

**THE VENDING OVERSIGHT COMMITTEE'S
REGULATIONS GOVERNING VENDING
ON THE
STATE STREET MALL/CAPITOL CONCOURSE**

Established pursuant to sec. 9.13(6)(c) Madison General Ordinances
Current through Resolution No. RES-06-00474, enacted May 19, 2006

I. PURPOSE, AUTHORITY, APPLICATION.

The purpose of these regulations is to assure the orderly performance of selling on the State Street Mall/Capitol Concourse; to exclude the sale of commercially-grown, manufactured or processed goods or services in order to retain the unique character of and enhance the public use and enjoyment of the State Street Mall/Capitol Concourse area. A further intent is to encourage the Street sale of arts, crafts and personally prepared food in keeping with the intended use of the State Street Mall/Capitol Concourse by the public.

These regulations are established pursuant to sec. 9.13(6)(c) of the Madison General Ordinances. In the event that any part of sec. 9.13 (except those sections which apply only to areas other than the State Street Mall/Capitol Concourse area) conflicts with these regulations, sec. 9.13 shall be controlling.

These regulations apply only to vending within the State Street Mall/Capitol Concourse Area as defined in sec. 9.13(6) of the Madison General Ordinances.

II. FOOD AND CRAFT VENDING SITES

A. Number and Location of Vending Sites.

The location of the food and craft vending sites set forth below shall be determined by the VOC and set forth in the attached vending site map, Exhibit I.

1. Food Vendors.

a. Capitol Square. There shall be a maximum of nine (9) daily food vendor sites and an additional seventeen (17) Saturday-only food vendor sites.

b. 700 - 800 Blocks of State Street. There shall be a maximum of sixteen (16) daily food vendor sites using electricity and one site (1) that do not require electricity.

2. Craft Vendors.

a. 400, 500, and 700 blocks of State Street. There shall be a maximum

twenty-two (22) daily craft vendor sites.

b. Capitol Square. There shall be a maximum of forty-eight (48) Saturday-only craft vendor sites.

B. Vending Site Size

There shall be two sizes of vending sites. The smaller shall be a maximum of four (4) feet by eight (8) feet. The larger shall be a maximum of ten (10) feet by twelve (12) feet. For all vending sites, the site shall be positioned with the longer dimension running parallel to the adjacent street. Each site shall be designated by physical marks and letters and/or numbers on the pavement.

C. Maintenance of Through Ways

All vendors must operate entirely within the limits of the designated, officially approved, vending sites.

D. Classification of Vending Sites

There shall be three (3) classifications of vending sites:

1. Vending sites for the sale of handcrafted goods (Craft vending sites) .
2. Vending sites for the sale of personally prepared food and beverages (food vending sites).
3. Vending sites for the sale of handcrafted goods by Senior Citizens (i.e., licensed arts and crafts vendors who are 60 years of age or older).

E. Allocation and Assignment of Vending Sites

1. Arts & Crafts. All Mall/Concourse Arts and Crafts vending sites shall be numbered and available as regular assigned craft sites for the annual licensing fee established by ordinance.

- a. Assigned Sites. Sites will be assigned to craft vendors based upon a chronological rank-ordered seniority list that begins with the date each vendor purchased his/her first Mall-Concourse Craft Vendor license. If one or more vendor purchased a license on the same date, rank order will be determined alphabetically by the last name of the vendor or the title of the corporation, cooperative or partnership holding the license. Each vendor will be assigned a number to indicate their rank. Each vendor shall indicate three site preferences on their Application for Mall/Concourse Craft Vendor

License. The Director of the Department of Planning and Development, or designee, shall assign sites beginning with the highest-ranking vendor assigned to his/her first preference, the next-highest ranking vendor assigned to his/her first preference, or if that site has already been assigned, his/her next-highest preference, and so on; until all qualified applicants have received an assigned site or all sites have been filled. The assigned rank number will also be used to determine which vendor has priority to occupy another vendor's unoccupied site. If a craft vendor site in the 400, 500 or 700 blocks of State Street remains unoccupied by 10:00 a.m. another craft vendor may occupy that site for the day using the priority system established above.

- b. Unassigned daily craft vendor sites will retain first come, first served status, except that a vendor with a regular assigned site who wishes to move into an unassigned or unoccupied site will have priority, as determined above, over less-senior craft vendors or any craft vendor without a regular assigned site. Any craft vendor without a regular assigned site may arrange to use an unassigned craft site on a weekly basis during the vending season by notifying the Street Vending Coordinator or designee of the Director of Planning and Development by each Friday at 12:00 p.m., of the site which the vendor will occupy for the next seven days. In addition, the Director of Planning and Development, or designee may assign any unassigned craft vending sites during peak periods, in the event he/she deems such additional assignments desirable for the orderly conduct of vending on the Mall/Concourse.
- c. Senior Citizens. There shall be two Senior Citizen vending sites reserved exclusively for vending by licensed arts and crafts vendors who are 60 years of age or older. These vending sites shall be available to such vendors on a first come, first served basis.
- d. Food. Food vending sites shall be assigned on an annual basis using the review rating obtained at the Fall food vending review, the additional criteria set forth below and the site preference list submitted by the vendor, or upon filling a vacancy under section III. D.

III. ADDITIONAL PROCEDURES FOR FOOD VENDING SITE ASSIGNMENT

The following procedures shall be used for assigning the food vending sites:

- A. Application. An application meeting the general requirements in Section XI and containing the information and materials specified in subsection B. below shall be made to the Director of Planning and Development, or designee by September 1 for the Fall Food Vending Review and applications to fill any vacancies remaining after the Fall Food Vending Review shall be filed by March 31.

- B. Supplementary Information. Along with the application and any other information requested by the Director of Planning and Development, or designee, or the Vendor shall submit a list of preferred vending sites in order of preference; a list of all citations and civil complaints within the previous twelve (12) months issued to any vendor, individual primary vendors(s) to be named on the license and any citation(s) issued to any individual for vending without a vending license at the vendor's site with the vendor's permission within the same period; and each individual vendor's seniority as defined in Section to IV.A.1. Also, relevant informational materials must be provided to enable the Review Panel to assess the degree and manner of the applicant's fulfilling the criteria set forth in Section IV.
- C. Fall Food Vending Review. All applicants for Mall/Concourse Food Vendor licenses and returning Mall/Concourse food vendors shall be required to participate in an annual Food Vending Review. The Food Vending Review shall be conducted during the last week of September, Monday through Saturday, weather permitting. In the event of severe weather, review days may be rescheduled upon notice to all participants. Returning food vendors will be reviewed in their regular sites while open for business. Returning food vendors who are only open for business on Saturdays will be reviewed on Saturday in their regular sites. New applicants will be assigned sites by the Street Vending Coordinator for review Monday through Saturday, but may not be open for business to the regular public. All returning food vendors and new applicants must be reviewed under this section. Reviewers may conduct the review on any day or days Monday through Friday between 11:00 a.m. and 2 p.m., and on Saturday between 8:00 a.m. and 12:00 p.m.
1. The Fall Food Vending Review shall be open to all new applicants and currently licensed food vendors, otherwise eligible under sec. 9.13(8)(a), who have obtained and passed a preliminary inspection as required by the Madison Department of Health, have committed no significant health violations and received not more than two (2) vending citations or complaints within the past twelve (12) months preceding the review date. "Complaint" for purposes of this section shall mean a civil prosecution for an ordinance or regulation violation initiated by complaint under sec. 800.02, Wis. Stats.
 2. A "significant health violation" shall mean any violation of safe food storage and handling ordinances or regulations which resulted in the issuance of one (1) or more citation(s) or complaint(s) within 12 months prior to the review date; including but not limited to: violations of Chapter 7 of the Madison General Ordinances, selling non-personally prepared food contrary to Sec. 9.13(6)(b); and permitting an unauthorized person to vend food contrary to Sec. 9.13(4)(p).
 3. Site assignments shall be made on the basis of the review panel rating using the criteria and scoring system set forth in Section IV.; and the site preference list submitted by the vendor , except that a vendor who participates in the Fall Food Vending Review must obtain a review rating of

at least 70 out of 100 possible points to be eligible to receive a site assignment at that time.

D. Unassigned Food Vending Sites Available to Qualified Returning Vendors. If any food vending sites remain unassigned after the completion of the Fall Food Vending Review, but before March 31, qualified returning food vendors may apply for the unassigned site(s) by filing an application under sec. XI. This procedure is only available through March 31 and applications must be filed by March 31 to qualify for this procedure. Any such unassigned sites may be filled by a qualified returning food vendor upon the recommendation of the Street Vending Coordinator with the approval of the Vending Oversight Committee (“VOC”) and the decision must be made with notice to the applicant by April 15. The process under this paragraph shall not be used if more than one returning vendor applies for the same vacant site. A “qualified returning food vendor” under this paragraph is one who meets the following criteria:

1. The vendor must have participated in the previous season’s Fall Food Vending Review, or Spring Review if one was conducted, and obtained a score of 70 or higher, or a satisfactory score under previous scoring systems, and
2. There must be no significant changes to the cart or apparatus, and
3. There must be no significant changes to the menu, and
4. The vendor must not have received any citations, complaints, or demerits within the last 12 month period, as described in sec. IV. D.; and
5. The vendor must be available to appear before the VOC to describe the vendor’s proposal for operation and menu, and present photographs of the cart or apparatus if requested.

E. Definitions. For purposes of Mall/Concourse Food Vendors, the following terms shall have the meanings defined below:

“Vending Season:” April 15-April 14

“Unassigned Site:” A food vending site created by the VOC and listed on the official map (Exhibit 1) but that has not been assigned to a vendor for the next vending season after the completion of the Fall Food Vending Review. An unassigned food vending site is eligible for assignment to a food vendor only under Section III.D. If an unassigned site is not filled under the procedures of Sec. III.D., it becomes a Vacant Site.

“Vacant Site:” A food vending site created by the VOC and listed on the official map (Exhibit 1) that has not been assigned to any food vendor during the vending season in question. A site is also considered vacant if any of the following

happens during the vending season: it is officially relinquished or forfeited, the vendor's license is revoked, or a new site is created. A Vacant food vending site is eligible for assignment only under Section V.E.

“Unoccupied Site:” A food vending site that has been assigned and accepted by a properly licensed food vendor for the vending season in question but not occupied by the vendor on a specific day. An Unoccupied food vending site may be filled by another licensed food vendor only under the procedures in Section V.F.

IV. FOOD VENDING REVIEW JUDGING GUIDELINES AND SITE ASSIGNMENT CRITERIA

- A. Initial Application Review. The Director of Planning and Development, or designee shall review all applications for completeness and for compliance with cart specifications; equipment standards; electrical needs and standards; insurance; and vendor and menu restrictions. Applications shall also include proof that the vendor has passed preliminary inspection(s) as required by the City of Madison Department of Health, however possession of required food and drink license(s) or permit(s) is not required to participate in the review in accordance with Paragraphs 1 and 2 below, as well as approval of the base kitchen and cart by the Public Health Department. The Director of Planning and Development, or designee shall promptly notify the applicant of his/her seniority points, violation demerit points and any deviations from or failure to meet the aforementioned specifications, standards and restrictions. Such notice shall be given in writing at least fourteen (14) days before the scheduled Food Review and shall advise the applicant of the limited right of appeal set forth in Section V.G. below.
1. Seniority. Seniority points are determined by the number of continuous vending years or parts thereof, up to a maximum total of seven (7) years, that the individual vendor or primary person has been listed on the same Mall/Concourse vending license and affiliated with the same vending cart operation at any location. Seniority accompanies a specific food vendor in a specific cart or tent and may be used as a Food Cart Review tiebreaker.
 2. Violations/ Demerit Points. Violation demerit points are determined by calculating the total number of prior-year violations by the vendor of sec. 9.13, any of the regulations adopted therein, or the other ordinance violations listed in Sec. 9.13(8)(a) Madison General Ordinances. Each such violation considered shall be documented by a citation/civil complaint.

For the purposes of these guidelines, a "violation" also includes a vendor's failure to vend or discontinuance of any item listed on the application or a substantial change in vending presentation where a vendor's past rating was based in whole or in part on the quality and uniqueness of the item(s) either not sold or discontinued or on the quality or uniqueness of the vending presentation either abandoned or substantially changed. Such material change

shall be grounds for suspension of the Mall Vending License. Any applicant for license renewal who shall have been suspended for such reason during the previous vending year shall be penalized twenty (20) demerit points in the next food review process.

- B. Review Panel. The Food Vending Review Panel ("Review Panel") shall be appointed by the Chairperson of the VOC and shall consist of not less than twelve (12) members, at least three (3) of whom shall be members of the VOC. The Review Panel shall review returning and new applicants for food vending licenses using the criteria and specific scoring system described in these Regulations.
- C. General Review Criteria. The Review Panel shall consider the degree and manner the applicant's apparatus and products enhance the purposes of the Mall/Concourse as set forth in 9.13 of the Madison General Ordinances and regulations adopted pursuant thereto. Reviewers shall consider specific criteria designed to further these purposes, set forth in Appendix B; including but not limited to the overall integrity of the operation, quality and uniqueness of menu items, food presentation, cleanliness and maintenance, and originality and aesthetic appeal of the cart or apparatus design and accompanying signage.
- D. Scoring System. The Review Panel shall rate and score food and cart/ apparatus presentation using a rating of 100 possible points, with 100 being the best possible score. The reviewers shall use a score sheet (Appendix A) to award points as follows:
1. Food Category - zero to forty (0-40) points.
 2. Cart/Apparatus Category - zero to forty (0-40) points.
 3. Originality Category - zero to twenty (0-20) points.

The criteria for awarding points in each category shall be provided to the reviewers as set forth in Appendix B. Reviewers shall assign points in each of the above three categories and combine them for a total score for each applicant vendor reviewed.

- E. Final Score Tabulation. The Director of the Department of Planning and Development, or designee, shall compute the average score for each applicant vendor, based upon the score sheets (Appendix A) submitted by each review panelist. Score sheets (Appendix A) on which eighty percent (80%) or more of participating vendors have been evaluated will be counted for purposes of the review. The designee shall add to the average score one (1) point for each year of an applicant's seniority, with a maximum of seven (7) points. The designee shall then subtract one (1) point for each and any health or vending violation, citation or civil complaint ("demerit") issued to the applicant within the twelve-month period beginning July 1 of the previous year and ending June 30 of the year the Review is held, to arrive at a final score. The designee shall establish a rank-ordered list for use in the final site assignment process based upon first, second and third-choice site preferences listed by the applicant on the Application for Mall/Concourse Food Vendor form. Applicants receiving a final score of seventy (70) or more points, including seniority and demerit points, will be eligible to be assigned a site.

V. FOOD VENDOR SITE ASSIGNMENT

A. Initial Site Assignment Based on Food Cart Review. The Director of the Department of Planning and Development, or designee, shall assign food vending sites beginning with the highest-scoring vendor assigned to his/her first preference, and the next highest-scoring vendor assigned to his/her first preference, or if that site has already been assigned, his/her next highest-preference, and so on; until all sites are filled. In addition, the designee of the department may consider whether the site assignments under the above system result in an inappropriate mix and balance, and may, upon consultation and approval of the applicant vendors affected, rearrange site assignment to achieve an appropriate balance. The designee may consider the extent to which the food sold at one site is different from that sold at adjacent sites or otherwise proximately available, and the designee may give great consideration to maintaining the diversity of vending in order to achieve a better balance of vendors and products so as to better serve the public. Once all sites have been assigned, any remaining applicants will be placed onto a rank-ordered waiting list and may be assigned a site if a site is forfeited, relinquished, created, or otherwise becomes available, using the applicable procedures below.

B. Applicant Notification and Acceptance of Site. The Director of Planning and Development, or designee, shall establish and post with the City Clerk a list of site assignments plus a rank-ordered waiting list by the day after the next regular meeting of the VOC immediately following the Fall Food Review. The departmental designee shall notify the applicants by mailing such list to all food vendor applicants within three (3) working days of the posting of the list. Written acceptance of the site assignment is required before a license can be issued.

Failure to accept the assigned site in writing within ten (10) calendar days of the date of the notice, shall be deemed a forfeiture of the vending site. Failure to obtain all required licenses by April 15 shall be deemed a forfeiture of the vending site.

C. A food vendor proposing to vend both personally prepared food items and sausages (hot dogs, bratwurst, etc.) pursuant to Sec. 9.13(6)(e)7.e may receive approval to vend only the personally prepared food items and not sausages, if two other vendors who offer sausages have scored higher in the cart review ratings and have accepted site assignments.

D. Failure to use site. During the vending year, any food vendor with an assigned site who is unable or does not wish to use the site shall notify the Director of Planning and Development, or designee immediately that the site is being relinquished. Failure to use the assigned site by June 1st shall be considered relinquishment of the site and may result in the site being reassigned to another vendor for the remainder of the vending season.

- E. Filling Vacant or New Sites During the Vending Season. When an assigned site is forfeited, relinquished, created, or otherwise becomes permanently vacant during the vending season, (April 15-April 14) the departmental designee shall inform all currently licensed Food Vendors of the vacancy. The responding food vendor with the highest score in the previous food cart review shall be assigned the site for the remainder of the vending season. Any subsequently vacated site shall be assigned using the same process until all food vending sites are filled. If vacant site(s) remain after this process, the departmental designee may offer the site to applicants on the waiting list according to their rank order.
- F. Transferability of Site Assignments. Mall/Concourse Food Vending Site assignments are nontransferable and shall be valid for the duration of the vending year, except as provided by ordinance or herein. A Mall/Concourse Food Vendor shall only use the site to which s/he was assigned after the most recent Food Cart Review under paragraph E. above (“Filling vacant or newly-created sites”), or under the procedures herein for moving into an assigned site that has been left unoccupied for the day. A vendor shall not occupy more than one (1) Mall/Concourse vending site at any given time.

Moving into Unoccupied Site. A properly-licensed Mall/Concourse Food Vendor who has been assigned a site on the Mall-Concourse may, on a daily basis, move into another food vending site on the Mall-Concourse under the following circumstances:

April 15 to October 14 (weekdays only): If an assigned food vending site remains unoccupied by the assigned vendor by 4:00 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday between April 15 and October 14, another properly licensed food vendor may move into the unoccupied site at 4:00 p.m. or later, and vend from that site for the day.

October 15 to April 14 (every day): If an assigned food vending site remains unoccupied by the assigned vendor by 10:30 a.m. any day of the week between October 15 and April 14, another properly licensed food vendor may move into the unoccupied site at 10:30 a.m. or later, and vend from that site for the day.

- G. An applicant may appeal to the VOC from the determination of the Director of Planning and Development, or designee, made pursuant to Section IV.A. above solely on the grounds of food review score computation error, error in measurement or in the calculation of the applicant's seniority or number of health or vending violations, provided that such appeal must be made prior to site assignment. Site assignment once made by the VOC shall be final and not subject to review or appeal under chapter 9 of the Madison General Ordinances or under these regulations.
- H. Food vendors assigned a site in the Food Vendor Cart Review shall submit to required inspections by the Department of Health and shall obtain all food and drink permit(s) or license(s) required by law, in addition to all vending permits required

under sec. 9.13(6) and herein, prior to commencing any food vending activity from the cart.

I. (Par. I. deleted by Res. No. 60243, Feb. 18, 2003.)

J. Definitions. See Section III.E.

VI. REGULATION OF VENDING SITE CLEANLINESS AND SAFETY

- A. Vendors must maintain their vending sites in a clean, litter-free and hazard-free condition.
- B. Food vendors shall provide at least one 10-gallon or larger trash receptacle within their vending site, available for customer use.
- C. Vendors may not use city trash receptacles for the deposit of vendor trash. Food and craft vendors must dispose of their trash outside of the State Street Mall/Capitol Concourse District.
- D. Storage of craft or food items or equipment outside a vending cart is prohibited, with the exception of one thirty (30) gallon covered container securely attached to the vending cart.

VII. NON-CART FOOD VENDOR PHYSICAL SPECIFICATIONS

- A. All food vending shall occur from within a food cart unless approval for non-cart food vending has been obtained from the City of Madison Health Department.
- B. All vending apparatus equipment and stock shall be contained within the food vending site (the dimensions of the specific assigned site, or the maximum food vending site size of 10'x12', whichever is smaller) and shall not exceed a vertical height of ten (10) feet including signage, except that a tent or canopy peak may not exceed a vertical height of eleven (11) feet. In addition, the trailer hitch or "tongue" can extend beyond the actual assigned vending site size provided the tongue is directly pointed toward the pole where electricity for the cart is provided.
- C. The foot print of all vending apparatus and equipment shall occupy no more than fifty-six (56) square feet, provided that this restriction shall not be applicable to non-cart food vendor apparatus in the seven hundred block of State Street.
- D. All vending tables and equipment shall be maintained in good repair and in a safe and sanitary condition.
- E. The vending tables shall be skirted so as to form a contained, skirted vending unit. All inventory, empty equipment and trash shall be stored within the confines of the skirted vending unit and shall not be visible at the site.

VIII. REGULATION OF FOOD AND NON-FOOD VENDING CARTS

- A. Vending Cart. A vending cart is a vending apparatus on wheels.
- B. Physical Specifications - Vending carts shall conform to the following specifications:
1. The vending cart foot-print shall contain no more than fifty-six (56) square feet of area measured on a horizontal plane (exposed trailer tongue, axle and tires excluded). No portion of the cart shall exceed or extend beyond the actual assigned vending site size or the maximum vending site size of 10' x 12', whichever is smaller.
 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.
- C. Electricity
1. Electrical power will be allowed only in vending sites specifically designated for electricity.
 2. There shall be only one electrical connection permitted from the cart to the electricity source at the assigned pole and that connection must run through the cart's circuit breaker. Vendors shall use only their assigned outlet.
 3. The following power cord specifications are required:

Electrically safe plug cord combination, UL approved for outside use on a 20-amp circuit and shall be twelve (12) gauge wire minimum. It shall be approved for damp locations and hard usage, such as types SO, SJ, SC. The Attachment Plugs shall be approved for damp locations and hard usage. The end of the cord and the cord conductor termination shall be covered or encapsulated to prevent the entry of water.
 4. A disconnecting means shall be provided consistent with the following:

The necessary equipment consisting of a circuit breaker or switch and fuses, and their accessories, located near the point of entrance of

supply conductors. The equipment shall be UL approved for 120 volts or more and interrupt at 15 amps.

5. At all times during which a food vending cart is open, the hot water unit, the refrigeration unit and any unit in use as a hot food holding unit must be operational, remain "on" and be connected to its approved power source. Should any one or all of these units become nonoperational, the cart must be promptly closed until such time as the unit(s) are returned to proper operating condition.

D. Vending Cart and Vending Site Signage, Awnings, Etc..

1. The use of canopies, awnings, tents and umbrellas within a vending site shall be such as to maintain a vertical clear space of seven (7) feet measured from ground level to the lowest point of the canopy, awning, tent entrance or umbrella in all areas accessible to customers so as to provide safe pedestrian clearance. The extremities of such canopies, awnings or umbrellas shall not protrude beyond the external boundary of the legal vending site in which they are located.
2. Signs or other items of equipment, whether of rigid or non-rigid construction, attached to the vending cart shall not exceed the greatest dimensions of the vending cart in any direction and shall be securely fastened to the cart. This does not apply to the trailer hitch, axle and hinged, fold-out counters not exceeding twelve (12) inches, but these also shall be securely fastened to the cart. Signs shall not advertise other businesses nor any non-personally prepared product.
3. Any freestanding tent or awning shall be securely anchored and fit totally within the vending site.
4. Use of canopies, awnings, tents, umbrellas or carts at additional Saturday Vending Sites established in the street at the intersection of State Street/Mifflin Street/Carroll Street is prohibited without the prior approval of the Vending Oversight Committee.
5. All signage, tents, awnings, umbrellas and canopies must be maintained in good repair.

- E. Fire Extinguishers. All food vending carts shall have on site a fire extinguisher with a rating of at least 2A-10B:C under NFPA Chapter 10, as adopted in Chapter 34 of the Madison General Ordinances. If a food vendor, within or without a cart, operates equipment that uses combustible cooking media (vegetable or animal oils or fats or other oils) a fire extinguisher with a rating of 40B:C under NFPA Chapter 10, as adopted in Chapter of the Madison General Ordinances, shall be kept on site in addition to an 2A-10B:C; or in the alternative, one extinguisher with a rating of at

least 2A-40B:C within the ABC class, under NFPA Chapter 10. All fire extinguishers must be annually inspected under sec. 4-4.1 of NFPA Chapter 10, as adopted by Chapter 34 of the Madison General Ordinances.

- F. Non-Food Vending Cart Review. All non-food vending carts must be seen and reviewed for compliance by the Director of Planning and Development, or designee with cart specifications and restrictions before a Mall/Concourse Vending License may be issued or renewed.

IX. MISCELLANEOUS REGULATIONS

A. Restrictions on Mobility

1. Vending equipment and supplies shall be moved to and from sites manually between the hours of 11:00 a.m. and 2:30 p.m. A motorized vehicle may be used at all other times or in the event of severe weather. Any driving on the sidewalk or pedestrian walkway shall be done at a speed of less than 5 miles per hour and with due regard to the safety of pedestrians.
2. Vending carts, even if mobile, must remain stationary in the vending site for the hours of business. Vending from a pushcart, motorized mobile cart, or bicycle pushcart traveling on the State Street Mall/Capitol Concourse is prohibited.
3. Any vehicle used pursuant to IX.A.1. above shall be used solely for the purpose of moving heavy or unwieldy vending equipment and supplies to and from the site, and shall be permitted to remain only so long as it is being actively loaded or unloaded. The maximum loading and unloading time shall be twenty minutes. Thereafter, any such vehicle shall be removed promptly. Under no circumstances shall the vehicle operator engage in vending activities while the vehicle remains at the site.

B. Removal of Carts and Vending Equipment

1. All vending equipment (i.e., carts, tables, apparatus, etc.) shall be removed from the State Street Mall/Capitol Concourse between the hours of 1:00 a.m. and 5:00 a.m. unless otherwise authorized. No vending equipment shall be left unattended at any time for longer than fifteen minutes except that:
 - a. Craft vendors may leave equipment unattended at the vending site prior to set up for no more than thirty (30) minutes;
 - b. Food vendors with carts may leave the vending cart unattended in excess of fifteen (15) minutes provided that the cart is securely closed.

2. Any time vending equipment or carts are left unattended as provided herein, a "CLOSED" sign shall be prominently displayed and shall also indicate the time of departure and the time of return.

C. Restrictions on Food Preparation

1. All entree preparation from raw ingredients must be done at the restaurant base. Food handling in the food cart shall be limited to minor food assembly, such as combining previously prepared ingredients for sandwiches or entrees, heating or serving or preparing fruit drinks from fresh fruit. Major food preparation, such as chopping and cooking other than reheating or frying, is strictly prohibited in the food carts.
2. In the event more than one food vendor uses the same restaurant base, each licensed vendor must insure that all its activities remain separate and distinct from the other vendor(s), including but not limited to its business organization, food preparation, inventory and stock.

X. SATURDAY VENDING SITE ASSIGNMENT

The process for creation and assignment of the special, additional Saturday vending sites provided by Sec. 9.13(6)(f) and located as designated on the Mall/Concourse Vending Area Site Map attached as Exhibit I will be as follows:

- A. The Director of Planning and Development, or designee; and the Chair or designee of the VOC will establish and designate by number the location of the specific Saturday vending sites available, subject to the requirements of site location in sec. 9.13(6) of the Madison General Ordinances. The maximum number of Saturday-only sites shall be as set forth in sec. II. A. of these Regulations.
- B. Licensed vendors wishing one of these sites will make a written application in letter form no later than April 15, designating which site is desired and providing alternates. If there are any assignable sites remaining after that date, they may be assigned on a first come first served basis.
- C. Subsequent to April 15, the Director of Planning and Development, or designee and the Chair or designee of the VOC will assign the Saturday food and the craft sites using the methods below. The decision of the VOC and Chair shall be final and not subject to the appeal procedures in Chapter 9 of the Madison General Ordinances. The Director of Planning and Development or designee may establish additional unassigned Saturday food and craft sites, in addition to those set forth in Sec. II. A., as necessary to accommodate vending requests and consistent with the safe and orderly movement of traffic and pedestrians. Any such sites shall be designated on the Mall/Concourse Vending Site map, Exhibit I and shall only become effective when amendments to these regulations have been adopted by the Common Council.

All carts shall be oriented on the sites so as to maximize safety and minimize crowding and shall be reoriented at the request of the Director of Planning and Development, or designee if necessary, for those reasons.

1. Food Vendor Sites. Saturday food vending sites shall be assigned according to the procedures set forth in sec. V.
 2. Craft Vendor Sites. Saturday craft vendor sites will be assigned using the rank-ordered seniority list described in sec. II. E. 1.
- D. The Mall/Concourse vending license of each vendor approved for a Saturday vending site shall designate the specific site assigned. This license must be prominently displayed during all hours of Saturday vending.
- E. Unoccupied or Unassigned Saturday Vending Sites. Craft vendors may occupy unassigned food vendor sites with the previous written approval of the Director of the Department of Planning and Development, or designee. Additionally, if a craft vendor to whom a Saturday site has been assigned does not occupy the assigned site by 7:30 a.m., another licensed craft vendor for whom a site has been assigned may occupy the unoccupied site instead of his/her assigned site. If more than one craft vendor is interested in the unoccupied site, the vendor with the most seniority, as determined in sec. X.C.2 above, may occupy the site. Food vendors may occupy unassigned or unoccupied craft vendor sites that do not provide electricity, providing that the food vendor and all apparatus fit inside the craft vending site dimensions and the food vendor has received prior written approval from the Director of the Department of Planning and Development, or designee.
- F. Vendors may occupy their assigned Saturday sites on the Capitol Square from 5:00 a.m. until fifteen minutes before public bus service resumes on the Capitol Square. All sites must be completely vacated by fifteen minutes before bus service resumes.

XI. VENDING APPLICATION REQUIREMENTS

- A. Application for a Mall/Concourse vending license shall be made each vending year and shall be submitted to the Director of Planning and Development, or designee along with the appropriate license fee as established by ordinance. Monthly licenses can be renewed throughout a vending year by paying the requisite fee without filing a new application, as long as the information on the original application continues to be correct. The license fee is non-refundable except that in the event that there are no sites available to be assigned and the applicant chooses not to be on the waiting list, a refund shall be provided upon written request of the applicant.
- B. Each application shall contain the name of the cart or vending operation, the full name, address, date of birth and driver's license number or state ID of one primary vendor, and the applicant's Wisconsin Seller's Permit Number (state tax identification number). Where the vendor is a corporation, cooperative or partnership, the legal name and address of the business entity and the name and

address of the registered agent, chief officer, or general partner, as appropriate, must also be provided on the application. The primary vendor listed on all applications shall be designated the vendor of record for purposes of all official correspondence and contact from the City relating to the vending operation.

- C. Each applicant shall specifically identify and describe by category all personally prepared food/handmade craft items to be sold and shall be required to sign a declaration that the items he/she seeks a license to vend are of the vendor's own creation and are produced by the vendor. The declaration shall further state that all vendors agree to personally create/prepare any craft/food item offered for sale and to demonstrate the use of the tools for his/her craft in the creation of items sold on demand, in the presence of City representatives.
- D. An applicant for a State Street Mall/Capitol Concourse Vending License who intends to sell from a cart or a non-cart vending set-up shall include with the application form a graphic representation of the cart intended for use including all relevant dimensions. Pursuant to Section IV.A. above, the Director of Planning and Development, or designee may inspect and approve the actual cart or vending set-up for compliance with Section VIII and Section VII, respectively, of these regulations before the cart will be permitted to take part in the Food Review or to be placed on the Mall/Concourse area.
- E. An applicant for a food vendor license must also submit with the application a copy of the applicant's current valid food and drink permit and mobile restaurant base license, indicating City of Madison Health Department approval, and evidence of approval of the Building Inspection Unit of the Department of Planning and Development. All food vendors applicants shall state on their applications that they have a 2A-10B:C fire extinguisher on site, and a 40B:C fire extinguisher if the vendor intends to operate equipment that utilizes combustible cooking media (vegetable or animal oils or fats or other cooking oils).
- F. Any material omission, misstatement or misrepresentation in the application or supporting documents shall be grounds for suspension under Sec. 9.13, Madison General Ordinances.
- G. All Mall-Concourse vending applications shall include a space or spaces for the vendor to list his/her top three (3) choices of vending sites, identified by number or letter according to the most current vending site map available at the time the application is made.

XII. VENDING LICENSE REQUIREMENTS

Each State Street Mall/Capitol Concourse Vending License shall contain the following information on its face, in addition to any other information required by ordinance:

- A. Duration of the validity of permit including expiration date.

- B. Designation of "food vendor", "arts and crafts vendor", "merchant vendor", "sidewalk café" or "Senior Citizen vendor. "
- C. Name of the individual vendor, up to two primary vendors for an arts and crafts vending license, or in the case of a license issued to a corporation, cooperative or partnership, the name of the corporation, cooperative or partnership, the designated primary vendor, and the registered agent if applicable.
- D. Designation of categories of hand-crafted goods to be offered for sale or in the case of food vendors, designation of personally-prepared food items to be offered for sale. Minor changes in food items may be made provided the change does not substantially alter the nature and character of the vending operation as previously rated by the Food Review Panel. Requests for changes in designated goods and food must be accompanied by a ten dollar (\$10.00) license change fee and require written approval of the Director of Planning and Development, or designee.
- E. Address of the individual/primary vendor, and address of registered agent if applicable.
- F. Whether electrical service is approved.
- G. Designation of assigned vending site(s), if applicable.

XIII. SIDEWALK CAFES AND MERCHANT VENDORS - SPECIAL REQUIREMENTS

In addition to the general requirements set forth in sec. 9.13 of the Madison General Ordinances, and Sections XI and XII of these regulations, an applicant for a sidewalk café or merchant vendor license shall comply with the following special provisions:

- A. Requirements for Approval of Sidewalk Café and Merchant Vendor Sites.
 - 1. Application. Each applicant for a sidewalk café or merchant vendor license shall submit an application to the Director of Planning and Development, or designee on a form prescribed by the Vending Oversight Committee (VOC). The application shall contain the information required by sec. 9.13(6)(i)1.b., any additional information required by the Director of Planning and Development, and: a diagram of the site showing proposed arrangement of furniture, tables and other equipment, including all details of the site such as the location of curbs, trees, poles, benches, gratings, street furniture, fire hydrants and store fronts and other amenities. The diagram must be drawn to exact scale on an 8.5" x 11" piece of paper with the scale clearly indicated on the face of the drawing. Pictures of the type of equipment proposed for use shall also be attached. Additionally, an application for new and returning sidewalk cafes shall include photograph(s), catalogue page(s) or detailed renderings of the tables, chairs barriers or other furniture or equipment being considered for use, with dimensions and color included.

2. ADA compliance. The proposed arrangement of furniture and equipment shall comply with applicable Americans with Disabilities Act (ADA) design and access standards and allow safe and comfortable movement of customers within the site.
3. Equipment placement. All tables and chairs in a sidewalk café must be placed in front of the business and within the extended property lines which run at right angles to the street of the business establishment associated with the sidewalk café.

Sidewalk cafes may not be located nearer than two (2) feet from the curb. Except for sidewalk cafes described in MGO sec. 9.13(6)(j)2.e., sidewalk cafes must be no closer to the building line opposite the curb than the glitter lights located on the State Street Mall and Capitol Concourse or the tree line on the approaches thereto and must allow at least six (6) feet of unobstructed pedestrian way between the building face and the site. See MGO sec. 9.13(6)(j)2.e. for additional placement options for cafés on certain streets.

4. The Director of Planning and Development, or designee will report all completed and approved applications and licenses issued by the City Clerk in the monthly report of the Director of Planning and Development, or designee to the VOC and Common Council.

B. Sidewalk Café Furniture, Other Equipment and Signage

1. Tables in sidewalk cafes shall be no more than thirty-two (32) inches in diameter unless otherwise authorized by the VOC based on the size and configuration of the site. All tables and chairs must be removed daily unless permitted to remain pursuant to a privilege in streets permit. Tables and chairs must be weatherproofed, attractive and in good repair and made of a sturdy and safe material. Resin or plastic furniture is prohibited. The café owner should take into consideration the urban design of the area when planning furniture design. It is recommended that the furniture be representative of the business establishing the café.
2. Umbrellas must be anchored in such a way that sudden bursts of wind will not lift them out of their holders. Umbrella color and design should be consistent with the furniture and urban design of the area. The umbrellas used should not exceed the area covered by the tables and chairs.
3. Any street graphics or other signage, including on umbrellas, shall comply with Chapters 28 and 31 of the Madison General Ordinances, any other applicable ordinances, and applicable state law.

4. The licensee shall provide adequate, covered trash receptacles and shall maintain the site in a clean, orderly and litter-free manner.
5. Enclosures. All sidewalk cafés shall be enclosed on all sides. Enclosures shall have at least one (1) and not more than two (2) unobstructed entrances of at least three (3) feet and no more than five (5) feet in width.. Enclosures shall be between thirty-six (36) and forty-two (42) inches in height, may be flush to the ground, and the bottom of the structure shall be no more than six (6) inches from the ground. All sides of the enclosure shall be constructed of a stable, rigid, wind-resistant, self-supporting framework, capable of maintaining all furniture and other objects within the confines of the café and free from any supporting structures which may cause a tripping hazard either within or outside of the café. Hanging elements such as chains or ropes shall not be considered sufficiently stable enclosures under this paragraph. The café owner should take into consideration the café furniture design (see B.1. above) and the overall urban design of the area when planning and installing the enclosures. Where sidewalk cafés may be located next to a building, (see MGO 9.13(6)(j)(2).e.) the building wall may serve as one side of enclosure and additional connecting enclosures shall be flush against the building wall. For all other cafés, the interior face of the enclosure on the street side shall be no closer than two (2) feet from the curb or the pavement markings delineating the edge of the roadway if there is not a raised curb. All enclosures, whether required or voluntarily erected, must be removed daily.

C. Special Restrictions for Merchant Vendors

The following standards shall apply to all merchant vendors on the State Street Mall/Capitol Concourse (Mall/Concourse):

1. Merchandise and any allowable graphics or signage shall be displayed in a manner in which attention to it is not focused from the street. Merchandise must be neatly displayed. Any stacks of merchandise may not exceed eighteen (18) inches in height. In no case shall any signage or display apparatus or the total height of vending tables or equipment and merchandise exceed a height of seventy-two (72) inches from the ground to the highest point. In addition, each merchant vending site shall be limited to a choice of the following display equipment:
 - a. Two tables no more than 30 inches wide and 8 feet (96 inches) long and 29 inches high, or
 - b. Two clothing racks no more than 30 inches wide and 6 feet (72 inches) long and 6 feet (72 inches) high, or
 - c. One table and one clothing rack meeting the specifications above.

2. Storage shall not be permitted at the vending site except for items placed under vending tables which have been skirted with fabric of sufficient width to completely shield the storage from view. Skirting fabric shall be securely attached to the vending table with clamps or other fasteners.
3. Display of merchandise, including all equipment, shall occupy no more than fifty (50) percent of the square footage of allotted merchant vending site.

PROVISIONS FOR SPECIFIC HANDCRAFTED GOODS

BEADWORK

Beadwork is defined as a product of weaving and/or sewing beads to fashion goods. Plain strands of commercial beads may not be sold. Any pendant or other item incorporated into the article sold, must meet the criteria of other arts or crafts, as appropriate, set forth in these regulations.

BOOKS AND PUBLICATIONS

All writing must be original work of the author-vendor and all sales must be made with the author-vendor present at the vending site.

CALLIGRAPHY

All lettering must be done by hand. Any stencil for reproduction must be completely the vendor's own work, and all reproduction, itself, must be by the vendor's own efforts. Photocopying or commercial printing are prohibited.

CANDLES

Wax, as raw material, is changed into a variety of forms by direct manipulation. Commercial molds may be used as a core in the process, but the finished candle must be an original design. When using commercial molds, the use of scent and/or color is not a sufficient change to qualify as an original candle.

CASTINGS AND SCULPTURES (INCLUDING CERAMICS)

If the finished item is produced by starting from raw materials by fabrication, or if the item is made by the craftsperson from a mold of his/her own original art work and making, it is then considered handcrafted. Ceramic glazes containing lead will not be allowed.

COMPACT DISCS (CD'S)

Compact Discs (CD's) of any kind are not considered handcrafted goods under this section unless the recording was made or produced locally.

DECOUPAGE

Craftsperson must use original work or original photography.

DOUGHCRAFT

The rules for CASTINGS AND SCULPTURE apply.

ENAMELING

Designs must be original work by the artist, commercial stencils are unacceptable.

FEATHER ART

Featherwork should be an original design by the craftsperson using feathers and other accessories. Pre-strung boas, pre-glued mats, and other pre-constructed pieces are unacceptable. No items containing feathers from endangered species shall be allowed.

FRUITS AND VEGETABLES

Hand-grown fruits and vegetables shall not be considered handcrafted goods under this section.

GLASS

Blown glass is heated and hand blown by the artist. Stained glass is cut by hand and painted or silk screened or arranged to produce a design or pattern. The craftsperson may use sheet, slab, or other glass materials and change shape, design, or form to create a finished product.

GREETING CARDS

The greeting card must meet the handmade criteria of photography, calligraphy or other craft described in these regulations. All art, photography and design must be completely the vendor's own work, and all reproduction must be by the vendor's own efforts. Photocopying or commercial printing are prohibited.

JEWELRY

1. Jewelry items sold on the State Street Mall/Capitol Concourse will be limited to handcrafted jewelry which is fabricated and/or cast from metals or raw materials by the artist.
2. Chains may be used only in conjunction with completely handmade items, unless the links are hand wrought.
3. No commercial castings or settings are acceptable.
4. No commercial pendants, hanging crystals or bangles are allowed.

5. The craftsperson shall identify metals and stones used in an item to the purchaser on request.

LAPIDARY

The artist must cut and polish all stones, or cut or drill all shells, he/she sells. The artist must be able to demonstrate knowledge of the lapidary tools. If stones or shells are used as part of an item, all component parts that are made by a different craft (wood, leather casting, jewelry, etc.) must meet the criteria of that craft, and must be made by the artist(s) on the vending license.

LEATHER WORK (INCLUDING BELTS AND LEATHER CLOTHING)

All tooling must be done by hand (no machine design work, rolled or clicker allowed). No belt buckles sold separately unless made by the leather craftsperson. Sewing machine applied designs are allowed.

MUSICAL INSTRUMENTS

The rules for CASTINGS AND SCULPTURE or WOODCRAFT apply.

PAINTING AND DRAWING

All work must be conceived and executed by the artist-vendor. Personally signed lithographs of original work will be allowed. Vendors may paint or draw their own original designs onto existing, non-handcrafted objects such as canvas, paper, picture frames, candle sticks, T-shirts, ceramics and pottery; but alterations to another artist's existing work or reproductions of another artist' work, including but not limited to alterations to photographs, paintings, drawings or postcards; are not allowed. Commercially manufactured stencils, decals, appliques, patches or stickers may not be used.

All sales must be made with the artist-vendor present at the vending site.

PHOTOGRAPHY

The artist/crafts person must be the original photographer of the subject and must perform all phases of the developing and printing process.

PLANTS, CUT FLOWERS AND DRIED FLOWERS

Plants must be grown from seeds or cuttings by the craftsperson/licensee. Containers may be undecorated mass produced plastic, clay or metal; handcrafted by the craftsperson and meet the

criteria for that medium; or natural objects found by the craftsperson. All dried flowers must be collected and not purchased, unless the container has been handmade. All cut flowers are acceptable.

POTTERY

The potter must produce original pieces by hand building or "throwing" on a potter's wheel. The potter must supervise the firing process.

SEWN ITEMS (INCLUDING PUPPETS AND/OR DOLLS)

Any item produced by beginning with a basic fabric, cutting and sewing it together to produce a finished product is acceptable. Application of mass-produced commercial patches or iron-ons to a manufactured item is unacceptable.

TERRARIUMS

Terrariums must be planted by the craftsperson or, in the case of unplanted terrariums, they must be constructed from raw materials. Bottles alone are unacceptable.

TEXTILE ARTS

The craftsperson must, by hand, create the entire design to be applied, including lettering where lettering takes up over 50% of the design space. If lettering constitutes less than 50% of the design space, the craftsperson may use commercial press type letters. The craftsperson must individually prepare, burn and/or cut any stencil and must apply the design by direct application or transfer using stencils, batch silkscreen, air brush, block printing, tie dying or drawing. Mass-produced commercial decals are prohibited. All embroidery must be hand sewn; no machine work is permitted. Other businesses may not be engaged to mechanically produce or apply the craft person's original design(s) to T-shirts, hats or other textiles. Alterations to another artist's existing work or reproductions of another artist' work, including but not limited to alterations to photographs, paintings, drawings or postcards; are not allowed. All sales must be made with the artist-vendor present at the vending site.

TOYS

Toys must contain no toxic materials. Toys are generally covered under the rules for CASTINGS AND SCULPTURE, SEWN ITEMS and WOODCRAFT. All other toys will be covered under general criteria set forth in MISCELLANEOUS items. The vendor will conform to all applicable federal and state safety requirements.

WOODCRAFTS

Craftsperson must start with a rough piece of wood, slab or log and change the shape of the wood to a finished product. Staining a pre-cut or pre-routed shape is not considered a handmade craft.

YARN/CORD

Macrame, crochet, knitting, weaving and other yarn/cord crafts start with unknotted cord, string, rope or yarn producing a finished product using a series of knots, braids and weaves with the option of other materials. Yarn and cord spun and dyed by the craftsperson can be sold unknotted and unbraided.

MISCELLANEOUS

Any good created and produced by the vendor from raw or basic materials changing those materials into a significantly different shape, design, form or function shall be considered handcrafted for purposes of these regulations. Any commercially produced item which forms a significant part of the good shall be substantially changed in function or character. Any purchased kit or purchased assortment of unassembled components, not handcrafted by the licensee and not requiring any design decisions by the licensee shall not be considered handcrafted regardless of whether it is assembled by hand by the licensee.