



# City of Philadelphia

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

**BILL NO. 030645**

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**Introduced October 2, 2003**

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**Councilmembers Mariano, Clarke and Blackwell**

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**Referred to the  
Committee on Rules**

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## **AN ORDINANCE**

Amending Title 14 of The Philadelphia Code relating to "Zoning and Planning," by amending Chapter 14-1600, entitled "Miscellaneous," by adding a new Section 14-1628, entitled "Zoning and Construction Permits for Retail Stores," all under certain terms and conditions.

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

SECTION 1. Title 14 of The Philadelphia Code is hereby amended to read as follows:

### TITLE 14. ZONING AND PLANNING.

\* \* \*

### CHAPTER 14-1600. MISCELLANEOUS.

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*§14-1628. Zoning and Construction Permits for Retail Stores.*

*(1) Permits.*

*(a) No permits, zoning or building, shall be issued for any retail store and/or shopping facility selling nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, if the facility is anticipated or projected to exceed 180,000 square feet.*

*(b) No permit, zoning or building, for any development, redevelopment, construction, reconstruction, modification, or substantial alteration of any real property*

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*subject to approval by Department of License and Inspections for a retail store and/or shopping facility selling nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, or for any development, redevelopment, construction, reconstruction, modification, or substantial alteration of any real property that includes a retail store and/or shopping facility selling nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, shall be issued unless the following conditions exist:*

*(.1) The anticipated or projected total square footage of the proposed retail store and/or shopping facility selling nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, exceeds 90,000 square feet; and 1) no more than 10 percent of such a proposed facility's total square footage at any one location is to be devoted to or dedicated to the sale of nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries; or 2) where, based upon credible marketing studies, submitted by representatives of the proposed facility, no more than 10 percent of the proposed retail facility's anticipated projected gross sales revenues will be from nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries. Gross sales revenue and square footage of adjacent stores shall be aggregated if the stores share any check stands, any management, have a common ownership interest or control group (by way of corporate structures and/or individual shareholders, partners, proprietors or any combination of the same) or any warehouse and/or distribution facilities.*

*(.2) Any facility with a total square footage exceeding 90,000 square feet shall be required to submit to the City of Philadelphia, in conjunction with or in advance of the submission of any application for a building permit, a verified economic impact statement.*

*Such statement of economic impact regarding any proposal to develop, redevelop, construct, reconstruct, modify, or substantially alter any such real property to be utilized in whole or in part as a retail store and/or shopping facility selling nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, with a square footage exceeding 90,000 square feet, shall provide accurate, credible details regarding the expected economic impact on facilities that sell the same or similar products in the same market area as the planned retail store or shopping facility.*

*The statement of economic impact shall also provide credible and complete, data based, analysis on employment diminution as a result of the proposed project, detailing the nature and quality of job destruction and dislocation, articulating therefore the relative pay and benefit scales, along with identifiable data and statistics with respect to the grade and/or class of workers so dislocated.*

*The statement of economic impact shall further provide a detailed analysis of the tax impact of the proposed project upon the City of Philadelphia, including, but not limited to wage and property tax revenues for the period of 1 year, 3 years, 5 years and*

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*10 years subsequent to completion of the project and the commencement of its business activities. In analyzing the market place impact, work creation/dislocation impact, and tax revenue impact of the proposed project the geographic area to be studied and reported upon to the City of Philadelphia shall be based upon and in alignment with the business and marketing plans utilized by the proposed retail store or shopping facility owner or operator for the purpose of establishing and locating the facility and marketing the goods, products and/or services proposed to be sold and/or provided. The requirements of this section of this ordinance shall be in addition to and not in lieu of any other current or subsequently established legal requirements regarding the creation, development and submission of statements of economic impact associated with real property development in the City of Philadelphia.*

*(c) The owner or operator of a retail store and/or shopping facility with a total square footage exceeding 90,000 square feet, selling nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, approved on or after December 31, 2003 shall annually file a report with the Department specifying the total current square footage of the retail store and/or shopping facility selling nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, as well as the total current square footage of the facility devoted to or dedicated to the sale of nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, as well as, based upon credible accounting data, submitted by representatives of the operating facility, the facility's gross sales revenues from nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries in the previous 12 consecutive month period.*

*(2) Penalties, fees and relief.*

*(a) The City of Philadelphia or any person may institute proceedings for injunctive or declaratory relief or writ of mandamus in any court of competent jurisdiction to enforce the requirements of this ordinance against any alleged violator, including, but not limited to, the issuer of a building permit on behalf of the City of Philadelphia or any agency thereof which permit fails to comply with the provisions of this ordinance.*

*(b) If the square footage of any retail store and/or shopping facility that exceeds 90,000 square feet and sells nontaxable food merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries exceeds the limits specified in paragraph (.1) of subsection (b), the court shall award as damages to the City of Philadelphia, and not the prevailing plaintiff (unless the prevailing plaintiff is the City of Philadelphia), an amount equal to 50 percent of the gross sales revenue associated with such square footage for the previous year or an amount equal to the fair market rental value of 50 percent of the value of the square footage devoted to the sale of nontaxable food*

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*merchandise and/or cosmetics, soaps, non-prescription drugs and/or toiletries, for the previous year, whichever is greater.*

*(c) The court shall further award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this ordinance.*

*(d) The penalty for violation of any provision of this Section shall be a minimum fine of \$300 for each violation. Each day in which there is no compliance shall constitute a new violation.*

SECTION 2. Effective date. This Ordinance takes effect December 31, 2003.

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**Explanation:**

*Italics indicate new matter added.*