

Legislation Text

File #: 100252, **Version:** 0

Authorizing Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), 1108 Fitzwater Street, Philadelphia, Pennsylvania, to construct, own and maintain an encroachment in the form of an open-air café on the sidewalk located at 738-742 South 11th Street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), to construct, own and maintain an encroachment in the form of an open-air café on the sidewalk located at 738-742 South 11th Street, as follows:

Eight (8) tables and sixteen (16) chairs will be placed adjacent to the building. The first table is located approximately eighteen feet (18') south of the south curblane of Fitzwater Street and the last table approximately fifty-five feet (55') south of the south curblane of Fitzwater Street. The tables encroach approximately four feet (4') onto the west sidewalk leaving approximately seven feet (7') of clear unobstructed footway between the proposed sidewalk café and the existing tree planters. No rails will be used.

SECTION 2. Before exercising any rights or privileges under this Ordinance, Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), must first 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, Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, which shall:

(a) furnish the City with a bond with corporate surety in an amount required by the Streets Commissioner and in a form satisfactory to the Law Department to insure the compliance with all the terms and conditions of this Ordinance and the aforementioned Agreement;

(b) protect, indemnify and save harmless the City from all suits or claims for damages which may arise directly or indirectly as a result of the encroachment described above and located at 738-742 South 11th Street;

(c) comply with the provisions of The Philadelphia Code thereby securing all required permits, licenses and approvals from all appropriate departments, boards, agencies or commissions, as may be required;

(d) provide that when it is determined by the City of Philadelphia that relocation and/or removal of any underground structure, either publicly or privately owned, is required at the site of, or surrounding the encroachment as described above, Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), will absorb all costs and expenses for the performance of such work at no cost to the City;

(e) insure that the various existing sidewalk encroachments described above are no more than the dimensions listed in Section 1, provided that the Streets Department, in its sole unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice;

(f) insure that Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), carry public liability and property damage insurance, co-naming the City of Philadelphia as an insured party in such amounts as shall be satisfactory to the Law Department; and

(g) insure that Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), will remove the encroachment described above and located on 738-742 South 11th Street within one hundred and eighty (180) days upon service of lawful written notice from the Streets Department.

SECTION 3. The Law Department shall include in the Agreement such other terms and conditions as shall be deemed necessary or appropriate in the interest of the City.

SECTION 4. The permission granted to Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), to construct, own and maintain an encroachment in the form of an open-air café on the sidewalk described above and located on 738-742 South 11th Street shall expire without any further action by the City of Philadelphia if Marianos Chris Fetfatzes, owner of 738 MOC Inc. (aka Hawthornes), has not entered into the Agreement that is required by Section 2 within one (1) year after this Ordinance becomes law.

SECTION 5. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200), toward costs thereof, is paid into the City Treasury within sixty (60) days after the date this Ordinance becomes law.