

# City of Philadelphia



(Bill No. 120324)

## AN ORDINANCE

Authorizing the University of Pennsylvania (“Owner”) to construct, own and maintain a pedestrian barrier within the right-of-way on the median that divides 33rd Street and 34th Street between Spruce Street and Convention Avenue (“Property”), under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to Owner to construct, own and maintain a pedestrian barrier at the Property (“Encroachment”) as follows:

The pedestrian barrier is a fence that consists of several posts with a chain between each post. The posts are four and one half inches (4-1/2”) in diameter and thirty-six inches (36”) high. The pedestrian barrier will be installed in the center of the existing median and will have an opening at a designated pedestrian crossing.

SECTION 2. The construction, use and maintenance of the Encroachment 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, Owner must first obtain all required permits, licenses and approvals from all appropriate City 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 or privileges under this Ordinance, Owner shall enter into an agreement (“Agreement”) with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Owner shall, *inter alia*:

- (a) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City, or from any other governmental entity as may be required by law;

# City of Philadelphia

BILL NO. 120324 continued

Certified Copy

- (b) assume the cost of all changes and adjustments to, or relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary due to the construction of the Encroachment;
- (c) carry public liability and property damage insurance that covers the Encroachment, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the Law Department;
- (d) upon one hundred and eighty (180) days notice from the City, remove the encroachment described in Section 1 without cost or expense to the City and shall remove the encroachment described in Section 1 at no cost or expense to the City of Philadelphia when given written notice to do so by the City to accommodate a municipal or municipal sponsored construction project;
- (e) insure that each construction contractor for the Encroachment carries 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;
- (f) 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 footway adjacent to the Encroachment;
- (g) indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of the Encroachment; and
- (h) furnish the City with a bond with corporate surety in an amount required by the Department of Streets and in a form satisfactory to the Law Department to insure the compliance with all the terms and conditions of this Ordinance and the Agreement.

SECTION 4. The Law Department shall include in the Agreement such other terms and provisions deemed necessary to protect the interest of the City of Philadelphia.

SECTION 5. The permission granted to Owner to construct, own and maintain the Encroachment shall expire without any further action by the City of Philadelphia if Owner 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.

# City of Philadelphia

BILL NO. 120324 continued

Certified Copy

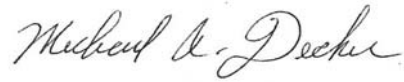
SECTION 6. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

# City of Philadelphia

BILL NO. 120324 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 7, 2012. The Bill was Signed by the Mayor on June 20, 2012.



Michael A. Decker  
Chief Clerk of the City Council