

City of Philadelphia



(Bill No. 110226)

AN ORDINANCE

Authorizing the University of the Sciences in Philadelphia, located at 600 South 43rd Street, Philadelphia, Pennsylvania, to construct, own and maintain various encroachments in the form of auxiliary seating within the right-of-way adjacent to the building at 4140 Woodland Avenue, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to the University of the Sciences in Philadelphia to construct, own and maintain various right-of-way encroachments as follows:

Encroachment Description

A total of six (6) tables, approximately two feet (2') in diameter, to accommodate a total of twelve (12) occupants, are proposed for the south sidewalk of Woodland Avenue. Three (3) tables will be located adjacent to the building and will encroach approximately four feet – six inches (4'-6") onto the south sidewalk of Woodland Avenue and three (3) tables will be located adjacent to the building and will encroach approximately two feet – six inches (2'-6") onto the south sidewalk of Woodland Avenue leaving approximately six feet – six inches (6'-6") of clear unobstructed footway. No rails will be used.

SECTION 2. Before exercising any rights or privileges under this Ordinance, the University of the Sciences in Philadelphia 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, the University of the Sciences in Philadelphia shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that the University of the Sciences in Philadelphia, 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

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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, or in lieu thereof, submit documentation in form and content acceptable to the City that the University of the Sciences in Philadelphia 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, naming the City of Philadelphia as an additional 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 the University of the Sciences in Philadelphia 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 additional 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.

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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 the University of the Sciences in Philadelphia to construct, own and maintain the encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if the University of the Sciences in Philadelphia 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), toward costs thereof, is paid into the City Treasury within sixty (60) days after the date this Ordinance becomes law.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 16, 2011. The Bill was Signed by the Mayor on July 19, 2011.



Michael A. Decker
Chief Clerk of the City Council