

Legislation Text

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Granting permission to Germantown Jewish Centre to demarcate the boundaries of a Germantown eruv district, to construct and maintain a clear nylon cord and/or plastic tubes and other ancillary facilities including a maximum of ten poles along, over, and in certain public rights- of-way and City streets, and/or to attach such demarcation facilities to existing facilities owned by other entities authorized by other City ordinances, subject to such owner’s consent; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Germantown Jewish Centre, a Pennsylvania non- profit corporation, registered to do business in Pennsylvania (hereinafter “GJC”), and its successors, assigns, and agents, subject to the terms and conditions hereinafter set forth, to construct, maintain, operate, replace, and remove a clear nylon cord or string and other ancillary facilities (including plastic tubes (“lechis”), a maximum of ten poles, and other facilities as may be approved by the Department of Streets) for demarcation of the boundaries of an eruv district (“Eruv Boundaries”), along, in, and over the public rights-of-way of the City of Philadelphia identified below, and/or to place such demarcation facilities within and/or attached to the existing facilities owned by other entities authorized by other City ordinances, subject to such owner’s consent. GJC is not authorized by this Ordinance to transmit, receive and distribute energy or telecommunications or to provide to subscribers within the City “cable service,” as defined at 47 U.S.C. § 522(6), or “video programming” as defined at 47 U.S.C. § 522(20) as an open video system operator pursuant to 47 U.S.C. § 573(a) or otherwise.

(a) The Eruv Boundaries will make maximum use of existing physical features which can be used for demarcation of an eruv for the Germantown area consistent with Jewish religious law, including currently installed utility lines, existing walls and fences, and riverbanks and other embankments. In certain areas, such existing boundaries will be supplemented by a clear nylon cord to connect such existing features and create a continuous boundary, and in some areas, lechis may be mounted on utility poles, subject to the owner’s consent, to create the proper form of boundary line prescribed by Jewish religious law; a maximum of ten new poles and a few extensions of existing fence posts may also be erected. The specific boundaries are delineated as follows:

	From	To
McCallum Street	McCallum Street Bridge (northwest p	McCallum Street and Mermaid Lane
Mermaid Lane	McCallum Street and Mermaid Lane	Mermaid Lane and Cherokee Street
Cherokee Street	Mermaid Lane and Cherokee Street	Cherokee Street and Springfield Avenue
Springfield Avenue (west of Germantown Avenue)	Cherokee Street and Springfield Aven	Springfield Avenue and Germantown Avenue
Springfield Avenue (east of Germantown Avenue)	Springfield Avenue and Germantown	Springfield Avenue and Winston Road

Winston Road	Springfield Avenue and Winston Road	Winston Road and Willow Grove Avenue
Willow Grove Avenue	Winston Road and Willow Grove Avenue	Willow Grove Avenue and Stenton Avenue
Stenton Avenue	Willow Grove Avenue and Stenton Avenue	Stenton Avenue and Upsal Street
Upsal Street	Stenton Avenue and Upsal Street	Upsal Street and Anderson Street
Anderson Street	Upsal Street and Anderson Street	Anderson Street and Washington Lane
Washington Lane	Anderson Street and Washington Lane	Washington Lane and Green Street
Green Street	Washington Lane and Green Street	Green Street and Walnut Lane
Walnut Lane	Green Street and Walnut Lane	Walnut Lane at Walnut Lane Bridge
Walnut Lane Bridge	Walnut Lane at Walnut Lane Bridge	West Pylon of Walnut Lane Bridge at the west bank of Monoshone Creek
West Bank of Monoshone Creek	West Pylon of Walnut Lane Bridge at	West bank of Monoshone Creek and Wissahickon Avenue
Wissahickon Avenue	West bank of Monoshone Creek and	Stone wall along the southwest side of Wissahickon Avenue
Wissahickon Avenue, continued	Stone wall along the southwest side of	Wissahickon Avenue and Lincoln Drive
Lincoln Drive	Wissahickon Avenue and Lincoln Drive	Embankment along Lincoln Drive
Lincoln Drive embankment	Embankment along	Lincoln Drive at Monoshone Creek Bridge, at road to Rittenhouse Town
North bank of Monoshone Creek	North bank of Monoshone	Monoshone Creek and Wissahickon Creek, at Forbidden Drive Entrance
Wissahickon Creek	Monoshone Creek	Following east bank of Wissahickon Creek to Cresheim Creek
Cresheim Creek	East bank of Wissahickon	Cresheim Creek at Devil's Pool Sewer viaduct
Northwest bank of Cresheim Creek	Northwest Bank of	McCallum Street Bridge at northwest pylon

To the extent approved by the Department of Streets, GJC is authorized to install, construct, maintain,

operate, replace and remove a clear nylon cord or string and other ancillary facilities, including lechis, several new extensions of existing fence posts, and a maximum of ten new poles, and other facilities as may be approved by the Department of Streets (collectively, the “Demarcation System”), along, in, and over the public rights-of-way listed above.

(b) Before entering into the Agreement provided in Section 5 below, GJC must submit proof of authorization from the governmental body responsible for maintaining any highway bridge crossing over a railroad right-of-way, private property or over another public right-of-way if the Demarcation System listed in this Section is constructed on or attached to any such bridges.

(c) The said Demarcation System shall be constructed in accordance with the requirements and under the supervision of the Department of Streets, without interference with any existing surface or subsurface structures, and shall be used by GJC and/or its successors and assigns exclusively for the purposes set forth in this Section and in accordance with all ordinances of the City of Philadelphia and regulations of the Committee of Highway Supervisors governing the construction, maintenance, and operation of structures, equipment, facilities and appurtenances placed within the public rights-of-way.

(d) The permission granted by this Ordinance is conditioned upon the approval of the Department of Streets as to the construction and installation of GJC facilities at any location along the specified route and is not a guaranty that GJC facilities can be placed at any particular location along that route. No City department, agency, board, or commission shall be required solely by virtue of this Ordinance to issue any permit, license, or approval that GJC must by law obtain prior to construction or occupancy of existing facilities in the public right-of-way.

(e) All Demarcation System facilities constructed pursuant to this Ordinance within a railroad right-of-way that includes an alteration to a rail/highway crossing, which includes such crossings as they are defined under state law, must have, in addition to the approvals set forth in this Ordinance, the appropriate approval of the Pennsylvania Public Utility Commission.

SECTION 3. The permission granted by this Ordinance shall include permission to deviate from the route described in Section 1 by no more than three (3) City blocks, said blocks to be demarcated by major City streets and not by intervening pathways or alleyways. Before any such deviations are made, GJC shall first obtain the approval of the Department of Streets. This Section shall govern all deviations from the route approved in Section 1, including those deviations which serve as replacement and alternative rights-of-way in relocating GJC facilities pursuant to Section 2 of this Ordinance. All deviations which extend more than three (3) City blocks from the approved route shall require additional authorization from City Council.

SECTION 4. The permission granted to GJC and its successors and assigns to occupy the public right-of-way and City streets with its Demarcation System shall be and is subject to the terms and conditions of this Ordinance, all other applicable ordinances of the City of Philadelphia, all ordinances of general application currently in existence or subsequently enacted that are related to the City of Philadelphia’s management of the public rights-of-way, the right-of-occupancy of the public rights-of-way, and/or the use of property in, under, over, along and/or across the streets, sidewalks, alleyways, easements and rights-of-way within the City of Philadelphia. Such permission is also subject to the terms and conditions of the Agreement provided in Section 5 of this Ordinance and all other applicable agreements, and to GJC’s compliance with such terms and conditions, to the extent that such agreements are consistent with the terms and conditions of this Ordinance.

SECTION 5. Before exercising any rights and privileges under this Ordinance, GJC shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in form satisfactory to the City Solicitor, to provide that GJC shall, inter alia:

(a) Furnish the City with a bond with corporate surety in an amount required by the Department of Streets and in

form satisfactory to the City Solicitor to ensure the compliance with all the terms and conditions of this Ordinance and the Agreement and to protect and to indemnify the City from and against all damages or claims for damages which may arise directly as a result of the construction, maintenance, operation or removal of facilities of GJC;

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

(c) Assume the costs of all changes and adjustments to, and relocation and abandonment of, all utilities and structures wherever located as may be necessary by reason of the installation of the GJC Demarcation System;

(d) Carry insurance protecting against liability for injury to persons or property of others, naming the City as an additional insured party in such amounts as shall be reasonably satisfactory to the City Solicitor;

(e) Pay all charges, rents, franchise fees or other fees that the City of Philadelphia may now or in the future impose for a licensee's occupation of City property, streets and rights-of-way;

(f) Submit confirmation in a form acceptable to the City Solicitor from the owner of any existing utility pole or other structure used for attachment or installation of Demarcation System facilities that GJC has authorization to occupy such utility pole or other structure; and

(g) Remove any or all portions of the Demarcation System listed in Section 1 from the public rights-of-way pursuant to applicable City of Philadelphia specifications within sixty (60) days when the Demarcation System or a portion of the Demarcation System is no longer used for the purpose authorized by the ordinance or existing law.

SECTION 6. The City Solicitor shall include in the Agreement, together with the terms and provisions required by Section 5 of this Ordinance and such other terms and provisions as shall be deemed necessary to protect the interest of the City, provisions setting forth, as a condition of the permissions granted by this Ordinance, GJC's representation, warranty, and agreement that it is subject to and will comply fully with (i) the terms and conditions of this Ordinance and all other applicable ordinances of the City of Philadelphia, and (ii) the terms and conditions of all ordinances of general application currently in existence or subsequently enacted that are related to the City of Philadelphia's management of the public rights-of-way, the right-of-occupancy of the public rights-of-way, and/or the use of property in, under, over, along and/or across the streets, sidewalks, alleyways, easements and rights-of-way within the City of Philadelphia.

SECTION 7. The permission granted to GJC and its successors, assigns and agents to construct, maintain, operate, replace and remove the Demarcation System along, in, over and under the public rights-of-way and City streets listed in Section 1 of this Ordinance shall expire without any further action by the City of Philadelphia if GJC has not entered into the Agreement as required by Section 5 and Section 6 within one hundred eighty (180) days after this Ordinance becomes law.

SECTION 8. The permission granted to GJC and its successors, assigns, and agents for installation and/or construction of the new facilities along the route identified in this Ordinance shall expire without any further action by the City of Philadelphia as to such portions not constructed two (2) years after the date this Ordinance becomes law unless GJC, its successors, assigns, and agents have substantially completed the construction of the new facilities authorized herein. A change in ownership of the assets of GJC does not, without express written permission of the City of Philadelphia, extend the time for substantially completing the construction of the new facilities authorized herein.

SECTION 9. The City of Philadelphia reserves the right to charge a transfer fee for any agreement transferring the right-of-way license from one entity to another so as to ensure that all costs incurred by the City of Philadelphia related to the transfer are reimbursed. The transferee must pay all costs incurred by the City of Philadelphia associated with such transfer within thirty (30) days of the date the City submits such costs to the transferee or the transferee's authorized

agent.

SECTION 10. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.