



# City of Madison

City of Madison  
Madison, WI 53703  
www.cityofmadison.com

## Master

**File Number: 69379**

**File ID:** 69379

**File Type:** Ordinance

**Status:** Items Referred

**Version:** 2

**Reference:**

**Controlling Body:** BOARD OF  
PUBLIC WORKS

**Lead Referral:** BOARD OF PUBLIC  
WORKS

**Cost:**

**File Created Date :** 01/19/2022

**File Name:** Roadway Cafe Permits

**Final Action:**

**Title:** **SUBSTITUTE** - Creating Section 10.30 of the Madison General Ordinances to Create the Roadway Cafe Permit to Allow for the Expansion of Licensed Sidewalk Cafes into the Roadway, and Amending Sections 12.1425, 38.05(3)(e)1 and 1.08(3)(a) accordingly and 1.08(4) accordingly.

**Notes:** 6558roadwaycafe SUB

**Code Sections:**

**CC Agenda Date:** 02/01/2022

**Indexes:**

**Agenda Number:** 6.

**Sponsors:** Satya V. Rhodes-Conway, Michael E. Verveer,  
Patrick W. Heck, Gary Halverson, Syed Abbas, Nasra  
Wehelie, Regina M. Vidaver and Charles Myadze

**Effective Date:**

**Attachments:** 69379 Body Verison 2.pdf, 69379 Body Version 1.pdf,  
Summary of Ordinance Changes.pdf, ALRC February  
amendment.pdf, 69379 Version 1.pdf

**Enactment Number:**

**Author:** Doran Viste

**Hearing Date:**

**Entered by:** jphelps@cityofmadison.com

**Published Date:**

## Approval History

Version	Date	Approver	Action
1		Michael Haas	Approved as to Form
1		Ryan Pennington	Approve
2		Michael Haas	
2		Ryan Pennington	

## History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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1	Attorney's Office	01/25/2022	Referred for Introduction		
	<b>Notes:</b>	Board of Public Works (3/2/22); Transportation Commission (2/9/22); Transportation Policy and Planning Board (2/14/22); Alcohol Licensing and Review Committee (2/16/22); Downtown Coordinating Committee (2/17/22); Vending Oversight Committee (2/23/22); Finance Committee (2/28/22); Common Council (3/15/22)			
1	COMMON COUNCIL	02/01/2022	Refer	BOARD OF PUBLIC WORKS	Pass
	<b>Notes:</b>	Additional referrals to Transportation Commission, Transportation Policy and Planning Board, Alcohol License Review Committee, Downtown Coordinating Committee, Vending Oversight Committee, Finance Committee.			
1	BOARD OF PUBLIC WORKS	02/01/2022	Referred	TRANSPORTATIO N COMMISSION	02/09/2022
	<b>Notes:</b>				
1	BOARD OF PUBLIC WORKS	02/01/2022	Referred	TRANSPORTATIO N POLICY AND PLANNING BOARD	02/14/2022
	<b>Notes:</b>				
1	BOARD OF PUBLIC WORKS	02/01/2022	Referred	ALCOHOL LICENSE REVIEW COMMITTEE	02/16/2022
	<b>Notes:</b>				
1	BOARD OF PUBLIC WORKS	02/01/2022	Referred	DOWNTOWN COORDINATING COMMITTEE	02/17/2022
	<b>Notes:</b>				
1	BOARD OF PUBLIC WORKS	02/01/2022	Referred	VENDING OVERSIGHT COMMITTEE	02/23/2022
	<b>Notes:</b>				
1	BOARD OF PUBLIC WORKS	02/01/2022	Referred	FINANCE COMMITTEE	
	<b>Notes:</b>				
1	TRANSPORTATION COMMISSION	02/09/2022	Return to Lead with the Recommendation for Approval	BOARD OF PUBLIC WORKS	
1	TRANSPORTATION POLICY AND PLANNING BOARD	02/14/2022	Return to Lead with the Following Recommendation(s)	Attorney's Office/Approval Group	
	<b>Notes:</b>				
1	ALCOHOL LICENSE REVIEW COMMITTEE	02/16/2022	Table		Pass
	<b>Notes:</b>				
1	ALCOHOL LICENSE REVIEW COMMITTEE	02/16/2022	Take Off The Table		Pass
	<b>Notes:</b>				
1	ALCOHOL LICENSE REVIEW COMMITTEE	02/16/2022	Return to Lead with the Following Recommendation(s)	BOARD OF PUBLIC WORKS	Pass

1	DOWNTOWN COORDINATING COMMITTEE	02/17/2022	Return to Lead with the Recommendation for Approval	BOARD OF PUBLIC WORKS	Pass
<p><b>Notes:</b> Tiffany Kenney, BID Executive Director Spoke in favor of making the Streatery Program permanent. She said that City Staff will also be attending the March 3 BID meeting to share the program and get feedback to the Common Council.</p> <p>Rebecca Cnare, Planning Division, gave a brief overview of the varied draft legislation to make the Streatery Program permanent. She mentioned that there were two additional public comments that were attached in Legistar for the Committee members to read. Verveer noted that the Alcohol License Review Commission (ALRC) made a minor amendment to the changes in Chapter 38 to clarify some language. Torkildson asked if there needed to be permission from adjacent owners to use the parking spaces adjacent to their business. Staff replied that there does not, permissions are only needed for café expansions on the sidewalk/terrace.</p>					
1	VENDING OVERSIGHT COMMITTEE	02/23/2022	Return to Lead with the Following Recommendation(s)	BOARD OF PUBLIC WORKS	Pass
1	FINANCE COMMITTEE	02/28/2022			
1	BOARD OF PUBLIC WORKS	03/02/2022			

## Text of Legislative File 69379

### Fiscal Note

This ordinance creates a Roadway Cafe Permit to allow sidewalk cafes to occupy the parking lane of roadways. The actual use of the Roadway Cafe Permit area is controlled by the Roadway Cafe Expansion License, which is included in a companion ordinance (File No. 69380). The review of the Roadway Cafe Permit included in this ordinance is performed by Traffic Engineering with input from other agencies like Streets and Metro. The fee for this permit is included within the Roadway Cafe Expansion License fee being considered in File No 69380.

### Title

**SUBSTITUTE** - Creating Section 10.30 of the Madison General Ordinances to Create the Roadway Cafe Permit to Allow for the Expansion of Licensed Sidewalk Cafes into the Roadway, and Amending Sections 12.1425, 38.05(3)(e)1 and 1.08(3)(a) accordingly and 1.08(4) accordingly.

### Body

**DRAFTER'S ANALYSIS:** This ordinance, and its companion, File No. 69380, amends the Madison General Ordinances to specifically allow for the expansion of sidewalk cafes into the roadway, to make permanent many aspects of the "Streatery" program that was authorized on a temporary emergency basis at the beginning of the Covid-19 pandemic. Under the initial public health orders issued to address the community spread of Covid-19, restaurants were closed to in-person dining. To provide restaurants with greater reopening options consistent with public health guidance and the protection of the health, safety and welfare of the public, restaurants were allowed to reopen and serve customers in expanded outdoor dining spaces, including in the roadway. This expansion was accomplished under Covid-19 related emergency orders and policies. The larger dining area provided for greater outdoor social distancing options, better protecting employees and customers from continued spread of the disease. Through these emergency authorizations in 2020 and 2021, City staff and sidewalk cafe operators were able to identify best practices for the use of roadways for this purpose. This ordinance is the result of those efforts.

This ordinance creates Section 10.30, the Roadway Cafe Permit. This permit is an alternative to a privilege in street that would otherwise be required under Section 10.31 and Wis. Stat. §

66.0425. The new permit would allow for a licensed sidewalk cafe to expand into portions of certain roadways. The permit includes numerous conditions for equipment standards and placement intended to delineate the permitted area from the active roadway. This ordinance is a companion to File No. 69380, which ordinance relocates the sidewalk cafe license from Section 9.13 to a newly created Section 9.135, and also establishes a Roadway Cafe Expansion License that would allow a Sidewalk Cafe to expand into the permitted roadway area. Chapter 38 is also being amended to allow the Alcohol License Review Committee to approve the expansion of a licensed premises to include outdoor space, such as the permitted Roadway Cafe. A Roadway Cafe Permit under Section 10.30 would not allow cafe placement in the roadway without a corresponding Sidewalk Cafe License and Roadway Cafe Expansion License under Section 9.135. Sections 10.30 and 9.135 will create requirements and limitations on what operators can do within the permitted space and what can be stored there. Amendments are also being made to Section 12.1425(3) to allow for Permit and License holders to temporarily remove metered parking spaces to accommodate the Roadway Cafe. Finally, Subsections 1.08(3)(a) and 1.08(4) are being amended to create a bail deposit for citations arising from violations of the new Roadway Cafe Permit ordinance and to authorize enforcement thereof by the Traffic Engineer.

Fees for the licensing, permitting, occupation and use of the Roadway Cafe, including for lost parking spaces, are included in the license fee for the Roadway Cafe Expansion License to be created in Section 9.135(4) under File No. 69380.

Finally, a third related ordinance, File No. 69382, will amend Chapter 28, the zoning code, to make permanent the ability of restaurants and bars to use expanded outdoor eating spaces on private property.

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

**See File No. 69379 Body in Attachments.**

## CITY OF MADISON, WISCONSIN

A **SUBSTITUTE**  
ORDINANCE

PRESENTED February 1, 2022  
REFERRED Board of Public Works (3/2/22);  
Transportation Commission  
(2/9/22); Transportation Policy  
and Planning Board (2/14/22);  
Alcohol Licensing and Review  
Committee (2/16/22);  
Downtown Coordinating  
Committee (2/17/22); Vending  
Oversight Committee (2/23/22);  
Finance Committee (2/28/22);  
Common Council (3/15/22)

Creating Section 10.30 of the Madison General Ordinances to Create the Roadway Cafe Permit to Allow for the Expansion of Licensed Sidewalk Cafes into the Roadway, and Amending Sections 12.1425, 38.05(3)(e)1 and 1.08(3)(a) accordingly and 1.08(4) accordingly.

Drafted by: Doran Viste, Steve Brist

Date: April 6, 2022

SPONSOR: Mayor Rhodes-Conway,  
Alders Verveer, Heck

69379

**DRAFTER'S ANALYSIS:** This ordinance, and its companion, File No. 69380, amends the Madison General Ordinances to specifically allow for the expansion of sidewalk cafes into the roadway, to make permanent many aspects of the "Streatery" program that was authorized on a temporary emergency basis at the beginning of the Covid-19 pandemic. Under the initial public health orders issued to address the community spread of Covid-19, restaurants were closed to in-person dining. To provide restaurants with greater reopening options consistent with public health guidance and the protection of the health, safety and welfare of the public, restaurants were allowed to reopen and serve customers in expanded outdoor dining spaces, including in the roadway. This expansion was accomplished under Covid-19 related emergency orders and policies. The larger dining area provided for greater outdoor social distancing options, better protecting employees and customers from continued spread of the disease. Through these emergency authorizations in 2020 and 2021, City staff and sidewalk cafe operators were able to identify best practices for the use of roadways for this purpose. This ordinance is the result of those efforts.

This ordinance creates Section 10.30, the Roadway Cafe Permit. This permit is an alternative to a privilege in street that would otherwise be required under Section 10.31 and Wis. Stat. § 66.0425. The new permit would allow for a licensed sidewalk cafe to expand into portions of certain roadways. The permit includes numerous conditions for equipment standards and placement intended to delineate the permitted area from the active roadway. This ordinance is a companion to File No. 69380, which ordinance relocates the sidewalk cafe license from Section 9.13 to a newly created Section 9.135, and also establishes a Roadway Cafe Expansion License that would allow a Sidewalk Cafe to expand into the permitted roadway area. Chapter 38 is also being amended to allow the Alcohol License Review Committee to approve the expansion of a licensed premises to include outdoor space, such as the permitted Roadway Cafe. A Roadway Cafe Permit under Section 10.30 would not allow cafe placement in the roadway without a corresponding Sidewalk Cafe License and Roadway Cafe Expansion License under Section 9.135. Sections 10.30 and 9.135 will create requirements and limitations on what

**Approved as to form:**

operators can do within the permitted space and what can be stored there. Amendments are also being made to Section 12.1425(3) to allow for Permit and License holders to temporarily remove metered parking spaces to accommodate the Roadway Cafe. Finally, Subsections 1.08(3)(a) and 1.08(4) are being amended to create a bail deposit for citations arising from violations of the new Roadway Cafe Permit ordinance and to authorize enforcement thereof by the Traffic Engineer.

Fees for the licensing, permitting, occupation and use of the Roadway Cafe, including for lost parking spaces, are included in the license fee for the Roadway Cafe Expansion License to be created in Section 9.135(4) under File No. 69380.

Finally, a third related ordinance, File No. 69382, will amend Chapter 28, the zoning code, to make permanent the ability of restaurants and bars to use expanded outdoor eating spaces on private property.

This substitute ordinance makes a technical and typographical correction to item 5, amending sec. 38.05(3)(a)1., at the request of the ALRC.

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

1. Section 10.30 entitled "Roadway Cafes" of the Madison General Ordinances is created as follows:

**"10.30 Roadway Cafes.**

(1) Purpose. The purpose of this Section is to create a permitting process whereby a holder of a Sidewalk Cafe License under Sec. 9.135 may expand their outdoor dining space into the roadway. This Section allows for the use of certain roadway space for an expanded sidewalk cafe, while recognizing the public's continued interests in the use of the roadway for travel and protecting the health, safety and welfare of all roadway users. This Section functions in unison with Sec. 9.135. The actual use of the Roadway Cafe Permit area will be controlled by the Roadway Cafe Expansion License issued under Sec. 9.135.

(2) Definitions. For the purposes of this Section, the following definitions apply:

Roadway, as defined by Wis. Stat. § 340.01(54), is that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder.

Roadway Cafe is that portion of the roadway that is permitted under this Section for use as a sidewalk cafe under a Roadway Cafe Expansion License issued under Sec. 9.135.

Space Delineators are any City-approved equipment used to delineate the Roadway Cafe space in the roadway. This may include a temporary or movable curb or bumper, jersey barriers, traffic delineators, or other durable items designed to notify of or impede motor vehicles from entering the Roadway Cafe and provide some protections to occupants thereof. The City Traffic Engineer shall maintain a list of approved Space Delineators and their purpose.

Street Classifications.

1. Low Volume Streets are streets that average 1,500 vehicles or less per day.

2. High Volume Streets are streets that average greater than 1,500 vehicles per day, and with speeds of 25 mph or less.
  3. High Risk Streets are streets that average greater than 1,500 vehicles per day, or that have speeds of greater than 25 mph, or where there is a curve, change of grade or other obstruction or condition that interferes with sight lines and presents a potential safety hazard to persons within the roadway.
- (3) Administration. The City Traffic Engineer, or their designee, shall administer the provisions of this Section. While the Traffic Engineer shall have the authority to issue permits under this Section, because this permit is directly tied to the issuance of a Sidewalk Cafe License and Roadway Cafe Expansion License under Sec. 9.135, this permit will be applied for as part of the Sidewalk Cafe licensing process. The Traffic Engineer shall create and maintain a policy that describes the requirements of this Section and best practices for the creation of Roadway Cafes hereunder.
- (4) Authorized Use. As an alternative to the prohibitions of Sec. 10.31 and Wis. Stat. § 66.0425 that would otherwise apply to such an occupation, an applicant for a Sidewalk Cafe License under Sec. 9.135 may be issued a Roadway Cafe Permit under this Section in order to place obstructions beyond the lot line in the public highway right-of-way adjacent to an owned or leased premises, provided that any such occupancy and use is consistent with the conditions of this permit, the Roadway Cafe Expansion License issued for the space, and these Ordinances. A permit issued under this Section does not grant the authority to set up or use the Roadway Cafe area for outdoor dining or alcohol beverage purposes unless the corresponding licenses required by Sec. 9.135 and Chapters 38 have also been issued. The use of the Roadway Cafe area shall be separately regulated by the Roadway Cafe Expansion License issued under Sec. 9.135.
- (5) Standards for Roadway Cafes.
- (a) Locations.
1. General. A Roadway Cafe may only be permitted in the parking lane, unless otherwise specifically allowed hereunder.
  2. Partial Street Closures. The Traffic Engineer is authorized to permit a partial street closure under this ordinance that would allow a Roadway Cafe to extend beyond the parking lane, if the public's safety and reasonable use of the highway is not impaired.
  3. Full Street Closures. Where seasonal full-street closures are authorized by the Common Council, a Roadway Cafe may extend to the center of the street.
  4. Occupation Limitations. A Roadway Cafe cannot extend beyond the lot lines, extended, or the center line of a closed highway unless specifically authorized by the City Traffic Engineer, who may require, in their discretion, the written permission from the side where the expansion is to occur, consistent with the permission provided to the Street Vending Coordinator under Sec. 9.135(3)(c)2.a.
  5. Lane of Travel. A Roadway Cafe may be permitted in the nearest lane of travel to the curb where the City Traffic Engineer makes a determination that the lane of travel is not needed by for travel.

- (b) Minimum Specifications. At a minimum, the following standards must be met for the issuance of Roadway Cafe Permit under this Section:

1. Low Volume Streets. On low volume streets, the following standards apply:
  - a. Space Delineators. Space Delineators must be installed surrounding the Roadway Cafe as follows:
    - i. At the beginning and end of the Roadway Cafe to clearly delineate the space from the traffic as required by the City Traffic Engineer.
    - ii. Additional delineators must be spaced as required by the City Traffic Engineer parallel to the curb and/or sidewalk.
  - b. Enclosures. Vertical railings, fencing or other elements that do not interfere with intersection sight distance and meeting the requirements of Sec. 9.135(5)(b) must be installed at least 2 feet inside the Space Delineators on the three sides of the Roadway Cafe within the roadway.
  - c. Width; Set-Back. There must be a minimum 6 foot wide dining area within the Roadway Cafe, with at least 2 feet from the Space Delineators to the Enclosures marking the dining area.
2. High Volume Streets. On high volume streets, the following standards apply:
  - a. Space Delineators. Space Delineators must be installed surrounding the Roadway Cafe as follows:
    - i. At the beginning and end of the Roadway Cafe to clearly delineate and protect the space from the traffic as required by the City Traffic Engineer.
    - ii. Additional delineators must be spaced as required by the City Traffic Engineer parallel to the curb and/or sidewalk, and be no less than 1 foot off of the lane of travel.
    - iii. A 4:1 concrete barrier must be installed at the beginning of the block, and/or a 4:1 concrete barrier must be installed in front of the Roadway Cafe facing oncoming traffic.
  - b. Enclosures. Vertical railings, fencing or other elements that do not interfere with intersection sight distance and meeting the requirements of Sec. 9.135(5)(b) must be installed at least 4 feet inside the Space Delineators on the three sides of the Roadway Cafe within the roadway.
  - c. Width; Set-Back. There must be a minimum 6 foot wide dining area within the Roadway Cafe, with at least 4 feet from the Space Delineators to the Enclosures marking the dining area.
  - d. Limitation. A Roadway Cafe cannot be located on high volume streets with peak hour parking restrictions.



3. High Risk Streets. A Roadway Cafe Permit on a high risk street can only be approved on a case by case basis by the Traffic Engineer, and must meet, at a minimum, the standards above that are applicable to High Volume Streets, and any other safety standards determined to be appropriate by the Traffic Engineer.
  4. Adjoining Roadway Cafes. If the Roadway Cafe will be directly adjacent to another Roadway Cafe, the Traffic Engineer may find that the minimum requirements set forth in paragraphs 1-3 can be met by treating the adjacent Roadway Cafes as one combined Roadway Cafe when reviewing the Space Delineator and Enclosure placement. If adjacent Roadway Cafes are permitted, they must each have their own Roadway Cafe Expansion License, comply with the requirements of this Section, and may be subject to special conditions relating to this shared enclosure.
  5. Fire Lane. A Roadway Cafe shall not be approved unless an adequate fire lane of not less than twenty (20) feet in width can be maintained through the right-of-way adjacent to the Roadway Cafe area. The adequacy of this fire lane shall be approved by the Madison Fire Department.
  6. Transit Operations. If the Roadway Cafe will be adjacent to a lane of travel used by City transit vehicles, or in close proximity to a posted bus stop zone, additional barriers or setbacks from the lane of travel and/or clear zones in the terrace area for passenger access may be required. In addition, no Roadway Cafe shall impede the ability for a transit vehicle to completely access a bus stop to ensure ADA transit accessibility.
  7. Bicycle Lanes. A Roadway Cafe, including the required Space Delineators, cannot be any closer than 2 feet from a bicycle lane.
  8. Parking Spaces and Loading Zones. A Roadway Cafe Permit may only be issued if suitable alternative locations are available for any displaced loading zones or parking spaces reserved for persons with disabilities, subject to approval from the Parking Manager.
- (c) Traffic Control Plan. A Roadway Cafe Permit applicant may be required to submit a traffic control plan that meets the requirements and specifications maintained by Traffic Engineering as part of the policy described in Sub. (3). The traffic control plan, if required, will detail how traffic will be impacted by the use of the roadway for the Roadway Cafe and how the safety of highway users and Roadway Cafe users will be protected.
- (d) Winter Operations. A Roadway Cafe may be authorized by the Traffic Engineer for winter operations, for the duration provided in Sub. (6)(b), in connection with an application for a winter operations Roadway Cafe Expansion License in Sec. 9.135. Any applicant seeking approval for winter operations must meet any winter operation criteria established by the Traffic Engineer, including a snow removal plan to account for snow removal within the Roadway Cafe and the impact of the Roadway Cafe on the City's snow removal efforts within the entire roadway itself. In reviewing a request for winter operations, the Traffic Engineer shall consult with the Streets Superintendent. A request for winter operations may be denied if the Roadway Cafe will adversely affect the City's snow removal capacity and operations.
- (e) Permissible Items; Privileges.

1. Permissible Items. This permit allows for the placement within the right-of-way of the Space Delineators and Enclosures required by Sec. (5)(b). Other items associated with Sidewalk Cafe use (tables, chairs, tents, umbrellas, heaters and the like) are permitted within the Roadway Cafe only as expressly authorized in Sec. 9.135(8)(b). Additional items may be authorized or required as a special condition of the Roadway Cafe Expansion License or this permit.
  2. Storage. Property may be stored within the Roadway Cafe consistent with the requirements of the Roadway Cafe Expansion License under Sec. 9.135(9)(c)2.
  3. Lighting. Lighting is allowed within the Roadway Cafe, as long as it does not interfere with traffic and is consistent with any other applicable City ordinance. Permittee may be required to obtain other permits to attach any lighting to City owned facilities, including City trees, for this purpose. A permit issued under this Section does not provide any right to connect to or use the City's electrical supply.
  4. Privileges. No item may be permanently affixed to the ground, and no permanent or semi-permanent structure is allowed under this permit. Any such item will instead require a privilege in street under Sec. 10.31.
- (6) Roadway Cafe Permit. A Sidewalk Cafe licensee may obtain a Roadway Cafe Permit for portions of the roadway where the above conditions can be met. If the Traffic Engineer determines that the conditions of this Section can be met, while recognizing the public's continued interests in the use of the roadway for travel, and that the Roadway Cafe does not endanger the health, safety or welfare of the public, the Traffic Engineer may issue a permit under this Section, as follows:
- (a) Permit Application. An application for a Roadway Cafe Permit shall describe the premises to be occupied, the area of occupation sought, and the manner in which the minimum requirements and specifications of this ordinance or the requirements of the Traffic Engineer shall be met. An application for a Roadway Cafe Permit may be made at the same time as the application for the Roadway Cafe Expansion License under Sec. 9.135. In addition to the certificate of insurance, and an agreement to abide by all conditions set forth in Sub. (b), the application shall include the following:
1. Physical Plan. A detailed diagram showing the existing right-of-way features and the impact that the proposed Roadway Cafe will have on the public right-of-way. The plan may be the same as that submitted for the Sidewalk Cafe License and Roadway Cafe Expansion License, provided that the plan shall, at a minimum, show:
    - a. The length of the establishment's street frontage measured between the side property lines of the establishment's occupancy space on the adjoining building façade (and adjacent space if a request for lateral expansion past the applicant's building frontage is requested per Sec. 9.135(3)(c)2.a.);
    - b. The width and depth of the Roadway Cafe and adjoining Sidewalk Cafe;
    - c. The distance of the Roadway Cafe to the building, adjacent travel lanes and bike lanes, adjacent remaining parking spaces, and adjacent sidewalk cafes;

- d. The distance from the curb edge to edges of the Enclosures (the railings, fencing or other elements required under Sec. (5)(b));
  - e. The location of any adjacent bus stops (including the full extent of any signed parking restrictions for City bus stop zones), transit amenities (such as shelters, benches, loading pads) or other city amenities (light poles, benches, trash cans, trees, bike racks, meter poles, etc.) that will be or may be affected by the Roadway Cafe;
  - f. Placement of all required Space Delineators; and,
  - g. The Fire Lane required by Sec. (5)(b)5.
2. Space Delineators. In addition to showing the Space Delineators on the physical plan, the applicant shall describe in detail the Space Delineators that will be used to create the Roadway Cafe, consistent with this Section and the standards approved by the Traffic Engineer. If a contractor will be placing and maintaining the Space Delineators, the applicant shall provide this contractor's name and contact information.
  3. Parking Spaces and Loading Zones.
    - a. All parking spaces and loading zones that will be impacted by the Roadway Cafe must be identified on the physical plan. No partial parking space or loading zone may be occupied.
    - b. If any disabled parking spaces are to be impacted, the applicant must identify this in the application. If the City determines that replacement parking spaces are not available for lost disabled parking space(s), applicant should provide, or be prepared to provide, an alternative plan that does not impact the disabled parking space(s).
    - c. Metered parking spaces that are occupied by a Roadway Cafe are subject to the procedures set forth in Sec. 12.1425 and a temporary no parking zone may be approved by the Traffic Engineer as part of the Roadway Cafe permit.
- (b) Permit Duration; Winter Occupation. A permit under this Section may only be approved for the following periods:
1. Permit Duration. The Roadway Cafe permit shall be valid for seven months, from April 15 through November 15. Permits may be issued after April 15, but will expire on November 15.
  2. Winter Occupation. An applicant or a Permittee may request that the permit allow for winter occupations, up to an additional five months, from November 16 through the following April 14.
  3. Renewal. There shall be no renewal of any Roadway Cafe permits. Following, or prior to, the expiration of the permit, Permittees shall follow the process for granting of an initial permit in order to commence or continue the occupation.
- (c) Permit Conditions. As a condition of a Roadway Cafe Permit issued under this Section, the Permittee agrees to abide by the following conditions:

1. Responsibility for the Occupation.

- a. Waiver. The Permittee agrees that the City shall not be held responsible for any damage to the Permittee's property placed in the roadway that may be caused by the City, its employees, contractors or others.
- b. Indemnification. To hold a valid permit, the Permittee shall agree to indemnify, defend, and hold the City, its officers, officials, employees and agents harmless against all claims, liability, loss, damages, penalties, and expenses, including attorney's fees, incurred by the City as the result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted, whether caused by or contributed to by the City or its officers, officials, agents or employees.
- c. Insurance. The Permittee shall be required to furnish a Certificate of Insurance, providing evidence of commercial general liability insurance with the City of Madison, its officers, officials, agents and employees listed as additional insureds, in a form approved by the City Risk Manager. The insurance shall include contractual liability coverage, apply on a primary and non-contributory basis, with minimum limits of one million dollars (\$1,000,000) per occurrence. The Risk Manager reserves the right to require higher limits and other coverage terms and conditions at their discretion. The Permittee shall keep required insurance in full force and effect for the duration of the permit.

2. Occupation Limitations and Requirements.

- a. General. No permit shall be issued where the placing of any property or use of the roadway within the proposed permitted area will unreasonably interfere with the public safety and convenience, or where there is insufficient room for property or use of the roadway as specified by this Section.
- b. Occupations Near Intersections and Driveways. No property or other material of any kind shall be placed within a vision clearance area as established under Sec. 27.05(2)(bb), except temporarily as otherwise allowed by this Section and Sec. 27.05(2)(bb), or unless specifically approved by the Traffic Engineer.
- c. Stormwater Considerations. No property or materials shall be placed in any gutter so as to obstruct the flow of water therein and no unlawful discharges may be made into the City's stormwater system contrary to Sec. 37.05(8). Permittees may be required to install protections on storm water drains to prevent unlawful discharges into the storm drain.
- d. Safety Considerations. Space Delineators and Enclosures placed in the roadway shall be reasonably visible at night, either through lighting, reflectors, or other means, to warn all persons traveling upon the street of the presence of such items within the roadway.

- e. Walkways. All walking surfaces open to the public or required by the permit must be maintained in a clean, smooth, level, hazard free, and ADA compliant manner within the permitted area. Permittee shall meet any City guidelines established for this purpose.
- f. Vehicles. No vehicles are allowed within the Roadway Cafe, at any time, except for the limited purpose of initially establishing the Roadway Cafe, removing the Roadway Cafe or maintaining, repairing or replacing the Space Delineators or Enclosures. The Roadway Cafe cannot be used as a loading zone or special parking area.
- g. Fire Code. The Roadway Cafe shall be established and operated consistent with Chapter 34, the Fire Prevention Code.
- h. Signage Limitations. No private signs are allowed in the highway, including any logos on umbrellas, except as otherwise permitted under the Sidewalk Cafe license in Sec. 9.135(5)(d) and Chapter 31.
- i. Traffic Signs. All traffic signing, barricading and electric arrow boards shall be placed in conformance with the Federal Highway Administration "Manual on Uniform Traffic Control Devices" and City of Madison standards.
- j. Public Trees. Any trimming, pruning or removal of public trees within the permitted area will require the issuance of a separate permit under Sec. 10.101. The trimming, pruning or removal of any City tree without a permit issued under Sec. 10.101 or without the permission of the City Forester shall be cause to revoke the permit issued under this Section.
- k. Safe and Sanitary. Permittee shall be responsible for keeping the Roadway Cafe in a safe and sanitary condition, free from all rubbish, trash, debris, snow, ice or other hazards. Items may be left in the Roadway Cafe overnight only as allowed by Sec. 9.135(9)(c)2. and at Permittee's risk. Unsecured items which may blow away or that could present safety hazards to motor vehicles using the roadway must be removed nightly.
- l. Maintenance of Exterior. Space Delineators, Enclosures and other obstructions placed in the roadway to delineate and protect the Roadway Cafe users must be installed properly and kept in safe and operable conditions at all times while the Roadway Cafe is occupied. Permittee shall be responsible for the proper placement, maintenance, repairs and/or replacement of these obstructions as necessary. If these items are not properly installed, maintained, repaired or replaced, the Traffic Engineer may declare the Roadway Cafe unfit for occupation or proceed under the revocation procedures in Sub. (d). A Roadway Cafe that has been declared unfit for occupation may not be used as a Sidewalk Cafe under a Roadway Cafe Expansion License until such time as the problems are corrected to the satisfaction of the Traffic Engineer.

- m. Other Conditions. The Traffic Engineer may add additional conditions to the permit issued under this Section that are reasonably necessary to protect the public's health, safety and welfare, including at any time after the issuance of the permit.
  - 3. Removal for Public Purpose, Emergencies or Special Events. Obstructions, materials or property placed in a permitted area under this Section shall be removed upon twenty-four (24) hours notice given by the City Traffic Engineer, City Engineer or Superintendent of Streets where such removal is necessary in order to repair, replace, install or maintain a street, sidewalk, terrace, alley, water facility, sewer facility, street tree or other public facility. In the event of a public emergency or critical event, no such notice is required and the City may take all necessary actions to remove the obstructions, materials and property from the permitted area and recover the costs thereof as a special charge against the Permittee or adjoining property under Sec. 4.09(13). In addition, the Permittee may be required to remove obstructions in the roadway for street use events authorized by Sec. 10.056 under the process in Sec. 9.136(1)(k).
  - 4. Restoration. Following removal of the Roadway Cafe, the Roadway shall be restored to its original condition and left in good repair and condition. If Permittee does not adequately restore the permitted area as required, the City may perform any repairs or restoration and recover the costs thereof as a special charge against the Permittee or adjoining property under Sec. 4.09(13).
  - 5. Waiver. By accepting the Roadway Cafe Permit, the Permittee waives any and all rights to contest in any manner the validity of this Section or Wis. Stat. § 66.0425, or the amount of compensation charged by the City of Madison for this occupation.
- (d) Revocation of a Permit. The violation of any condition of a Roadway Cafe Permit that endangers the health, safety and welfare of the public, or the violation of any other ordinance while occupying the permitted area, shall be cause to revoke a permit issued under this Section. Except in the case of an immediate threat to the health, safety and welfare of the public, the City Traffic Engineer shall provide written notice of the revocation to the Permittee who shall have no less than twenty-four (24) hours to comply with the permit requirements or other ordinance. If there is an immediate threat to the health, safety or welfare of the public, the City Traffic Engineer may immediately revoke the permit and shall provide written notification of this action to the Permittee in a timely manner. Upon revocation of the permit under this Subdivision, the City Traffic Engineer may remove the materials constituting the Roadway Cafe and recover the costs thereof as a special charge against the Permittee or adjoining property under Sec. 4.09(13).
- (e) Termination by City. Notwithstanding any provisions to the contrary in this Section, pursuant to Wis. Stat. § 66.0425(2), the City may terminate the Permit and the Permittee shall remove all obstructions from the roadway upon ten (10) days written notice by the Traffic Engineer. Additionally, the Permittee shall be entitled to no damages for removal of the Roadway Cafe, and if the Permittee shall not remove the same upon due notice, it shall be removed at the Permittee's expense and levied as a special charge for current services rendered against the Permittee or adjoining property under Sec. 4.09(13).
- (f) Appeal. In the event the Traffic Engineer denies an application for a Roadway Cafe Permit, imposes a special condition on the permit, or revokes a permit, the

Traffic Engineer shall inform the person, in writing, of the reasons for the determination. The person may appeal this decision to the Board of Public Works within ten (10) days after mailing of the notice to the address of the person as shown on the application. Such appeal must be in writing to the City Clerk, and must inform the Board of the reasons why the person believes the decision to be in error. Failure to so appeal this decision shall result in automatic approval of the denial, special condition or revocation without further action by the Traffic Engineer or the Board of Public Works.

Within thirty (30) days after receipt of the appeal, the Board of Public Works shall hold a hearing at which the person and the Traffic Engineer may present and question witnesses and present oral and written argument. Within twenty (20) days after the hearing, the Board shall cause to be issued a written decision which shall affirm, reverse or modify the determination of the Traffic Engineer. Appeal of the Board of Public Works' decision shall be by Certiorari to Circuit Court and shall be commenced within thirty (30) days of the date of the decision sought to be reviewed or be waived.

- (g) Impact of Permit Revocation or Termination on Sidewalk Cafe Expansion License. If a Roadway Cafe Permit is revoked or terminated under this Subsection, the corresponding license(s) under Sec. 9.135 for the permitted area shall no longer be in effect as of the effective date of the revocation or termination.

- (7) Permit Fee. If approved, the Roadway Cafe Permit fee shall be included within the Roadway Cafe Expansion License fees as set forth in Sec. 9.135(4).

- (8) Penalty. Any person who fails to comply with any of the requirements of this Section, including the conditions of any permit issued hereunder, shall upon conviction be subject to a forfeiture of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense."

2. Subsection (2) entitled "Applications" of Section 12.1425 entitled "Temporary 'No Parking' Zones - On-Street Meters" of the Madison General Ordinances is amended as follows:

- "(2) Applications. The Traffic Engineer may establish a temporary "no parking" zone on streets in the City of Madison where parking meters have been installed. Applications for establishing a no parking zone area shall be made on a form designated by the Traffic Engineer and shall include a description of the purpose for which the permit is sought, the number of hours and the number of metered stalls to be restricted. In addition, an application to establish a no parking zone area may be included as part of the Roadway Cafe Permit process under Sec. 10.30."

3. Paragraph 4. of Subdivision (a) of Subsection (3) of Section 12.1425 entitled "Temporary 'No Parking' Zones - On-Street Meters" of the Madison General Ordinances is created as follows:

- "4. To prohibit on-street parking within a Roadway Cafe established by permit under Sec. 10.30."

4. Paragraph 7. of Subdivision (b) of Subsection (3) of Section 12.1425 entitled "Temporary 'No Parking' Zones - On-Street Meters" of the Madison General Ordinances is created as follows:

- "7. Roadway Cafes. There shall be no charge for hoods or signs to prohibit parking within a Roadway Cafe established by permit under Sec. 10.30. The fees that would otherwise accrue to such use are accounted for under the Roadway Cafe Expansion License fees established under Sec. 9.135(4)."

5. Paragraph 1. of Subdivision (a) entitled "Contents" of Subsection (3) entitled "Application for Licenses" of Section 38.05 entitled "General Licensing Requirements" of the Madison General Ordinances is amended as follows:

"1. Address of the building for which the license is desired and description including overall dimensions, seating arrangements, capacity, ~~and~~ bar size of the premises therein, and any outside areas where ~~fermented malt alcohol~~ beverages are to be sold. The licensed premises as described shall not be expanded or changed during the license year without the approval of the Common Council, except that no prior approval is required for a hotel which does not involve a change or expansion of any bar or restaurant. No prior Common Council approval is required if the only change to the premises is to the exterior facade or any other exterior construction or reconstruction not affecting interior floor space or layout ~~or outside areas where alcohol beverages are to be sold~~ in either interior or exterior areas."

6. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations and Complaints for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating and amending therein the following:

<u>Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
"Roadway Cafe Permit Violation	10.30(8)	\$200, 1st \$500, 2 <sup>nd</sup> w/in 1 yr. \$1,000, 3 <sup>rd</sup> w/in 1 yr."

EDITOR'S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.

7. Subsection (4) entitled "Issuance of Citations" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

<u>"Enforcement Official</u>	<u>Ordinance Chapter or Section and Title</u>
City Traffic Engineer, or her/his designee.	Section 10.05, Occupancy of Rights-of-Way; Section 10.055, Occupancy of Streets or Other Public Areas; Section 10.057, Facility Access Permit; <u>10.30, Roadway Cafes.</u> "