

City of Philadelphia



(Bill No. 160967)

AN ORDINANCE

Authorizing Hospitality 3, L.L.C. to construct, own, and maintain certain encroachments at the northwest corner of Chestnut and 33rd Streets, Philadelphia, PA 19104, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Hospitality 3, L.L.C. (“Owner”) to construct, own and maintain multiple right-of-way encroachments (“Encroachment”) at the northwest corner of Chestnut and 33rd Streets, Philadelphia, PA, as follows:

Encroachment Description:

Three (3), ten feet (10’-0”) long, three feet (3’-0”) wide by two feet (2’-0”) high wood planter boxes, located from along the south property line of 20-40 S. 33rd Street from a point fourteen feet ten inches (14’-10”) west of the east property line of 20-40 S. 33rd Street extending thirty four feet eight inches (34’-8”) farther west and encroaching two feet eleven inches into the north footway of Chestnut Street, with nine feet five inches (9’-5”) of clear unobstructed walkway remaining.

One (1), two feet and five and six inches (2’-6”) high stone planter box located along the east property line of 20-40 S. 33rd Street from a point eighty-nine feet (89’-0”) south of the north property line of 20-40 S. 33rd Street extending two feet eleven inches (2’-11”) farther south and encroaching into the west footway of S. 33rd Street nine feet eight inches (9’-8”), with thirteen feet (13’-0”) of clear unobstructed walkway remaining.

One (1) two feet nine inches (2’-9”) high metal sculpture on a one foot eight inches (1’-8”) high stone base located along the east property line of 20-40 S. 33rd Street from a point one hundred and one feet eight inches (101’-8”) south of the north property line of 20-40 S. 33rd Street extending eight feet two inches (8’-2”) farther south and encroaching into the west footway of S. 33rd Street ten feet five inches (10’-5”), with thirteen feet (13’-0”) of clear unobstructed walkway remaining.

One (1) three feet (3’-0”) high metal fence located seventeen feet eight inches west of the west curbline of S. 33rd Street from a point fifty-six feet seven inches (56’-7”) north of

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the south property line of 20-40 S. 33rd Street extending forty-eight feet (48'-0") farther north, with thirteen feet (13'-0") of clear unobstructed walkway remaining.

One (1) sidewalk café seating area located along the east property line of 20-40 S. 33rd Street from a point fifty-six feet seven inches (56'-7") north of the south property line of 20-40 S. 33rd Street extending forty-eight feet (48'-0") farther north, with a variable width encroachment into the west footway of S. 33rd Street from ten feet five inches (10'-5") to twelve feet five inches (12'-5"), with thirteen feet (13'-0") of clear unobstructed walkway remaining.

One (1) marquee located along the east property line of 20-40 S. 33rd Street from a point one hundred thirteen feet (113'-0") north of the south property line of 20-40 S. 33rd Street extending ten feet two inches (10'-2") farther north and encroaching over the west footway of S. 33rd Street nine feet eight inches (9'-8") with a minimum clearance of eleven feet (11'-0") of above the top of sidewalk.

SECTION 2. The construction, use and maintenance of the Encroachment described and 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, 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 3. Before exercising any rights or privileges under this Ordinance, Owner 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 and privileges under this Ordinance, Owner shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Owner, *inter alia*,

- (a) agrees that upon one hundred and eighty (180) days notice from the City, it shall remove the Encroachment without cost or expense to the City and shall remove the Encroachment at no cost and 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) shall 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;
- (c) shall 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 of the Encroachment;
- (d) shall 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, or in lieu thereof, submit documentation in form and content acceptable to the City that Owner 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) shall insure that all construction contractors for the 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 City Solicitor; and
- (f) shall 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 Encroachment described in Section 1; and
- (g) indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of the Encroachment. Owner shall also agree to release the City from any and all claims relating to the Encroachment, including if ordered removed or when street, sidewalk or utility construction occurs; and
- (h) 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 Law Department to insure the compliance with all the terms and conditions of this Ordinance and the Agreement, or in lieu thereof, submit documentation in a form and content acceptable to the City that Owner

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self-assumes the liabilities and obligations normally covered by the Surety Bond.

SECTION 4. The City Solicitor 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 Owner to construct the 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 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 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 8, 2016. The Bill was Signed by the Mayor on December 20, 2016.



Michael A. Decker
Chief Clerk of the City Council