Mall/Concourse Vending License shall contain such information on its face as may be required by the Street Vending Coordinator and the Regulations for Vending on State Street Mall/Capitol Concourse.
- 6. In addition to other permits, the Mall/Concourse Vending License shall be conspicuously displayed by the vendor at the vending area occupied by the vendor.

10. Subparagraph a. of Paragraph 1. entitled "Application" of Subdivision (i) entitled "Procedures For Granting a Mall/Concourse Vending License" 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:

- "a. Application for a Food Vending License, ~~an or~~ Arts And Crafts Vending License ~~or a Special Event Vending License~~ shall be filed with the Director of Planning and Community and Economic Development, or designee and shall contain such information as shall be required by regulation and such additional information as s/he shall require in order to determine whether the requirements of the ordinance have been met. Such additional information may include but shall not be limited to documentation or other evidence, such as invoices for raw materials, demonstrations or explanations of design or production techniques, which evidence or illustrate that the item in question is handcrafted or personally prepared."

EDITOR'S NOTES: Sections 9.13(1)(a) and (c) currently read as follows:

- "(a) Sales on the State Street Mall and the Capitol Concourse and adjacent streets are subject to further regulations set forth in Subsection (6) hereunder.
- (c) Sales upon any street, alley, sidewalk, public square or pleasure drive located in a "high density vending area" as defined in Sec. 9.13(7)(b) of the Madison General Ordinances are subject to further regulations set forth in subsection 9.13(7) hereunder."