



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 090572

Introduced September 17, 2009

Councilmember Blackwell

**Referred to the
Committee on Streets and Services**

AN ORDINANCE

Authorizing Vilna Gaston to construct, own and maintain, an open-air sidewalk cafe at 5222-24 Walnut Street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Vilna Gaston, to construct, own and maintain an open-air sidewalk café at 5222-24 Walnut Street that will encroach upon the south sidewalk of Walnut Street as follows:

There will be six (6) tables and sixteen (16) chairs in total placed adjacent to the building on the south sidewalk of Walnut Street. The tables and chairs will encroach a maximum distance approximately eight feet eight inches (8'-8") leaving approximately nine (9') feet of clear unobstructed footway. No rails will be used.

SECTION 2. The construction, use and maintenance of the open-air sidewalk café 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 and the Department of Streets, 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, Vilna Gaston must first obtain or have their 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

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issuance of such permits, licenses or approvals. In addition, before exercising any rights and privileges under this Ordinance, Vilna Gaston shall enter into an agreement (“Agreement”) with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Vilna Gaston *inter alia*:

- (a) agrees that upon one hundred and eighty (180) days notice from the City, she shall remove the open-air sidewalk café without cost or expense to the City and shall remove the open-air sidewalk café at no cost and expense to the City of Philadelphia when given written notice to do so by the City of Philadelphia to accommodate a municipal or municipal sponsored construction project;
- (b) 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 City Solicitor to insure the compliance with all the terms and conditions of this Ordinance and the Agreement, and to protect and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as a result of the construction, maintenance or use of the open-air sidewalk cafe or their removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that Vilna Gaston self-assumes liabilities and obligations normally covered by Surety Bond;
- (c) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City as may be required by regulation or law. 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;
- (d) assume the costs 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 of the open-air sidewalk cafe;
- (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 City Solicitor, or in lieu thereof, submit documentation in form and content acceptable to the City that the Vilna Gaston is self-insured and is providing the City of Philadelphia the same coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania;

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- (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 reasonably satisfactory to the City Solicitor; and
- (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.

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 Vilna Gaston to construct, own and maintain the open-air sidewalk café described in Section 1 shall expire without any further action by the City of Philadelphia if Vilna Gaston have not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 3 of this Ordinance 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), toward costs thereof, is paid into the City Treasury within sixty (60) days after the date this Ordinance becomes law.

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