

# City of Philadelphia



(Bill No. 090001)

## AN ORDINANCE

Authorizing Hossein Elbanna to construct, own and maintain, an open-air sidewalk cafe at 3901 Walnut Street, under certain terms and conditions.

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

**SECTION 1.** Permission is hereby granted to Hossein Elbanna, to construct, own and maintain the open-air sidewalk café at 3901 Walnut Street, that will encroach upon the west sidewalk of Walnut Street and S. 39th Street as follows:

There will be five (5) tables and twenty (20) chairs in total. The first table will be located approximately thirty-eight feet (38') north of the north curb line of Walnut Street and the last table approximately ninety-five feet (95') north of the north curb line of Walnut Street.

The tables will encroach approximately three feet (3') onto the west sidewalk of S. 39th Street, leaving approximately six feet (6') of clear unobstructed footway. No rails are to be used.

**SECTION 2.** The construction, use and maintenance of the open-air sidewalk cafe 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, Hossein Elbanna must first obtain or have their contractor(s) 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, before exercising any rights and privileges under this Ordinance, Hossein Elbanna shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Hossein Elbanna *inter alia*:

- (a) agree that upon one hundred and eighty (180) days notice from the City, it shall remove the open-air sidewalk cafe without cost or expense to the

# City of Philadelphia

BILL NO. 090001 continued

Certified Copy

City and shall remove the open-air sidewalk cafe at no cost and expense to the City of Philadelphia when given written notice to do so by the City of Philadelphia to accommodate a municipal or municipal sponsored construction project;

- (b) 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 City Solicitor to insure the compliance with all the terms and conditions of this Ordinance and the Agreement, and to protect and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as a result of the construction, maintenance or use of the open-air sidewalk cafe or their removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that Hossein Elbanna self-assumes liabilities and obligations normally covered by Surety Bond;
- (c) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City as may be required by regulation or law. 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;
- (d) assume the costs of all changes and adjustments to, and relocation or abandonment of City utilities and City structures wherever located as may be necessary by the reason of the construction of the open-air sidewalk cafe;
- (e) 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 City Solicitor, or in lieu thereof, submit documentation in form and content acceptable to the City that Hossein Elbanna is self-insured and is providing the City of Philadelphia the same coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania;
- (f) insure that all construction contractors for the open-air sidewalk cafe carry 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 Solicitor; and
- (g) 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 right-of-way of any affected streets.

# City of Philadelphia

BILL NO. 090001 continued

Certified Copy

**SECTION 4.** The City Solicitor shall include in the Agreement such other terms and conditions as shall be deemed necessary to protect the interests of the City.

**SECTION 5.** The permission granted to Hossein Elbanna to construct, own and maintain the open-air sidewalk cafe described in Section 1 shall expire without any further action by the City of Philadelphia if Hossein Elbanna 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), toward costs thereof, is paid into the City Treasury within sixty (60) days after the date this Ordinance becomes law.

# City of Philadelphia

BILL NO. 090001 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 2, 2009. The Bill was Signed by the Mayor on April 15, 2009.

A handwritten signature in black ink that reads "Patricia Rafferty". The signature is written in a cursive, flowing style.

Patricia Rafferty  
Chief Clerk of the City Council