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Legislation Details (With Text)

File #: SO2015-3726
Type: Ordinance
Status: Passed
File created: 5/6/2015
In control: City Council
Final action: 6/17/2015
Title: Amendment of Municipal Code Chapter 10-28 regarding enforcement provisions for issuance and renewal of sidewalk cafe permits
Sponsors: Reilly, Brendan
Indexes: Ch. 28 Structures On & Under Public Ways
Attachments: 1. SO2015-3726.pdf, 2. O2015-3726.pdf

Date	Ver.	Action By	Action	Result
6/17/2015	1	City Council	Passed as Substitute	Pass
6/16/2015	1	Committee on License and Consumer Protection	Substituted in Committee	Pass
5/6/2015	1	City Council	Referred	

SUBSTITUTE ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 10-28 of the Municipal Code of Chicago is hereby amended by adding the underscored language and deleting the struck-through language as follows:

10-28-870 Enforcement.

A) The commissioner or his designee is authorized to take such action as necessary to enforce the provisions of this article, including conducting on- site inspections of sidewalk cafes associated retail food establishments to determine compliance with the permitting and other requirements of this article and regulations promulgated hereunder.

B) Upon request by the commissioner or his designee, the operator of a sidewalk cafe shall provide for inspection the documents required by this article to operate a sidewalk cafe, including the sidewalk ~~cafe, pe~~ ~~mit~~ cafe permit, the plan for the sidewalk cafe, and proof of insurance.

C) Any sidewalk cafe for which a permit is required by this article, and which has failed to ~~obtain~~ obtain such permit, may be closed by the commissioner or his designee until such permit is procured. Upon being notified of closure, all sidewalk cafe activity must cease, and all obstructions in the public way, including boundaries, tables and chairs, must be removed.

D) Any sidewalk cafe for which a permit is in effect under this article may be temporarily closed by the commissioner or his designee, if the cafe has been issued notices of violation on three different days during

the permit period, each of which pertains to a significant breach of public safety. Non-limiting examples include: (i) cafe footprint or cafe-related objects or equipment on property beyond plan specifications, (ii) a missing or incomplete barrier, or (iii) signs, serving tray stands or other objects in the public way. Upon being subjected to a temporary closure, the permittee may provide to the Commissioner evidence that the objectionable conditions have been fully remedied. Such temporary closure shall remain in effect until the commissioner is satisfied that the violations have been properly remedied and will not reoccur.

10-28-820 Review of application.

The department shall review a submitted application for compliance with this article and regulations.

A) Except with regard to renewal applications governed by subsection (B), if the commissioner finds that the applicant meets the requirements of this article and the regulations promulgated hereunder, the commissioner shall provide the application to the alderman of the affected ward, together with a recommendation for introduction of an ordinance approving the application. Such approval shall not be unreasonably withheld. Once an ordinance approving the application is effective, the commissioner shall issue the sidewalk cafe permit to the applicant.

B) For purposes of this section, "renewal application" means an application for the operation of a sidewalk cafe at the same location and by the same person approved by the city council within the previous 12 months.

If the commissioner finds that a renewal application meets the requirements of this article and the regulations promulgated hereunder, the commissioner shall prepare an ordinance, which ordinance may include a group of renewal applications, for approval by the city council. Such approval shall not be unreasonably withheld. Once an ordinance approving the renewal application is effective, the commissioner shall issue the sidewalk cafe permit to the applicant.

C) If the commissioner finds that the applicant fails to meet the requirements of this article or the regulations promulgated hereunder, or if approval by ordinance is withheld, the commissioner shall deny the application or renewal application. The commissioner shall notify the unsuccessful applicant in writing of the denial and the reasons therefor within ten business days after the denial. An applicant for renewal that was subjected to, or eligible for, temporary closure as a result of violations pursuant to Section 10-28-870(D") during the prior permit period, if those violations have been finally adjudicated and sustained, shall be subject to: (i) denial of the renewal or (ii) having the renewal conditioned upon a written plan of operation or other set of conditions that the commissioner determines is necessary to ensure compliance with this Chapter. An applicant for a permit that was issued two or more notices of violation pursuant to Section 10-28-870(0 during the prior permit period, if those violations have been finally adjudicated and sustained, shall be subject to denial of the permit for the permit period applied for.

10-28-875 Violation - Penalties.

(A) Any person who violates any of the provisions of this article or regulations promulgated hereunder shall be subject to a fine of not less than \$200.00 nor more than \$500.00

for each offense, and each day such a violation continues shall be deemed a separate and distinct offense.

B) In addition to the above fine, and any person who knowingly interferes with or impedes the commissioner or his designee in the enforcement of this article shall be subject to arrest by a duly authorized peace officer of the department and imprisonment for a term not to exceed six months under the procedures set forth in Section 1-2-1.1 of the Illinois Municipal Code and under the provisions of the Illinois Code of Criminal Procedure,

C) Any sidewalk cafe in operation without a valid sidewalk cafe permit or subject to Section 10-28-870YD) is subject to removal from the public way by the commissioner or his designee. The provisions of Section 10-28-010(i) of the code shall apply to the removal of any portion of a sidewalk cafe, from the public way, whether for unpermitted operation or for obstruction of public way; provided, however, that the amount of the fine for a violation shall be as set forth in this section.

SECTION 2. This ordinance shall take effect ten days following due passage and publication.

Brendan Reilly Alderman, 42d Ward

02015-3726

Chicago, June 17, 2015

To the President and Members of the City Council:

Your Committee on License and Consumer Protection, having under consideration a substitute ordinance introduced by Alderman Brendan Reilly (which was referred on May 6, 2015), to amend Chapter 10-28 of the Municipal Code of Chicago concerning sidewalk cafe license enforcement, begs leave to recommend that Your Honorable Body pass the substitute ordinance which is transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the committee on June 16, 2015.

CHAIRMAN, COMMITTEE ON LICENSE AND CONSUMER PROTECTION

Respectfully submitted,