

# City of Philadelphia



(Bill No. 080761)

## AN ORDINANCE

Granting permission to Howard Foreman, owner of the Island Caribbean Restaurant, 1338-44 Rising Sun Avenue, for a raised deck encroachment for accessory seating for the restaurant, under certain terms and conditions.

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

**SECTION 1.** Permission is hereby granted to Mr. Howard Foreman, owner of the Island Caribbean Restaurant, 1338-44 Rising Sun Ave., Philadelphia, Pa 19140, for an encroachment of a raised deck for seating accessory to an existing restaurant along Rising Sun Avenue and Westmoreland Street as follows:

Raised Deck: 18” high beginning at a point of eight (8) feet south of the south curb line of Rising Sun Avenue, and approximately fifty nine (59) feet east of the east intersecting point of Westmoreland Street and Rising Sun Avenue. This deck is approximately thirty two (32) feet long by six (6) feet wide and continues onto the footway of Westmoreland Street for approximately twelve (12) feet. This encroachment leaves approximately eight (8) feet of clear footway space on Rising Sun Avenue and six (6) feet of clear sidewalk space on Westmoreland Street.

**SECTION 2.** Before exercising any rights or privileges under this Ordinance, Mr. Howard Foreman must first 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, Mr. Howard Foreman shall enter into an agreement (“Agreement”) with the appropriate City department(s), in a form satisfactory to the Law Department, which shall:

(a) furnish the City with a bond with corporate surety in the amount required by the Streets Commissioner and in a form satisfactory to the Law Department to insure compliance with all of the terms and conditions of this Ordinance and the aforementioned agreement;

(b) protect, indemnify and save harmless the City from all suits or claims for damages which may arise directly or indirectly as a result of the raised deck;

(c) comply with the provisions of The Philadelphia Code thereby securing all

# City of Philadelphia

BILL NO. 080761 continued

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required permits, licenses and approvals from all appropriate departments, boards, agencies or commissions, as may be required;

(d) agree in writing that when, at the determination of the City of Philadelphia, the raised deck necessitates relocation and/or removal of any underground structure, either publicly or privately owned, Mr. Howard Foreman will absorb all costs and expenses for the performance of such work at no cost to the City;

(e) insure that the raised deck encroaches on Rising Sun Avenue and Westmoreland Streets no more than the dimensions listed in Section 1, provided that the Streets Department, in its sole unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice;

(f) 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 Law Department; and

(g) remove the raised deck within one hundred eighty (180) days upon service of lawful written notice from the Streets Department.

**SECTION 3.** The Law Department shall include in the Agreement such other terms and conditions, as shall be deemed necessary or appropriate in the interest of the City.

**SECTION 4.** The permission granted to Mr. Howard Foreman for an encroachment of a raised deck for accessory seating to an existing restaurant shall expire without any further action by the City of Philadelphia if Mr. Howard Foreman has not entered into the Agreement and satisfied all requirements of the Agreement that are listed in Section 2 within one (1) year after this Ordinance becomes law.

**SECTION 5.** This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00) is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

# City of Philadelphia

BILL NO. 080761 continued

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BILL NO. 080761 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 11, 2008. The Bill was Signed by the Mayor on December 22, 2008.



Patricia Rafferty  
Chief Clerk of the City Council