

Legislation Text

File #: 170928, **Version:** 0

Amending Section 9-627 of The Philadelphia Code, entitled “Commercial Establishments on Residential Blockfaces,” by revising requirements and making related changes, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 9-627 of The Philadelphia Code is hereby amended to read as follows:

§ 9-627. Commercial Establishments on Residential Blockfaces.

[(1) Legislative Findings. The Council finds that:

(a) There has been a growing problem in neighborhoods with nuisance retail shops, including but not limited to take out, convenience establishments. As nuisance stores, these shops have become a haven for drug activity and crime.

(b) Many of these take out establishments, because of the clientele which they attract and the late night hours during which they operate, have a negative impact upon the safety of adjacent areas, particularly when such adjacent areas are residential in nature.

(c) In order to prevent crime and to promote a feeling of safety in the City of Philadelphia's communities and neighborhoods, restrictions in addition to those contained in existing zoning ordinances and regulations are necessary to reduce the nighttime hours during which take out, commercial establishments located on predominantly residential blockfaces operate.]

[(2) Legislative Purpose. The purpose of this Section is to decrease criminal activity at late-night commercial establishments and promote a feeling of safety on predominately residential blockfaces in the City.]

[(3)] (1) Definitions.

(a) *Block.* One side of a street that does not extend beyond any intersection with another street.

[(a)] (b) *Commercial Establishment.* An establishment involved in the buying and selling of goods [where consumers primarily purchase goods intended for consumption or use off premises].

[(b)] *Dwelling.* A building which is used or intended to be used exclusively for living or sleeping by human occupants.]

[(c)] *Residential Blockface.* One side of a segment of a street that does not extend beyond any intersection with another street, or a portion thereof, and where eighty percent (80%) or more of the buildings are dwellings. A blockface shall not be considered a residential blockface if, geographically, fifty percent (50%) or more of the block frontage is comprised of commercial establishments.]

(c) *Commercial Block.* A block that is zoned entirely commercial or commercial mixed-use; or on which

there are entrances to at least three commercial establishments. A commercial establishment on a corner lot shall be considered to have entrances on each of the intersecting streets. A building zoned for a commercial establishment, but currently vacant, shall be considered a commercial establishment.

[(d) Take-out Restaurant. A commercial establishment engaged in the preparation and retail sale of food and beverages where the serving of prepared food and/or beverages in disposable packaging and/or containers for consumption by patrons off the premises constitutes more than fifty (50) percent of the establishment's gross revenues.]

[(4)] (2) Prohibited Conduct. [Notwithstanding any other provision of this Code, no commercial establishment located on a residential blockface shall be open to the public between 11 P.M. and 6 A.M. For purposes of this ordinance, the location of a commercial establishment shall be determined by the street address assigned by the Board of Revision of Taxes under Section 19-1304(2). Where a take-out restaurant is located on a corner lot where two streets intersect, such establishment shall be considered to be located on a residential blockface if either of the streets which intersect at that corner meet the definition of residential blockface under this Section, notwithstanding the establishment's assigned street address.] *Except as provided in subsection (3), below, no commercial establishment where consumers primarily purchase goods intended for consumption or use off premises shall be open to the public between 11 P.M. and 6 A.M., unless each of the following is satisfied:*

(a) The establishment is on a commercial block. If the establishment is located on a corner lot, the establishment shall be considered to be on a commercial block if either of the intersecting streets is a commercial block.

(b) The establishment displays in a manner easily visible by customers a poster, provided by the Department, indicating that the establishment is permitted to remain open during such hours. The Department shall maintain a record of all establishments to which a poster has been provided, and a record of all violation notices issued.

(3) *Exceptions. The requirements of subsection (2), above, shall not apply:*

(a) In any of the following zoning districts: CMX-2.5, CMX-3, CMX-4, CMX-5.

(b) To any commercial establishment that has received a waiver from the Department based on a showing that adequate safeguards are in place to prevent nuisance activity at or around the premises or that the block on which the establishment is located is otherwise appropriate for after-hours operation.

(.1) Applications for a waiver shall be made in such form as the Department shall prescribe, and shall only be granted in extraordinary circumstances.

(.2) Absent compelling reasons to the contrary, the requirements for a waiver shall be deemed satisfied if the Department receives a written petition, in form satisfactory to the Department, in support of the waiver, signed by ninety percent of the residents living within 700 feet of the commercial establishment.

(.3) A waiver under this subsection (b) shall not be transferrable to a new business, new owner, or new location; and shall be subject to revocation upon a finding that the basis for the waiver no longer exists.

(.4) Absent compelling reasons to the contrary, a waiver shall be revoked if the Department receives a written petition, in form satisfactory to the Department, in support of revocation, signed by seventy-five percent of the residents living within 700 feet of the commercial establishment.

(.5) Denial of an application or a decision to revoke a waiver may be appealed within thirty days to

the Board of License and Inspection Review.

(c) Where a commercial establishment is located in an intersection where more than two streets intersect involving at least one commercial block.

[(5) Required Posting. Every commercial establishment located on a residential blockface must display a poster, supplied by the Department of Licenses and Inspections upon the payment by the establishment of a reasonable fee, which indicates that the establishment is subject to the terms of this Ordinance. The poster shall be prominently displayed in a conspicuous place which can be readily observed by passersby at or near the entrance to the establishment.]

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Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.