

City of Philadelphia



(Bill No. 070872)

AN ORDINANCE

Authorizing the Commonwealth of Pennsylvania, its agents, successors and assigns, to construct, own and maintain encroachments into the right-of-way of the east side of North Broad Street between Arch and Race Streets and the south side of Race Street between North Broad and 12th Streets, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to the Commonwealth of Pennsylvania, its agents, successors and assigns (the “Commonwealth”), to construct, own and maintain encroachments into the right-of-way of the east side of North Broad Street between Arch and Race Streets and the south side of Race Street between North Broad and 12th Streets (the “Encroachments”) more particularly described as follows:

Broad Street, Upper Projection - this encroachment will be approximately two hundred seventy-four feet two inches (274'-2") in length, approximately nine feet (9') in height, project approximately twenty-one feet five inches (21'-5") into the right-of-way over the east sidewalk of North Broad Street and will be approximately one hundred eighteen feet one inch (118'-1") above the sidewalk level. The overhang begins approximately one hundred eighty-two feet (182') south of the south curb line of Race Street.

Broad Street, Lower Projections - three separate encroachments constitute the Broad Street Lower Projections and combined will be approximately eighty-three feet (83') in length, approximately three feet (3') in height, project approximately thirteen feet eleven inches (13'-11") into the right-of-way over the east sidewalk of North Broad Street and will be approximately sixteen feet eight inches (16'-8") above the sidewalk level. These overhang projections begin approximately two hundred eighty feet (280') south of the south curb line of Race Street.

Race Street Projection - this encroachment will be approximately one hundred eighty feet eight inches (180'-8") in length, approximately eleven feet six inches (11'-6") in height, project approximately eleven feet (11') into the right-of-way over the south sidewalk of Race Street and will be approximately fifteen feet two inches (15'-2") above the sidewalk level. The overhang begins approximately twelve feet (12') west of the west curb line of North 13th Street. This encroachment will connect to a

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projection of similar dimensions on a previously authorized overbuild structure above North 13th Street.

SECTION 2. The construction, use and maintenance of the Encroachments 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 the Encroachments, within standard tolerances of current engineering practice.

SECTION 3. This authorization is conditional upon compliance with the following requirements:

- (a) The Commonwealth must first obtain or have their 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; and
- (b) The Commonwealth must enter into an agreement (“Agreement”) with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that the Commonwealth *inter alia*:
 - (i) agree that upon one hundred and eighty (180) days notice from the City, it shall remove the Encroachments without cost or expense to the City; and
 - (ii) 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 or their removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that the Commonwealth self-assumes liabilities and obligations normally covered by Surety Bond; and
 - (iii) 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; and

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- (iv) 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 reason of the construction, maintenance or use of the Encroachments; and
- (v) carry public liability and property damage insurance, co-naming the City 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 the Commonwealth 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; and
- (vi) insure that all construction contractors for the Encroachments carry public liability and property damage insurance, naming the City as an insured party in such amounts as shall be reasonably satisfactory to the City Solicitor; and
- (vii) 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 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 the Commonwealth to construct, own and maintain the Encroachments shall expire without any further action by The City of Philadelphia if the Commonwealth has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in this Ordinance within two (2) years of this Ordinance becoming law.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 15, 2007. The Bill was Signed by the Mayor on November 29, 2007.



Patricia Rafferty
Chief Clerk of the City Council