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

Legislation Text

File #: 180558, **Version:** 0

Authorizing 7254 Castor Inc. d/b/a Buccann ("Applicant") to install, own and maintain an open-air sidewalk café at 7254 Castor Avenue, Philadelphia, PA 19149 ("Property"), under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Applicant to install, own and maintain an open-air sidewalk café at the Property ("Encroachment") as follows:

Encroachment Description:

A sidewalk café, located along the west Right-of-Way line of Castor Avenue, in two (2) parts:

Part 1:
From a point approximately sixty feet (60'-0") south of the Cottman Avenue south Right-of-Way line to a point approximately eight feet (8'-0") farther south and encroaching into the west footway of Castor Avenue approximately five feet (5'-0") toward the east.

Part 2:
From a point approximately seventy-five feet (75'-0") south of the Cottman Avenue south Right-of-Way line to a point approximately eight feet (8'-0") farther south and encroaching into the west footway of Castor Avenue approximately five feet (5'-0") toward the east.

SECTION 2. The installation, use and maintenance of the 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 & Inspections and the Department of Streets, provided that the Department of Streets, in its sole discretion, may allow minor variations of the dimension limits set forth in Section 1, within standard tolerances of current engineering practice.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Applicant must first obtain all required permits, licenses and approvals from all appropriate City 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, Applicant shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Applicant will *comply with the following*:

(a) 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;

(b) 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 placement of the Encroachments;

(c) carry public liability and property damage insurance that covers the Encroachments and lists the City of Philadelphia as an additional insured, as well as, Worker's Compensation and Employer Liability insurance in such amounts as shall be required by the City's Risk Management Unit. Alternatively, if approved by the Risk Management Unit, furnish the City with documentation in a form acceptable to the Law Department acknowledging that Applicant is self insured and will protect the City against liability for property damages and liability for injuries or death to persons, including employees of the café, as a result of the installation, maintenance or removal of the Encroachments;

(d) remove or relocate any or all of the Encroachments of this Ordinance from the public right-of-way within thirty (30) days after lawful service of notice by the City of Philadelphia. Such notice may be given when:

1. the Department of Strets has determined that the sidewalk café no longer meets the City's placement requirements; the sidewalk café must be removed to accommodate a municipal or municipally sponsored public project; or the Streets Department has granted a temporary permit to close the sidewalk; or

2. the Department of Licenses & Inspections has determined that the sidewalk café is no longer being used as such; the restaurant to which the café is accessory has been temporarily or permanently closed for violation of any City, state or federal law and/or regulation; or the sidewalk café is being operated in violation of any ordinance, rule or regulation of the City of Philadelphia;

(e) insure that each contractor performing work and/or services in connection with the Encroachments carries 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;

(f) 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 Encroachments;

(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 Encroachments, or by the acts or omissions of the employees or agents of the restaurant in connection with the café. Applicant shall also agree to release the City from any and all claims relating to the sidewalk café, including, but not limited to, loss of business and/or value of the sidewalk café if ordered removed or when street, sidewalk or utility construction occurs; and

(h) adhere to the requirements set forth in Section 9-208 of The Philadelphia Code.

(i) The hours of operation for the sidewalk café shall be:

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- Monday - Friday: 4pm to 10pm
- Saturday - Sunday: 11am to 10pm

SECTION 4. The Law Department shall include in the Agreement such other terms and provisions deemed necessary to protect the interest of the City of Philadelphia.

SECTION 5. The permission granted to Applicant to install, own and maintain the Encroachments will expire without any further action by the City of Philadelphia if Applicant 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 the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

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