

City of Philadelphia



(Bill No. 010304)

AN ORDINANCE

Authorizing Brinker International, Inc., d/b/a Maggiano's, a tenant of the property 1201-1239 Filbert Street, Philadelphia, PA 19107, to construct and maintain various encroachments projecting onto and over the north footway of Filbert street and the west footway of Twelfth street, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Brinker International Inc., 6820 LBJ Freeway, Dallas Texas 75240, d/b/a Maggiano's, a tenant of the property 1201-1239 Filbert street (owned by Filbert Street Associates, LP, 150 North Broad Street, Philadelphia, PA 19102) to construct and maintain the following encroachments adjacent to the property 1201-1239 Filbert street:

(1) A fabric canopy with mounted light fixture supported by posts over and on the north footway of Filbert street.

(a) The canopy is approximately of ten feet (10') wide. It has a minimum vertical clearance of approximately nine feet (9') and extends to a point approximately thirteen feet (13') above the footway. The center line of the canopy is located approximately fifty-three feet (53') west of the west curb line of Twelfth street.

(b) The south face of the canopy will be a minimum of one foot, six inches (1'-6") north of the face of the north curb of Filbert street.

(c) Two (2) pairs of posts will support the canopy. One pair of posts will be located a minimum of one foot, six inches (1'-6") north of the north curb face of Filbert street and the second set of posts will be located a minimum of three feet, six inches (3'-6") north of the north curb face of Filbert street. A minimum clear footway of six feet (6') will exist between the canopy posts and the revolving door to the building.

(2) A revolving door with an approximate diameter of six feet (6') and an approximate height of seven feet (7'). The door is located approximately fifty-three feet (53') west of the west curb line of Twelfth street and projecting a maximum of approximately two feet, six inches (2'-6") on the north footway of Filbert street.

(3) Ten (10) electric wall sconce fixtures, each projecting a maximum of two feet (2') over the footway, with an approximate total height of two feet, five inches (2'-5") and a minimum vertical clearance of seven feet (7') above the grade of the footway.

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(a) Seven (7) of the electric wall sconces will project over the north footway of Filbert street and the centerline of each will be located at the following offset distances west of the west curb line of Twelfth street:

- (i) forty-seven feet, eight inches (47'-8")
- (ii) seventy-three feet, nine inches (73'-9")
- (iii) one hundred feet, three inches (100'-3")
- (iv) one hundred and twenty-six feet, nine inches (126'-9")
- (v) one hundred and fifty-three feet, three inches (153'-3")
- (vi) one hundred and seventy-nine feet, nine inches (179'-9")
- (vii) two hundred and four feet, three inches (204'-3").

(b) Three (3) of the electric wall sconces will project over the west footway of Twelfth street and the centerline of each will be located at the following offset distances north of the north curb line of Filbert street:

- (i) twenty-four feet, seven inches (24'-7")
- (ii) thirty-nine feet, six inches (39'-6")
- (iii) sixty-six feet (66').

(4) Six (6) rigid awnings extending a maximum of approximately six feet (6') over the north footway of Filbert street, each with an approximate total length of twenty-two feet, six inches (22'-6"), and an approximate minimum vertical clearance above the footway of nine feet (9'). The center line of each rigid awning will be at the following offset distances west of the west curb line on Twelfth street:

- (a) sixty feet, eleven inches (60'-11")
- (b) eighty-seven feet, five inches (87'-5")
- (c) one hundred and thirteen feet, eleven inches (113'-11")
- (d) one hundred and forty feet, five inches (140'-5")
- (e) one hundred and sixty feet, eleven inches (160'-11")
- (f) one hundred and ninety-three feet, five inches (193'-5").

(5) One (1) rigid awning located over the north footway of Filbert street and the west footway of Twelfth street, at the northwest corner of Twelfth street and Filbert street, with an approximate length of twelve feet, ten inches (12'-10"), projecting a maximum of approximately three feet, four inches (3'-4") over the footways and having an approximate minimum vertical clearance above the footways of nine feet (9').

(6) A removable railing, approximately three feet (3') in height anchored into the north footway of Filbert street at a maximum distance of approximately six feet (6') south of the south façade of the building from approximately seventy-four feet (74') west of the west curb line of Twelfth street to a point approximately one hundred and ninety-

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two feet (192') west of the west curb line of Twelfth street. This will leave a minimum clear footway of approximately six feet (6'). The railing will be removed from the footway during the off season for sidewalk cafes.

SECTION 2. Before exercising any rights or privileges under this Ordinance, Brinker International Inc. 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, before exercising any rights or privileges under this Ordinance, Brinker International, Inc. shall enter into an agreement ("Agreement") with the appropriate City department(s), in form satisfactory to the City Solicitor, to provide that Brinker International, Inc shall, *inter alia*:

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

(2) 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 erection and maintenance of any of the various encroachments listed in Section 1 of this Ordinance;

(3) comply with the provisions of The Philadelphia Code, thereby securing all required permits, licenses and approvals from all appropriate departments, boards, agencies or commissions as may be required;

(4) insure that none of the various encroachments authorized by Section 1 exceed the dimensions set forth in Section 1;

(5) 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;

(6) remove each of the various encroachments authorized by Section 1 from the public rights-of-way within sixty (60) days upon lawful service of notice from the City of Philadelphia; and

(7) obtain confirmation in a form acceptable to the City Solicitor from the owner of the property 1201-1239 Filbert street that the owner has no objection to the erection of the various encroachments authorized by this Ordinance.

SECTION 3. The City Solicitor may include in the Agreement such other terms and conditions as the Solicitor deems necessary to protect the interests of the City.

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SECTION 4. The permission granted to Brinker International Inc. to construct and maintain various encroachments on or over the north footway of Filbert street and the west footway of Twelfth street adjacent to the property 1201-1239 Filbert street shall expire without any further action by the City of Philadelphia if Brinker International Inc. 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), toward the costs thereof, is paid into the City Treasury within sixty (60) days after 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 May 31, 2001. The Bill was Signed by the Mayor on June 14, 2001.



Marie B. Hauser
Chief Clerk of the City Council