

9/23/15

29906

ORDINANCE NO. _____

An ordinance amending Chapter 43, "Streets and Sidewalks," of the Dallas City Code by amending Sections 43-112, 43-115, 43-115.1, and 43-116; adding Sections 43-111 and 43-115.3; and defining sidewalk cafes; establishing annual and one-time fees for licenses and license renewals for certain uses of the public right-of-way, reducing application fees for certain uses of the public right-of-way; requiring compliance with the Sidewalk Cafe Design Standards Manual; making certain semantic and conforming changes; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

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

SECTION 1. That Section 43-111, "Reserved," of Article V, "Building Numbering," of Chapter 43, "Streets and Sidewalks," of the Dallas City Code is moved from Article V, "Building Numbering," to Division 1, "Licenses for Other than Bicycle Parking Devices, Valet Parking Services, and Newsracks," of Article VI, "License for the Use of Public Right-of-Way," of Chapter 43, "Streets and Sidewalks," of the Dallas City Code, and amended to read as follows:

"SEC. 43-111. DEFINITIONS [~~RESERVED~~]."

In this division,

(1) DIRECTOR means the director of the department designated by the city manager to enforce and administer this division, or the director's authorized representative.

(2) SIDEWALK CAFE has the meaning given that term in Chapter 316 of the Texas Transportation Code, as amended."

SECTION 2. That Section 43-112, "Application; Fee," of Division 1, "Licenses for Other Than Bicycle Parking Devices, Valet Parking Services, and Newsracks," of Article VI,

“License for the Use of Public Right-of-Way” of Chapter 43, “Streets and Sidewalks,” of the Dallas City Code is amended to read as follows:

“SEC. 43-112. APPLICATION; FEE.

(a) If a person, or governmental entity operating a utility, desires to make use of any portion of the public right-of-way for a private or governmental utility use, the person, or governmental entity operating a utility, must apply in writing to the director. The application must be accompanied by plans or drawings showing the area to be used, a statement of the purpose for which the right-of-way is to be used, and a nonrefundable application fee in the amount required by Subsection (b) of this section [~~of \$750~~], plus recording fees; except that the application fee is not required for:

- (1) existing encroachments previously licensed; or
- (2) a license to place and maintain the facilities of a utility operated by a governmental entity on public right-of-way, where the governmental entity has previously contracted with the city to provide mutual granting of rights-of-way for utility purposes.

(b) The application fee is:

- (1) \$100 for a sidewalk cafe;
- (2) \$100 for a use of a public right-of-way described in Section 43-115.1; and
- (3) \$750 for any other use of the public right-of-way.”

SECTION 3. That Section 43-115, “Annual Fee for Use of Public Right-of-Way,” of Division 1, “Licenses for Other than Bicycle Parking Devices, Valet Parking Services, and Newsracks,” of Article VI, “License for the Use of Public Right-of-Way,” of Chapter 43, “Streets and Sidewalks,” of the Dallas City Code is amended to read as follows:

“SEC. 43-115. ANNUAL FEE FOR USE OF PUBLIC RIGHT-OF-WAY.

(a) The annual fee for a license to use a public right-of-way for the following uses is:

- (1) Fee for railroad crossing: not less than \$50 per track crossing the public right-of-way or an amount determined by the director and established in the ordinance granting the license. The fee will not be assessed for a railroad crossing where the railroad existed before the public right-of-way was established.

(2) Fee for encroachment of historically significant structures into public right-of-way: \$1,000.

(3) Fee for placement and maintenance of facilities of a utility operated by a governmental entity on public right-of-way pursuant to a contract with the city providing for mutual grant of rights-of-way: None.

(4) Fee for a sidewalk cafe: \$200.

(b) The annual fee for a license to use a public right-of-way for uses other than those listed in Subsection (a) is \$1,000 or is calculated in accordance with one of the following formulas, whichever is greater:

(1) Fee for use of public right-of-way: $\text{area} \times \text{market value} \times 85\% \times 12\%$.

(2) Fee for subsurface use only: $\text{area} \times \text{market value} \times 30\% \times 12\%$.

(3) Fee for air rights use only (including awnings and canopies with a premise sign as defined in Section 51A-7.102(28) of the Dallas City Code): $\text{area} \times \text{market value} \times 85\% \times 85\% \times 12\%$.

(4) Fee for commercial parking operation use: 50% of gross receipts (which include receipts for all parking and tips less sales and use taxes, if applicable).

~~[(5) Fee for a sidewalk cafe: the lesser of \$2,500 or an amount equal to the area \times market value \times 85% \times 12%.]~~

(c) Except for a sidewalk cafe license, the [The] application fee required by Section 43-112 will be applied to the first year's fee if a license is granted.

(d) Whether or not stated in the ordinance granting the license, the city council retains the right to increase or decrease the annual fee.

(e) The market value of the area licensed is based on the per square foot appraised value, as determined by the Dallas County Central Appraisal District, of a fee simple interest in a useable tract of abutting property.

(f) The director shall annually review the market values of licensed areas for which fees are based on market value. If it is determined that the market value of a licensed area has decreased, the director shall notify the licensee in writing that the annual fee has been decreased. If it is determined that the market value of a licensed area has increased, the director shall notify the licensee in writing that the annual fee has been increased. If a licensee is unwilling to accept the increased fee, the licensee may terminate the license."

SECTION 4. That Section 43-115.1, "Special Fees for the Use of Public Right-of-Way," of Division 1, "Licenses for Other than Bicycle Parking Devices, Valet Parking Services, and Newsracks," of Article VI, "License for the Use of Public Right-of-Way," of Chapter 43, "Streets and Sidewalks," of the Dallas City Code is amended to read as follows:

"SEC. 43-115.1. SPECIAL FEES FOR THE USE OF PUBLIC RIGHT-OF-WAY.

(a) Instead of the annual fee charged under Section 43-115 of this division, the following one-time fees will be charged for a license to use a public right-of-way for the following uses:

- (1) Fee for landscaping and appurtenant irrigation systems: \$100 [~~1,000~~].
- (2) Fee for awnings and canopies without a premise sign as defined in Section 51A-7.102(28) of the Dallas City Code: \$100 [~~1,000~~] per awning or canopy.
- (3) Fee for subdivision and monument signs: \$100 [~~1,000~~] per sign.
- (4) Fee for other streetscape elements [~~improvement projects~~], including [~~but not limited to, landscaping as part of a streetscape improvement project,~~] planters, crosswalk texturing and coloring, artwork, lighting, benches, flag poles, bollards, and trash receptacles: \$100 [~~5,400~~].

(b) An application fee paid pursuant to Section 43-112 will not be applied to license fees charged under this section."

SECTION 5. That Chapter 43, "Streets and Sidewalks," of the Dallas City Code is amended by adding Section 43-115.3, "Sidewalk Cafe Guidelines" to read as follows:

"SEC. 43-115.3. SIDEWALK CAFE DESIGN STANDARDS MANUAL.

All sidewalk cafes must comply with the Sidewalk Cafe Design Standards Manual. The director shall keep an updated electronic copy of the Sidewalk Cafe Design Standards Manual on the city's website and keep an updated paper copy on file for public inspection and copying."

SECTION 6. That Section 43-116, "Temporary License; Director Defined," of Division 1, "Licenses for Other than Bicycle Parking Devices, Valet Parking Services, and Newsracks," of Article VI, "License for the Use of Public Right-of-Way," of Chapter 43, "Streets and Sidewalks," of the Dallas City Code is amended to read as follows:

“SEC. 43-116. TEMPORARY LICENSE[; DIRECTOR DEFINED].

[(a)] The director may grant a temporary license on a month-to-month basis if a license or abandonment application is being processed for city council action and if failure to grant a temporary license will subject the applicant to a substantial hardship.

[(b) ~~In this division, DIRECTOR means the director of the department designated by the city manager to enforce and administer this division, or the director's authorized representative.]”~~

SECTION 7. That, unless specifically provided otherwise by this ordinance or by state law, a person violating a provision of this ordinance governing the dumping of refuse, is, upon conviction, punishable by a fine not to exceed \$4,000; a person violating a provision of this ordinance governing fire safety, zoning, or public health and sanitation, other than the dumping of refuse, is, upon conviction, punishable by a fine not to exceed \$2,000; and a person violating any other provision of this ordinance is, upon conviction, punishable by a fine not to exceed \$500.

SECTION 8. That Chapter 43 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 9. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 10. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

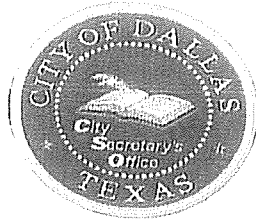
APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By Eileen Jones
Assistant City Attorney

OCT 28 2015

Passed _____



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

OCT 28 2015

DATE ADOPTED BY CITY COUNCIL _____

29906

ORDINANCE NUMBER _____

OCT 31 2015

DATE PUBLISHED _____

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose C. Livi".