



## Legislation Text

File #: 07569, Version: 1

### Fiscal Note

No appropriation required.

### Title

Authorizing amendments to the "Regulations Governing Vending on the State Street Mall/Capitol Concourse" to allow the Vending Coordinator to grant a variance to a Mall/Concourse vendor to allow a vending cart with a size up to 10% larger than the current maximum of 56 square feet.

### Body

WHEREAS, Section 9.13(6) of the Madison General Ordinances provides that 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/Capitol Concourse; and the number, size, location of vending sites therein; and WHEREAS, pursuant to Sec. 9.13 the Common Council must approve certain regulations promulgated by the VOC; and WHEREAS, said regulations are currently published in documents entitled "Regulations Governing Vending on the State Street Mall/Capitol Concourse;" and

WHEREAS, at its meeting on August 29, 2007, the VOC promulgated amendments to the Regulations Governing Vending on the State Street Mall/Capitol Concourse as described below; and

WHEREAS, said amendments are set forth in this Resolution using underlines and strike-outs to show changes as appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council approve amendments to the "Regulations Governing Vending on the State Street Mall/Capitol Concourse" recommended by the VOC, as follows:

#### **1. Section B. of Section VIII., "REGULATION OF FOOD AND NON-FOOD VENDING CARTS" is amended as follows:**

"B. Physical Specifications. Vending carts shall conform to the following specifications:

1. The vending cart foot-print contain no more than fifty-six (56) square feet of area measured on a horizontal plan (exposed trail tongue, axle and tires excluded). No portion of the cart shall exceed or extend beyond the actual assigned vendign site size or the maximum vendign site size of 10' x 12' whichever is smaller.

Variance for vending cart size: the Vending Coordinator may approve a vending cart size up to 10% greater than the 56 square foot maximum described above, if all the following criteria are met:

- a. the proposed cart meets all other physical specifications in these Regulations and MGO sec. 9.13.
- b. the proposed cart cannot be modified to reduce the size to 56 square feet (excluding exposed trailer tongue, axle and tires).
- c. the size and shape of the proposed cart will fit within a 10'x12' vending site and shall not be assigned to a site that it cannot fit into, as required by par. 1. above.
- d. the applicant must adequately demonstrate why this cart is necessary for his/her vending operation and why a cart meeting the size restrictions would result in an unnecessary hardship upon the applicant.
- e. the alleged hardship has not been created by the applicant vendor.
- f. the proposed cart was purchased or acquired by the applicant intact or nearly intact, and the applicant had no opportunity to control the size of the cart as it was built.
- g. the purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.
- h. the granting of the variance will not be detrimental to the public safety or welfare, shall not decrease pedestrian or traffic safety, nor be injurious or create a safety hazard for adjacent property owners or to other private or public property in the Mall/Concourse vending area.

A request for a cart size variance must be made with the appropriate vending license application. If the application is for a Mall/Concourse Food Vending Cart, no applicant with a cart larger than 56 square feet may participate in the Fall Food Cart review unless a variance has been granted. The Vending Coordinator shall make a decision granting or denying the variance, in writing. If granted, the variance and total square footage approved shall be indicated on the application and any resulting vending license. If denied, the decision shall specify which criteria were not met. An Applicant who is adversely affected by the decision of the Vending Coordinator to grant or deny this variance may appeal the decision to the Vending Oversight Committee, following the appeal procedures under MGO sec. 9.13(6)(i)2.b. and c., except that the appeal shall be to the VOC only, the VOC shall be the final administrative decisionmaker for purposes of review in court as may be provided by law, and the VOC

shall not report findings to the Common Council. Any action by a person aggrieved by the decision of the VOC under this section shall be filed within thirty (30) days of notification of the decision of the VOC."

2. The vertical height of the cart shall not exceed ten (10) feet measured from the ground level to the highest point in the cart including signage or other equipment, if any.
3. The vending cart shall not be of a mass produced or prefabricated type.
4. The cart shall be maintained in good repair and in a safe and sanitary condition.
5. The vending cart must have a sign prominently displayed which identifies the cart by its business name and a sign that lists food menu items and prices.