

City of Philadelphia



(Bill No. 090403)

AN ORDINANCE

Authorizing certain existing underground improvements owned by The Children's Hospital of Philadelphia to encroach into the rights-of-way of certain streets which are to be dedicated to the City of Philadelphia in the vicinity of South 34th Street and Civic Center Boulevard, under certain terms and conditions.

WHEREAS, The Children's Hospital of Philadelphia is the owner of property located along Civic Center Boulevard, Philadelphia, PA, 19104; and

WHEREAS, The Children's Hospital of Philadelphia, in conjunction with the University of Pennsylvania, has constructed two roadways known as "West Service Drive" and "Health Sciences Drive," which roadways have been offered for dedication to the City of Philadelphia; and

WHEREAS, The Children's Hospital of Philadelphia has previously constructed certain improvements below ground which encroach into the rights-of-way of the two foregoing streets to be dedicated to the City of Philadelphia; and

WHEREAS, The Children's Hospital of Philadelphia has requested permission to maintain such encroachments in place notwithstanding the dedication of the two streets; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Children's Hospital of Philadelphia, its successors and assigns, is hereby authorized to keep and maintain in place the following structures (collectively, the "Encroaching Structures") which encroach into the right-of-way of either West Service Drive or Health Sciences Drive:

Building Encroachment under West Service Drive

The building encroachment under the right-of-way of West Service Drive consists of a horizontal mechanical shaft servicing the building to which it attached. Beginning approximately ten feet (10') south of the Civic Center Boulevard right-of-way, it is approximately three hundred ninety one feet (391') long, encroaches approximately eighteen feet and seven inches (18'-7") into the right-of-way of West Service Drive, and varies between two feet eight inches (2'-8") and five feet five inches (5'-5") below grade.

Building Encroachment under Health Sciences Drive

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The building encroachment under the right-of-way of Health Sciences Drive consists of an underground vault for mechanical systems. The vault begins approximately two hundred forty feet (240') east of the intersection of the right-of-way of West Service Drive and the right-of-way of Health Sciences Drive. It is approximately ninety-one feet two inches (91'-2") long, encroaches approximately one foot two inches (1'-2") into the right-of-way of Health Sciences Drive, and varies between thirteen inches (13") and one foot ten inches (1'-10") below grade.

SECTION 2. The construction, use and maintenance of the Encroaching Structures listed 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, the Department of Streets and the Art Commission.

SECTION 3. Before exercising any rights or privileges under this Ordinance, The Children's Hospital of Philadelphia 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. In addition, before exercising any rights and privileges under this Ordinance, The Children's Hospital of Philadelphia shall enter into an agreement ("Agreement") with the appropriate City department or departments, in a form satisfactory to the Law Department, to provide that Children's Hospital of Philadelphia shall, *inter alia*:

- (a) furnish the City with 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 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 Encroaching Structures, or in lieu thereof, submit documentation in a form and content acceptable to the City that The Children's Hospital of Philadelphia self-assumes liabilities and obligations normally covered by Surety Bond;
- (b) 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;

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- (c) 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 presence of the Encroaching Structures;
- (d) 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, or in lieu thereof, submit documentation in form and content acceptable to the City that The Children's Hospital of Philadelphia 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) 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 aforesaid.

SECTION 4. The Law Department 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 Children's Hospital of Philadelphia to own and maintain the Encroaching Structures described in Section 1 shall expire without any further action by the City of Philadelphia if The Children's Hospital of Philadelphia 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 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 June 18, 2009. The Bill was Signed by the Mayor on June 26, 2009.



Patricia Rafferty
Chief Clerk of the City Council