

City of Philadelphia



(Bill No. 070467)

AN ORDINANCE

Granting permission to Howard Foreman, owner of Caribbean Feast Restaurant and owner of the property 1338-44 Rising Sun Avenue, Philadelphia, PA 19140, to operate and maintain an open air sidewalk cafe on the northeast corner of Rising Sun Avenue and Westmoreland Street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Howard Foreman, owner of Caribbean Feast Restaurant and owner of the property 1338-44 Rising Sun Avenue, Philadelphia, PA 19140, to operate and maintain an open air sidewalk cafe with seven (7) tables, five (5) are approximately two feet (2') by four feet (4') and two (2) tables are approximately two feet (2') by two feet (2'), with chairs encroaching a maximum of six feet (6') onto the east footway of Rising Sun Avenue, leaving a minimum of eight feet (8') clear footway for pedestrians. The first table is located approximately twenty-five feet (25') north of the north curb line of Westmoreland Street and the last table approximately fifty-two feet (52') north of the north curb line of Westmoreland Street.

Two (2) tables, one (1) approximately two feet (2') by four feet (4') and one (1) table approximately two feet (2') by two feet (2'), with chairs encroaching a maximum of six feet (6') on the north footway of Westmoreland Street, leaving a minimum of six feet (6') clear footway for pedestrians. The first table is located approximately twenty feet (20') east of the east curb line of Rising Sun Avenue and the last table approximately twenty-eight feet (28') east of the east curb line of Rising Sun Avenue.

SECTION 2. Before exercising any rights or privileges under this Ordinance, Howard Foreman must first obtain all required permits, licenses and approvals from all appropriate 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, Howard Foreman 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 cafe;

(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 air sidewalk cafe necessitates relocation and/or removal of any underground structure, either publicly or privately owned, Howard Foreman will absorb all costs and expenses for the performance of such work at no cost to the City;

(e) insure that the nine (9) tables for the open air sidewalk cafe encroach no more than the maximum of approximately six feet (6') onto the east footway of Rising Sun Avenue and the north footway of Westmoreland Street adjacent to 1338-44 Rising Sun Avenue;

(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 cafe 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 Howard Foreman to maintain and operate an open air sidewalk café on the northeast corner of Rising Sun Avenue and Westmoreland Street shall expire without any further action by the City of Philadelphia if Howard Foreman 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 June 14, 2007. The Bill was Signed by the Mayor on September 20, 2007.



Patricia Rafferty
Chief Clerk of the City Council