

City of Philadelphia



(Bill No. 110436)

AN ORDINANCE

Authorizing Kimmel Center, Inc., 200 South Broad Street, Philadelphia, Pennsylvania, owner of the Kimmel Center located at 300 South Broad Street, to construct, own and maintain various encroachments in the right-of-way on the south sidewalk of Spruce Street between Broad and Fifteenth Streets, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Kimmel Center, Inc. to construct, own and maintain various right-of-way encroachments as follows:

The proposed building encroachment will be located on the south sidewalk of Spruce Street and will encroach onto the sidewalk approximately four feet (4') leaving approximately twelve feet (12') of clear unobstructed footway for pedestrian traffic. The proposed encroachment will begin approximately one hundred—one foot (101') west of the west curbline of South Broad Street and will end approximately two hundred ninety—one foot (291') west of the west curbline of South Broad Street. The total frontage for the proposed encroachment will be approximately one hundred—ninety feet (190').

SECTION 2. Before exercising any rights or privileges under this Ordinance, Kimmel Center, Inc. must first obtain or have its contractor(s) obtain all required permits, licenses and 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, Kimmel Center, Inc. shall enter into an agreement (“Agreement”) with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Kimmel Center, Inc., 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;

City of Philadelphia

BILL NO. 110436 continued

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- (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, or in lieu thereof, submit documentation in form and content acceptable to the City that Kimmel Center, Inc. self-assumes the liabilities and obligations normally covered by the Surety Bond;
- (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, or in lieu thereof, submit documentation in form and content acceptable to the City that Kimmel Center, Inc. is self-insured and is providing the City of Philadelphia the same coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania;
- (f) insure that all construction contractors for the encroachments described in Section 1 carry 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 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

City of Philadelphia

BILL NO. 110436 continued

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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 Kimmel Center, Inc. to construct, own and maintain the encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if Kimmel Center, Inc. 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. 110436 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 23, 2011. The Bill was Signed by the Mayor on August 9, 2011.



Michael A. Decker
Chief Clerk of the City Council