

City of Philadelphia



(Bill No. 060009)

AN ORDINANCE

Authorizing Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” to construct, operate and maintain an open-air sidewalk café located at 4835 Frankford Avenue-Rear a/k/a 1538 Harrison Street, Philadelphia, PA 19124, under certain terms and conditions.

WHEREAS, Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” has requested permission to construct, operate and maintain building encroachments consisting of an open-air sidewalk café located at 4835 Frankford Avenue-Rear a/k/a 1538 Harrison Street, Philadelphia, PA 19124; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” her successors and assigns, are hereby authorized to construct, operate and maintain an open-air sidewalk café with five tables located at 4835 Frankford Avenue-Rear a/k/a 1538 Harrison Street, Philadelphia, PA 19124, as follows:

Five (5) tables approximately two feet (2’) square with chairs encroaching approximately four feet, three inches (4’, 3”) onto the south footway of Harrison Street, leaving approximately five feet, nine inches (5’, 9”) clear footway for pedestrians. The first table is located approximately sixty-seven feet (67’) west of the west curb line of Frankford Avenue and the last table is located approximately ninety-six feet (96’) west of the west curb line of Frankford Avenue.

SECTION 2. The construction, operation and maintenance of the open-air sidewalk café as listed in Section 1 above shall be in accordance with the laws, rules and regulations of the City of Philadelphia, and specifically those of the Department of Licenses and Inspection, the Department of Streets and the Art Commission.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” must first obtain or have her 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, Antoinette McCoy, d/b/a “Cuisine of Soul, Inc.,” shall enter into an agreement (“Agreement”) with

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the appropriate City department or departments, satisfactory to the Law Department, provided that Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” shall, *inter alia*:

(a) agree that when given thirty (30) days written notice from the City, Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” shall remove the open-air sidewalk café without cost or expense to the City and shall restore the aforesaid cartways and footways at no cost or expense to the City to accommodate a municipal or municipal-sponsored construction project;

(b) furnish the City with 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 aforementioned Agreement;

(c) assume the costs and expenses of all changes and adjustments to, and relocation or abandonment of City utilities and City structures wherever located as may be necessary by the reason of the construction, operation and maintenance of the open-air sidewalk café;

(d) agree to defend, save harmless and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as result of the construction, operation and maintenance of the open-air sidewalk café or its removal;

(e) 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, or in lieu thereof, submit documentation in form and content acceptable to the City that Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” is self-insured and is providing the City of Philadelphia that same coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania;

(f) insure that all construction contractors for the open-air sidewalk café carry public liability and property damage insurance, naming the City of Philadelphia as an insured party in such amounts as shall be satisfactory to the Law Department;

(g) 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 right-of-way of any affected streets aforesaid;

(h) insure that the five (5) tables for the open-air sidewalk café encroach on the south footway of Harrison Street no more than the dimensions listed in Section 1 provided that the Streets Department, in its sole, unreviewable discretion, may allow

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minor variation of the dimension limits within the standard tolerance of current engineering practice; and

(i) provide notarized written permission from the owner of the property located at 4835 Frankford Avenue-Rear a/k/a 1538 Harrison Street, Philadelphia, PA 19124, for the construction, operation and maintenance of an open-air sidewalk café at this location.

SECTION 4. The Law Department 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 authorization granted to Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” to construct, operate and maintain the open-air sidewalk café described in Section 1 shall expire without any further action by the City if Antoinette McCoy, d/b/a “Cuisine of Soul Inc.,” has not entered into the Agreement and satisfied all requirements of the Agreement within one (1) year after this Ordinance becomes law.

SECTION 6. This Ordinance shall not become effective unless the sum of TWO HUNDRED DOLLARS (\$200.00), towards the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on March 30, 2006. The Bill was Signed by the Mayor on April 20, 2006.



Patricia Rafferty
Chief Clerk of the City Council