



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 100720

Introduced October 28, 2010

Councilmembers DiCicco and Kenney

**Referred to the
Committee on Rules**

AN ORDINANCE

Amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," and Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by adding special provisions regulating advertising signs in designated Commercial Advertising Districts; designating Market Street between 7th Street and 13th Street as a Commercial Advertising District; and making conforming amendments to other provisions of The Philadelphia Code regulating advertising signs; and amending Chapter 19-3400, entitled "Excise Tax on Outdoor Advertising Transactions," by imposing a tax on these signs, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HERBY ORDAINS:

SECTION 1. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.

* * *

CHAPTER 9-600. SERVICE AND OTHER BUSINESSES.

* * *

§ 9-602. Outdoor Advertising.

(1) Legislative Findings. The Council finds that:

* * *

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(k) *However, other cities have found that, when properly regulated, very large format signs serve materially useful purposes in areas having a high volume of pedestrians and a concentration of hospitality, entertainment or retail uses.*

(l) *The scale and creative displays of large format signs accentuate the vibrancy of these areas, heighten the public's sense of these areas as venues of hospitality, entertainment and retail activities and serve as gateways, thereby attracting more entertainment, patrons, shoppers and tourists.*

(m) *Large format signs have become part of the ambiance the public has come to identify with areas having high density hospitality, entertainment and retail uses in many global cities.*

(n) *Properties that are poorly maintained, underperforming or outmoded (whether in terms of general deterioration, technology or modern commercial feasibility), in areas with a high density of hospitality, entertainment and retail uses, inhibit the full commercial potential of such areas and detract from the positive experience of patrons, shoppers and tourists.*

(o) *Large format signs generate revenue that can be directed to support the reuse or rehabilitation of poorly maintained, underperforming or outmoded buildings.*

(2) Definitions. In this Section the following definitions apply:

* * *

(c) *Large Format Sign.* A sign designed to be placed upon a lot or building in an area designated, by ordinance, as a Commercial Advertising District. A large format sign may be a commercial, non-commercial, accessory or non-accessory sign. The requirements for large format signs are more fully set forth in Section 14-1604.2 of this Code.

- [(c)] (d) * * *
- [(d)] (e) * * *
- [(e)] (f) * * *
- [(f)] (g) * * *
- [(g)] (h) * * *
- [(h)] (i) * * *

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(5) Licenses for Large Format Signs.

(a) No person shall erect or maintain any large format sign unless they have obtained all appropriate licenses and permits from the Department of Licenses and Inspections.

(b) The provisions of subsection 9-602(4), relating to licenses for outdoor advertising signs, and subsections 9-602(6) through (12), relating to outdoor advertising signs and signs in general, shall apply to large format signs, with the exception of subsection 9-602(4)(c), relating to annual license fees.

(c) The applicant for a large format sign shall pay an annual license fee in an amount to be determined by the Department of Licenses and Inspections.

(d) No license shall be issued for any large format sign unless, the owner has entered into a Development Plan Agreement pursuant to Section 14-1604.2 of this Code and has submitted both the application for such sign and the Development Plan Agreement to the Market Street East Advertising District Committee for review and comment, provided the Mayor has established and appointed the members to such a committee.

(e) No large format sign license shall be granted less than: (i) ninety (90) days after submission of the application to the Market Street East Advertising District Committee, or (ii) delivery of the Review Comments of such Committee (provided the Mayor has established and appointed the members to such a committee), whichever is earlier. No renewal of a large format sign license shall require review by the Market Street East Advertising District Committee.

(f) A large format sign license shall expire one year after the date of issuance and may be renewed for additional one year terms provided that, at the time of the issuance of the renewal license, the applicant has: (i) no outstanding violations for which all legal appeals have been exhausted with respect to the erection or maintenance of a large format sign; (ii) no outstanding court orders requiring the removal of any such sign for which all legal appeals have been exhausted; and (iii) no existing violations of any Development Plan Agreement required by Section 14-1604.2 of this Code.

[(5)] (6) Licenses for Individuals or Companies. * * *

[(6)] (7) License Tags. * * *

[(7)] (8) Inspections. * * *

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[(8)] (9) Public Nuisance.	*	*	*
[(9)] (10) Abatement.	*	*	*
[(10)] (11) Penalties.	*	*	*
[(11)] (12) Severability.	*	*	*

SECTION 2. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING.

* * *

CHAPTER 14-1600. MISCELLANEOUS.

* * *

§ 14-1604. Outdoor Advertising and Non-Accessory Advertising Controls.

(1) Legislative Findings. The Council finds that:

* * *

(n) *However, other cities have found that, under well-regulated circumstances, large format signs serve materially useful purposes where there are significant volumes of pedestrians in areas with an existing high density concentration of hospitality, entertainment or retail uses.*

(o) *The scale and creative displays of large format signs accentuate the vibrancy of such areas, designate gateways into and through such areas, heighten the public's sense of such areas as a locus of entertainment, retail and hospitality activities, and thereby attract more entertainment patrons, shoppers and tourists.*

(p) *Large format signs have become part of the ambiance the public has come to identify with areas having high density hospitality, entertainment and retail uses in many global cities.*

(q) *Properties that are poorly maintained, underperforming or outmoded (whether in terms of general deterioration, technology, or modern commercial feasibility), in areas with a high density of hospitality, entertainment and retail uses, inhibit the full commercial potential of such areas and detract from the positive experience of patrons, shoppers and tourists.*

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(r) *Large format signs generate revenue that can be directed to support the reuse or rehabilitation of poorly maintained, underperforming or outmoded buildings.*

(s) *The public should be compensated for the cost of regulating and licensing such large format signs.*

(2) Scope. These controls shall apply to all areas of the City with special restrictions regulating size, height, illumination, distances from residences, spacing, prohibition and conditions for obtaining permits *The provisions of subsections 14-1604(3), relating to spacing; 14-1604(4), relating to distances; 14-1604(5), relating to area; 14-1604(6), relating to height; 14-1604(7), relating to sign face; 14-1604(8), relating to illumination, animation, flashing and revolving signs; and 14-1604(9)(l), relating to Historic Districts, shall not apply to areas designated as Commercial Advertising Districts pursuant to Section 14-1604.2.*

* * *

(10) Conditions For The Issuance of a Permit to Erect Outdoor Advertising and Non-Accessory Signs.

* * *

(e) No permit for the erection of an outdoor advertising *sign*, [or] non-accessory sign *or large format sign* shall be issued if there is any outstanding violation, for which all legal appeals have been exhausted, of The Philadelphia Code or regulations adopted pursuant to the Code, relating to the premises upon which the outdoor advertising sign, [or] non-accessory sign *or large format sign* is to be erected or maintained.

(f) No permit for the erection of an outdoor advertising *sign*, [or] non-accessory sign *or large format sign* shall be issued if the owner of the premises upon which the outdoor advertising sign, [or] non-accessory sign *or large format sign* is to be erected or maintained is delinquent in the payment of any City or School District taxes, charges, fees, rents or claims, unless such owner has entered into an agreement to pay any such delinquency and is abiding by the terms of such agreement.

(g) *The provisions of this subsection 14-1604 (10)(a) though (d), relating to the removal of existing outdoor advertising signs of comparable size, shall not apply within areas designated as Commercial Advertising Districts under Section 14-1604.2.*

(11) Signs and Their Supporting Structures.

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(a) The supporting structures for outdoor advertising, [and]non-accessory signs *and large format signs* shall conform to the definition of a structure as set forth in Section 14-102 shall be considered as such and shall conform to all the requirements regarding structures contained in this Title, provided that Section 14-104 shall not apply to outdoor advertising signs and their structures and therefore such signs may not be extended or reconstructed pursuant to Section 14-104(1) through (13).

(b) Outdoor advertising and non-accessory signs shall be considered as the main use of a property and as a main structure and not as an accessory or ancillary use. *Large format signs shall not be considered an accessory or ancillary use.*

* * *

(14) Penalties. [In addition to any other sanction or remedial procedure provided, the penalty for violation of any provision of this Section shall be a fine not exceeding one hundred fifty (\$150) dollars for each offense, and may include imprisonment not exceeding thirty (30) days if the fine is not paid within ten (10) days. Continuous violation of the same provision shall be a separate violation for each day.] *Any violation of this Section shall constitute a Class III offense and shall be subject to the fines set forth in subsection 1-109(3) of this Code for each offense. Each day this Section is violated shall be deemed a separate offense for which a separate penalty may be imposed.*

* * *

§ 14-1604.2 *The Market Street East Advertising District. The Market Street East Advertising District shall be designated as a Commercial Advertising District.*

(1) *Definitions: The following definitions shall apply to the Market Street East Advertising District:*

(a) *Development Plan Agreement. An agreement between the owner and the Philadelphia Authority for Industrial Development that shall be recorded with the Department of Records.*

(b) *Historic Building. A building that, at the time of the submission of the application for a large format sign permit, is designated as an “historic building” by the Philadelphia Historical Commission in accordance with Section 14-2007 and is listed on the Philadelphia Register of Historic Places.*

(c) *Host Building. A building upon which a large format sign shall be permitted.*

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(d) *Large Format Sign.* A sign designed to be placed upon a lot or building in an area designated, by ordinance, as a Commercial Advertising District, the requirements for which are more fully set forth in this Section 14-1604.2. A large format sign may be a commercial, non-commercial, accessory or non-accessory sign.

(e) *Net Revenue.* The actual revenue (whether denoted as rent, fees, charges, or otherwise) received by the owner from advertising, less sign expenses. Sign expenses shall consist of all costs and expenses incurred by the owner: (i) in applying for and obtaining a large format sign license or its renewal; (ii) in installing, re-installing, replacing, or repairing the sign; (iii) for maintenance and operation for the sign, including but not limited to, utility expenses; and (iv) for marketing to procure advertisers for the sign, including but not limited to, finders' or brokers' commissions.

(f) *Owner.* The fee owner of a host building or the owner or holder of any right, whether by license, easement, lease, or otherwise, to place a large format sign on a host building.

(g) *Public Service Advertising.* Advertising or information that (i) informs the public with respect to weather, news, time, temperature, public services (including, but not limited to, public transportation) and public amenities; (ii) is offered free of charge to promote civic or public celebrations, civic events, memorials or remembrances (including, but not limited to, parades and celebrations) or (iii) is offered free of charge to promote non-profit historical, cultural, or arts organizations or their events.

(2) *District Boundaries.* For the purposes of this Section, the following area shall be included in the Market Street East Advertising District:

(a) Both sides of Market Street from the east side of 7th Street to the west side of 12th Street inclusive.

(3) *Permitted Uses.* Large format signs shall be permitted on the exterior walls of a host building provided the following conditions are satisfied:

(a) Upon a new building proposed to be constructed provided:

(.1) The height of the building is no less than sixty (60) feet above grade level;

(.2) The building has a minimum floor area of 100,000 square feet (including floor areas over and under a public street);

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(.3) *The building has minimum street frontage along Market Street of 150 feet. For purposes of this Section, the length of any portion of a host building located over or under a public street that intersects with Market Street will be included in the determination of the host building's frontage on Market Street; and*

(.4) *The building is located over a public street or at the intersection of Market Street and another public street.*

(b) Upon an existing building provided:

(.1) The building is in need of substantial refurbishment or improvement in order to modernize the exterior or interior, whether for aesthetic, structural, mechanical, safety or commercial feasibility reasons;

(.2) The building is located over a public street or located at the intersection of Market Street with another public street;

(.3) The building has a minimum floor area of 100,000 square feet (including any floor areas of such building located over or under public streets);

(.4) The building has minimum street frontage along Market Street of 150 feet. For purposes of this Section, the length of any portion of a host building located over or under a public street that intersects with Market Street will be included in the determination of the host building's frontage on Market Street; and

(.5) The owner has entered into a Development Plan Agreement pursuant to this Section.

(4) The following buildings shall not be considered host buildings:

(a) An historic building, unless such building during its history supported an exterior sign that would have met the definition of a large format sign;

(b) A parking garage or any building where more than fifty (50) percent of the floor area of its aboveground structure is a parking garage.

(5) Location and Placement of Large Format Signs.

A large format sign may be installed as follows:

(a) It may be installed only upon a host building, on the corner of such building or within ten (10) feet of a corner of such building, provided the corner is located at an intersection of Market Street and another public street;

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(b) It may wrap around the corner of a host building;

(c) It may tilt at any angle, subject to the provisions of Section 14-1604.2(5)(d);

(d) It may project a maximum distance of eight (8) feet over the public sidewalk. A large format sign that is a projecting sign shall require a permit in accordance with Section 14-1903;

(e) It may coexist on a lot or building without limiting other signage permitted on such lot or building. Accordingly, a large format sign shall not be considered when determining accessory signage limitations;

(f) If an historic building qualifies as a host building under this Section the placement of any large format sign shall be subject to review by the Historical Commission under Section 14-2007 of this Code.

(6) Area Regulations.

(a) The maximum sign area of any large format sign shall be 1200 square feet, unless the provisions of Section 14-1604.2(6)(b) below are satisfied.

(b) If, pursuant to a Development Plan Agreement, the owner agrees to devote: (i) at least 10% of the sign area to public service advertising; or (ii) its entire sign area to public service advertising at least 10% of the days during which its license applies, as the owner may determine, then the maximum size of the large format sign shall be 1600 square feet.

(7) Height Regulations.

(a) The bottom edge of any large format sign shall not be located less than 30 feet above the sidewalk or road surface above which it is located.

(b) A large format sign may be placed on the roof of a host building.

(8) Illuminated, Animated, Flashing, and Revolving Sign Regulations.

The following regulations with respect to illumination shall apply. Large format signs:

(a) May be illuminated from sundown to no later than 3:00 a.m.

(b) May be illuminated externally or internally, provided that external illumination shall be focused upon the sign itself.

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(c) Shall not be illuminated with flashing lights or lighting with intermittent illumination.

(d) May contain animated images.

(e) May have mechanically or electronically changing messages.

(f) May have their content projected upon, or from within, the sign area.

(9) Sign Copy.

(a) No large format sign may be used to: (i) depict images of firearms; (ii) advertise tobacco products or illicit drugs; (iii) promote violence or (iv) portray sexually explicit images that violate community standards with respect to viewing by minors.

(b) The provisions of Section 9-628, and Section 17-110, relating to advertising alcoholic beverages, shall not apply to large format signs located within the Market Street East Advertising District.

(10) Development Plan Agreement. Prior to the issuance of any permit for a large format sign, the owner, where required to enter into a Development Plan Agreement, shall submit such agreement to the Market Street East Advertising Committee, provided the Mayor has established and appointed the members to such committee. As part of the Development Plan Agreement, the owner shall agree:

(a) To expend an amount equal to at least fifty (50) percent of the owner's net revenue from the large format sign, generated during the first year of the license, or if such sign is to be an accessory sign, at least fifty (50) percent of the fair market rental value of such sign during the first year of the license, for the purpose of refurbishing the exterior or interior of either the host building or another building or structure within the Market Street East Advertising District that is owned by the owner or an affiliate of the owner;

(b) That within eighteen (18) months of the issuance of the initial license for a large format sign, the owner will submit to the Philadelphia Authority for Industrial Development evidence of the expenditures made on refurbishing the exterior or interior of any host building or other building within the Market Street East Advertising District, in accordance with the Development Plan Agreement; and

(c) That if the maximum height of the sign is greater than sixty (60) feet, to devote at least ten (10) percent of the sign area to public service advertising or the entire

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sign area to public service advertising at least ten (10) percent of the days during which the license applies.

(11) Advisory Committee. The Mayor may establish the Market Street East Advertising Committee, composed of a representative from each of the following: the Commerce Department, the City Planning Commission, the Department of Licenses and Inspections, the Center City District, the Art Commission and the Philadelphia Historical Commission. The purpose of such committee is to serve as an advisory committee and to review permit applications and Development Plan Agreements for large format signs, hold public hearings and make recommendations concerning proposed large format signs.

(12) Conflicting Regulations. When the provisions of this Section conflict with other provisions of this Title, the provisions of this Section 14-1604.2 shall control.

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CHAPTER 14-1900. SIGNS.

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§ 14-1902. Signs Extending Beyond the Building Line.

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(5) No sign erected or maintained anywhere else in the City shall project:

* * *

(d) more than 8 feet if the sign is a large format sign.

(6) Maximum Area.

* * *

(f) The provisions of subsections 14-1902(6)(a) through (e) shall not apply to large format signs.

§ 14-1903. Permits for Signs Extending Beyond the Building Line.

* * *

(2) No permit to erect or maintain any sign shall be granted unless such sign and the person seeking to erect or maintain it:

* * *

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(c) complies with all applicable regulations of the Fairmount Park Commission, *except that neither the Fairmount Park Commission nor its successor, the Department of Parks and Recreation, shall have authority to regulate large format signs.*

* * *

SECTION 3. Chapter 19-3400 is hereby amended to read as follows:

CHAPTER 19-3400. EXCISE TAX ON OUTDOOR ADVERTISING TRANSACTIONS.

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§ 19-3401. Definitions.

In this Chapter the following words and phrases shall have the meanings given to them in this Section unless the context clearly requires otherwise:

* * *

(4) Purchase Price. The full consideration paid or delivered or promised to be paid to (i) an Outdoor Advertising Company for the installation, placement or maintenance of, or license to place, an outdoor advertising sign on any building, parcel or Sign Support Structure or (ii) a large format sign host building owner for the placement of advertising copy on a large format sign. The Purchase Price shall not include the price paid to the owner of the real property in consideration for the erection of a Sign Support Structure.

(5) Large Format Sign. As defined in Section 9-602 and Section 14-1604.2 of this Code.

(6) Large Format Sign Host Building Owner. The owner as owner is defined in Section 14-1604.2 of this Code.

§ 19-3402. Imposition and Rate of the Excise Tax.

(1) There is hereby imposed an excise tax on the purchase, rental or licensing of space on any building, parcel or Sign Support Structure located in the City for the purpose of installing, placing or maintaining an Outdoor Advertising Sign or large format sign.

(2) The excise tax shall be collected by an Outdoor Advertising Company or the large format sign host building owner, as applicable, at the time the Purchase Price is paid, and shall be remitted by the Outdoor Advertising Company or the large format sign

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host building owner to the City in accordance with rules and regulations to be promulgated by the Department.

(3) The rate of tax shall be seven percent (7%) of the Purchase Price.

§ 19-3403. Reports, Returns, Payment and Collection of Tax.

(1) All taxes collected by any Outdoor Advertising Company *or large format sign host building owner* in accordance with this Chapter shall constitute a trust fund for the City and such trust shall be enforceable against such person and any person receiving any part of such fund without consideration, or knowing that the Outdoor Advertising Company *or large format sign host building owner* is committing a breach of trust; provided, however, that any person receiving payment of a lawful obligation of the Outdoor Advertising Company *or large format sign host building owner* from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust.

(2) Every Outdoor Advertising Company *and large format sign host building owner* shall collect the tax imposed by this Chapter from the renter or purchaser of advertising space at the time the space is rented or purchased, and shall pay it over to the City as provided hereinafter. An Outdoor Advertising Company *or large format sign host building owner*, if it fails to collect the tax or pay it to the City when due, shall be liable to the City for the payment of the tax, including penalties and interest as provided in Section 19-509.

(3) Every report and return shall be made upon a form furnished by the Department.

(4) Every Outdoor Advertising Company *and large format sign host building owner* shall transmit to the Department, on or before the fifteenth (15th) day of each month, a return for the month preceding the month in which the return is made, which return shall report the amount of consideration received for the transactions during the month for which the return is made, the amount of tax due from the Outdoor Advertising Company *or large format sign host building owner* for that month, and such other information as the Department may require.

(5) Every Outdoor Advertising Company *and large format sign host building owner*, at the time of filing every return required by this Section, shall compute and pay to the Department the taxes shown as due on the return for the period for which the return is made.

(6) Every Outdoor Advertising Company *and large format sign host building owner* shall maintain records, which shall be made available to the Department upon its request, which shall include, but not be limited to, the number of advertising transactions

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on a daily or weekly basis, the rate(s) charged for each transaction, the consideration received from all transactions during the month for which each return is made, as well as such other information as the Department may require.

(7) If an Outdoor Advertising Company *or large format sign host building owner* enters the business of renting or selling advertising space subsequent to the effective date of this Chapter, the first return shall be filed on the fifteenth (15th) day of the first month subsequent thereto. The first return and tax payment due shall be for all transactions occurring during the preceding month based upon the actual taxable transactions during the preceding month.

(8) The Department is authorized to promulgate rules and regulations governing the collection, administration and enforcement of the provisions of this Chapter.

SECTION 4. The provisions of Chapter 19-3400 of this Ordinance shall become effective on July 1, 2011. All other provisions of this Ordinance shall become effective in 30 days.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.