



Legislation Text

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**Fiscal Note**

The proposed ordinance creates a process for “full-sized” Food Trucks to participate in street vending in the City of Madison. Food Trucks as defined by this ordinance can operate with a “Basic” street vending license and will be allowed to operate anywhere in the City outside the specialized areas and may operate on private property consistent with the zoning ordinance. No additional City appropriation required.

**Title**

Creating Sections 9.13(1)(c) and 9.13(13) and amending Section 9.13(4) of the Madison General Ordinances to create a process for full-sized Food Trucks to participate in street vending, adding a subsection for definitions, and amending existing provisions to allow for Food Trucks.

**Body**

DRAFTER'S ANALYSIS: This ordinance creates a process for “full-sized” Food Trucks to participate in street vending in the City. Currently, all street vending, including food, is limited to equipment that can fit into a 10’ x 12’ perimeter, and food carts are limited to a maximum size of 56 square feet. This ordinance creates exceptions to these size limits for a Food Truck, and creates rules for the operation of Food Trucks around the City. A Food Truck can be a truck or a trailer with a maximum size of 8’6” wide, 13’6” high, and 28’ long. Food Trucks can operate with a “Basic” street vending license and the appropriate health department licensing for food and beverage service. The vehicle must be properly registered with the DMV and parked in a legal parking spot with business oriented away from the street. Food Trucks will not be permitted to vend in the specialized vending areas (State Street Mall/Capitol Concourse, Camp Randall, Southeast Campus, TOSVOD, etc.) because these areas have limited space for vending equipment and vendors in these areas have competed for site assignments and purchased specialized licenses from the City.

Licensed Food Trucks will be allowed to operate anywhere in the City outside the specialized areas, and may operate on private property consistent with the zoning ordinance. The existing rule that prohibits vending in residential areas between 9 p.m. and 6 a.m. will apply. This ordinance amends the rules that apply to all vendors, city-wide, in Sec. 9.13(4) to make clear which of those rules will apply to Food Trucks, and makes other housekeeping edits to that section.

This ordinance creates definitions to clarify vending equipment terminology. A Food Cart is the 56 square foot maximum trailer that is most often used in the Mall/Concourse Vending Area. A push cart is a small food vending apparatus used for Late Night Vending and in the Southeast Campus area. A Food Truck is a truck or trailer that exceeds the maximum size for a Food Cart and operates outside the specialized areas. These definitions are already in use, but not codified. This ordinance also defines the specialized vending areas, vending site, assigned site, and other terms to provide more clarity.

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

1. Subdivision (c) of Subsection (1) of Section 9.13 entitled “License for Selling on Public Street” of the Madison General Ordinances is created to read as follows:

“(c) Definitions.

“Enclosed Cart” is an enclosed trailer used for street vending that does not exceed 56 square

feet, fits in a 10' by 12' footprint and meets all applicable requirements of this ordinance and applicable regulations.

"Food Cart" is an enclosed trailer used for street vending of food and beverage that does not exceed 56 square feet, fits in a 10' by 12' footprint and meets all applicable requirements for a Mall/Concourse Food Vendor or Late Night Vendor under Sec. 9.13(6) or, when operating outside the Mall/Concourse, meets all other applicable requirements of this ordinance for the vending area in question.

"Food Truck" is a truck or trailer used for food and beverage vending that exceeds the size restrictions for a Food Cart and is more specifically defined and regulated in Sec. 9.13(13).

"Food Vendor" refers to a licensed Mall/Concourse Food Vendor as defined in Sec. 9.13(6)(e).

"Non-cart food vending equipment" refers to vending apparatus other than an enclosed cart, used for food vending, and when used within the Mall/Concourse Vending Area, meeting the requirements of Sec. VII of the Regulations Governing Vending on the State Street Mall/Capitol Concourse.

"Push Cart" is a small non-motorized cart that can be moved by hand, of a size and construction that does not meet the definition of "vehicle" under Wis. Stat. § 340.01(74) and fits entirely within a footprint of 4 feet by 8 feet.

"Specialized Vending Area" means a geographic area of the City where street vending activities are more specifically regulated, and an assigned site and/or a special vending license in addition to a Basic Vending license is required. The specialized vending areas are set forth in Secs. 9.13(6) State Street Mall/Capitol Concourse, 9.13(7) High Density, 9.13(10) Southeast Campus, 9.13(11) Camp Randall, and 9.13(12) TOSVOD.

"Specialized Vending License" refers to the specific vending license required to vend in a Specialized Vending Area.

"Vending Site" means a space on a street or sidewalk designated by the City as a location for street vending by licensed vendor holding the required licenses for the site in question, with the site being created either by this ordinance, regulations adopted thereto, or an official map designated by this ordinance. Vending Site also refers to the area where a vendor holding a Basic license chooses to conduct street vending when vending in a part of the City that does not require an Assigned Site.

"Vending Site, Assigned (Assigned Site)" is a type of vending site that can only be used if the vendor is assigned to the site through procedures in this ordinance."

2. Subsection (4) entitled "General Restrictions on Vending" of Section 9.13 entitled "License for Selling on Public Street" of the Madison General Ordinances is amended to read as follows:

"(4) General Restrictions on Vending. ~~The Director of Planning and Community and Economic Development, or designee, shall have concurrent authority with the Chief of Police, or designee, to enforce the following city-wide restrictions on street vending.~~ Any vending conducted pursuant to Sec. 9.13 of the Madison General Ordinances shall be subject to the following, unless a different standard is established herein or elsewhere in this ordinance for specialized vending in specified areas:

- (a) No vending equipment shall be permitted within a ten (10) foot radius of a fire hydrant nor within a five (5) foot radius of a standpipe.
- (b) No vending or display shall be permitted within five (5) feet of the sides of bus shelters or bus stops nor in a manner which interferes with the use of the bus stop or with ingress or egress to the bus shelters.
- (c) Unless otherwise authorized within Sec. 9.13, regulations established pursuant to Sec. 9.13 or Sec. 10.056 of the Madison General Ordinances, no vending equipment shall be permitted within ten (10) feet of a curbcut or a marked crosswalk, except that vending equipment of a licensed Mall/Concourse vendor shall be permitted, within two (2) feet of a marked crosswalk in a properly designated vending site or sidewalk cafe site, if consistent with public safety as determined by Traffic Engineering.
- (d) All street vending equipment and displays shall be placed only upon paved surfaces, except for

specifically assigned vending sites in the Camp Randall High Density Vending Area under Sec. 9.13(7), and in otherwise lawful locations for Basic Street Vending on Regent Street from West Washington Avenue to Breese Terrace, and equipment adjacent to a mobile grocery store, as defined in Sec. 28.211, if the mobile grocery store is owned and operated by a non-profit entity and operating as a street vendor with a Basic Street Vendor license from a lawful parking space on the street. For purposes of this paragraph, a paved surface includes concrete, asphalt, cement, brick, pavers, or other impervious surface.

- (e) Pedestrian Sidewalk Access.
1. All vending activities shall be conducted so as to maintain a minimum width of six (6) feet of unobstructed public pedestrian walkway adjacent to the vending site.
  2. Except as otherwise permitted in Sec. 9.13 or Sec. 10.056 of the Madison General Ordinances or in regulations adopted pursuant to authority granted thereunder, no vending equipment, including sidewalk café or merchant vending equipment, may be placed on any portion of a public sidewalk between the edge of the sidewalk closest to the property line if clearly defined or, if not so defined, the face of the abutting building or structure, and an imaginary line six (6) feet therefrom. "Sidewalk" has the meaning given in Wis. Stat. § 340.01(58). This section shall not apply to sidewalk cafes under Sec. 9.13 (6)(j)2.e.
- (f) Except for a legally parked Food Truck, No vending equipment or vending activities shall be permitted adjacent to any truck, freight or passenger loading zone or adjacent to any official parking space reserved for a motor vehicle used by people with disabilities or loading zone or an access aisle to provide entry to and exit from vehicles by persons with physical disabilities.
- (g) Except for a lawfully parked Food Truck, No vending equipment shall be permitted within two (2) feet of the adjacent street curb or within two and one-half (2½) feet of a parking meter or multi-space parking meter. Street vending from a vehicle parked at a parking meter during hours in which the meter is enforced is prohibited by Sec. 12.145(1)(d), MGO.
- (h) No vendor shall be permitted to use any of the amenities, such as benches, flower planters, trees, bus shelters, kiosks, light poles or any other utility poles for display of merchandise or to attach any ropes or other vending equipment to any of the aforementioned.
- (i) Vending equipment and displays, including signage, shall be directed away from the street. In addition, merchandise shall be displayed in a manner in which attention to it is not focused from the street and which does not require or encourage prospective buyers to enter or walk upon the street in order to examine it.
- (j) Appearance and Size of Vending Site and Equipment. Vendors must maintain their vending site areas and vending equipment in a clean and hazard-free condition.
1. Vending Site Perimeter. For purposes of this requirement, the maximum size of the "vending site" shall be the actual dimensions of an assigned site, or a perimeter of not more than ten by twelve feet (10' x 12') around the vendor if vending in an area where an assigned site is not required, except the following are not subject to this vending site size restriction:
    - a. Mobile Grocery Stores. A mobile grocery store, as defined in Sec. 28.211, if owned and operated by a non-profit entity and operating as a street vendor with a Basic Street Vendor license. The vending site size for a mobile grocery store shall be determined by the size of the mobile grocery store vehicle.
    - b. Ice Cream Trucks. A street vendor selling ice cream, ices, and/or frozen confections from a licensed motor vehicle, if meeting all licensing requirements of Public Health Madison and Dane County and holding a Basic Street Vending License. The vending site size shall be determined by the size of motor vehicle.
    - c. Food Trucks licensed under Sec. 9.13(13). The vending site size shall be determined by the size of the Food Truck.
  2. Equipment. All equipment present at the vending site shall be completely contained within the perimeter of the vending site and no equipment shall extend or be placed

outside this perimeter, except for Food Trucks, except as may be allowed elsewhere in this ordinance or the Regulations, and except that a mobile grocery store, defined in Sec. 28.211 and owned and operated by a non-profit entity, when operating with a Basic Street Vendor license, may use stairs or similar equipment necessary to facilitate customers access to and from the mobile grocery store. Equipment placement is further restricted by other provisions in Sec. 9.13(4).

Unless otherwise specified, each vendor vending from an enclosed cart or push cart may only use the vending cart, one (1) chair, and one (1) trash receptacle. Vendors vending from an enclosed cart or push cart are limited to the equipment listed above and may not use any additional freestanding equipment, however umbrellas or awnings securely attached to the cart may be used. If using vending apparatus other than an enclosed cart, food cart, push cart, a mobile grocery, or an ice cream truck, or Food Truck, one (1) freestanding tent or similar structure may be used but must maintain a minimum vertical clearance of seven (7) feet measured from ground level to the lowest point of the tent or other structure and a maximum height of eleven (11) feet at the highest point. Any freestanding structures of any kind shall be sufficiently wind-resistant and securely anchored. No part of any equipment, whether attached or detached, shall protrude beyond the perimeter of the vending site (as defined herein).

3. Equipment Appearance. All equipment used at the vending site shall be in a clean, sanitary, hazard-free condition and maintained in a presentable appearance and in good repair, without noticeable holes or other structural defects. Visible exterior surfaces of all equipment shall be maintained so as to prevent chipping, cracking or other deterioration of the paint or exterior surface.
  - (k) A vendor shall be present within the vending site at all times during which items are displayed or sold, except that a vendor may leave his or her vending site unattended during lawful vending hours for a maximum of ninety (90) minutes.
  - (l) No vending equipment or merchandise may be stored on any street, sidewalk or alley or public square when the vendor is not present unless a different restriction is established pursuant to a street use permit issued under Sec. 10.056 of these ordinances or pursuant to regulations adopted under this chapter, and except as set forth in Sec. 9.13(4)(k).
  - (m) All vending equipment, including enclosed carts, tables, apparatus and merchandise shall be removed from the streets, sidewalks, terrace area or other vending location during times when vending is prohibited, unless a different restriction is established pursuant to a street use permit issued under Sec. 10.056 of these ordinances, pursuant to regulations adopted under this chapter, and except as specified for Mall/Concourse sidewalk cafes in Sec. 9.13(6)(l)1.d. and city-wide sidewalk cafes in Sec. 9.13(5)(h). This provision shall not apply to a Food Truck that is closed for vending business and operating or legally parked on the street.
  - (n) It shall be lawful for any person, after having been warned that such activity is prohibited, to engage in any vending or solicitation whether for charitable or commercial purposes in the sidewalk area between the imaginary line connecting the sparkle light poles and the face of the adjacent building of any sidewalks on State Street and of the outside sidewalks on the Capitol Square, unless such activity has been approved as part of a Street Use Permit issued under Sec. 10.056 or is otherwise authorized pursuant to Sec. 9.13(6) as it relates to vending from a vending site.
  - (o) No display shall violate any terms of any agreement(s) between the City of Madison and the Federal Transit Administration or other agency(ies) of the U.S. government for funding the reconstruction or maintenance of State Street and the Capitol Square.
  - (p) It is unlawful for any vendor licensed under Sec. 9.13 to permit any other person to vend at that vendor's vending site, unless that person is properly licensed or otherwise authorized under Sec. 9.13 to vend from that vendor's site.
  - (q) The Madison Police Department and the Director of Planning and Community and Economic Development shall have concurrent authority to remove or cause the removal of any vending

equipment or merchandise found on the street, sidewalk, terrace or other vending location in violation of Sec. 9.13 or Sec. 10.056 of the Madison General Ordinances or any regulations established pursuant thereto. The removal of any food cart or Food Truck parked on the street shall be at the direction of a traffic officer or Madison Police Department parking enforcement officer authorized to direct the towing of vehicles. In addition to any forfeiture, the violator shall be liable for any removal, towing and storage charges incurred by either department.

- (r) Vending Hours Restricted in Residential Areas. Street vending shall be prohibited between the hours of 9:00 p.m. and 6:00 a.m. on any street or sidewalk located within any residentially zoned district listed under Sec. 28.021(1) and as indicated on official Zoning District Maps on file in the office of the City Zoning Administrator, except for city-wide sidewalk cafes which are subject to Sec. 9.13(5)(h).
- (s) Non-Mall/Concourse Food Vending, Equipment Size, Safety Requirements.
1. Applicability. This subsection (4)(s) applies to all vendors selling food in areas other than the Mall/Concourse and High Density Vending areas, except ice cream truck vendors as described in Sec. 9.13(4)(j)1.b. and except where otherwise indicated. All ~~food~~ vendors selling food are subject to inspection, regulation and licensing according to state and local health code requirements for food and drink service. When used in this sub. (4)(s), "mobile grocery store" shall mean a mobile grocery store as defined in Sec. 28.211, owned and operated by a non-profit entity, operating with a Basic Street Vendor license.
  2. Equipment Size in Food Vending Sites.
    - a. All food vending carts, stands or other allowable food vending equipment, including those of Late Night food vendors, shall be of a size that fits entirely within the dimensions of the "vending site" perimeter as required by 9.13(4)(j)1. Unless otherwise specified, each food vendor vending from an enclosed cart or push cart may only use the vending cart, one (1) chair, and one (1) trash receptacle. ~~All food vendors shall provide a trash receptacle of at least 10 (ten) gallons within their vending site for customer use. Mobile grocery stores are exempt from this provision.~~
    - b. All food vendors, including Food Trucks, shall provide a trash receptacle of at least 10 (ten) gallons within their vending site for customer use.
  3. Equipment Placement and Appearance. See 9.13(4)(j) and other applicable provisions of Sec. 9.13(4).
  4. Additional Regulations Applicable to Citywide Food Vendors. In addition to the other provisions of Sec. 9.13(4), the following parts of the Regulations Governing Vending on the State Street Mall/Capitol Concourse shall apply to all street vendors selling food, City-wide, as indicated below, except these regulations do not apply to food vendors in High Density Vending areas (see Sec. 9.13(7) and Regulations therein) or to ice cream trucks as described in Sec. 9.13(4)(j)1.b.:
    - a. ~~Section VI, "Regulation of Vending Site Cleanliness and Safety."~~
    - b. ~~Section VII, "Non-Cart Food Vendor Physical Specifications." Mobile grocery stores and Food Trucks are exempt from this provision.~~
    - c. ~~The following paragraphs only of Section VIII, "Regulation of Food and Non-Food Vending Carts:" Paragraph B. (Physical Specifications) 4. and 5. only, except mobile grocery stores are exempt from all of Sec. VIII, Paragraph B., Paragraph C., (Electricity) and Paragraph E. (Fire Extinguishers).~~
    - d. ~~Section IX, "Miscellaneous Regulations," Paragraph A. (Restrictions on Mobility), (except mobile grocery stores), Paragraph B. (Removal of Carts and Equipment), except mobile grocery stores are exempt from Paragraphs B.1. and 2., and Paragraph C. (Restrictions on Food Preparation), except mobile grocery stores are exempt from Paragraphs C.2. and 3.~~
    - a. City-wide Food Vendors (Other Than Food Trucks).
      - Section VI, "Regulation of Vending Site Cleanliness and Safety."

- Section VII, "Non-Cart Food Vendor Physical Specifications."
- Section VIII. B. (Physical Specifications) 4 and 5 only
- Section VIII. C. (Electricity)
- Section VIII. E. (Fire Extinguishers)
- Section IX. A. (Restrictions on Mobility)
- Section IX. B. (Removal of Carts and Equipment)
- Section IX. C. (Restrictions on Food Preparation)
- b. Mobile Grocery Stores.
  - Section VI, "Regulation of Vending Site Cleanliness and Safety."
  - Section VIII. C. (Electricity)
  - Section VIII. E. (Fire Extinguishers)
  - Section IX. B. (Removal of Carts and Equipment) paragraph 3 only
  - Section IX. C. (Restrictions on Food Preparation) paragraph 1 only
- c. Food Trucks. See Sec. 9.13(13)(d).
- (t) Changes to Assigned Vending Site Dimensions. The approved dimensions of any assigned ~~street vending~~ site are not guaranteed to remain available. Public construction, street improvements or redesign may result in a vending site being moved, reduced in size or eliminated at any time. All vending site dimensions are subject to change if the City makes changes to the construction of the sidewalk and/or streetscape that affect the vending site, including but not limited to the addition or removal of planters, trees, benches, bike racks, bus shelters, sculptures, or any other public amenity.
- (u) Reserved for Future Use.
- (v) Noise Levels at Vending Site. Noise levels emanating from the vending site shall be kept to a minimum, shall not be directed toward the street or sidewalk, and shall be reasonable so as not to disturb the peace and quiet of those in the vicinity, including but not limited to residents, merchants, and customers. No sound amplification shall be permitted at a non-cart vending stand. Vendors utilizing an enclosed vending cart may use amplification inside an enclosed vending cart only, and any music or other audio shall be kept to a volume such that it cannot be heard outside of the cart beyond the first customer in line at the window or service area.

No audio or video equipment, such as speakers and video display monitors, shall be permitted at a non-cart vending stand, nor affixed to or used outside an enclosed vending cart. This ordinance shall apply in addition to the general restrictions regarding noise and amplification found in Chapter 24 of the Madison General Ordinances. Vendors shall be subject to all applicable City ordinances regarding noise and amplification and this ordinance shall not be interpreted to expand or contradict those other ordinances. In the event of a conflict, the more strict regulation or ordinance shall apply."

3. Subsection (13) entitled "Food Trucks" of Section 9.13 entitled "License for Selling on Public Street" of the Madison General Ordinances is created to read as follows:

- "(13) Food Trucks. Street vending of food and beverages may occur from a truck or trailer meeting all requirements below, with a Basic Street vending license, anywhere in the City other than the specialized vending areas, subject to the following requirements:
- (a) A Food Truck is a motor vehicle or trailer that includes a mobile food preparation area that meets the requirements elsewhere in this ordinance for food vending but exceeds the size restrictions for Mall/Concourse Food vending carts and other street vending equipment. To be eligible to vend as a Food Truck, the vehicle shall meet the following size restrictions:
    1. A maximum of 8'6" in width, 13'6" in height, and not more than 28 feet in total length, including any attachments for generators or other vending supplies.
    2. If a truck, it must be a single unit such as a step van, box van or light duty box truck, not a semi-trailer or tractor-trailer combination.

3. If using a trailer, it must be detached from the tow vehicle while open for business.
- (b) The vehicle is currently registered as required by Wis. Stat. ch. 341.
  - (c) Food Trucks that comply with all of the requirements of this section are exempt from restrictions on the size of vending equipment, vending site perimeters and footprints found elsewhere in this ordinance.
  - (d) All necessary, applicable licenses required by state and local health codes for mobile food and drink service have been issued for the food and beverage services occurring from the Food Truck.
  - (e) Except for the size exemption in sub. (c), and except where expressly exempt elsewhere in this ordinance, Food Trucks shall be subject to Sec. 9.13(4) and all other applicable requirements for Basic street vending in this ordinance.
  - (f) The food preparation area of the truck shall comply with the following sections of the Regulations Governing Vending on the State Street Mall/Capitol Concourse:
    - Section VI, "Regulation of Vending Site Cleanliness and Safety."
    - Section VIII. C. (Electricity) paragraphs 6, 7 and 8 only, and a circuit breaker installed in accordance with the National Electrical Code (NEC) not exceeding 15 amps on line between the appliance and the power source.
    - Section VIII. E. (Fire Extinguishers).
    - Section IX. B. (Removal of Carts and Equipment) paragraph 3 only.
    - Section IX. C. (Restrictions on Food Preparation) paragraphs 1 and 2 only.
    - Food Trucks shall provide a trash receptacle of at least 10 (ten) gallons accessible to their customers while open for business.
    - The service window for customers shall be oriented toward the sidewalk and away from the roadway. No customer interactions shall take place with the customer standing on any portion of the roadway.
  - (g) All applicable motor vehicle and traffic laws, rules of the road, including all applicable local parking ordinances shall be obeyed at all times.
  - (h) All parts of the vehicle shall be maintained in good repair and in a safe and sanitary condition.
  - (i) Power Source and Idling. Power for the vending operations shall be generated from a source that is not the vehicle engine, not a City of Madison electrical source, and the power source shall emit not more than 60 decibels. Sec. 12.1291, Motor Vehicle Idling, shall apply to Food Trucks.
  - (j) Signage. Any signage and accessories affixed to the vehicle shall comply with state law requirements for such motor vehicle. The Food Truck must include a sign prominently displayed that identifies the business name and lists all food and beverages menu items, but no signage shall be erected on the vehicle in such a way that it projects in any direction beyond the body of the vehicle, and no free-standing signs shall be placed in or upon the City or highway right-of-way.
  - (k) Food Trucks holding a Basic license and operating in compliance with the requirements of this section are eligible for free-standing vending on private property as allowed by Chapter 28, Zoning Code."