

City of Philadelphia



(Bill No. 110004)

AN ORDINANCE

Authorizing John and Concetta Varallo, owners of Pesto Italian Restaurant, 1917 South Broad Street, to construct, own and maintain an encroachment within the right-of-way located on the east footway of Broad Street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to John and Concetta Varallo, 2134 West Passyunk Avenue, Philadelphia Pennsylvania, 19145, owners of Pesto Italian Restaurant, 1917 South Broad Street, Philadelphia, Pennsylvania, 19145, to construct, own and maintain an encroachment within the right-of-way as follows:

Encroachment Description

An enclosed vestibule that will be approximately seven feet-ten inches (7'-10") in length and project approximately six feet (6') onto the east footway of Broad Street in front of 1917 South Broad Street, leaving approximately sixteen feet (16') of clear unobstructed footway. The enclosed vestibule begins approximately one hundred forty-four feet (144') south of the south curbline of Mifflin Street.

SECTION 2. Before exercising any rights or privileges under this Ordinance, John and Concetta Varallo 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, John and Concetta Varallo shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that John and Concetta Varallo shall, *inter alia*:

- (a) upon one hundred and eighty (180) days notice from the City, remove the encroachment described in Section 1 without cost or expense to the City and shall remove the encroachment 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;

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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 encroachment described in Section 1 or its removal;
- (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 encroachment 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;
- (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 encroachment 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.

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SECTION 5. The permission granted to John and Concetta Varallo to construct, own and maintain the encroachment described in Section 1 shall expire without any further action by the City of Philadelphia if John and Concetta Varallo have 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.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on March 3, 2011. The Bill was Signed by the Mayor on March 16, 2011.



Michael A. Decker
Chief Clerk of the City Council