



Legislation Text

File #: 06121, Version: 1

Fiscal Note

There may be a modest increase in General Fund revenues derived from licensing fees.

Title

Amending Section 9.13(5) of the Madison General Ordinances to modify regulations for non-Mall/Concourse sidewalk cafe licenses.

Body

DRAFTER'S ANALYSIS: This ordinance expands and clarifies the rules for sidewalk cafes at restaurants and bars located outside the boundaries of the State Street Mall/Capitol Concourse vending area. Currently, all sidewalk cafes must follow the placement rules for cafes on the mall/concourse - which means they must be placed curbside, with at least 6 feet between the building and the cafe. This amendment would allow sidewalk cafes outside of the mall/concourse to be placed against the building, and allows a varying width for cafes, depending on the sidewalk width. This ordinance establishes threshold eligibility requirements, for example, if the sidewalk is too steep or there are too many obstructions, a cafe is not permitted. But the ordinance also allows for flexible "case-by-case" approval of sidewalk cafe configurations, based on the layout of the particular sidewalk. The ordinance also clarifies that the application, licensing, and appeal procedure for "city-wide" sidewalk cafes will be the same as for sidewalk cafes on the mall/concourse.

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

Subsection (5) entitled "Regulations and Procedures for a (Non-Mall/Concourse) Sidewalk Cafe License" of Section 9.13 entitled "License for Selling on Public Streets" of the Madison General Ordinances is amended to read as follows:

- "(5) Regulations and Procedures for a Citywide (Non-Mall/Concourse) Sidewalk Cafe Licenses. Application Establishments holding a food and drink permit, and located anywhere in the City but the State Street Mall/Capitol Concourse (as defined in 9.13(6)(c).) may be eligible for a Citywide Sidewalk Cafe License, to allow sidewalk café seating for service of food and beverages on the public sidewalk directly adjacent to the establishment. Citywide Sidewalk Cafés shall be located against the building except as allowed under sub. (e).
- (a) Eligibility. An establishment holding a food and drink permit is eligible for a citywide sidewalk café only if it meets all of the following eligibility criteria:
1. The entire sidewalk surface for the proposed sidewalk café must be paved. For purposes of this section, a paved surface includes concrete, asphalt, cement, brick, pavers, or other impervious surface. Paved areas of the establishment's private property may be included within the boundary of the proposed café, if immediately adjacent to the paved public sidewalk.
 2. The paved portion of the adjacent public sidewalk must be at least nine (9) feet wide;
 3. An establishment is not eligible if sidewalk café placement would result in a violation of sec. 9.13 (4)(d) (requiring a minimum of a six (6)-foot wide unobstructed public pedestrian walkway on the public sidewalk adjacent to all vending sites).
 4. An establishment is not be eligible if, in the opinion of the Vending Coordinator, immovable, obtrusive or too numerous public amenities on the adjacent sidewalk make café placement impractical, or when existing amenities would create obstacles to accessibility if a sidewalk café were added to that location.
 5. An establishment is not be eligible if, in the opinion of the Vending Coordinator, the grade or slope of the adjacent public sidewalk is prohibitive, if the sidewalk 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 square footage of the adjacent public sidewalk.
- (b) Application. Establishments holding a food and drink permit, and meeting the eligibility criteria in sub. (a), may apply for a Citywide Sidewalk Cafe License. The Vending Coordinator or designee shall inspect the proposed café location for compliance with sub. (a) and to make placement suggestions upon receipt of

application, or prior to submission, if requested by the applicant. The application procedure for a Citywide sidewalk café shall be the same as for establishments with food and drink permits which are not located in the Mall/Concourse Assessment District Area shall follow the procedures established for application for a Sidewalk Cafes License on the Mall/Concourse, under 9.13(6)(i), and such establishments shall be otherwise subject to the same regulations and restrictions prescribed in this chapter for Mall/Concourse, Sidewalk Cafes, and sidewalk cafes generally, and in "Regulations Governing Vending on the State Street Mall/Capitol Concourse" adopted pursuant to authority granted under this Chapter.

- (c) License Fees. The fee for a Citywide Sidewalk Café vendor license shall be the same as for a Sidewalk Café on the Mall/Concourse, under 9.13(6)(h), and the information required to be displayed on the license shall also be the same.
- (d) Café Placement and Dimensions. Sidewalk cafes permitted under this section shall be located next to the building, except as allowed in sub.(e). All sidewalk cafes shall be placed within the approved boundaries of the sidewalk cafe site as set forth on the approved application. All components of the sidewalk café shall be placed in compliance with sub. (a), "Eligibility", and the following criteria:
1. Sidewalk cafes shall be placed against the building.
 2. Sidewalk cafes shall extend no further than the side property lines of the establishment's street frontage.
 3. No sidewalk cafe may obstruct the minimum of six feet (6') unobstructed public pedestrian walkway required to be maintained on the adjacent public sidewalk. This 6' walkway shall be measured from the outside of the café enclosure to the:
- curb edge,
- roadside edge of sidewalk if there is an unpaved terrace,
- edge of the roadway if there is no curb, or
- the near edge of any curbside public amenities such as parking meters, trees, or light posts located adjacent to the proposed café
and shall be otherwise free from obstructions and public amenities. The points of measurement shall be determined by the Vending Coordinator, according to these standards.
 4. Café Width. The maximum café width shall be determined by the width of the adjacent public sidewalk, according to Table 1. below. Sidewalk width shall be measured from the building face to the edge of the curb (or roadside edge of the sidewalk if there is an unpaved terrace)
 5. Café Furniture. Maximum table size and furniture configuration shall be as required by Table 1. below.

TABLE 1:

<u>Sidewalk Width</u>	<u>Maximum Café Width</u>	<u>Maximum Table Size & configuration</u>
<u>less than 9'</u>	<u>café not permitted</u>	<u>n/a</u>
<u>9'-10'11"</u>	<u>3' café</u>	<u>24" in diameter,</u> <u>single file row</u>
<u>11' - 15'</u>	<u>5' café</u>	<u>(see Regulations Governing</u> <u>Vending on Mall/Concourse)</u>
<u>15' or more</u>	<u>5' or wider, at discretion</u> <u>of the Vending Coordinator</u>	<u>(see Regulations)</u>

6. shall be enclosed on all sides (the building face may serve as one side of the enclosure), following the sidewalk café enclosure requirements of the Regulations Governing Vending on the State Street Mall/Capitol Concourse.
7. shall have at least one (1) unobstructed entrance of at least three feet (3') and not more than five feet (5') in width, the position of which allows sufficient access to the public entrance to/egress from the restaurant.
8. shall not be placed on any grass, lawn or other non-paved areas of the right-of-way.

9. shall comply with all other applicable requirements of this ordinance. In the event of a conflict with another section, the more strict requirement shall control.
- (e) Alternate Placement: Case-by-Case Determination: The Vending Coordinator may, on a case-by-case basis and at his/her discretion, allow variances to sections 9.13(5)(d) 1., 4., 5., and 6. and approve a sidewalk café accordingly, after inspection of the site, if in the opinion of the Vending Coordinator such a variance is necessary in order to permit a sidewalk café for an otherwise eligible establishment.
- (f) Other Regulations. Citywide sidewalk cafes shall be subject to sec. 9.13(4), "General Restrictions on Vending," all sections of 9.13 that apply to sidewalk cafes on the Mall/Concourse, and the "Regulations Governing Vending on the State Street Mall / Capitol Concourse," except when explicitly otherwise stated. In the event of a conflict in language which cannot be resolved by the express language of the sections in question, the more strict requirement shall apply.
- (g) Appeals. A decision to grant or deny a citywide sidewalk café license under this section may be appealed under the procedures set forth in sec. 9.13(6)(i)2."