

Transportation
&
Public Way

ORDINANCE

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

SECTION 1. Section 10-28-590 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and by inserting the language underscored, as follows:

10-28-590 Outdoor dining program with street closure.

(a) Wherever used in this article, unless the context clearly indicates otherwise:

(Omitted text is unaffected by this ordinance)

"Curb lane" means that portion of the public way located between the sidewalk and a portion of a roadway where vehicular traffic is given preferential right-of-way, whether for motor vehicles or bicycles. The curb lane may include a parking lane.

"Full year" means from March 1st to and including the last day of February.

"Outdoor Dining Street" means a street that has been blocked off, whether in full or in part, from motor vehicle traffic in order to use the space for the outdoor consumption of food and beverage.

"Outdoor Dining Street Permit" means "Outdoor Dining Street Full-Closure Permits" and "Outdoor Dining Street Curb Lane Permits".

"Partial year" means from May 1st to and including October 31st.

"Permittee" means a business that has received an Outdoor Dining Street Permit.

(Omitted text is unaffected by this ordinance)

(c) *Outdoor Dining Street Full-Closure Permit.* Three or more licensees who hold valid retail food establishment licenses or tavern licenses may apply to the Commissioner of Transportation to close the street on a block between two intersections to obtain an Outdoor Dining Street Full-Closure Permit for the purpose of serving the food and beverage provided by their licensed establishments on the public way. To be eligible for an Outdoor Dining Street Full-Closure Permit, at least fifty percent of the licensees shall be retail food establishments and the licensed premises of participating establishments shall be located directly adjacent to the Outdoor Dining Street. An Outdoor Dining Street Full-Closure Permit may only be issued as a partial year Outdoor Dining Street Full-Closure Permit, pursuant to Section 10-28-593.

(d) *Outdoor Dining Street Curb Lane Permit.* A licensee who holds a valid retail food establishment license or tavern license and has a licensed premises directly adjacent to the portion of the street sought to be temporarily modified may apply to the Commissioner to close

a portion of a curb lane in front of the licensed premises to obtain an Outdoor Dining Street Curb Lane Permit for the purpose of serving the food and beverage provided by their licensed establishment on the public way. An Outdoor Dining Street Curb Lane Permit may be issued either as a full year Outdoor Dining Street Curb Lane Permit or a partial year Outdoor Dining Street Curb Lane Permit, pursuant to Section 10-28-593.

(e) No smoking shall be allowed in the area designated for the Outdoor Dining Street.

(f) ~~An Outdoor Dining Street Permit shall be valid from May 1st to and including October 31st of the year of its issuance~~ during the months indicated on the face of the permit, pursuant to and in accordance with this article. The fee for an Outdoor Dining Street Permit shall be determined by the Commissioner, taking into account land values, and shall be set by rule.

SECTION 2. Section 10-28-591 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

10-28-591 Permit application procedure.

Application for any Outdoor Dining Street Permit shall be submitted to the Commissioner, who shall make available forms for this purpose. The applicant shall provide such information on the application as the Commissioner may require by rule, including, but not limited to:

(a) Proof that the applicant holds a valid retail food establishment or tavern license issued to the establishment that will provide food for the outdoor dining.

(b) Proof of insurance as required by this article.

(c) A plan for the outdoor dining space, complying with applicable rules, and shall contain:

(1) a site plan, showing the locations of proposed barricades, street closures, and access points;

(2) a description of how the permittees, individually and collectively, will comply with the requirements of this article and rules issued pursuant to the article;

(3) an emergency plan, including (i) an emergency contact; (ii) ingress and egress points for vehicles that may need to enter such as fire trucks, ambulances, police vehicles, and construction and utility vehicles;

(4) a plan to ensure that the Outdoor Dining Street is cleaned on a daily basis, and, if the applicant is applying for a full year Outdoor Dining Street Permit, a plan to remove snow and ice from the Outdoor Dining Street of curb lane, as applicable; and

(5) a plan demonstrating that the outdoor dining shall not unreasonably interfere with: (i) adequate pedestrian and bicycle flow; (ii) access to building entrances; (iii) pedestrian and

traffic safety; and (iv) the aesthetic quality of the surrounding area; including the impacts of snow and ice on items (i) through (iv) if the applicant is applying for a full year Outdoor Dining Street Permit.

(d) Whether the applicant is applying for a full year Outdoor Dining Street Permit or a partial year Outdoor Dining Street Permit.

SECTION 3. Section 10-28-593 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and by inserting the language underscored, as follows:

10-28-593 Review of application.

The Department of Transportation shall review an Outdoor Dining Street Permit application for compliance with this article and applicable rules:

(a) The Commissioner shall solicit input from departments, including, but not limited to, the Department of Business Affairs and Consumer Protection, the Department of Police, the Department of Fire, the Office of Emergency Management and Communications, and the Mayor's Office for People with Disabilities and may consult with the Chicago Park District, and may also solicit input from stakeholders, including neighboring businesses, as to the factors the Commissioner considers in determining whether to grant the permit. For all applications for a full year Outdoor Dining Street Permit, the Commissioner shall also solicit input from the Department of Streets and Sanitation regarding any impacts of the operation of a full year Outdoor Dining Street on the Bureau of Street Operations' snow and ice removal activities, street cleaning, and similar activities.

(b) If the Commissioner finds that the permit application is complete, the Commissioner shall provide the application to the alderman of the affected ward. The alderman shall provide a recommendation to the Commissioner regarding the application within 30 days of receiving it, unless, the Commissioner determines that good cause exists for a reasonable extension, not to exceed 30 days. The recommendation regarding the application shall be based upon the alderman's analysis of the requirements of this article and the rules promulgated in furtherance of the article, including whether a full year Outdoor Street Dining Permit or partial year outdoor Street Dining Permit should be issued, if applicable. Such recommendation shall not be unreasonably withheld. The Commissioner shall issue the Outdoor Dining Street Permit to the applicant if the Commissioner finds that the applicant meets the applicable requirements and the alderman's recommendation is that the permit application should be approved. If the Commissioner finds that the applicant meets the applicable requirements, but the alderman recommends that the permit application should be denied, the applicant, with the assistance of the Department of Transportation, may submit for City Council consideration an applicant-sponsored ordinance granting approval of an Outdoor Dining Street Permit. If the applicant applied for a full year Outdoor Dining Street Permit, the Commissioner finds that the applicant meets the applicable requirements of a partial year Outdoor Dining Street Permit, and the alderman's recommendation is that the permit application should be approved, the

Commissioner shall, at the election of the applicant and subject to the applicant's right to appeal such decision under subsection (c) of this section, either deny the application or issue a partial year Outdoor Dining Street Permit. If the applicant applied for a full year Outdoor Dining Street Permit, and the Commissioner finds that the applicant meets the applicable requirements, but the alderman's recommendation is that a partial year Outdoor Dining Street Permit should be issued, the Commissioner shall, at the election of the applicant and subject to the applicant's right to appeal such decision under subsection (c) of this section, either: (i) deny the application; (ii) issue a partial year Outdoor Dining Street Permit; or (iii) inform the applicant that, with the assistance of the Department of Transportation, they may submit for City Council consideration an applicant-sponsored ordinance granting approval of a full year Outdoor Dining Street Permit.

(c) *Denial.*

(Omitted text is unaffected by this ordinance)

(2) Upon denial by the Commissioner of a permit application made under this section or the issuance of a partial year Outdoor Dining Street Permit when the applicant applied for a full year Outdoor Dining Street Permit, the Commissioner shall notify the applicant, in writing, of such fact and of the basis for ~~the denial~~ the Commissioner's decision. If no appeal is filed within 10 calendar days of the date of notice of the Commissioner's decision, that decision shall be deemed final. Within 10 days after such notice is mailed, the applicant may make a written request to the Commissioner for a hearing on ~~the disapproved application~~ the Commissioner's decision. Within 10 days after such written request for a hearing is made, a public hearing shall be authorized before a hearing officer appointed by the Commissioner of Business Affairs and Consumer Protection. Such public hearing shall be commenced within 30 days after such hearing is authorized. Within 14 days after completion of such hearing, the hearing officer shall report the hearing officer's findings to the Commissioner of Business Affairs and Consumer Protection. If the Commissioner of Business Affairs and Consumer Protection determines after such hearing that the application should be denied, the Commissioner of Business Affairs and Consumer Protection shall, within 60 days after such hearing has been concluded, state the reasons for the Commissioner's determination in a written finding and shall serve a copy of such written finding upon the applicant. The Commissioner's determination shall be final and may be appealed in the manner provided by law.

SECTION 4. Section 10-28-597 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and by inserting the language underscored, as follows:

10-28-597 Operational conditions.

(Omitted text is unaffected by this ordinance)

(e) Permittees shall follow Commissioner directives, including, but not limited to, modification or suspension of operations in order to make room for construction, snow removal activity, or street cleaning.

SECTION 5. Section 10-28-610 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and by inserting the language underscored, as follows:

10-28-610 Enforcement.

(Omitted text is unaffected by this ordinance)

(d) Any Outdoor Dining Street for which a permit is in effect under this article may be temporarily closed by the Commissioner or the Commissioner's designee, if: (1) the Outdoor Dining Street contains a significant danger to public safety, including, but not limited to, (i) the footprint or Outdoor Dining Street-related objects or equipment on property beyond plan specifications, (ii) a missing, insufficient, or incomplete barrier, ~~or~~ (iii) obstruction of a fire lane; (iv) interference or other obstruction of any snow removal activity, street cleaning, or similar activity; or (v) the Outdoor Dining Street presents a significant danger to public safety in light of snow or ice conditions; (2) a permittee has been issued notices of violation for conduct occurring on the Outdoor Dining Street on three different days during the permit period; or (3) a permittee has been issued at least one notice of noise violation for conduct occurring on the Outdoor Dining Street. Such temporary closure may include the cessation of outdoor business or the removal of all furniture and other appurtenances from the street and the reopening of the street to traffic. 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.

(Omitted text is unaffected by this ordinance)

SECTION 6. This ordinance shall take effect upon passage and publication.


Ald. Maria Hadden 49