

## Legislation Text

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**File #:** 170357, **Version:** 1

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Authorizing Liberty Property 18th & Arch, LP to construct, own and maintain ancillary building encroachments at 1800 Arch Street, under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to Liberty Property 18th & Arch, LP ("Owner") to construct, own and maintain two ancillary building encroachments at 1800 Arch Street (the "Building") as follows:

- (a) East Ancillary Building Encroachment. The proposed east ancillary building encroachment will be located on the south sidewalk of Arch Street approximately forty five feet six and ½ inches (45'-6.5") west of the west curb line of Eighteenth Street and will leave approximately nine feet (9') of clear unobstructed footway for pedestrian traffic with all parts of the ancillary building encroachment, including any permitted roof overhang, at least eighteen inches (18") from the Arch Street curb.
- (b) West Ancillary Building Encroachment. The proposed west ancillary building encroachment will be located on the south sidewalk of Arch Street approximately fifty nine feet five inches (59'-5") east of the east curb line of Nineteenth Street and will leave approximately nine feet (9') of clear unobstructed footway for pedestrian traffic with all parts of the ancillary building encroachment, including any permitted roof overhang, at least eighteen inches (18") from the Arch Street curb. The East Ancillary Building Encroachment and the West Ancillary Building Encroachment are jointly called the "Ancillary Building Encroachments" and each a "Ancillary Building Encroachment".
- (c) Dimensions. Each Ancillary Building Encroachment shall measure approximately sixteen feet (16') east to west and approximately seven feet nine inches (7'-9") north to south and each approximately ten feet (10') in height except the roof may overhang those permitted dimensions by not more than four inches (4") on the curb side, twenty four inches (24") on the sidewalk side, and twelve inches (12") on the other two sides, provided that the roof overhang allows a minimum vertical clearance of eight feet (8') above the sidewalk
- (d) Required Use. A portion of each Ancillary Building Encroachment shall be used for the sale, display or offering for sale of newspapers, magazines and periodicals and each Ancillary Building Encroachment shall constitute a newsstand under Section 9-212 of The Philadelphia Code.

SECTION 2. The construction, use and maintenance of the Ancillary Building Encroachments 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. The following shall apply to the Ancillary Building Encroachments:

- (a) The location of the Ancillary Building Encroachments must permit clear walking zone widths of more than eight (8) feet.
- (b) The Ancillary Building Encroachments may be used for any purpose for which a newsstand may be used and offer any product or service which a newsstand may lawfully offer under The Philadelphia Code, and so long as the Ancillary Building Encroachments are operated in connection with or as part of a mixed-use office, hotel and/or residential skyscraper on the same blockface as the Ancillary Building Encroachments, the Ancillary Building Encroachments may engage in the sale of food and non-alcoholic beverages. The Ancillary Building

Encroachments shall not be used for any purpose other than as permitted under this Subsection (b).

- (c) The Ancillary Building Encroachments must be served by underground utility facilities in the south sidewalk of Arch Street, which may include, without limitation, water, sewer, electricity, telephone, data and cable. All utilities serving the Ancillary Building Encroachments must originate from and be billed to utility accounts for the Building.
- (d) The Ancillary Building Encroachments must have a hand sink with connection to the City water service through the Building account.
- (e) Section 9-212(5)(e) shall not apply to the Ancillary Building Encroachments. The Ancillary Building Encroachments may each have racks, shelves and shields provided they are covered when the Ancillary Building Encroachments are not open for business and do not interfere with the minimum pedestrian right-of-way required for newsstands by 9-212(4)(b)(.4) of The Philadelphia Code and by Section 3(a) above.
- (f) Notwithstanding section 9-212(5)(f)(.4), the Ancillary Building Encroachments may each have such advertising as permitted for newsstands under 9-212(5)(f) of The Philadelphia Code. No advertising shall be permitted on or from the Ancillary Building Encroachments except as provided in this Subsection (f).
- (g) Section 9-212(4)(g) of The Philadelphia Code shall not apply to the Ancillary Building Encroachments.
- (h) Section 9-204 and Section 9-205 of The Philadelphia Code shall not apply to the Ancillary Building Encroachments.
- (i) The rights granted to Owner shall be conditioned on continued compliance with the provisions of Title 6 of The Philadelphia Code (Health Code) where applicable.
- (j) The Ancillary Building Encroachments, security gates and any other approved attachments shall not be required to be painted and shall not be required to be coated with a clear anti-graffiti coating system, but the design of the Ancillary Building Encroachments must be reviewed and approved by the Art Commission pursuant to Section 5-903 of The Philadelphia Home Rule Charter and the Owner shall demonstrate to the Art Commission that the design and materials of the Ancillary Building Encroachments are superior to the design and materials required of newsstands and are appropriate to the design and materials of the Building. Owner shall be required to maintain the Ancillary Building Encroachments in good order and repair so as to prevent rust, rot, graffiti and other deleterious conditions.

SECTION 4. 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 provision of law governing the issuance of such permits, licenses or approvals except as expressly provided in this Ordinance. 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 it shall remove the Ancillary Building Encroachment without cost or expense to the City of Philadelphia within one hundred eighty (180) days following 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 Ancillary Building 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 Ancillary Building 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;
- (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 Ancillary Building Encroachment described in Section 1;
- (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 Ancillary Building Encroachment. Owner shall also agree to release the City from any and all claims relating to the Ancillary Building 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 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 5. 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 6. The permission granted to Owner to authorize the Ancillary Building Encroachment described in Section 1 shall expire without any further action by the City of Philadelphia if Owner has not entered into an Agreement containing all requirements of the Agreement that are listed in Section 4 of this Ordinance within two (2) years after this Ordinance becomes law.

SECTION 7. 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.