

City of Philadelphia



(Bill No. 100636)

AN ORDINANCE

Authorizing Thomas and Arlene Leschak, owners of Epicure Café, to construct, own and maintain an open-air sidewalk café at 3479 Bowman Street, aka 3401 Conrad Street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Thomas and Arlene Leschak to construct, own and maintain an open-air sidewalk cafe at 3479 Bowman Street, aka 3401 Conrad Street, as follows:

Seven (7) tables and fourteen (14) chairs will be placed adjacent to the building or curblin on the east sidewalk of Conrad Street. The first table is located approximately twenty feet (20') north of the north curblin of Bowman Street and the last table is located approximately ninety feet (90') north of the north curblin of Bowman Street. Four (4) tables are adjacent to the building and three (3) tables are adjacent to curblin; each encroaches approximately four feet (4') onto the sidewalk leaving approximately five feet (5') of clear unobstructed footway. No rails will be used.

The exact number, type and location of the encroachments are identified on plans that have been supplied to the Department of Streets for review and have been approved. The Department of Streets will maintain the authority to review and approve the location of each proposed encroachment prior to installation.

SECTION 2. Before exercising any rights or privileges under this Ordinance, Thomas and Arlene Leschak must first obtain all required permits, licenses and approvals from all appropriate City 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 or privileges under this Ordinance, Thomas and Arlene Leschak shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Thomas and Arlene Leschak shall, *inter alia*:

- (a) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City, or from any other governmental entity as may be required by law;

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- (b) assume the cost of all changes and adjustments to, or relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary due to the construction of the encroachments described in Section 1;
- (c) carry public liability and property damage insurance that covers the encroachments described in Section 1, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the Law Department. Alternatively, if approved by the City of Philadelphia Office of Risk Management, furnish the City with documentation in a form acceptable to the Law Department acknowledging that Thomas and Arlene Leschak are self insured and will protect the City against liability for property damages and liability for injuries or death to persons, including employees of Epicure Café, as a result of the ownership, construction, maintenance or removal of the encroachments described in Section 1;
- (d) remove or relocate any or all of the encroachments described in Section 1 of this Ordinance from the public right-of-way within sixty (60) days after lawful service of notice by the City of Philadelphia;
- (e) remove any of the encroachments described in Section 1 of this Ordinance from the public right-of-way pursuant to the applicable City specifications within sixty (60) days when the encroachment is no longer used for the purpose authorized by this Ordinance;
- (f) insure that each construction contractor for the encroachments described in Section 1 carries 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 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 footway adjacent to the encroachments described in Section 1; and
- (h) 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 Law Department 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 encroachments described in Section 1 or their removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that Thomas and Arlene Leschak self-assume the liabilities and obligations normally covered by the Surety Bond.

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SECTION 3. The Law Department shall include in the Agreement such other terms and provisions deemed necessary to protect the interest of the City of Philadelphia.

SECTION 4. The permission granted to Thomas and Arlene Leschak to construct, own and maintain the encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if Thomas and Arlene Leschak have not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 2 of this Ordinance within one (1) year after this Ordinance becomes law.

SECTION 5. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward 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 November 4, 2010. The Bill was Signed by the Mayor on November 17, 2010.



Michael A. Decker
Chief Clerk of the City Council