Legislation Details (With Text)

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Title:	Authorizing the construction, installation, ownership, use and maintenance of a sidewalk café at 425-449 Spring Garden Street, Philadelphia, PA 19123, under certain terms and conditions.				
Sponsors:	Council President Clarke, Councilmember Jones				
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Date	Ver.	Action By	Action	Result	Tally
7/5/2023	0	MAYOR	SIGNED		
6/15/2023	0	CITY COUNCIL			
6/8/2023	0	CITY COUNCIL			
6/8/2023	0	CITY COUNCIL			
6/8/2023	0	CITY COUNCIL			
6/1/2023	0	Committee on Streets and Services	HEARING NOTICES SENT		
6/1/2023	0	Committee on Streets and Services	HEARING HELD		
6/1/2023	0	Committee on Streets and Services	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
2/2/2023	0	CITY COUNCIL	Introduced and Referred		

Authorizing the construction, installation, ownership, use and maintenance of a sidewalk café at 425-449 Spring Garden Street, Philadelphia, PA 19123, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Bee Keeper LLC., or a subsequent owner (the "Owner"), to install, own, and maintain an open air sidewalk café at 425-449 Spring Garden Street (the "Encroachments") as specified in the Encroachment Description below, subject to all restrictions set forth in this ordinance.

Property: 425-449 Spring Garden Street, Philadelphia, PA 19123 (the "Property")

Encroachment Description:
A sidewalk café, located along the north Right-of-Way line of Spring Garden Street, the north curb line of Spring Garden Street, and along the east Right-of-Way line of North 5th Street, in two (2) parts, as set forth below.

Part 1:
Seven (7) tables and twenty-two (22) seats will be located adjacent to the building and will encroach a variable distance of approximately three feet eight inches (3'-8") minimum to approximately five feet seven inches (5'-7") maximum towards the south, and three (3) tables and six (6) seats will be located along the curbline of Spring Garden Street and will encroach approximately four feet four inches (4'-4") towards the north along the north footway of Spring Garden Street between the west Right-of-Way line of

North Lawrence Street and the east Right-of-Way Line of North 5th Street leaving a minimum eight feet (8'-0") of clear unobstructed footway.

Part 2:
Two (2) tables and twelve (12) seats will be located adjacent to the building and will encroach a distance of approximately six feet four inches (6'-4") towards the west, along the east footway of North 5th Street starting from a point zero feet (0'-0") north of the Spring Garden Street north Right-of-Way line to a point approximately seventeen feet nine inches (17-9") farther north leaving a minimum five feet (5'-0") of clear unobstructed footway.

SECTION 2. The construction, installation, use and maintenance of the Encroachments described and listed in Section 1 shall be in accordance with the laws, rules and regulations of the City of Philadelphia, and specifically those of the Department of Licenses and Inspections, the Department of Streets, and the Art Commission, provided that the Department of Streets, in its sole, unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Owner must first obtain or have its contractor(s) obtain all required permits, licenses and approvals from all appropriate departments, boards, agencies or commissions. No such department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted, it being the express intent of this Ordinance not to supersede any other provision of law governing the issuance of such permits, licenses or approvals. In addition, before exercising any rights and privileges under this Ordinance, Owner shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Owner shall, *inter alia*:

(a) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City, or from any other governmental entity as may be required by law or regulation, provided that no department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted;

(b) assume the cost of all changes and adjustments to, or relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary due to the placement of the Encroachments;

(c) carry public liability and property damage insurance that covers the Encroachments and lists the City of Philadelphia as an additional insured, as well as, Worker's Compensation and Employer Liability insurance in such amounts as shall be required by the City's Risk Management Unit. Alternatively, if approved by the Risk Management Unit, furnish the City with documentation in a form acceptable to the Law Department acknowledging that Owner is self-insured and will protect the City against liability for property damages and liability for injuries or death to persons, including employees and guests of the sidewalk café, as a result of the ownership, use, installation, maintenance or removal of the Encroachments;

(d) remove or relocate any or all of the Encroachments of this Ordinance from the public right-of-way within thirty (30) days after lawful service of notice by the City of Philadelphia. Such notice may be given when:

1. the Department of Streets has determined that the sidewalk café no longer meets the City's placement requirements; the sidewalk café or any portion of the Encroachments must be removed to accommodate a municipal or municipally sponsored public project; or the Streets Department has granted a temporary permit to close the sidewalk; or

2. the Department of Licenses & Inspections has determined that the sidewalk café is no longer being used as such; the restaurant to which the café is accessory has been temporarily or permanently closed for violation of any City, state or federal law or regulation; or the sidewalk café is being operated in violation of any ordinance, rule or regulation of the City of Philadelphia;

(e) ensure that each contractor performing work or services in connection with the Encroachments carries public liability and property damage insurance, naming the City of Philadelphia as an insured party in such amounts as shall be reasonably satisfactory to the City;

(f) give the City and all public utility companies the right of access, ingress and egress for the purpose of inspection, maintenance, alteration, relocation or reconstruction of any of their respective facilities which may lie within the public footway adjacent to the Encroachments;

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(g) indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of the Encroachments, or by the acts or omissions of the employees or agents of the restaurant in connection with the café. Owner shall also agree to release the City from any and all claims relating to the sidewalk café or the Encroachments, including, but not limited to, loss of business or value of the sidewalk café, including if ordered removed or when street, sidewalk or utility construction occurs;

(h) furnish the City with either a bond with corporate surety in an amount required by the Department of Streets and in a form satisfactory to the Law Department to insure the compliance with all the terms and conditions of this Ordinance and the Agreement, or in lieu thereof, submit documentation in a form and content acceptable to the City that Owner self-assumes the liabilities and obligations normally covered by the Surety Bond;

(i) adhere to all applicable requirements in The Philadelphia Code, including the requirements set forth in Section 9-208 of the Code;

(j) agree to manage the sidewalk café in a manner that prevents nuisance behavior as that term is defined under Chapter 9-4400 of The Philadelphia Code;

(k) maintain and keep the Encroachments in good repair and working order to the satisfaction of the Streets Department;

(l) limit the hours of operation for the sidewalk café to:

- Sunday - Thursday: 10am to 10pm
- Friday - Saturday: 10am to 11pm

(m) limit the number of seats in the sidewalk café to no more than fifty (50) seats; and

(n) Maintain the grounds adjacent to the sidewalk café in a clean and trim fashion, free of all waste, rubbish, accumulation of garbage, papers, and debris.

SECTION 4. The City Solicitor shall include in the Agreement such other terms and conditions as shall be deemed necessary to protect the interests of the City.

SECTION 5. The permission granted to Owner to install, own, and maintain the Encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if Owner has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 3 of this Ordinance within one (1) years after this Ordinance becomes law.

SECTION 6. This Ordinance shall not become effective unless the sum of two hundred dollars ($200.00), toward costs thereof, is paid into the City Treasury within sixty (60) days after the date this Ordinance becomes law.

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