Legislation Details (With Text)

File #:	57526	**Version:**	1	**Name:**	Prohibit Extended Delivery vending
Type:	Ordinance			**Status:**	Passed
File created:	9/17/2019			**In control:**	Attorney's Office/Approval Group
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Enactment date:	10/11/2019			**Enactment #:**	ORD-19-00072

Title: Creating Section 9.13(1)(b)5. of the Madison General Ordinances to define and prohibit the practice of Extended Delivery, where food and beverage are sold to more than 5 customers via delivery occurring on public streets and sidewalks, and amending Sec. 9.13(1) to make housekeeping changes.

Sponsors: Michael E. Verveer

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
10/1/2019	1	COMMON COUNCIL	Adopt	Pass
9/25/2019	1	VENDING OVERSIGHT COMMITTEE (ended 3/2026)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	
9/17/2019	1	COMMON COUNCIL	Refer	Pass
9/17/2019	1	Attorney's Office/Approval Group	Referred for Introduction	

Fiscal Note

No City appropriation required.

Title

Creating Section 9.13(1)(b)5. of the Madison General Ordinances to define and prohibit the practice of Extended Delivery, where food and beverage are sold to more than 5 customers via delivery occurring on public streets and sidewalks, and amending Sec. 9.13(1) to make housekeeping changes.

Body

DRAFTER'S ANALYSIS: This ordinance prohibits a recent street vending practice where unlicensed vendors make deliveries of a large amount of food to a location on the street or sidewalk, as well as taking walk-up orders, usually from a vehicle. This ordinance makes it clear such extended deliveries are a type of street vending, and prohibits it. Street vending requires a license, Health Department inspections, and in many parts of the City, a site assignment that is awarded through the competitive Food Cart review or on seniority. This ordinance defines extended delivery as making a delivery to more than 5 people at a time when the delivery occurs on the public street or sidewalk. Under this amendment there is no license available for this activity. Delivering food to more than 5 people inside a building or on private property continues to be unregulated. If such delivery includes taking walk-up orders outdoors on private property, this would be regulated as "freestanding vending" under the zoning ordinance.

This ordinance also makes some housekeeping changes to streamline the definition of street vending to coincide with other definitions within the street vending ordinance.

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

1. Paragraph 5. entitled "Extended Delivery Prohibited" of Subdivision (b) entitled "Street Vending

Near Parks, etc." of Subsection (1) of Section 9.13 entitled "License for Selling on Public Streets" of the Madison General Ordinances is created to read as follows:

"5. Extended Delivery Prohibited.

a. Definition. Extended Delivery is a type of street vending where food or beverage is delivered by vehicle, on foot, or using any other equipment or any other means, to more than five (5) customers at the same place and time, and the delivery is made to the customers on the public street, sidewalk, alley, square or other part of the highway right-of-way. It is not considered extended delivery if the customers take delivery of the food or beverage on private property or inside a building.

b. Prohibition. No person shall engage in the activity of Extended Delivery anywhere in the City of Madison, and no street vending permit is available for Extended Delivery."

2. The introductory paragraphs of Subsection (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 in a subsection of this ordinance, it shall be unlawful for any person upon any highway, street, alley, sidewalk, or public square, 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~~ preparing or setting up a booth, ~~preparing or setting up the~~ vending cart, truck, stand, ~~or~~ vehicle or equipment of any kind from which the vending activity directly occurs; 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~~,~~; making an Extended Delivery as defined in sub. (1)(b)5.~~,~~; 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 or is exempt from license under another provision herein.

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, truck or stand is open for business. "Street Vending" does not include the act of delivering the cart, truck, 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), (7), (10) and (11) set forth~~ ~~s~~Specific criteria for licensing and persons permitted at the vending site ~~in specific vending areas~~ within specialized vending areas are set forth elsewhere in this ordinance. In case of a conflict between this subsection and ~~subs. (6), (7), (10) and (11), subs. (6), (7), (10) and (11) shall control~~ the requirements for a specialized vending area, the requirements for the specialized vending area in question shall control.

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

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