

City of Philadelphia



(Bill No. 170802)

AN ORDINANCE

Authorizing Mark Melini, (“Owner”) to install, own and maintain various pedestrian enhancement encroachments at 701–39 Market Street, Philadelphia, PA 19106 (“Property”), under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Owner to install, own and maintain various pedestrian enhancement encroachments at the Property (“Encroachments”) as follows:

Encroachment Description:

Five (5) decorative bollards approximately thirty five and three-quarter inches (35-3/4”) in height and ten and one-quarter inches (10-1/4”) in diameter at the following locations:

1. In the east footway of N. 8th Street one foot two inches (1’-2”) north of the 701 Market Street northern property line and eighteen inches (18”) from the face of curb
2. In the south footway of Filbert Street one foot eleven inches (1’-11”) east of the 701 Market Street western property line and eighteen inches (18”) from the face of curb
3. In the east footway of N. 8th Street fifteen feet four inches (15’-4”) south of the 701 Market Street northern property line and twelve inches (12”) east of the east curb line of Eighth Street
4. In the south footway of Filbert Street six feet six inches (6’-6”) west of the 701 Market Street eastern property line and eighteen inches (18”) from the face of curb
5. In the south footway of Filbert Street eleven feet seven inches (11’-7”) west of the 701 Market Street eastern property line and eighteen inches (18”) from the face of curb

Three (3) planters with benches approximately twenty eight feet eight inches (28’-8”) long by seven feet (7’-0”) wide set a minimum three feet (3’-0”) north of the Market

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Street north curb line leaving fifteen feet two inches (15'-2") of clear walking space in the north Market Street footway at the following locations:

1. One hundred six feet ten inches (106'-10") east of the 701 Market Street west property line.
2. One hundred twenty seven feet three inches (127'-3") east of the 701 Market Street west property line.
3. Fifty nine feet six inches (59'-6") west of the 701 Market Street east property line.

Two (2) bollards with door activated push buttons approximately forty two inches (42") tall and six inches (6") in diameter at the following locations:

1. In the east footway of N. 8th Street approximately one hundred eighty three feet (183'-0") south of the 701 Market Street north property line and six inches west of the 701 Market Street west property line
2. In the west footway of N. 7th Street approximately one hundred eighty three feet (183'-0") south of the 701 Market Street north property line and two feet east of the 701 Market Street east property line

One (1) free standing sign eight feet ten and three quarter inches (8'-10-3/4") tall by four feet five and three quarter inches (4'-5-3/4") wide by eight inches (8") deep in the Market Street north footway located one hundred ninety five feet three inches (195'-3") east of the 701 Market Street west property line and set five feet ten inches (5'-10") clear of the north Market Street curb line with fifteen feet two inches (15'-2") of unobstructed walking space remaining.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Owner 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 and 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, *inter alia*:

- (a) agrees that upon thirty (30) days notice from the City, it shall remove the Encroachment without cost or expense to the City and shall remove the Encroachment at no cost and expense to the City of Philadelphia when

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given written notice to do so by the City of Philadelphia to accommodate a municipal or municipal sponsored construction project;

- (b) shall 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;
- (c) shall 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 of the Encroachment;
- (d) shall 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 Owner 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;
- (e) shall insure that all construction contractors for the Encroachment 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
- (f) shall 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 described in Section 1; and
- (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. Owner shall also agree to release the City from any and all claims relating to the Encroachment, including if ordered removed or when street, sidewalk or utility construction occurs; and
- (h) 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 Law Department to insure the compliance with all the terms and

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conditions of this Ordinance and the Agreement, or in lieu thereof, submit documentation in a form and content acceptable to the City that Owner self-assumes the liabilities and obligations normally covered by the Surety Bond.

SECTION 4. The City Solicitor shall include in the Agreement such other terms and conditions as shall be deemed necessary to protect the interests of the City.

SECTION 5. The permission granted to Owner to install own and maintain the Encroachment 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 3 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.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on October 26, 2017. The Bill was Signed by the Mayor on November 13, 2017.



Michael A. Decker
Chief Clerk of the City Council