

# City of Philadelphia



(Bill No. 170193-A)

## AN ORDINANCE

Authorizing Adam S. Harbin to construct, own and maintain various planter box encroachments at 332-334 North Broad Street, Philadelphia, PA, 19107, under certain terms and conditions.

### *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Permission is hereby granted to Adam S. Harbin, (“Owner”) to construct, own and maintain various right-of-way encroachments (“Encroachment”) 332-344 North Broad Street, Philadelphia, PA 19107 as follows:

#### Encroachment Description:

A three foot six inch (3’-6”) diameter concrete planter located along the east property line of 322-44 North Broad Street and three feet seven inches (3’-7”) south of the north property line of 322-44 North Broad Street encroaching three feet eight inches (3’-8”) into the east footway of North Broad Street, with eleven feet (11’-0”) of walkable space remaining. The planter shall be no more than four feet (4’-0”) in height above the finished sidewalk grade.

A three foot six inch (3’-6”) diameter concrete planter located along the east property line of 322-44 North Broad Street and thirty-four feet two inches (34’-2”) south of the north property line of 322-44 North Broad Street encroaching three feet eight inches (3’-8”) into the west footway of North Broad Street, with eleven feet (11’-0”) of walkable space remaining. The planter shall be no more than four feet (4’-0”) in height above the finished sidewalk grade.

A three foot six inch (3’-6”) diameter concrete planter located along the east property line of 322-44 North Broad Street and seventy feet eight inches (70’-8”) south of the north property line of 322-44 North Broad Street encroaching three feet eight inches (3’-8”) into the west footway of North Broad Street, with eleven feet (11’-0”) of walkable space remaining. The planter shall be no more than four feet (4’-0”) in height above the finished sidewalk grade.

A three foot six inch (3’-6”) diameter concrete planter located along the east property line of 322-44 North Broad Street and two feet (2’-0”) north of the south property line of 322-44 North Broad Street encroaching three feet eight inches (3’-8”) into the west footway

# City of Philadelphia

BILL NO. 170193-A continued

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of North Broad Street, with eleven feet (11'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A three foot six inch (3'-6") diameter concrete planter located along the east property line of 322-44 North Broad Street and thirty-one feet nine inches (31'-9") north of the south property line of 322-44 North Broad Street encroaching three feet eight (3'-8") inches into the west footway of North Broad Street, with eleven feet (11'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A three foot six inch (3'-6") diameter concrete planter located along the east property line of 322-44 North Broad Street and sixty-one feet three inches (61'-3") north of the south property line of 322-44 North Broad Street encroaching three feet eight inches (3'-8") into the west footway of North Broad Street, with eleven feet (11'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A three foot six inch (3'-6") diameter concrete planter located along the east property line of 322-44 North Broad Street and ninety-three feet eleven inches (93'-11") north of the south property line of 322-44 North Broad Street encroaching three feet eight inches (3'-8") into the west footway of North Broad Street, with eleven feet (11'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A two foot six inch (2'-6") diameter concrete planter located along the east property line of 322-44 North Broad Street and one hundred four feet three inches (104'-3") north of the south property line of 322-44 North Broad Street encroaching three feet (3'-0") into the west footway of North Broad Street, with eleven feet (11'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A two foot six inch (2'-6") diameter concrete planter located along the east property line of 322-44 North Broad Street and one hundred eleven feet nine inches (111'-9") north of the south property line of 322-44 North Broad Street encroaching three feet (3'-0") into the west footway of North Broad Street, with eleven feet (11'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A two foot six inch (2'-6") diameter concrete planter located along the east property line of 322-44 North Broad Street and one hundred nineteen feet three inches (119'-3") north of the south property line of 322-44 North Broad Street encroaching three feet (3'-0") into the west footway of North Broad Street, with eleven feet (11'-0") of walkable space

# City of Philadelphia

BILL NO. 170193-A continued

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remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located thirty four feet four inches (34'-4") west of the east property line of 322-44 North Broad Street and centered three feet six inches (3'-6") south of the south curb line of Callowhill Street, with eight feet (8'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located sixty-three feet nine inches (63'-9") west of the east property line of 322-44 North Broad Street and centered three feet six inches (3'-6") south of the south curb line of Callowhill Street, with eight feet (8'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred twenty-two feet eight inches (122'-8") west of the east property line of 322-44 North Broad Street and centered three feet six inches (3'-6") south of the south curb line of Callowhill Street, with eight feet (8'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred thirty-seven feet six inches (137'-6") west of the east property line of 322-44 North Broad Street and centered three feet six inches (3'-6") south of the south curb line of Callowhill Street, with eight feet (8'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred fifty-two feet six inches (152'-6") west of the east property line of 322-44 North Broad Street and centered three feet six inches (3'-6") south of the south curb line of Callowhill Street, with eight feet (8'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred sixty-seven feet six inches (167'-6") west of the east property line of 322-44 North Broad Street and centered three feet six inches (3'-6") south of the south curb line of Callowhill Street, with eight feet (8'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located twenty one feet five inches (21'-5") west of the east property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

# City of Philadelphia

BILL NO. 170193-A continued

Certified Copy

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred thirteen feet six inches (113'-6") west of the east property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located forty three feet (43'-0") east of the west property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located sixty three feet (63'-0") east of the west property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located eighty three feet (83'-0") east of the west property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred thirty-one feet eight inches (131'-8") east of the west property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred seventy-four feet three inches (174'-3") east of the west property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

A four foot by four foot (4'-0" x 4'-0") square concrete planter located one-hundred eighty-nine feet three inches (189'-3") east of the west property line of 322-44 North Broad Street and centered three feet (3'-0") north of the north curb line of Wood Street, with five feet (5'-0") of walkable space remaining. The planter shall be no more than four feet (4'-0") in height above the finished sidewalk grade.

# City of Philadelphia

BILL NO. 170193-A continued

Certified Copy

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 (which includes the detectable warning strips) and restore the footway 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;
- (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;

# City of Philadelphia

BILL NO. 170193-A continued

Certified Copy

- (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 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 legalize 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.

# City of Philadelphia

BILL NO. 170193-A continued

Certified Copy

# City of Philadelphia

BILL NO. 170193-A continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 20, 2017. The Bill was Signed by the Mayor on May 1, 2017.



Michael A. Decker  
Chief Clerk of the City Council