



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 110840

Introduced November 17, 2011

**Councilmember Green
for
Councilmember Sanchez**

**Referred to the
Committee on Streets and Services**

AN ORDINANCE

Authorizing Margaret Vann, owner of Rainbow Learning Center, 750 E. Erie Avenue, Philadelphia, PA, 19134, ("Owner") to construct, own and maintain an encroachment of a fenced in play area located at 750 E. Erie Avenue ("Property"), under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Owner to construct, own and maintain the following sidewalk encroachment located at the Property, as follows:

Fenced in play area on the south sidewalk at 750 E. Erie Avenue. The fence will encroach approximately fourteen feet (14') onto the south sidewalk of E. Erie Avenue leaving approximately ten feet (10') of sidewalk remaining. The encroachment begins approximately thirty feet (30') west of the west curblin of "G" Street and ends approximately seventy-five feet (75') west of the west curblin of "G" Street. The total area of the fenced in play area is approximately six hundred-thirty square feet (630 sq.ft.).

SECTION 2. Before exercising any rights or privileges under this Ordinance, Owner 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,

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Owner shall enter into an agreement (“Agreement”) with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Owner shall, *inter alia*:

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

(b) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards, or commissions of the City, or from any other governmental entity as may be required by law;

(c) assume the cost of all changes and adjustments to, or relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary due to the construction of the sidewalk encroachment;

(d) insure that the various existing sidewalk encroachments described in Section 1 are no more than the dimensions listed in Section 1, provided that the Streets Department, in its sole unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice;

(e) carry public liability and property damage insurance that covers the sidewalk encroachment authorized to be constructed within the public right-of-way in Section 1, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the Law Department. Alternatively, if approved by the City of Philadelphia Office of Risk Management, furnish the City with documentation in a form acceptable to the Law Department acknowledging that Owner is self insured and will protect the City against liability for property damages and liability for injuries or death to persons, including injuries to employees of Owner as a result of ownership, construction, maintenance, and removal of the sidewalk encroachment described in Section 1;

(f) remove or relocate the sidewalk encroachment authorized by Section 1 of this Ordinance from the public right-of-way within sixty (60) days after lawful service of notice by the City of Philadelphia;

(g) remove the sidewalk encroachment authorized by Section 1 of this Ordinance from the public right-of-way pursuant to the applicable City specifications within sixty (60) days when the sidewalk encroachment described in Section 1 is no longer used for the purpose authorized by this Ordinance;

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(h) insure that all construction contractors for the sidewalk encroachment 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 Law Department; and

(i) 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 footway adjacent to the sidewalk encroachment described in Section 1.

SECTION 3. The Law Department shall include in the Agreement such other terms and conditions deemed necessary or appropriate in the interest of the City.

SECTION 4. The permission granted by this Ordinance shall automatically terminate without any further legislative action by the City of Philadelphia when the sidewalk encroachment authorized by Section 1 of this Ordinance is no longer being used by Owner for the purpose authorized by this Ordinance.

SECTION 5. The permission granted to Owner to construct, own and maintain the sidewalk encroachment described in Section 1 shall expire without any further action by the City of Philadelphia if Owner has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 2 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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