

Legislation Text

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Amending Chapter 9-200 of the [The Philadelphia Code](#), entitled “Commercial Activities on Streets,” by adding a new section regulating the location, size, operation and maintenance of newsstands on the public sidewalk, and by making conforming amendments to other sections of the Chapter, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-200 of the [The Philadelphia Code](#) is amended to read as follows:

CHAPTER 9-200. COMMERCIAL ACTIVITIES ON STREETS

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§9-205. Sidewalk Sales.

(1) Definitions. In this Section, the following definitions apply:

* * *

(b) Goods, Wares and Merchandise shall include but not be limited to vegetables, produce, garden truck, fruits, plants, flowers, pretzels, or food, drinks, ice cream, dairy products, cakes, pies, pastries or candy sold for immediate consumption, leather goods, cosmetics, beauty aids, hair pieces, wearing apparel of any kind, jewelry, ornaments, art work, decorative items, tobacco, or tobacco products, except paperbound or clothbound books, magazines, periodicals or newspapers only when sold or offered for sale in accordance with and subject to [§9-205(4), §9-205(5)(a), (b), [§9-205\(8\)\(g\)](#) and §9-208 (reserved)] [§9-212](#), relating to newsstands;

* * *

(2) Exemptions. The provisions of this Section shall not apply to:

* * *

(b) The placing and maintenance of stands or sales devices for the sale, display or offering for sale newspapers, magazines, and periodicals [and of paperback books, the sale of tobacco products, wrapper candy, factory pre-wrapped snack food items for immediate consumption and the maintenance of lottery machines for the sale of State Lottery as provided for by the “State Lottery Law” if sold in compliance with and subject to the provisions of [§9-205\(8\)\(g\)](#) and (m) and [§9-205\(9\)\(a\)](#), (b) and (c) and pays a bi-annual license fee

of two hundred fifty (250) dollars for each newsstand].

* * *

(8) Prohibited Conduct. No vendor or person shall:

* * *

(m) Station, place set-up or maintain his stand or his goods, wares, or merchandise, or allow them to remain on any part of the sidewalk for sale or display or be sold if to do so would place the vendor or his goods, wares or merchandise closer than ten feet from the intersection of the legal building line, produced, of intersecting streets or sidewalks, [excepting for stands selling newspapers, magazines, periodicals and paperbound books and the maintenance of lottery machines for the sale of the State Lottery as provided for by the “State Lottery Law,” and tobacco products wrapped candy, factory pre-wrapped snack food items for immediate consumption] or reduce the unobstructed pedestrian right-of-way to less than six feet.

* * *

§9-212. Newsstands.

(1) Definitions. In this Section, the following definitions shall apply:

(a)

(a) Newsstand. A stationary structure that meets the criteria of

(a) §9-212 (5)(a) and (b) and is used for the sale, display or offering for sale of newspapers, magazines and periodicals, and incidental to such business, paperback books, tobacco products, wrapper candy, factory pre-wrapped snack food items for immediate consumption, and State *other than a machine or other enclosed box capable of operation by pedestrians without the assistance of an attendant.*

(a) Lottery tickets as provided for by the “State Lottery Law.”

(b) Sidewalk. That portion of a street contained between the street line and the nearest curb line consisting of a paved footway and the optional planting strip.

(1) Licenses.

(b) Sidewalk. *All that area legally open to the public use as a pedestrian public way between the curb line and the legal building line of the abutting property.*

(2) License Required; Issuance and Renewal.

(a) It shall be unlawful for any person to place, maintain or operate a

(a) a newsstand on any sidewalk without first obtaining a license and license identification plate

from the Department. Identification license plate must be of a *The Department shall by regulation specify the type and design that is in compliance with Regulations. The of license identification plates, and the location at which such license plates must be affixed on the newsstand in location(s) that are to a newsstand.*

set forth in the Regulations.

(b) Application for a newsstand license shall be made on a form to be supplied by the Department, and shall be accompanied by a non-refundable application fee of forty dollars (\$40). No license shall be issued by the Department unless:

*(1) (.2) The applicant submits to the Streets Department a sketch showing the proposed location of the newsstand. The sketch must include **accurate dimensions of:***

*(.a) the **The** locations of the curb, footway width, building line and all other facilities and appurtenances on, above or below the footway and within **15fifteen feet (15')** feet from any direction of the proposed newsstand.*

*(.b) accurate **Accurate** dimensions of the newsstand, including width, length, height and any shelf, rack of other appurtenance (whether retractable or not) that extends beyond the **façade facade** of the newsstand.*

*(.c) **The** depth of any appurtenance that anchors the newsstand to the footway surface.*

*(2) the depth of any appurtenance that anchors the newsstand to the footway surface. If the anchor extends four inches (4") below the grade of the surface of the footway, the **The** proposed location of the newsstand has been reviewed and approved by the Streets Department. The Streets Department shall grant approval unless the location of the newsstand would violate any provision of The Philadelphia Code, other applicable law, or the regulations promulgated to implement this Section, or unless the proposed location would interfere with traffic or pedestrian safety.*

(1) The application has been reviewed and approved by the Committee of Highway Supervisors must approve the plan and location of the anchor(s).

(1)

(1) (.3) The applicant is in compliance with all applicable portions of the Philadelphia Code and the newsstand Regulations.

(1)

(1) (4) *The proposed in the applicationAs part of their review, the determine that the proposed newsstand will not be in violation of chapters 11 and 12 of the Philadelphia Code and newsstand Regulations.*

(.1)

(.1) (.5)

(.3) *to ensure there is no interference with any underground utility or other underground facility, if the depth of any appurtenance that anchors the newsstand to the footway surface is four inches (4") or more below the grade of the surface of the footway.*

(.4) *The application has been reviewed and approved by the Art Commission pursuant to Section 5-903 of the Philadelphia Home Rule Charter.*

(.5) *The applicant posts a bond in form and amount satisfactory to the City Solicitor to indemnify the City for the cost of removal or relocation of the newsstand and all incidental costs.*

(.6) *The applicant pays an initial license fee of two hundred ten dollars (\$210).*

(.7) *The applicant complies with such other regulations as the Department and the Department of Streets may promulgate to implement this Section.*

(c) *Licenses shall be issued for a period of two years. Licenses may be renewed for additional two year periods. No license shall be renewed unless the applicant pays a renewal license fee of two hundred fifty dollars (\$250), and unless all the requirements for initial license issuance continue to be met.*

(3) *Sales from Newsstands. No person shall sell or offer for sale from any newsstand any goods or other items except newspapers, magazines and periodicals, and, incidental to such business, paperback books, tobacco products, wrapped candy, factory pre-wrapped snack food items for immediate consumption, and State Lottery tickets as provided for by the "State Lottery Law."*

(4) *Location of Newsstands.*

(a) *There shall be no more than one newsstand on any corner, no more than two newsstands at any intersection and no more than two newsstands on one side of a blockface. For purposes of this subsection a blockface shall mean the street segment(s) encompassing an odd or even hundred block address range as defined by the Department of Streets Geographic Information System centerline file.*

(b) *No newsstand shall be placed or maintained on the sidewalk except in compliance with the following location restrictions. Newsstands shall be placed and maintained:*

(.1) *Only at the curb line, except that, with the written consent of the owner of the property abutting the sidewalk, a newsstand may be located at the building line of the property.*

(.2) *So that every part of the newsstand, including any roof overhang permitted under*

subsection 9-212(5)(a), is at least eighteen inches (18") from the curb line.

(.3) Clear of the full width of the legal or paved sidewalk on the intersecting street.

(.4) So that the footway space on the sidewalk is at least six (6) feet; provided, however, that the Department of Streets may increase the necessary footway space at any location to adjust for increased pedestrian flow.

(c) Newsstands shall not be located on a traffic island, street divider or in any manner that would interfere with a fire hydrant hose connection.

(d) There shall be no newsstand within thirty (30) feet of:

(.1) any property classified as residential or

(.2) any church, chapel, convent, synagogue, mosque, monastery, rectory or other place of worship and adjunct residential dwellings.

(e) There shall be no newsstand in the following locations:

(.1) both sides of 18th Street, between Walnut Street and Rittenhouse Square; and

(.2) both sides of West Rittenhouse Square, between Walnut Street and Rittenhouse Square; and

(.3) both sides of Walnut Street, between 18th Street and West Rittenhouse Square; and

(.4) both sides of Rittenhouse Square between 18th Street and West Rittenhouse Square.

(f) Any newsstand licensed prior to May 16, 2000, shall be exempt from provisions of subsections 9-212(4)(d) and 9-212(4)(e).

(5) Design of Newsstands.

(a) A newsstand shall not exceed four feet (4') in width, ten feet (10') in length, or nine feet (9') in height, except the roof may overhang those permitted dimensions by not more than four inches (4") on the curb side, twenty-four inches (24") on the sidewalk side, and twelve inches (12") on the other two sides, provided that the roof overhang allows a minimum vertical clearance of eight feet (8') above the sidewalk.

(b) No newsstand shall be constructed of any material other than aluminum, steel, fiberglass or other durable, non-flammable material.

(c) No newsstand may be electrified, and no telephone lines may be added, without specific approval of City Council by ordinance.

(d) Security gates are permitted on newsstands, provided that:

(.1) They are within the structure of the newsstand.

(.2) They do not increase the sales area of the newsstand.

(.3) They do not interfere with the minimum pedestrian right-of-way required by subsection 9-212(4)(b)(.4).

(.4) They are clean, painted and graffiti-free.

(.5) The unit which houses the gate must be totally concealed within the newsstand, allow a height clearance of no less than eight feet (8'), and project no more than fifteen inches (15'') from the facade of the newsstand on the sidewalk side.

(e) Racks, shelves and shields shall be permitted only as follows, provided that in no event shall a rack, shelf or shield interfere with the minimum pedestrian right-of-way required by subsection 9-212(4)(b)(.4), and provided that all racks, shelves and shields are removed when the newsstand is not in use:

(.1) Two shelves immediately adjacent to the window opening shall be permitted, provided that no shelf shall project beyond the permitted ten foot length of the newsstand, and no shelf shall project more than twelve inches (12'') from the facade of the newsstand on the sidewalk side.

(.2) One rack shall be permitted on each side of the window opening for the display of newspapers, magazines and/or periodicals, provided that each rack is installed on the front of the stand and parallel to the front of the stand, and no rack is hung from the roof of the stand, and provided the rack does not exceed twenty-four inches (24'') in width, projects no more than three inches (3'') from the facade of the newsstand on the sidewalk side, and does not exceed five feet (5') in height.

(.3) A shield to protect customers and merchandise during inclement weather may be hung from the newsstand and may overhang the sides, provided it does not project more than twelve inches (12'') from the facade of the newsstand on the sidewalk side.

(f) No appurtenance for any advertising permitted by subsection 9-212(6)(b) may extend more than four inches (4'') from the facade of the newsstand, and no such appurtenance may interfere with the minimum pedestrian right-of-way required by subsection 9-212(4)(b)(.4). Permitted advertising shall be limited to the following:

(.1) Advertising may include a band on the four sides of the newsstand not to exceed six inches (6'') in height, located at least six feet four inches (6'4'') above the sidewalk. The band on the sidewalk side may be illuminated; the band on the remaining three sides may not be illuminated.

(.2) One advertisement may appear on each of three sides of the newsstand (excluding the sidewalk side), as follows:

(i) Advertising on the street side of the newsstand may be a maximum

of seven feet (7') wide by (2') feet high, and may be illuminated.

(ii) Advertising on each short side of the newsstand may be a maximum of eighteen inches (18") wide by thirty-six inches (36") high, and may be illuminated.

(.3) Security gates may include a graphic logo identifying the owner or sponsor of the newsstand. The proposed design must be submitted to the Art Commission for approval. The logo may not be illuminated.

(g) All newsstands shall be painted in consistent colors approved by the Art Commission. The Art Commission shall consult with any Special Services District whose jurisdiction includes a newsstand location before approving paint colors. All painted surfaces, including any security gates, shall be coated with a clear anti-graffiti coating system approved by the Department.

(6) Maintenance of Newsstands.

(a) All newsstands, including any security gate or other approved attachments, shall be painted and maintained so as to prevent rust, rot, graffiti and other deleterious conditions. All such deleterious conditions shall be removed or remedied within five (5) days of their appearance.

(b) No commercial advertising is permitted on any newsstand, except advertising for:

(.1) The Pennsylvania Lottery, if a lottery machine is maintained at the newsstand;

(.2) Any newspaper or other publication sold at the newsstand.

(c) The holder of a license for a newsstand location shall not allow the area surrounding the newsstand to be littered as a result of the newsstand's operation.

(d) The footway surrounding a newsstand shall be maintained free of any ice that could form as a result of drainage from the newsstand.

(7) Abandonment.

(a) A newsstand shall be considered to be abandoned, shall be removed by the licensee, and is subject to removal by the Department if:

(.1) It is not in use for the sale of newspapers or magazines for a period of thirty (30) consecutive days; or

(.2) The license holder does not comply forthwith with an order of the Department to remedy a violation of this Section; or

(.3) The licensee fails to pay all required City of Philadelphia business taxes; or

(.4) The license for the newsstand has been revoked.

(8) Removal.

(a) Except where the Department or the Department of Streets determines that immediate removal is necessary to remediate a clear and present danger to the public health or safety, prior to removal of any newsstand pursuant to subsection 9-212(7), the Department shall first give ten (10) days notice by first class mail to the licensee at the address on file with the Department. Such notice shall direct the licensee to remove the newsstand or otherwise remediate the violation, and shall include:

(.1) The address where the violation has been found.

(.2) The date when the violation was first noted.

(.3) A description of the violation.

(.4) The means to cure the violation and the date by which the cure must be completed.

(.5) A statement that the violation and notice of intent to remove may be appealed to the Commissioner or his or her designee.

(.6) A statement that the newsstand will be removed by the Department or its designee at the owner's cost, if the cure is not made or an appeal is not noticed within the required time period.

(b) Upon removal by the Department or its designee, the Department shall:

(.1) Send notice by first class U.S. mail to the licensee describing the violation, the date on which the removal took place, where and how the newsstand may be retrieved and the fees due for removal and storage.

(.2) Allow the licensee to retrieve the newsstand within thirty (30) days after notice was sent, upon the payment of a three hundred dollar (\$300) removal fee plus a fifteen dollar (\$15) per day storage fee, up to a maximum removal and storage fee amount of seven hundred fifty dollars (\$750).

(9) Penalties and Enforcement. The provisions of subsections 9-205(9)(a) and (9)(c), relating to penalties and enforcement with respect to sidewalk vendors, shall apply to any violations of this Section.

(10) Construction. No part of this Section or the Section itself shall be construed to be in amplification or derogation of the rights or responsibilities of abutting property owners. Any remedy, right or obligation provided to such owners of property or their successors in interest under the Law of Real Property or the Laws of the Commonwealth of Pennsylvania shall be in addition to the remedies, rights, obligations or penalties provided hereunder.

Explanation:

Italics indicate new matter added.