Legislation Details (With Text)

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File created:	5/3/2012			**In control:**	Committee on Streets and Services
On agenda:				**Final action:**	6/7/2012
Title:	Authorizing Whispering Leaves Herb & Sip Shop, LLC ("Owner") to construct, own and maintain an open-air sidewalk café at 4615 Woodland Avenue ("Property"), under certain terms and conditions.				
Sponsors:	Councilmember Blackwell				
Indexes:	ENCROACHMENT				
Code sections:					
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Date	Ver.	Action By	Action	Result	Tally
6/20/2012	0	MAYOR	SIGNED		
6/7/2012	0	CITY COUNCIL	READ AND PASSED	Pass	17:0
5/31/2012	0	CITY COUNCIL	ORDERED PLACED ON THIS DAY`S FIRST READING CALENDAR		
5/31/2012	0	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
5/31/2012	0	CITY COUNCIL	ORDERED PLACED ON NEXT WEEK`S SECOND READING CALENDAR		
5/29/2012	0	Committee on Streets and Services	HEARING NOTICES SENT		
5/29/2012	0	Committee on Streets and Services	HEARING HELD		
5/29/2012	0	Committee on Streets and Services	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
5/3/2012	0	CITY COUNCIL	Introduced and Referred	Pass	

Authorizing Whispering Leaves Herb & Sip Shop, LLC (“Owner”) to construct, own and maintain an open-air sidewalk café at 4615 Woodland Avenue (“Property”), under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Owner to construct, own and maintain various sidewalk encroachments at the Property (“Encroachments”) as follows:

> The open-air sidewalk café will include a total of four (4) tables, approximately twenty-four inches (24”) round in area, to accommodate a total of eight (8) occupants. Two (2) tables and four (4) chairs will be located adjacent to the building and will encroach approximately three feet (3’) onto the north sidewalk of Woodland Avenue, and two (2) tables and four (4) chairs will be located along the curbline and will encroach approximately six feet (6’) onto the north sidewalk of Woodland Avenue; leaving approximately nine feet (9’) of clear unobstructed footway. No rails will be used.

SECTION 2. The construction, use and maintenance of the Encroachments described and listed in Section 1

shall be in accordance with the laws, rules and regulations of the City of Philadelphia, and specifically those of the Department of Licenses and Inspections and the Department of Streets, provided that the Department of Streets, in its sole, unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Owner 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, Owner shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Owner 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;

(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;

(c) carry public liability and property damage insurance that covers the Encroachments, 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 Owner is self insured and will protect the City against liability for property damages and liability for injuries or death to persons, including employees of the café, as a result of the ownership, construction, maintenance or removal of the Encroachments;

(d) remove or relocate any or all of the Encroachments of this Ordinance from the public right-of-way within thirty (30) days after lawful service of notice by the City of Philadelphia. Such notice may be given when:

1. the Department of Streets has determined that the sidewalk café no longer meets the City's placement requirements; the sidewalk café must be removed to accommodate a municipal or municipally sponsored public project; or the Streets Department has granted a temporary permit to close the sidewalk; or

2. the Department of Licenses and Inspections has determined that the sidewalk café is no longer being used as such; the restaurant to which the café is accessory has been temporarily or permanently closed for violation of any City, state or federal law and/or regulation; or the sidewalk café is being operated in violation of any ordinance, rule or regulation of the City of Philadelphia;

(e) insure that each construction contractor for the Encroachments 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 City;

(f) 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;

(g) indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of the Encroachments, or by the acts or omissions of the employees or agents of the restaurant in connection with the café. Owner shall also agree to release the City from any and all claims relating to the sidewalk café, including, but not limited to, loss of business and/or value of the sidewalk café if ordered removed or when street, sidewalk or utility construction occurs; 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, or in lieu thereof, submit documentation in a form and content acceptable to the City that Owner self-assumes the liabilities and obligations normally covered by the Surety Bond.

SECTION 4. 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 5. The permission granted to Owner to construct, own and maintain the Encroachments shall expire without any further action by the City of Philadelphia if Owner has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 3 of this Ordinance within one (1) year after this Ordinance becomes law.

SECTION 6. 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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