

Post-Hearing Report

City of Philadelphia Department of Streets Regulations Governing Various Street Closure Fees

October 11, 2018

Background

On July 11, 2017, the City's Streets Department filed regulations with the Department of Records entitled "**Regulations Governing Fees and Charges For Various Permitted Activities Under Sections 11-105, 11-203, 11-605, 11-610, 11-611 and 11-804 of The Philadelphia Code**" ("Regulations").

These Regulations were adopted to establish an appropriate fee schedule for permits issued in connection with street and sidewalk closures. The Streets Department is authorized to issue permits pursuant to authority granted in §5-501 of the Home Rule Charter and Title 11 of The Philadelphia Code ("Code").

The Streets Department advertised and held a public hearing on September 28, 2017 at One Parkway Bldg, 1515 Arch Street, 18th floor, to provide interested stakeholders with an opportunity to express specific concerns regarding the Regulations. The City was represented at the hearing by *Patrick O'Donnell, ROW Unit Manager, Streets Department; Patrick Iffrig, Engineering Supervisor, ROW Unit, Streets Department; Nicole Szarka, Executive Assistant ROW Unit, Streets Department and Michele Sarkos, Deputy City Solicitor, City Solicitor's Office.*

Written comments and testimony were presented at the hearing by:

- 1) Mary Collins, Builders Industry Association
- 2) Paul Horning, General Building Contractor Association
- 3) David Feldman, Development Workshop

The entities that provided testimony and/or comments will be referred to herein, collectively, as "Interested Parties".

Summary of Testimony and Comments

Apart from each Interested Party's comments and recommendations (addressed below), the Interested Parties collectively expressed two main concerns at the public hearing, namely:

- 1) the Regulations, if implemented, will impede real estate development/construction, and
- 2) the regulatory fees established by the Regulations are excessive.

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Stakeholder Testimony

Builders Industry Association (BIA) represents residential home builders, residential contractors and suppliers. BIA expressed the following concerns:

1. The proposed fee increases have a greater negative impact on BIA members. BIA members typically work in areas outside of Center City (CC) and University City (UC) where more private home development occurs. BIA's members work on leaner budgets as opposed to large-scale projects that are often funded with greater institutional and publicly-funded work and which typically exist in CC and UC. As a result of the greater negative impact to BIA members, residential development in areas outside of CC and UC will be disproportionately reduced.
2. The proposed Regulations do not contain a mechanism that will direct the proposed increased revenue back to the Streets Department to fund an elevated level of service, including faster permit review and/or greater permit enforcement.
3. The proposed fee structure incentivizes unnecessary full lane closures that remove much needed parking in residential neighborhoods.
4. Matching the annual permit fee maximum in residential areas to an increased fee cap for CC and UC is unfair and inappropriate.
5. Imposing new fees penalize builders who obtain permits and properly maintain their closures.

BIA Recommendations:

1. Improve enforcement of current regulations and collect available revenue rather than penalizing builders and potentially creating safety hazards.
2. Develop permit types and fees that will incentivize safe work areas and retain neighborhood street parking.
3. Incentivize contractor advanced planning to reduce the volume of applications. A ROW closure permit that extends for the project's duration minimizes the administrative burden on the Streets Department and eliminates the need for frequent applications and renewals throughout the construction project.
4. The definition of "University City" should be consistent with other sections of the Philadelphia Code.

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General Building Contractor Association (GBC) represents commercial, industrial, general contractors, subcontractors, suppliers and construction service firms. GBC expressed the following concerns:

1. The proposed fees will deter new development, especially within CC and UC.
2. Matching the proposed fee closure rates for minor roads and alleys to major arteries is unfair and inappropriate. Different rates should be applied depending on the type of roadway.

GBC Recommendations:

1. The City should implement a dollar for dollar credit for infrastructure improvements. Large scale construction provides the City with opportunities to address the City's aging infrastructure located from the streets to curb cuts.
2. Extend the one-year maximum for permits to two years and agree to calculate the renewal permit based on the initial year(s) of permit fee rates. This will allow contractors to maintain their schedules and cost accounting for large projects and will also provide stability amid frequent fee changes implemented by the City. This will also allow builders to properly plan for increased fees when bidding on projects.
3. Decrease fees for full sidewalk closures in CC and UC to \$4 and \$2.50 in all other areas to economically incentivize safe building practices.

Development Workshop is comprised of local developers, real estate attorneys, construction companies, architecture and engineering firms, real estate professionals and economists.

Development Workshop expressed the following concerns:

1. The proposed fee increases will have an overall cooling effect on development throughout Philadelphia.
2. Philadelphia's building and construction costs already rank among the highest in the nation.
3. The Development Workshop recommends and requests that the City reconsider the proposed fee increases in favor of a more measured and moderate approach, taking into account all recent fees increases, including ones to support other City departments.

Discussion

In drafting the Regulations, the City's goals were to create a fee structure that balances the competing interests of robust real estate development while safeguarding pedestrian access to the City's rights-of-way. The updated fee schedule also reflects the Street Department's increased time spent reviewing and processing streets/sidewalk closure permit applications.

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In light of the comments and testimony, the City again reviewed the proposed Regulations. The City disagrees that the proposed fee structure will stymie real estate development in any area of the city, or that it will excessively drive up the cost of construction in the city. The City still believes the proposed fee structure will responsibly and fairly accomplish the above stated goals.

That being said, the City re-examined the proposed per block/ maximum annual street closure permit fee amount of \$90,000 as it was a universal concern of the Interested Parties. The City determined that it could satisfy the City's stated goals, and also accomplish the objectives of the Interested Parties by reducing the maximum annual street closure permit fee amount. For partial street closures, the City agrees to decrease the maximum annual permit closure fee from \$90,000 to \$70,000 /per block. Similarly, for full street closures located in CC and UC, the City agrees to decrease the maximum annual street closure permit fee amount from \$90,000 to 70,000 /per block. In all other areas of the city, the maximum annual street closure permit fee amount will be \$30,000/ per block.

Therefore, all references in the proposed Regulations to an annual maximum street closure permit fee amount of \$90,000 will be revised to \$70,000. [References are located in Sections 4. A.2 (Partial Street Closures) and 4.A.3 (Full Street Closures), and Section 5.A.3 (Temporary Street Closures)].

The City will also delete Section 3 of the Regulations entitled "**Permit Fees for Placing Construction Materials in the Roadway Under Code Section 11-605**". Section 3 and the following Section 4, are essentially the same. Section 4 is entitled "**Permit Fees for Placing Construction Equipment in the Roadway Under Code Section 11-610**". To remove redundancy and unnecessary confusion, the Street Department will retain Section 4 under Section 11-610.

Conclusion

The City appreciates the feedback provided by BIA, GBC and the Development Workshop. The Street Department continues to explore options to streamline the street closure permitting process, including the recommendations of the Interested Parties.

Recognizing the vital importance real estate development in the city and the critical role provided by developers etc., the City will continue to work with all stakeholders.

Accordingly, the Department of Streets adopts the Regulations attached hereto as Exhibit "A" as the final Department of Streets "Regulations Governing Fees and Charges For Various Permitted Activities Under Sections 11-105, 11-203, 11-605, 11-610, 11-611 and 11-804 of The Philadelphia Code".

Exhibit "B" hereto shows the changes made to the Regulations as originally filed with the Department of Records.

This Report pertains to written comments and public testimony regarding the City's promulgation of regulations in furtherance of Sections 11-105, 11-203, 11-605, 11-610, 11-611 and 11-804 of The Philadelphia Code.

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EXHIBIT A

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**CITY OF PHILADELPHIA
DEPARTMENT OF STREETS**

**Regulations Governing Fees And Charges For Various Permitted Activities Under
Sections 11-106, 11-203, 11-605, 11-610, 11-611 and 11-804 of The Philadelphia Code**

Fees are hereby established for permits issued pursuant to authority granted in The Philadelphia Code ("the Code") as follows:

Section 1. Definitions.

A. Center City. Means the area bounded by Spring Garden Street, the Delaware River, South Street, and the Schuylkill River, including all parts of the boundary streets.

B. University City. Means the area bounded by the Schuylkill River to the east, Spring Garden Street from the Schuylkill River to 40th Street, 40th Street from Spring Garden to Powelton Avenue, Powelton Avenue from 40th Street to Market Street, Market Street from Powelton Avenue to 50th Street, 50th Street from Market Street to Springfield Avenue, Springfield Avenue from 50th Street to 49th Street, 49th Street from Springfield Avenue to Woodland Avenue, Woodland Avenue from 49th Street to 45th Street, 45th Street from Woodland Avenue extended to the Schuylkill River, including all parts of the boundary streets.

Section 2. Permit Fees for Breaking Streets and Footways Under Code Section 11-203

A. Fees for permits to break open streets and footways pursuant to section 11-203(7) of the Code are as follows:

1. Paved Street -- \$500 for the first two square yards plus \$120 for each additional square yard or portion thereof.
2. Historical Street -- \$950 per opening.
3. Unpaved Street -- \$50 per opening.
4. Footway -- \$25 per opening.

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Section 3. Permit Fees for Placing Construction Materials in the Roadway Under Code Section 11-605.

A. THIS SECTION IS INTENTIONALLY LEFT BLANK

Section 4. Permit Fees for Placing Construction Equipment in the Roadway Under Code Section 11-610.

A. Fees for permits to place construction equipment in the roadway pursuant to Code section 11-610 are as follows:

1. Construction Dumpsters. For permits to place a construction dumpster, the fee shall be \$40 per week.

2. Partial Street Closures. For permits requesting the closure or occupancy of sidewalks, parking lanes or travel lanes (including bike lanes), due to the placement or maintenance of all other construction equipment, fees are based on per linear foot of closure or occupancy/per week. The minimum weekly fee per type of closure block is \$50 and the maximum annual fee is \$70,000. For full sidewalk closures, the minimum weekly fee per block will be \$200 after the first week.

<u>Type of Closure</u>	<u>Center City & University City</u>	<u>All other Areas</u>
Sidewalk Shelter Platform with 6 foot Width		
Pedestrian Walkway	No Fee	No Fee
Partial Sidewalk Closure	\$1.00	\$1.00
Full Sidewalk Closure Accompanied By Creation Of Protected Footway in Parking Lane	\$1.10	\$0.35
Parking Lane	\$2.50	\$1.50
Full Sidewalk Closure (For Development)	\$4.50	\$3.00
Full Sidewalk Closure For Sidewalk Repair Only (Up To 14 days)	No Fee	No Fee

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Travel Lane (includes Bike Lanes)	\$3.50	\$2.00
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* Please note, it is possible to have several types of closure on one block. In these instances, the maximum yearly fee will be \$70,000 per block.

3. Full Street Closures. Permit fees for full street closures shall be charged as follows:

a. For closures associated with helicopter lifts, the fee shall be \$275 for a permit of up to six hours for up to ten blocks, plus \$60 per each block in excess of ten blocks.

b. For all other permits for periods of five days or less, the fee shall be \$250 per day per block with any period of less than twenty-four hours charged as a full day.

c. For any period in excess of five days, the following fees shall be charged on a per week, per block basis as set forth below. The maximum annual fee per block per year is \$70,000 in Center City & University City, and \$30,000 in all other areas:

<u>Center City & University City</u>	<u>All Other Areas</u>
\$1,500	\$750

B. For fees charged on a per week basis, closure or occupancy for any period of time less than seven days shall be charged as a full week.

C. For fees charged on a per block basis, full closure of a portion of a block shall constitute closure of the entire block.

Section 5. Permit fees for Temporary Street Closures Under Code Section 11-611.

A. Fees for permits to temporarily close sidewalks, parking lanes or travel lanes (including bike lanes) due to building maintenance, loading or unloading or related activities pursuant to section 11-611 of the Code shall be as follows:

1. "Temporary No Parking Signs." The permit fee under this subsection shall be charged on a daily basis as set forth below. A maximum requirement of forty linear feet shall be posted. The maximum posting duration shall be forty-eight hours.

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Center City & University City

All other Areas

\$50

\$25

2. Partial sidewalk closures for periodic window washing. The permit fee under this subsection shall be \$150 per block per year.

3. All other permit fees under section 11-611 shall be based on per linear foot of closure or occupancy/ per week. The minimum weekly fee per type of closure block is \$50 and the maximum annual fee is \$70,000. For full sidewalk closures, the minimum weekly fee per block will be \$200 after the first full week.

<u>Type of Closure</u>	<u>Center City & University City</u>	<u>All other Areas</u>
Sidewalk Shelter Platform with six (6) foot Width Pedestrian Walkway	No Fee	No Fee
Partial Sidewalk Closure	\$1.00	\$1.00
Full Sidewalk Closure Accompanied By Creation of Protected Footway in Parking Lane	\$1.10	\$0.35
Parking Lane	\$2.50	\$1.50
Full Sidewalk Closure	\$4.50	\$3.00
Travel Lane (includes Bike Lanes)	\$3.50	\$2.00

B. For permits charged on a weekly basis, closure or occupancy for any period of time less than seven days shall be charged as a full week.

Section 6. Permit Fees for Placement of Portable On-Demand Storage Units (PODS) Under Code Section 11-804.

The fee for a permit to place a POD in the public right-of-way pursuant to section 11-804 of the Code shall be \$50.

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Section 7. Supplemental Inspection Fees Under Code Section 11-106.

A. If an activity requires a permit or action by the Department under Title 11 of the Code for which a fee or charge is established by regulation, and the activity is carried out before such permit or action by the Department is obtained, the person or persons responsible for obtaining such a permit or action shall pay, in addition to the permit fee or other charge, an inspection fee equal to the amount of the permit fee or other charge, in order to obtain the permit or action by the Department.

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Note: These Regulations shall go into effective immediately upon publication by the Records Department.

EXHIBIT B

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CITY OF PHILADELPHIA DEPARTMENT OF STREETS

Regulations Governing Fees And Charges For Various Permitted Activities Under Sections 11-106, 11-203, 11-605, 11-610, 11-611 and 11-804 of The Philadelphia Code

Fees are hereby established for permits issued pursuant to authority granted in The Philadelphia Code ("the Code") as follows:

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B. University City. Means the area bounded by the Schuylkill River to the east, Spring Garden Street from the Schuylkill River to 40th Street, 40th Street from Spring Garden to Powelton Avenue, Powelton Avenue from 40th Street to Market Street, Market Street from Powelton Avenue to 50th Street, 50th Street from Market Street to Springfield Avenue, Springfield Avenue from 50th Street to 49th Street, 49th Street from Springfield Avenue to Woodland Avenue, Woodland Avenue from 49th Street to 45th Street, 45th Street from Woodland Avenue extended to the Schuylkill River, including all parts of the boundary streets.

Section 2. Permit Fees for Breaking Streets and Footways Under Code Section 11-203.

A. Fees for permits to break open streets and footways pursuant to section 11-203(7) of the Code are as follows:

1. Paved Street -- \$500 for the first two square yards plus \$120 for each additional square yard or portion thereof.
2. Historical Street -- \$950 per opening.
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4. Footway -- \$25 per opening.

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Section 3. Permit Fees for Placing Construction Materials in the Roadway Under Code Section 11-605.

A. ~~Fees for permits to place construction materials in the roadway pursuant to Code section 11-605 are \$1.00 per linear foot of occupancy per week, with a minimum fee of \$40 per week.~~

B.A. ~~Occupancy for any period of time less than seven days shall be charged as a full week.~~ THIS SECTION IS INTENTIONALLY LEFT BLANK

Section 4. Permit Fees for Placing Construction Equipment in the Roadway Under Code Section 11-610.

A. Fees for permits to place construction equipment in the roadway pursuant to Code section 11-610 are as follows:

1. Construction Dumpsters. For permits to place a construction dumpster, the fee shall be \$40 per week.

2. Partial Street Closures. For permits requesting the closure or occupancy of sidewalks, parking lanes or travel lanes (including bike lanes), due to the placement or maintenance of all other construction equipment, fees are based on per linear foot of closure or occupancy/per week. The minimum weekly fee per type of closure block is \$50 and the maximum annual fee is \$9070,000. For full sidewalk closures, the minimum weekly fee per block will be \$200 after the first week.

<u>Type of Closure</u>	<u>Center City & University City</u>	<u>All other Areas</u>
Sidewalk Shelter Platform with 6 foot Width Pedestrian Walkway	No Fee	No Fee
Partial Sidewalk Closure	\$1.00	\$1.00
Full Sidewalk Closure Accompanied By Creation Of Protected Footway in Parking Lane	\$1.10	\$0.35
Parking Lane	\$2.50	\$1.50
Full Sidewalk Closure (For Development)	\$4.50	\$3.00

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Full Sidewalk Closure For Sidewalk Repair Only (Up To 14 days)	No Fee	No Fee
Travel Lane (includes Bike Lanes)	\$3.50	\$2.00

* Please note, it is possible to have several types of closure on one block. In these instances, the maximum yearly fee will be \$9070,000 per block.

3. Full Street Closures. Permit fees for full street closures shall be charged as follows:

a. For closures associated with helicopter lifts, the fee shall be \$275 for a permit of up to six hours for up to ten blocks, plus \$60 per each block in excess of ten blocks.

b. For all other permits for periods of five days or less, the fee shall be \$250 per day per block with any period of less than twenty-four hours charged as a full day.

c. For any period in excess of five days, the following fees shall be charged on a per week, per block basis as set forth below. The maximum annual fee per block per year is \$9070,000 in Center City & University City, and \$30,000 in all other areas:

<u>Center City & University City</u>	<u>All Other Areas</u>
\$1,500	\$750

B. For fees charged on a per week basis, closure or occupancy for any period of time less than seven days shall be charged as a full week.

C. For fees charged on a per block basis, full closure of a portion of a block shall constitute closure of the entire block.

Section 5. Permit fees for Temporary Street Closures Under Code Section 11-611.

A. Fees for permits to temporarily close sidewalks, parking lanes or travel lanes (including bike lanes) due to building maintenance, loading or unloading or related activities pursuant to section 11-611 of the Code shall be as follows:

1. "Temporary No Parking Signs." The permit fee under this subsection shall be charged on a daily basis as set forth below. A maximum requirement of forty linear feet shall be posted. The maximum posting duration shall be forty-eight hours.

Center City & University City

All other Areas

\$50

\$25

2. Partial sidewalk closures for periodic window washing. The permit fee under this subsection shall be \$150 per block per year.

3. All other permit fees under section 11-611 shall be based on per linear foot of closure or occupancy/ per week. The minimum weekly fee per type of closure block is \$50 and the maximum annual fee is \$9070,000. For full sidewalk closures, the minimum weekly fee per block will be \$200 after the first full week.

<u>Type of Closure</u>	<u>Center City & University City</u>	<u>All other Areas</u>
Sidewalk Shelter Platform with six (6) foot Width Pedestrian Walkway	No Fee	No Fee
Partial Sidewalk Closure	\$1.00	\$1.00
Full Sidewalk Closure Accompanied By Creation of Protected Footway in Parking Lane	\$1.10	\$0.35
Parking Lane	\$2.50	\$1.50
Full Sidewalk Closure	\$4.50	\$3.00
Travel Lane (includes Bike Lanes)	\$3.50	\$2.00

B. For permits charged on a weekly basis, closure or occupancy for any period of time less than seven days shall be charged as a full week.

Section 6. Permit Fees for Placement of Portable On-Demand Storage Units (PODS) under Code Section 11-804.

The fee for a permit to place a POD in the public right-of-way pursuant to section 11-804 of the Code shall be \$50.

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Section 7. Supplemental Inspection Fees Under Code Section 11-106.

A. If an activity requires a permit or action by the Department under Title 11 of the Code for which a fee or charge is established by regulation, and the activity is carried out before such permit or action by the Department is obtained, the person or persons responsible for obtaining such a permit or action shall pay, in addition to the permit fee or other charge, an inspection fee equal to the amount of the permit fee or other charge, in order to obtain the permit or action by the Department.

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Note: These Regulations shall go into effective immediately upon publication by the Records Department.