

## Legislation Details (With Text)

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**On agenda:**      **Final action:** 9/18/2014

**Title:** Amending The Philadelphia Code to provide for the authorization of certain pedestrian enhancements to occupy, by license, a portion of the right-of-way, all under certain terms and conditions.

**Sponsors:** Councilmember Squilla

**Indexes:** ENCROACHMENT

**Code sections:**

**Attachments:** 1. Bill No. 13095001, As Amended.pdf, 2. CertifiedCopy130950-A02.pdf

Date	Ver.	Action By	Action	Result	Tally
10/1/2014	2	MAYOR	SIGNED		
9/18/2014	2	CITY COUNCIL	PASSED	Pass	16:0
9/11/2014	1	CITY COUNCIL	READ		
9/11/2014	2	CITY COUNCIL	AMENDED		
9/11/2014	2	CITY COUNCIL	ORDERED PLACED ON FINAL PASSAGE CALENDAR FOR NEXT MEETING.		
9/11/2014	1	CITY COUNCIL	RECONSIDERED		
6/19/2014	1	CITY COUNCIL	PASSED	Pass	16:0
6/12/2014	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
6/12/2014	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY'S FIRST READING CALENDAR		
6/12/2014	1	CITY COUNCIL	ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR		
6/11/2014	0	Committee on Streets and Services	HEARING NOTICES SENT		
6/11/2014	0	Committee on Streets and Services	HEARING HELD		
6/11/2014	0	Committee on Streets and Services	AMENDED		
6/11/2014	1	Committee on Streets and Services	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
12/12/2013	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending The Philadelphia Code to provide for the authorization of certain pedestrian enhancements to occupy, by license, a portion of the right-of-way, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 11 of The Philadelphia Code (entitled "Streets") is amended to read as follows:

TITLE 11. STREETS

\* \* \*

CHAPTER 11-600. CONSTRUCTION, ENCROACHMENTS AND  
PROJECTIONS OVER, ON AND UNDER STREETS

§11-601. Definitions. In this Chapter the following definitions shall apply:

\* \* \*

(4) Bicycle Rack. A fixed rack installed on the sidewalk for parking bicycles.

\* \* \*

(8) Pedestrian Enhancement. Any of the following:

(a) Pedestrian Plaza. An area in the cartway of a street, or in the cartway at the intersection of two or more streets, or an island within the cartway, which is closed to vehicular traffic, and made available for recreational use by pedestrians pursuant to this Chapter. The term excludes any area in or surrounded by a traffic circle.

(b) Parklet. A removable platform made available for recreational use by pedestrians that occupies a portion of a parking lane that is closed to motor vehicle parking.

(c) Bike Corral. A portion of a curbside parking lane that is closed to motor vehicle parking, and equipped with fixed racks so as to permit the parking and securing of bicycles.

[8](9) Sign.

\* \* \*

[9](10) Vault. An underground room or space.

[10](11) Wheelchair Elevators.

\* \* \*

§11-613. Pedestrian Enhancements.

(1) The Department of Licenses and Inspections, upon recommendation of the Department of Streets, is authorized to issue permits allowing the temporary closure of roadway lanes for the purposes of construction and maintenance of Pedestrian Enhancement in the right-of-way, subject to the requirements of this Section. Such temporary street closure permits shall be known as Pedestrian Enhancement Permits.

(2) Application for Pedestrian Enhancement Permit. An application for a Pedestrian Enhancement Permit shall include:

(a) a detailed plan that clearly illustrates the location and design of the proposed Pedestrian Enhancement. The plan shall include the type, design, and placement of any furnishings, such as, but not limited to, tables, chairs, planters, bicycle racks, and recreational equipment.

(b) an explanation of how the Pedestrian Enhancement meets the criteria set forth in Section 11-613(3).

(3) Safety and Suitability Criteria for Issuance of Pedestrian Enhancement Permit.

(a) No Pedestrian Enhancement Permit shall be approved unless it meets all of the following requirements. The Pedestrian Enhancement:

(.1) will not cause a safety hazard. In the case of pedestrian plazas and parklets, the Pedestrian Enhancement shall be shielded from motor vehicles so as to provide adequate protection to occupants of the Pedestrian Enhancement;

(.2) will not cause undue motor vehicle traffic congestion in the surrounding area;

(.3) has support, in writing, from *two-thirds (2/3) of the owners and commercial tenants of properties abutting the Pedestrian Enhancement if there are three or fewer abutting properties, and three-fourths (3/4) of the owners and commercial tenants of properties abutting the Pedestrian Enhancement if there are four or more abutting properties.* In the case of a condominium established pursuant to 68 Pa.C.S. § 3101 et seq., or cooperative established pursuant to 68 Pa.C.S. § 4101 et seq., written support from the owner's association or cooperative association shall constitute support of the owner of such property.

(.4) has substantial support from non-abutting property owners and commercial tenants in the surrounding area;

(.5) is removable by the permittee;

(.6) is, in the discretion of the Department of Streets, suitable to the site, based on regulations as may be adopted by the Department; and

(.7) meets such other requirements with respect to location, design, function, and use as the Department of Streets may specify by regulation.

(4) Other Conditions of Permit.

(a) A Pedestrian Enhancement Permit shall be valid for one year, provided however that the permit shall be renewed for up to two additional terms of one year each upon a showing that the Pedestrian Enhancement is being maintained for its intended purpose and payment of the yearly permit fee. At its sole discretion, the Department of Streets may direct that the permit be issued for a shorter period in a particular case.

(b) A fee for such permit may be established by regulation.

(c) The Department of Streets may impose any condition on a Pedestrian Enhancement Permit that it finds necessary or desirable based on safety or suitability of the proposed Pedestrian Enhancement, including restrictions on the times of day during which the Pedestrian Enhancement may be occupied, and require the permittee to post such restrictions.

(5) Indemnification and Insurance; Bond.

(a) Indemnification. The permittee shall agree in writing in a form satisfactory to the City Solicitor to 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 such Pedestrian Enhancement, or by the acts or omissions of the permittee, or its agents, members, contractors, subcontractors, employees or invitees in connection with such Pedestrian Enhancement. The permittee shall also agree to release the City from any and all claims relating to its Pedestrian Enhancement, including, but not limited to, loss of business or value of the Pedestrian Enhancement when it is ordered removed or when street, sidewalk or utility construction occurs.

(b) Insurance. The permittee shall agree to procure and maintain in full force and effect, at the permittee's sole cost and expense, the types and amounts of insurance required by the Office of Risk Management, throughout the term of the permit. As a condition of obtaining and maintaining a permit, the permittee shall annually provide a Certificate of Insurance evidencing proof of the required insurance. Failure to maintain the necessary insurance, or to submit a Certificate of Insurance is cause for revocation or non-renewal of the permit.

(c) Notwithstanding any provision of § 11-609(1), no continuing bond shall be required in conjunction with Pedestrian Enhancement Permits.

(6) Maintenance and Operation.

(a) The permittee shall be solely responsible for maintaining the Pedestrian Enhancement in neat, clean, and sanitary condition; and for maintaining and repairing any furnishings or amenities in the Pedestrian Enhancement. The permittee shall be responsible for maintaining the Pedestrian Enhancement in accordance with the terms of its permit and all applicable law.

(b) Neither the permittee nor any other person or business may provide food, drink, or any other good or service to any person in a Pedestrian Enhancement for consideration; provided this restriction shall not prohibit a person from bringing food, drink, or other goods into a Pedestrian Enhancement for his or her own personal use.

(c) All Pedestrian Enhancements shall be open to the public.

(7) Removal of Enhancement.

(a) The Department of Streets may direct removal of a Pedestrian Enhancement at any time for any of the following reasons:

(.1) The Pedestrian Enhancement presents a safety hazard of any kind;

(.2) The Pedestrian Enhancement unduly disrupts pedestrian or vehicular

traffic in the area;

(.3) The Pedestrian Enhancement creates a public nuisance;

(.4) The permittee has repeat violations of the terms of its permit; or

(.5) Removal of the Pedestrian Enhancement is necessary in order to perform construction, maintenance, repairs, or other work in any portion of the right-of-way, or any abutting property.

(b) Upon the expiration and non-renewal of a Pedestrian Enhancement Permit, or upon the direction of the Department of Streets, the permittee shall be responsible for promptly removing the Pedestrian Enhancement and for restoring the area to its former condition. If a permittee fails to comply as directed, in addition to any other remedy authorized by this Chapter, the Department of Streets is authorized to abate the violation by removing furniture or other property from the area and restoring the area to its original condition. The permittee shall be liable for the costs of such removal and restoration, including administrative costs, and the Law Department may take action to collect such costs by lien or any other method permitted by law.

SECTION 2. This Ordinance shall become effective upon the issuance of implementing regulations by the Department of Streets.

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**Explanation:**

[Brackets] indicate matter deleted.

*Italics* indicate new matter added.