

# City of Philadelphia



(Bill No. 050578)

## AN ORDINANCE

Granting permission to Nancy Trachtenberg, owner of Benna's Café, tenant of the property 1236 S. 8th Street, Philadelphia, PA 19147, to operate and maintain an open air sidewalk café on the northwest corner of S. 8th and Wharton Streets, under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to Nancy Trachtenberg, 1307 S. 10th Street, Philadelphia, PA 19147, owner of Benna's Café, tenant of the property 1236 S. 8th Street, Philadelphia, PA 19147, to operate and maintain an open air sidewalk café with two (2) tables approximately twenty inch (20") diameter with chairs encroaching a maximum of four feet (4') onto the west footway of S. 8th Street, leaving a minimum of eight feet (8') clear footway for pedestrians. The first table is located approximately twelve feet (12') north of the north curb line of Wharton Street and the last table approximately fifteen feet (15') north of the north curb line of Wharton Street.

Four (4) tables approximately twenty inches (20") in diameter with chairs encroaching a maximum of four feet (4') on the north footway of Wharton Street, leaving a minimum of eight feet (8') clear footway for pedestrians. The first table is located approximately fifteen feet (15') west of the west curb line of S. 8th Street and the last table approximately thirty-seven feet (37') west curb line of S. 8th Street.

SECTION 2. Before exercising any rights or privileges under this Ordinance, Nancy Trachtenberg must first obtain all required permits, licenses and approvals from all appropriate departments, boards, agencies or commission. 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, Nancy Trachtenberg shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, which shall:

(a) furnish the City with a bond with corporate surety in the amount required by the Streets Commissioner and in a form satisfactory to the Law Department to insure compliance with all of the terms and conditions of this Ordinance and the aforementioned agreement;

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(b) protect, indemnify and save harmless the City from all suits or claims for damages which may arise directly or indirectly as a result of the open air sidewalk café;

(c) comply with the provisions of The Philadelphia Code thereby securing all required permits, licenses and approvals from all appropriate departments, boards, agencies or commissions, as may be required;

(d) agree in writing that when, at the determination of the City of Philadelphia, the open sidewalk café necessitates relocation and/or removal of any underground structure, either publicly or privately owned, Nancy Trachtenberg will absorb all costs and expenses for the performance of such work at no cost to the City;

(e) insure that the six (6) tables for the open air sidewalk café encroach no more than the maximum of approximately four feet (4') onto the west footway of S. 8th Street and the north footway of Wharton Street adjacent to 1236 S. 8th Street.

(f) carry public liability and property damage insurance co-naming the City of Philadelphia as an insured party in such amounts as shall be satisfactory to the Law Department; and

(g) remove the open air sidewalk café within thirty (30) days upon service of lawful written notice from the Streets Department.

SECTION 3. The Law Department shall include in the Agreement such other terms and conditions, as shall be deemed necessary or appropriate in the interest of the City.

SECTION 4. The permission granted to Nancy Trachtenberg to maintain and operate an open air sidewalk café on the northwest corner of S. 8th and Wharton Street shall expire without any further action by the City of Philadelphia if Nancy Trachtenberg has not entered into the Agreement and satisfied all requirements of the Agreement that are listed in Section 2 within one (1) year after this Ordinance becomes law.

SECTION 5. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00) is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on October 27, 2005. The Bill was Signed by the Mayor on November 10, 2005.



Patricia Rafferty  
Chief Clerk of the City Council