



# City of Philadelphia

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

**BILL NO. 110843**

---

**Introduced November 17, 2011**

---

**Councilmember DiCicco**

---

**Referred to the  
Committee on Streets and Services**

---

## **AN ORDINANCE**

Authorizing The Bruce Loyd Trust, Andrew M. Ullman, Trustee and Sandra Schwalb, owners of property located at 200 Market Street, Philadelphia, Pennsylvania, 19106 ("Property"), to legalize, own and maintain an existing raised platform encroachment for accessory restaurant seating at the Property, in the right-of-way located on the west footway of South 2nd Street, under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to The Bruce Loyd Trust, Andrew M. Ullman, Trustee and Sandra Schwalb ("Owner"), to legalize, own and maintain an encroachment at the Property, consisting of a raised platform for accessory seating in the west footway of South 2nd Street, as follows:

#### Encroachment Description

An auxiliary seating platform for an existing restaurant location, to be placed on top of the existing sloping sidewalk. The platform is located on the side of the building beginning approximately thirty one- feet-four-inches (31'-4") south of the southwest corner of the property line and building corner and extending thirty-feet-four-inches (30'-4") south along the east face of the building with a finished elevation of approximately six-inches (0'-6") above (sidewalk) grade. The platform extends east from the building and encroaches approximately five-feet-five-inches (5'-5") into the west footway of South 2nd Street, leaving approximately six-feet-three-inches (6'-3") of clear unobstructed footway between the proposed seating platform and the curb.

SECTION 2. Before exercising any rights or privileges under this Ordinance, Owner must first obtain or have its contractor(s) obtain all required permits, licenses and

# City of Philadelphia

BILL NO. 110843 continued

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 or privileges under this Ordinance, Owner shall enter into an agreement (“Agreement”) with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Owner shall, *inter alia*:

- (a) upon one hundred and eighty (180) days notice from the City, remove the encroachments described in Section 1 without cost or expense to the City and shall remove the encroachments described in Section 1 at no cost or 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 encroachments described in Section 1 or their removal;
- (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 or removal of the encroachments described in Section 1;
- (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;
- (f) insure that all construction contractors for the encroachments described in Section 1 carry public liability and property damage insurance, naming the City of

# City of Philadelphia

*BILL NO. 110843 continued*

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.

SECTION 3. The construction, use and maintenance of the various encroachments described 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 4. The City Solicitor shall include in the Agreement such other terms and conditions deemed necessary to protect the interests of the City.

SECTION 5. The permission granted to Owner to construct, own and maintain the encroachments described in Section 1 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 4 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 (\$200.00), 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. 110843 continued*