

# City of Philadelphia



(Bill No. 040135)

## AN ORDINANCE

Authorizing the revision of lines and grades on a portion of City Plan No. 307 by striking and abandoning portions of a certain pedestrian walkway and right-of-way for gas main purposes lying between Fourth street and Fifth street, within the lines of former Commerce street (now known as Ben-Gurion Place), under certain terms and conditions.

WHEREAS, by ordinance (“Ordinance”) enacted February 11, 1969, the Board of Surveyors of the City of Philadelphia was authorized to strike and vacate Commerce street between Fourth street and Fifth street (now commonly known as Independence Mall East), and to retain and place on the City Plan such portion of Commerce street as and for a pedestrian walkway and right of way for gas main purposes (the “Reservation”); and

WHEREAS, on February 16, 1970, the Board of Surveyors confirmed the changes to the City Plan authorized by the Ordinance; and

WHEREAS, by Indenture dated December 1, 1969, and recorded March 2, 1970 in Deed Book JRS 642, Page 586 (the “Deed”), the owners of the parcels abutting the said Commerce street conveyed all their right, title and interest in and to the Reservation to the City of Philadelphia; and

WHEREAS, it is the intent of the City of Philadelphia to divest its interest in the Reservation as evidenced by the Deed to the extent provided hereinafter; now, therefore,

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

**SECTION 1.** Pursuant to Section 11-403 of The Philadelphia Code, the Board of Surveyors of the Department of Streets is authorized to revise the lines and grades on a portion of City Plan No. 307 by:

- (a) Striking and abandoning from the City Plan a forty (40) foot wide pedestrian walkway and right-of-way reserved for gas main purposes lying within the lines of former Commerce street (now known as Ben-Gurion Place), from Independence Mall East to a point approximately two hundred sixteen (216) feet eastwardly therefrom.

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- (b) Striking and abandoning from the City Plan the northernmost ten (10) foot wide portion of the pedestrian walkway and right-of-way reserved for gas main purposes lying within the lines of former Commerce street (now known as Ben-Gurion Place), from a point approximately two hundred sixteen (216) feet east of Independence Mall East to Fourth street.

**SECTION 2.** This authorization is conditional upon compliance with the following requirements within one (1) year from the date this Ordinance becomes law:

- (a) The party requesting changes to the City Plan hereunder shall file an agreement or agreements, satisfactory to the Law Department, executed by all owners of property affected by this Ordinance, to release the City from all damages or claims for damages that may arise by reason of such City Plan changes. If such requesting party has demonstrated to the satisfaction of the City that it has diligently pursued, but was unsuccessful in obtaining the execution of any such agreements, such party shall file agreements and bond with corporate surety, satisfactory to the Law Department, to release the City as aforesaid.
- (b) The party requesting changes to the City Plan hereunder shall file of an agreement, satisfactory to the Law Department, to (i) release, indemnify and defend the City from all damages or claims for damages, which may arise by reason of such City Plan changes.
- (c) The payment by the party in interest of the cost of advertising the public hearing by the Board of Surveyors on the City Plan changes authorized by this Ordinance.

This Ordinance shall not become effective unless the party requesting changes to the City Plan hereunder pays to the City Treasury the sum of two hundred dollars within one hundred twenty 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 April 22, 2004. The Bill was Signed by the Mayor on May 6, 2004.



Patricia Rafferty  
Chief Clerk of the City Council