

City of Philadelphia



(Bill No. 100711)

AN ORDINANCE

Authorizing BIBA UC LLC / dba BIBA Wine Bar, 3131 Walnut Street, Suite 1A, Philadelphia, Pennsylvania, 19104, to legalize various existing encroachments and to construct, own and maintain additional encroachments in the right-of-way located on the north footway of Walnut Street, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to BIBA UC LLC / dba BIBA Wine Bar to construct, own and maintain various right-of-way encroachments as follows:

Encroachment Description

An auxiliary seating platform for future café location to be placed on top of existing sloping sidewalk and two-riser entrance steps in front of the building per plans. The platform is located in front of the building beginning approximately six-foot (6'-0") west of the southwest corner of the property line and building corner and extending thirty-foot-six-inches (30'-6") east along the south face of the building with a finished elevation varying from approximately one-foot-six-inches (1'-6") to nine-inches (9") above (sidewalk) grade. The platform extends south from the building and encroaches approximately nine-foot-five-inches (9'-5") onto the Walnut Street sidewalk leaving approximately eight-feet (8'-0") clear between the proposed seating platform and the curb. Two (2) existing steel pipe handrails are to be relocated within the platform area per plans. An existing tree planter and tree located approximately six-foot-four-inches (6'-4") east of the southwest corner of the property line, five-foot (5'-0") south of said property line, and approximately twelve-foot-five-inches (12'-5") from the curb shall be retained. Seating platform incorporates opening at tree well and six (6) tables, chairs and bench seating for twelve (12) patrons per plans. The platform is partially enclosed on the west and north side by an eight-foot-six-inch (8'-6") high decorative wood screen wall which screens taller structures beyond per plans. Two (2) wood-framed, wood-clad planter boxes measuring one foot (1'-0") wide by two-foot-six-inches (2'-6") high form the platform enclosure on the south side and east side, respectively per plans. Three (3) outdoor commercial electric radiant heaters to be wall mounted per plans. Heaters are approximately five-foot-two-inches (5'-2") long and eight inches (8") high and nine inches (9") deep and are mounted at seven-foot-four-inches (7'-4") above platform elevation at the screen wall and ten-foot-nine-inches (10'-9") above platform elevation.

SECTION 2. Before exercising any rights or privileges under this Ordinance, BIBA UC LLC / dba BIBA Wine Bar must first obtain or have its contractor(s) obtain all required

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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, BIBA UC LLC / dba BIBA Wine Bar shall enter into an agreement (“Agreement”) with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that BIBA UC LLC / dba BIBA Wine Bar, shall, *inter alia*:

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

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- (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 various encroachments 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.

SECTION 5. The permission granted to BIBA UC LLC / dba BIBA Wine Bar to construct, own and maintain the encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if BIBA UC LLC / dba BIBA Wine Bar has 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 December 9, 2010. The Bill was Signed by the Mayor on January 5, 2011.



Michael A. Decker
Chief Clerk of the City Council