



## Legislation Details (With Text)

**File #:** 06955      **Version:** 1      **Name:** 9/4 outdoor eating areas of restaurants as permitted use  
**Type:** Ordinance      **Status:** Filed  
**File created:** 7/9/2007      **In control:** PLAN COMMISSION  
**On agenda:** 9/4/2007      **Final action:** 9/4/2007  
**Enactment date:**      **Enactment #:**

**Title:** Creating Section 28.08(7)(b)10., amending Section 28.08(7)(c)4., creating Section 28.08(8)(b)5., amending Section 28.08(8)(c)2., creating Section 28.085(5)(c)8., amending Section 28.085(5)(d)3., creating Section 28.09(2)(c)57., amending Section 28.09(2)(d)6., creating Section 28.09(3)(c)82., repealing Section 28.09(3)(d)2., amending Section 28.09(3)(d)32., creating Section 28.09(5)(c)3., amending Section 28.09(5)(d)3.a., creating Section 28.10(2)(c)16., amending Section 28.10(2)(d)6., creating Section 28.10(4)(c)67., repealing Section 28.10(4)(d)9., amending Section 28.10(4)(d)29., creating Section 28.10(6)(c)14., and amending Section 28.10(6)(d)6. of the Madison General Ordinances to make some outdoor eating areas of restaurants permitted rather than conditional uses.

**Sponsors:** Lauren Cnare, David J. Cieslewicz

**Indexes:**

**Code sections:**

**Attachments:** 1. 06955 Notice of Public Hearing.pdf, 2. Memos.pdf

Date	Ver.	Action By	Action	Result
9/4/2007	1	COMMON COUNCIL	Place On File	Pass
8/20/2007	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO PLACE ON FILE - PUBLIC HEARING	Pass
7/17/2007	1	COMMON COUNCIL	Refer For Public Hearing	
7/11/2007	1	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office	
7/11/2007	1	Attorney's Office	Referred for Introduction	
7/9/2007	1	Attorney's Office/Approval Group	Approved As To Form	
7/9/2007	1	Attorney's Office	Fiscal Note Required / Approval	

### Fiscal Note

The Planning Department estimates that this amendment to move conditional uses to permitted uses for outdoor eateries may eliminate an estimated 6 conditional uses per year, resulting in reduced conditional use application fees of \$3,000. However, City costs for publishing newspaper notices, mailing and staff costs for processing the applications will also be reduced, such that the realized efficiencies will equal or exceed the reduction in revenue.

### Title

Creating Section 28.08(7)(b)10., amending Section 28.08(7)(c)4., creating Section 28.08(8)(b)5., amending Section 28.08(8)(c)2., creating Section 28.085(5)(c)8., amending Section 28.085(5)(d)3., creating Section 28.09(2)(c)57., amending Section 28.09(2)(d)6., creating Section 28.09(3)(c)82., repealing Section 28.09(3)(d)2., amending Section 28.09(3)(d)32., creating Section 28.09(5)(c)3., amending Section 28.09(5)(d)3.a., creating Section 28.10(2)(c)16., amending Section 28.10(2)(d)6., creating Section 28.10(4)(c)67., repealing Section 28.10(4)(d)9., amending Section 28.10(4)(d)29., creating Section 28.10(6)(c)14., and amending Section 28.10(6)(d)6. of the Madison General Ordinances to make some outdoor eating areas of restaurants permitted rather than conditional uses.

### Body

DRAFTER'S ANALYSIS: This ordinance makes a permitted use of outdoor eating areas of restaurants if the area is at

least 200 feet from a building with residential uses, there is no amplified sound, and the area closes no later than 10:00 p.m. All other outdoor eating areas remain conditional uses.

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

1. Paragraph 10. of Subdivision (b) entitled "Permitted Uses" of Subsection (7) entitled "R6 General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

"10. Outdoor eating areas of restaurants serving only nonalcoholic beverages and food provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

2. Paragraph 4. of Subdivision (c) entitled "Conditional Uses" of Subsection (7) entitled "R6 General Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is amended to read as follows:

"4. Outdoor eating areas of restaurants serving only nonalcoholic beverages and food unless permitted in (c) above."

3. Paragraph 5. of Subdivision (b) entitled "Permitted Uses" of Subsection (8) entitled "OR Office Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is created to read as follows:

"5. Outdoor eating areas of restaurants located in hotels or motels provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

4. Paragraph 2. of Subdivision (c) entitled "Conditional Uses" of Subsection (8) entitled "OR Office Residence District" of Section 28.08 entitled "Residence Districts" of the Madison General Ordinances is amended to read as follows:

"2. Outdoor eating areas of restaurants located in hotels or motels unless permitted in (b) above."

5. Paragraph 8. of Subdivision (c) entitled "Permitted Uses" of Subsection (5) entitled "O-4 Administrative Office and Research and Development District" of Section 28.085 entitled "Office Districts" of the Madison General Ordinances is created to read as follows:

"8. Outdoor eating areas of restaurants provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

6. Paragraph 3. of Subdivision (d) entitled "Conditional Uses" of Subsection (5) entitled "O-4 Administrative Office and Research and Development District" of Section 28.085 entitled "Office Districts" of the Madison General Ordinances is amended to read as follows:

"3. Outdoor eating and recreation areas, when accessory to another use unless permitted in (c) above.

7. Paragraph 57. of Subdivision (c) entitled "Permitted Uses" of Subsection (2) entitled "C1 Limited Commercial District" of Section 28.09 entitled "Commercial Districts" of the Madison General Ordinances is created to read as follows:

"57. Outdoor eating areas of restaurants provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

8. Paragraph 6. of Subdivision (d) entitled "Conditional Uses" of Subsection (2) entitled "C1 Limited Commercial District" of Section 28.09 entitled "Commercial Districts" of the Madison General Ordinances is amended to read as follows:

"6. Outdoor eating areas of restaurants unless permitted in (c) above."

9. Paragraph 82. of Subdivision (c) entitled "Permitted Uses" of Subsection (3) entitled "C2 General Commercial District" of Section 28.09 entitled "Commercial Districts" of the Madison General Ordinances is created to read as follows:

"82. Outdoor eating areas of restaurants provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

10. Paragraph 2. of Subdivision (d) entitled "Conditional Uses" of Subsection (3) entitled "C2 General Commercial District" of Section 28.09 entitled "Commercial Districts" of the Madison General Ordinances is hereby repealed.

11. Paragraph 32. of Subdivision (d) entitled "Conditional Uses" of Subsection (3) entitled "C2 General Commercial District" of Section 28.09 entitled "Commercial Districts" of the Madison General Ordinances is amended to read as follows:

"32. Outdoor eating and recreation areas, when accessory to another use unless permitted in (c) above."

12. Paragraph 3. of Subdivision (c) entitled "Permitted Uses" of Subsection (5) entitled "C4 Central Commercial District" of Section 28.09 entitled ""Commercial Districts" of the Madison General Ordinances is created to read as follows:

"3. Outdoor eating areas of restaurants provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

13. Subparagraph a. of Paragraph 3. of Subdivision (d) entitled "Conditional Uses" of Subsection (5) entitled "C4 Central Commercial District" of Section 28.09 entitled ""Commercial Districts" of the Madison General Ordinances is amended to read as follows:

"3. a. Outdoor eating areas of restaurants or taverns except in the public right-of-way when permitted under Section 9.13, or permitted in (c) above and"

14. Paragraph 16. of Subdivision (c) entitled "Permitted Uses" of Subsection (2) entitled "RPSM Research Park - Specialized Manufacturing District" of Section 28.10 entitled "Manufacturing Districts" is created to read as follows:

"16. Outdoor eating areas of restaurants, provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

15. Paragraph 6. of Subdivision (d) entitled "Conditional Uses" of Subsection (2) entitled "RPSM Research Park - Specialized Manufacturing District" of Section 28.10 entitled "Manufacturing Districts" is amended to read as follows:

"6. Outdoor eating and recreation areas, when accessory to another use unless permitted in (d) above."

16. Paragraph 67. of Subdivision (c) entitled "Permitted Uses" of Subsection (4) entitled "M1 Limited Manufacturing District" of Section 28.10 entitled "Manufacturing Districts" is created to read as follows:

"67. Outdoor eating areas of restaurants, provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

17. Paragraph 9. of Subdivision (d) entitled "Conditional Uses" of Subsection (4) entitled "M1 Limited Manufacturing District" of Section 28.10 entitled "Manufacturing Districts" is hereby repealed.

18. Paragraph 29. of Subdivision (d) entitled "Conditional Uses" of Subsection (4) entitled "M1 Limited Manufacturing District" of Section 28.10 entitled "Manufacturing Districts" is amended to read as follows:

"29. Outdoor eating and recreation areas, when accessory to another use unless permitted in (c) above."

19. Paragraph 14. of Subdivision (c) entitled "Permitted Uses" of Subsection (6) entitled "RDC Research and Development Center District" of Section 28.10 entitled "Manufacturing Districts" is created to read as follows:

"14. Outdoor eating areas of restaurants, provided that the outdoor eating area is not less than two hundred (200) feet from a building containing a residential use, is not open after 10:00 p.m., and there is no amplified sound."

20. Paragraph 6. of Subdivision (d) entitled "Conditional Uses" of Subsection (6) entitled "RDC Research and Development Center District" of Section 28.10 entitled "Manufacturing Districts" of the Madison General Ordinances is amended to read as follows:

"6. Outdoor eating and recreation areas, when accessory to another use unless permitted in (c) above."

EDITOR'S NOTE:

1. Section 28.09(3)(d)2. currently reads as follows:

"2. Outdoor eating and recreation areas of restaurants and taverns."

2. Section 28.10(4)(d)9. currently reads as follows:

"9. Outdoor eating and recreation areas of restaurants and taverns."