



### Legislation Details (With Text)

**File #:** 46345      **Version:** 2      **Name:** TOSVOD  
**Type:** Ordinance      **Status:** Passed  
**File created:** 2/28/2017      **In control:** COMMON COUNCIL  
**On agenda:** 4/18/2017      **Final action:** 4/18/2017  
**Enactment date:** 4/27/2017      **Enactment #:** ORD-17-00045

**Title:** SUBSTITUTE Creating Section 9.13(12) of the Madison General Ordinances to establish the Top of State Vending Overlay District.

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**Indexes:**

**Code sections:**

**Attachments:** 1. TOSVOD map, 2. Version 1

Date	Ver.	Action By	Action	Result
4/18/2017	2	COMMON COUNCIL	Adopt	Pass
3/22/2017	1	VENDING OVERSIGHT COMMITTEE (ended 3/2026)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
3/16/2017	1	DOWNTOWN COORDINATING COMMITTEE	Return to Lead with the Following Recommendation(s)	Pass
3/7/2017	1	VENDING OVERSIGHT COMMITTEE (ended 3/2026)	Refer	
3/7/2017	1	COMMON COUNCIL	Refer	Pass
2/28/2017	1	Attorney's Office/Approval Group	Referred for Introduction	

#### Fiscal Note

The proposed ordinance creates a new vending overlay district for the public sidewalks at the top of State Street called "Top of State Vending Overlay District" (TOSVOD). A \$50 (annual) license will be required to operate within the new district, in addition to a Basic Street Vendor License. The Office of Business Resources estimates that there may be in the range of 20 to 100 TOSVOD licenses issued annually. The total anticipated increase in license revenue ranges from \$1,000 to \$5,000.

#### Title

SUBSTITUTE Creating Section 9.13(12) of the Madison General Ordinances to establish the Top of State Vending Overlay District.

#### Body

DRAFTER'S ANALYSIS: This ordinance creates a new street vending area and regulations for the public sidewalks at the top of State Street - Philosopher's Grove and 30 on the Square - where State Street meets the Capitol Mall. The perimeter of the area is shown on the map attached to this Legistar file. Under this ordinance, special vending rules will apply in this area. Currently, vending in this area is limited to four categories: homemade food sold from food carts participating in the Food Cart Review, arts and crafts vendors, sidewalk cafés directly adjacent to a restaurant, and merchant vending (sidewalk sales of merchandise directly adjacent to a retailer.) This ordinance would create an overlay district called "Top of State Vending Overlay District" (TOSVOD) where additional types of vending can occur. Vendors can apply for a license and sign up for a vending site within this area to sell certain goods: value-added and farmers' market foods, homemade arts and crafts, upcycled wares, and merchandise that could lead to a brick and mortar retail presence in the area. Merchandise from a consultant-type business model that does not permit brick and mortar sales is not allowed in this area. Merchants already holding a Merchant Vending license

anywhere on the Mall/Concourse can sell goods from this area. Finally, restaurants in or adjacent to the TOSVOD can set up a separate “satellite” sidewalk café in this area, whether or not the establishment already has a café adjacent to its building, but no alcohol can be served or consumed within such satellite cafés. Sites (other than satellite cafes and food carts) will be assigned on a first-come, first served basis using a monthly calendar sign-up system. License fees will be \$50 annually plus a Basic Street Vending license, except satellite cafés which will be the regular price for a Mall/Concourse sidewalk café for a restaurant that doesn’t currently have one, and free for restaurants already holding a sidewalk café license. Licensed Arts/Crafts Vendors and Merchant vendors will also not be charged an additional TOSVOD license fee.

The Director of the Department of Planning and Community and Economic Development, or her designee (most often the Street Vending Coordinator) will have discretion to select the number and location of vending sites within the TOSVOD, to interpret the requirements of what may be sold, and coordinate the assignment of sites. TOSVOD sites, like all vending sites, are subject to the cleanliness, equipment and safety standards already established in Sec. 9.13(4), MGO

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

Subsection (12) entitled “Top of State Vending Overlay District Area” of the Madison General Ordinances is created to read as follows:

“(12) Top of State Vending Overlay District Area. The Top of State Vending Overlay District (“TOSVOD”) is established due to circumstances present within this geographic location within the State Street Mall/Capitol Concourse Vending Area. Those circumstances include the proximity of business, museums, the State Capitol, and residential uses; varying sidewalk space with some buildings with zero setbacks in close proximity to large open spaces on North Carroll and West Mifflin Streets; high volume of pedestrian traffic; the volume of transit, delivery and vehicle traffic; all making this area appropriate for additional street vending opportunities beyond those currently permitted in the Mall/Concourse vending area, including those that encourage retail business incubators, micro-business, and entrepreneur opportunities with an emphasis on products that translate to brick and mortar retail.

(a) Definitions.

“Director” shall mean the Director of the Department of Planning and Community and Economic Development, or designee.

“Mall/Concourse Regulations” shall mean the Regulations Governing Vending in the State Street Mall/Capitol Concourse Vending Area.

“Satellite Sidewalk Café” (“satellite café”) shall mean a sidewalk café located in the TOSVOD as described in sub. (d)7. herein.

“Sidewalk Café” shall mean a Mall/Concourse Sidewalk Café as defined in Sec. 9.13(6)(e)8.

(b) Vending Area. The Top of State Vending Overlay District is established as an overlay area within the Mall/Concourse Vending Area, with its perimeter specified on an official map approved by the Vending Oversight Committee and maintained in the Office of Business Resources. The Vending Oversight Committee (VOC) shall approve the perimeter of the area by approving the official map and may approve changes to the perimeter using the same process.

(c) Vending Sites. Vending sites in this area will be as follows:

1. A variety of TOSVOD sites with the exact number and location will be determined by the Director and set forth on the official TOSVOD map created under sub. (b) and maintained on file at the Office of Business Resources. Vending site size shall be 10x12 feet as required by Sec. 9.13(4)(t). In determining the number and location of sites the Director shall comply with all applicable provisions of Sec. 9.13(4). All vending activities must take place within the dimensions of the assigned site.
2. Satellite Sidewalk Café sites.

3. Existing Mall/Concourse food vending sites.
- (d) Vending Permitted in Top of State Vending Overlay District. Vending in this area shall be limited to the following enumerated items:
1. Mall/Concourse Food Vending. Any designated Mall/Concourse food vending sites within the TOSVOD shall remain in effect and vending from these sites is regulated by Sec. 9.13(6) and the regulations adopted therein.
  2. Mobile Merchant Vending. Businesses holding a current Merchant Vending License under Sec. 9.13(6)(h)1.d. may vend merchandise from their business and the other items permitted for licensed TOSVOD vendors, in a TOSVOD site.
  3. Food. Licensed TOSVOD vendors may sell farmers market products and value-added food products from a TOSVOD site.
  4. Handcrafted Goods. Licensed TOSVOD vendors and licensed Arts and Crafts Vendors may sell handcrafted goods as defined in Sec. 9.13(6)(e)3. from a TOSVOD site.
  5. Upcycled Goods. Goods that are created by re-using discarded objects or material in such a way as to create a product of higher value than the original parts may be sold by a licensed TOSVOD vendor in a TOSVOD site.
  6. Other Goods. Licensed TOSVOD vendors may sell other goods, not listed above, that may lawfully be sold with a Basic street vending license and which the Director determines:
    - a. Are sold with the intent that the vendor could eventually become a brick and mortar retailer, and
    - b. Are not merchandise that derives from a consultant-driven business that prohibits brick and mortar stores as a part of its businesses model.
  7. Satellite Sidewalk Cafés.
    - a. Eligibility. A restaurant holding a food and beverage license located within or directly adjacent to the TOSVOD perimeter is eligible for a satellite sidewalk café in the TOSVOD as set forth herein.
    - b. Location, Equipment. Size and placement of a satellite café shall be on a case-by-case basis at the discretion of the Director taking into account the location of other sites in the TOSVOD, the placement criteria below and applicable provisions of Sec. 9.13(4). Such cafés shall be subject to the furniture, enclosure and equipment requirements for sidewalk cafés in the Mall/Concourse Regulations, except that the Director may approve modified enclosures when existing features of the streetscape provide a sufficient barrier to serve as a portion of the enclosure for the café space that will comply with ADA requirements and other safety concerns, upon consultation with the Mall Maintenance crew and the Police Department. In addition, each satellite café shall include, within the confines of the café enclosure, or on the enclosure, signage not to exceed 10 x 12 inches in area, to identify the restaurant holding the license.
    - c. Placement Criteria. The paved portion of the adjacent sidewalk must be at least nine (9) feet wide, the entire sidewalk area proposed for café placement must be paved with concrete, asphalt, cement, brick, pavers or other impervious surface, and placement of the café must allow at least six (6) feet of unobstructed public pedestrian walkway on the adjacent public sidewalk. A satellite café shall not be placed in a location where, in the opinion of the Director, the grade or slope is prohibitive, if the location does not offer a sufficiently level surface for food and drink service, or if café placement would present a safety hazard due to any other elements of the topography or layout of the sidewalk, regardless of the width or available square footage of the right of way within the TOSVOD.
    - d. Satellite Café Fee. The license fee for a satellite café for an establishment that does not already have a traditional sidewalk café shall be the same as a Mall/Concourse Sidewalk Café under Sec. 9.13(6)(h)3.a.iv. Establishments that

- hold a current license for a traditional sidewalk café are eligible for a satellite café license without an additional license fee.
- e. Eligibility, size, placement and total number of Satellite cafés within the TOSVOD shall be at the discretion of the Director.
  - f. No Alcohol Service. There shall be no service or consumption of alcohol beverages in a satellite sidewalk café.
8. Other Mall/Concourse Vending. Because the TOSVOD overlays the Mall/Concourse Vending Area, any vending permissible in the Mall/Concourse Vending Area may occur within the TOSVOD with the appropriate license(s) and in compliance with all ordinances and regulations governing such vending.
- (e) Hours. The hours for vending in the TOSVOD shall be from 9:00 a.m. to 8:00 p.m., Sunday through Friday, and 3:00 pm. to 8:00 p.m. on Saturdays, with the following exceptions:
1. Licensed Mall/Concourse Food Vendors with a food vending site within the TOSVOD may vend during hours permitted for that license.
  2. On dates and times during which a Street Use Permit has been issued for an event in this area, the Street Use Permit shall supersede the TOSVOD vending activities whether or not invalidation of vending licenses have been granted for the event.
  3. Vending in the TOSVOD shall be subject to the Snowfall Procedures for Food, Arts/Crafts and Late Night Vendors in Sec. 9.13(6)(l)6.
- (f) Equipment. Equipment permitted within this area shall be limited to:
1. TOSVOD Sites. Equipment permitted to be used in an Arts and Crafts Vending site under Sec. 9.13(6)(f) and the Regulations Governing Vending on the State Street Mall/Capitol Concourse Vending Area may be used in a TOSVOD site. Vendors using a TOSVOD site for food under sub. (d)3. herein shall also provide a trash receptacle within their vending site perimeter.
  2. Mall/Concourse Food Vending Sites. All equipment permitted for licensed Mall/Concourse Food Vendors may be used in a Mall/Concourse food vending site within the TOSVOD, and all equipment that is required for such vendors shall be used as required elsewhere in this ordinance or the Mall/Concourse Regulations.
  3. Satellite Sidewalk Cafés. Equipment permitted for a sidewalk café under Sec. 9.13(6)(e)8., the Mall/Concourse Regulations, and sub. (12)(d)7. herein shall be permitted in a Satellite Sidewalk Café, subject to adequate space at the discretion of the Director.
  4. Electricity. None of the TOSVOD sites will have electrical access and all vending operations must be self-powered.
- (g) Vending Licenses Required. A fifty dollar (\$50) annual TOSVOD license, and a Basic Street Vendor license, shall be required to vend from a TOSVOD site. The TOSVOD license will be valid from April 15 to April 14 and must be purchased prior to using the reservation process in sub. (h)2. Additionally, every person working or performing vending activities at an assigned site in this area must hold a valid Basic Street Vendor license under Sec. 9.13(3). Merchant Vendors defined in Sec. 9.13(6)(h)1.b. holding a valid merchant vending license and vendors holding a valid Mall/Concourse Arts and Crafts vending license under Sec. 9.13(6)(e)1.a. are exempt from paying the TOSVOD license fee in this paragraph and will be issued TOSVOD licenses upon meeting application requirements established by the Director. A separate sidewalk café license shall be required for Satellite Sidewalk cafés under sub. (d)7.d. herein. No person shall vend, as that term is defined in Sec. 9.13(1), in the Top of State Vending Overlay District without the license(s) required hereunder.
- (h) Application, Site Assignment Procedure.
1. Application. Vendors may apply for a Basic Street Vendor license and a TOSVOD license through an application process established by the Office of Business Resources. The Director shall establish an application process for those holding a current Sidewalk Café, Merchant Vending or Arts/Crafts license wishing to vend in the TOSVOD.
  2. Site Assignment Calendar for TOSVOD Sites. Reservations for TOSVOD site assignments will be made on a first-come, first-served basis, at the discretion of the

Director. The Director shall exercise discretion to curate an appropriate mix of vendors and goods consistent with the purpose of this area. The Director shall establish a calendar system that allows eligible vendors to view and request certain sites and dates and the Director to assign sites on a month-by-month basis. Holding a TOSVOD license does not guarantee a site assignment on all desired dates and times. Vendors may view the sign-up calendar prior to purchasing a license. Vendors may not sign up for more than six (6) consecutive (excluding Saturdays) days at the same site unless approved in advance by the Director. If applicants remain after all sites are filled, or there are late applications for a monthly assignment cycle, the Director shall create, maintain and administer a waiting list and assign sites to those on the waiting list if any sites become available.

3. Application for Satellite Café. Businesses eligible for a Satellite café shall apply with the Director using the existing Sidewalk Café application procedures set forth in Sec. 9.13 (6) and the Mall/Concourse Regulations. If all requirements are met, a separate Satellite Café license shall be issued that includes all of the information required for a Sidewalk Café license in the Mall/Concourse Regulations.
  - (i) Relocation of Vendors. In addition to the authority set forth elsewhere in this section, the Director and the Chief of Police, or designees, have the authority to temporarily relocate or eliminate vending sites within the Top of State Vending Overlay District Area in the interest of public safety during construction or emergencies or for other reasons expressly provided elsewhere in these ordinances. Nothing in this ordinance shall be construed to limit the authority of the police to temporarily relocate or eliminate vending equipment, activities or sites in an emergency.”