

AN ORDINANCE

Amending Chapter 9-200 of Title 9 of the Philadelphia Code, entitled “Commercial Activities on Streets” to add a new section entitled “Streeteries” to allow for expansion of business uses, including outdoor dining, in portions of the public right-of-way, such as at certain curbside parking locations; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is amended to read as follows:

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CHAPTER 9-200
COMMERCIAL ACTIVITIES ON STREETS

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§ 9-215. *Streeteries.*

(1) *The Department of Licenses and Inspection and the Department of Streets are hereby authorized to establish, by regulation, standards and procedures for the issuance and enforcement of licenses for use of portions of the Right-of-Way for the expansion of adjoining or nearby business uses, such as dining, including closure of part or all of the street, such as on-street parking spaces.*

(2) *Occupancy of the Right-of-Way for the purposes of outdoor dining pursuant to such licenses are referred to in this section as “Streeteries,” which term also refers to all furniture, structures, platforms or protective barriers associated with any Streeteries.*

(3) *Such regulations shall provide for standards concerning license issuance, location and standards of operation that are designed to protect public safety and the orderly, safe and efficient use of the Right-of-Way by pedestrians and vehicles and shall include, at a minimum, the standards set forth in this Section 9-215.*

(a) *Streeteries are only permissible in connection with eating establishments that primarily are engaged in the business of food preparation on the premises for sale to customers substantially for on-premises consumption and that maintain at least three tables for indoor dining on a regular basis.*

(b) *A Streeteries shall only be operated for business between the hours of 7 a.m. and 10 p.m. Sunday through Thursday and 7 a.m. until 11 p.m. on Friday and Saturday.*

(c) *A Streeteries shall not be located in a travel lane of any type, including a bicycle lane, unless located as part of a closure of an entire street.*

(d) The number of Streeter dining seats may not exceed the total number of dining seats located in the interior dining locations of the restaurant.

(e) No Streeter is permissible without the written agreement of the property owner or the property owner's designee.

(f) A Streeter may only be located in the right-of-way directly abutting the restaurant in connection with which the license is obtained, and in the right-of-way abutting one, and no more than one, adjacent property, provided proof of permission to utilize the right-of-way of the adjacent property is provided at the time of license application and such permission remains in effect.

(4) License Application.

(a) Applications for licenses shall be made to the Department of Licenses and Inspections and shall include, at a minimum, the following:

(.1) Dimensions of the proposed Streeter seating boundaries;

(.2) Proof of insurance and attestation that application for such license constitutes agreement to the insurance, indemnification and removal requirements as set forth in subsection (7) below.

(.3) Approval from the Department of Streets confirming that the proposed Streeter meets the placement requirements and restrictions on location of this Section and regulations established under this Section.

(.4) Photographic proof, in such form as determined by regulation, that for a minimum of ten (10) consecutive days prior to application, but beginning no more than thirty (30) days prior to application, the applicant has posted at a conspicuous location in the front window or on the front door of the restaurant to which the Streeter will be accessory, in such form established by regulation, notice of the intent to apply for a Streeter license and which identifies the specific proposed location of the Streeter.

(.5) A non-refundable application fee in the amount of \$200. If a license is granted, the application fee shall be credited towards the first annual license fee.

(5) Safety and Accessibility.

(a) At a minimum, safety, placement and accessibility standards for Streeteries shall include the following:

(.1) Barrier protection. All Streeteries must be protected by a physical barrier abutting any portion of the Streeter alongside of which vehicular traffic passes at any time, pursuant to such standards as established by regulation.

(.2) *Vehicle Passage.* No portion of any Streeterly, including a protective barrier associated with the Streeterly, shall reduce vehicle clearance in any portion of the right of way to 12 feet or less.

(.3) *Accessibility.* All Streeteries must be accessible, pursuant to standards established by regulation.

(.4) *Pedestrian, accessibility and transit passage.* No portion of any Streeterly, including a protective barrier, may be placed within 10 feet of a crosswalk, pedestrian street-crossing curb cut or a bus or other transit.

(6) *Streeterly Structures.*

(a) *Structures built or maintained at a Streeterly must conform to any standards established by regulation and must conform in all respects with all requirements of Title 4 of The Philadelphia Code (The Philadelphia Building and Occupancy Code).*

(b) *All such structures must be removable within 48 hours upon notice from the City of Philadelphia or such lesser time established by regulation.*

(c) *No platform or structure may be placed on top of a utility manhole cover.*

(7) *Insurance, Indemnification and Removal.*

(a) *The licensee must agree in writing in form satisfactory to the City Solicitor to 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, such Streeterly, or by the acts or omissions of the employees or agents of the licensee in connection with such Streeterly. The licensee shall also agree to release the City from any and all claims relating to its Streeterly, including, but not limited to, loss of business and/or value of the Streeterly when it is ordered removed or when street, sidewalk or utility construction occurs;*

(b) *The licensee must agree in writing in form satisfactory to the City Solicitor to obtain and maintain in full force and effect, at the licensee's own expense, an insurance policy naming the City of Philadelphia as an additional insured, in an amount determined by the Risk Manager. The policy shall afford comprehensive general liability insurance including contractual liability insurance coverage the licensee's indemnification and hold harmless obligations under subsection (a) above and shall provide that the Law Department be notified upon the expiration of coverage in the event the policy is cancelled or the application fails to renew the café license. Within ten (10) days of the approval of the Streeterly license application,*

and each year thereafter, the licensee shall submit a certificate of insurance in accordance with the agreement and maintain a copy on the premises for review;

(c) The licensee must agree in writing, in a form satisfactory to the City Solicitor, to remove any barriers, furniture, structures or platform associated with the Streeterly, and to repair any portion of the right-of-way damaged by the Streeterly, upon written notice from the City that:

(.1) a portion or all of the Streeterly no longer meets the requirements of this Section or other applicable laws, is operating in violation of the law, or is no longer in regular operation;

(.2) a portion of all of the Streeterly must be removed to accommodate a City or City-sponsored public project;

(.3) the Streets Department has granted another person a temporary permit to close some or all of the portion of the right of way occupied by the Streeterly;

(.4) the restaurant to which the Streeterly is accessory has been temporarily or permanently closed for violation of any law; or

(.5) the Streeterly has damaged any part of the right-of-way.

(d) The licensee must obtain a bond with corporate surety in amount approved by the Streets Department and in form satisfactory to the Law Department to cover indemnification of the City for the cost of removal of any part of the Streeterly, restoration of the public right-of-way, and all incidental costs.

(8) License fee.

(a) The annual fee for a Streeterly license is \$200.

(9) Penalties and Enforcement.

(a) This Section may be enforced by any individual authorized to enforce this Code.

(b) The penalty for violation of this Section or any condition of a license or of a regulation issued pursuant to this Section shall be a fine of up to three hundred dollars (\$300) per day, per violation.

(c) A Streeterly license may be suspended or revoked based on ongoing or repeat violations of this Section or other applicable law that demonstrate a significant risk to public safety or the disruption of the safe, fair and efficient use of the right-of-way.

(d) Removal of any barrier, furniture, platform or structure based on the provisions of Subsection (7)(c) or based on any violation of this Section or other applicable laws, or repair of any damaged portion of the right-of-way, shall be at the sole expense of the licensee. The City is hereby authorized, upon a determination that removal or repair of the right-of-way

must be carried out by the City, to charge the costs of such removal or repair, including administrative costs, to the licensee. The Law Department may take action to collect such costs by lien or any other method. If removed property is not claimed within 10 days of notice of its removal by the City, the City is authorized to dispose of any such property.

SECTION 2. This Ordinance shall take effect immediately, provided that licenses shall be issued under this ordinance only upon adoption of the implementing regulations addressed in Section 1. Until such time as such regulations are adopted, permits or licenses issued pursuant to Bill No. 200352, as extended by Bill No. 200498, shall remain in effect (unless previously revoked), subject to the additional limitations and requirements of subsections of Code Section 9-215 added by this Bill.

Introduced by CM Domb

Co-sponsored by CM Gilmore-Richardson, CM Henon, CM Parker, CM Green, CM Johnson, CM Brooks