

## Legislation Text

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**File #:** 170596, **Version:** 1

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Authorizing Michael and Alexis Birnbaum, LLC, (“Owner”) to install, own and maintain an exterior metal staircase and planter encroachments at 1714-20 S. 2nd Street, Philadelphia, PA 19148 (“Property”), under certain terms and conditions.

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

SECTION 1. Permission is hereby granted to Owner to install, own and maintain an exterior metal staircase and concrete planter encroachments at the Property (“Encroachments”) as follows:

Encroachment Description:

An exterior metal staircase along the north building line of 1714-20 S. 2nd Street from a point fifty feet (50’-0”) west of the west curbline of N. 2nd Street to a point approximately thirty four feet (34’-0”) farther west and extending three feet two inches (3’-2”) into the southern footway of Watkins Street, with approximately four feet six inches (4’-6”) of passable sidewalk space remaining. The total height of the encroachment is not to exceed twenty feet seven inches (20’-7”) above the finished sidewalk elevation.

Planters on the west footway of S. 2nd Street from a point nine feet (9’-0”) south of the south curbline of Watkins Street to a point sixty two feet (62’-0”) farther south and set a minimum of one foot six inches (1’-6”) off the curb face, leaving at a minimum six feet (6’-0”) of clear passable sidewalk space.

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, including but not limited to 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 thirty (30) 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;
- (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;
- (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;
- (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 install own and maintain the Encroachment described in Section 1 shall expire without any further action by the City of Philadelphia if any of the following occurs:

- (a) 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.
- (b) The exterior metal staircase described in Section 1, along with any associated supports, fixtures, and hardware, are removed from the Encroachment (other than for maintenance, repair, or replacement), or the facility located at 1714-20 S. 2nd Street ceases to be used as a daycare.

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.