

City of Philadelphia



(Bill No. 090120)

AN ORDINANCE

Authorizing the revision of lines and grades on a portion of City Plan Nos. 107 and 130 by striking from the City Plan and vacating the legally open portions of Forty-seventh Street from Fairmount Avenue to Brown Street; striking from the City Plan and vacating Aspen Street from Forty-seventh Street to Markoe Street; and reserving on the City Plan, and authorizing City acceptance of rights-of-way for various purposes within the lines of Forty-seventh Street and Aspen Street being stricken; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Pursuant to Section 11-405 of The Philadelphia Code, the Board of Surveyors of the Department of Streets is hereby authorized to revise the lines and grades on a portion of City Plan Nos. 107 and 130 by:

- (a) Striking from the City Plan and vacating the legally open portions of Forty-seventh Street from Fairmount Avenue to Brown Street.
- (b) Striking from the City Plan and vacating Aspen Street from Forty-seventh Street to Markoe Street.
- (c) Reserving and placing on the City Plan a right-of-way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Forty-seventh Street being stricken by authority of Section 1(a) herein.
- (d) Reserving and placing on the City Plan a right-of-way for drainage purposes, water main purposes, gas main purposes, and public utility purposes within the lines of Aspen Street being stricken by authority of Section 1(b) herein.

SECTION 2. This authorization is conditional upon compliance with the following requirements within two (2) years from the date this Ordinance becomes law:

- (a) The filing of an agreement, satisfactory to the City Solicitor, by the owner or owners of property affected thereby, to release the City from all damages or claims for damages which may arise by reason of the City Plan changes authorized herein; in lieu thereof, only after the party in interest has demonstrated best efforts to obtain such agreements and such efforts are unsuccessful, the party in interest shall file an agreement and a bond, with corporate surety, satisfactory to the City Solicitor or an irrevocable letter of credit satisfactory to the City Solicitor, to indemnify the City as aforesaid.

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- (b) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to release, indemnify, and defend the City from all damages or claims for damages that may arise by reason of the City Plan changes authorized herein.
- (c) The filing of an agreement, satisfactory to the City Solicitor, by the party in interest, to make any and all changes and adjustments to curbing, sidewalk paving, cartway paving, water pipe, fire hydrants, sewers, inlets and manholes, street light poles and equipment, and to other City structures either overhead, underground, or upon the surface, including the relocation, abandonment, repairing, reconstruction, cutting, and sealing of such structures and facilities which may be necessary in the judgment of the Department of Streets and the Water Department by reason of the City Plan changes authorized herein. The agreement shall provide for the removal of all existing City-owned street lighting poles and equipment and for their delivery to the storage yard of the Street Lighting Division at 701 Ramona Avenue at no cost to the City. The agreement shall provide for the removal of salvageable hydrants, valves, manhole covers, frames, and connections, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at Twenty-ninth Street and Cambria Street at no cost to the City. The agreement shall also provide for the removal of salvageable cast iron manholes and covers, street inlet grates, frames and hoods, and inlet castings, as determined by the Water Department, and for their delivery to the storage yard of the Water Department located at 3201 Fox Street at no cost to the City. The agreement shall provide that this work be completed within one year from the date of confirmation by the Board of Surveyors of the City Plan changes authorized by this Ordinance.
- (d) The party in interest shall file a bond, with corporate surety, satisfactory to the City Solicitor or an irrevocable letter of credit satisfactory to the City Solicitor, in an amount satisfactory to the Department of Streets and the Water Department, to cover the cost of the work required under Section 2(c) herein.
- (e) The filing of an agreement, satisfactory to the City Solicitor, by the owner or owners of property affected thereby, granting to the City the aforesaid rights-of-way for drainage purposes, water main purposes, gas main purposes, and public utility purposes authorized in Sections 1(c) and 1(d) of this Ordinance. The agreement shall provide that no changes in grades shall be made and that no fences, buildings, or other structures, either overhead, underground, or upon the surface, shall be constructed within the lines of the said rights-of-way or abutting thereon, unless the plans for such structures shall first be submitted to and approved by the Water Department, the Philadelphia Gas Works, and any other public utility which maintains facilities within the said rights-of-way. The agreement shall also grant the right-of-access and occupation at any and all times to the officers, agents, employees, and contractors of the City, the Gas Works, and any other public utility which maintains facilities within the said rights-of-way for the purpose of construction, reconstruction, maintenance, alterations, repairs, and inspection of present and future facilities and structures.

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- (f) The payment by the party in interest of the cost of advertising the public hearing by the Board of Surveyors on the City Plan changes authorized by this Ordinance.

SECTION 3. The Streets Commissioner, on behalf of the City of Philadelphia, is hereby authorized to accept the grant to the City of the aforesaid rights-of-way for drainage purposes, water main purposes, gas main purposes, and public utility purposes authorized in Sections 1(c), and 1(d) herein.

SECTION 4. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within one hundred and twenty (120) 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 April 2, 2009. The Bill was Signed by the Mayor on April 15, 2009.



Patricia Rafferty
Chief Clerk of the City Council