Int. No. 1957

By Council Members Reynoso, Gjonaj, Rivera, Cumbo, Powers, Van Bramer, Lander, Ayala, Richards, Salamanca, Kallos, the Speaker (Council Member Johnson), Constantinides, Holden, Vallone, Brannan, Dromm, Koslowitz, Moya, Levine and Rosenthal

..Title

A Local Law in relation to temporary space for outdoor dining

..Body

Be it enacted by the Council as follows:

Section 1. Temporary space for outdoor dining. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Food service establishment. The term “food service establishment” has the same meaning as in subdivision s of section 81.03 of the health code of the city of New York.

Food vendor. The term “food vendor” has the same meaning as in section 17-306 of the administrative code of the city of New York.

Open space. The term “open space” means a location that may be used by a food service establishment for temporary outdoor dining that: (i) has been approved for such use by the department of transportation, including but not limited to a sidewalk, pedestrian plaza, street, parking lot, or other public or privately-owned space designated as such by the department of transportation; provided, however that a privately-owned space shall be utilized only with the consent of the owner of such space; or (ii) a section of a sidewalk where a sidewalk café would be permitted under the New York city zoning resolution

Pedestrian plaza. The term “pedestrian plaza” has the same meaning as in section 19-157 of the administrative code of the city of New York.

Temporary outdoor dining area. The term “outdoor dining” means a portion of a food service establishment operated under permit from the department of health and mental hygiene, located in an open space.

Temporary spacing order. The term “temporary spacing order” means an emergency order issued pursuant to section 24 or 29-a of article 2-B of the executive law that prohibits gatherings of more than 100 individuals in the city or requires individuals in the city to social distance.

b. Temporary outdoor dining. Notwithstanding sections 19-107, 19-136, and subchapter six of chapter two of title 20 of the administrative code of the city of the New York, when a temporary spacing order is in effect and service of food or beverages is permitted on-premises, indoors or outside, the department of consumer affairs shall issue permits to allow a food service establishment to operate a temporary outdoor dining area; provided, however, that nothing in this section shall be construed to effect the rights and responsibilities of a food service establishment with a valid sidewalk café license issued pursuant to section 20-224.

c. Permit required. 1. No food service establishment shall operate in a public open space without a temporary outdoor dining permit issued by the department of consumer affairs. No such permit shall be required for a food service establishment to operate a temporary outdoor dining area in a privately owned open space, provided that: (i) the consent of such owner is required and (ii) such establishment comply with any guidelines issued by the department of health and mental hygiene pursuant to subdivision e of this section.

2. No later than ten days following the effective date of this local law, the department of consumer affairs shall begin accepting applications for such permits. Such application shall be limited to: (i) a proposed open space to be used as a temporary outdoor dining area; and (ii) a proposed layout for such space and may be submitted to the department without the seal and signature of an architect or engineer licensed by the state of New York.

3. Within five days of receipt of an application for a temporary outdoor dining permit, the department of consumer affairs shall approve any such application from a licensed food service establishment that:

(i) identifies a location identified by the department of transportation pursuant to subdivision d of this section or identifies a section of a sidewalk where a sidewalk café would be permitted under the New York city zoning resolution; and

(ii) includes a proposed layout that would allow workers and patrons to observe department of health and mental hygiene guidelines issued pursuant to subdivision e of this section.

3. There shall be no fee for such permit.

4. Permits issued by the department of consumer affairs shall include the location and square footage of the open space to be used as a temporary outdoor dining area.

d. Identification of open spaces. 1. No later than seven days following the effective date of this local law, the department of transportation shall identify open spaces in each community district that are suitable for a temporary outdoor dining area.

2. The department of transportation shall consult with any business improvement district, community board, or association representing food service establishment that contacts the department regarding a location that could be utilized for a temporary outdoor dining area. Such locations shall be published online and updated at least once each week.

3. The department of transportation shall take all measures necessary to ensure that any open space utilized as a temporary outdoor dining area provides protection for all street users.

e. Outdoor dining guidelines. No later than seven days following the effective date of this local law, the department of health and mental hygiene shall establish guidelines for temporary outdoor dining area, including, but not limited to, those relating to social distancing, protection of the health and safety of patrons and workers, and cleaning.

f. Vendors. 1. Notwithstanding section 17-315 of the administrative code of the city of the New York, when a temporary spacing order is in effect, a food vendor may vend in an open space approved by the department of transportation pursuant to this subdivision provided that such vendor adhere to any guidelines issued by the department of health and mental hygiene pursuant to this subdivision.

2. No later than seven days following the effective date of this local law, the department of transportation shall publish a list of open spaces in which a food vendor may vend. Such list shall be published online and updated at least once per week.

3. No later than seven days following the effective date of this local law, the department of health and mental hygiene shall establish guidelines for food vending in open spaces, including, but not limited to, those relating to spacing of food vendors.

g. Notification. The department shall consult with and notify affected council members and community boards of an application for a temporary outdoor dining permit.

h. Expiration. The requirements of this section apply until the expiration or repeal of temporary spacing order or October 31, 2020, whichever is later.

§ 2. This local law takes effect immediately.

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