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Authorizing various encroachments in the vicinity of 2700 S 10th St., Philadelphia, PA 19148, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to the owner of the property identified below, currently, FRANCIS ANGELO (the "Owner"), to install, own, and maintain Encroachments at the Property, as follows:

Encroachment Description:

Property: 2700 S 10th St, Philadelphia, PA 19148 D/B/A Nifty Fifty's

Various encroachments include a proposed awning and sidewalk café with a total of four (4) tables and eight (8) benches located along the property line of 2700 South 10th Street.

Awning
A proposed awning made of permanent construction will be located along the property of 2700 South 10th Street and encroach a distance of ten feet (10'-0") towards the north along the south sidewalk of Oregon Avenue starting from a point approximately seventeen feet (17'-0") west of the South 10th Street west curbline to a point approximately forty feet (40'-0") farther west leaving a minimum of nine feet (9'-0") of clear unobstructed footway.

Sidewalk Café
A total of four (4) tables and eight (8) benches for a sidewalk café will be located along the west sidewalk of South 10th Street along the property line of 2700 South 10th Street and the south sidewalk of West Oregon Avenue along the property line of 2700 South 10th Street written in two parts:

Part 1
One (1) table and two (2) benches will be located adjacent to the building and will encroach a distance of approximately four feet (4'-0") towards the east along the west footway of South 10th Street starting from a point approximately thirty-two feet six inches (32'-6") south of the West Oregon Avenue south curbline to a point approximately five feet six inches (5'-6") farther south leaving a minimum nine feet (9'-0") of clear unobstructed footway.

Part 2
Three (3) tables and six (6) benches will be located adjacent to the building and encroach a distance of approximately six feet (6'-0") towards the north along the south footway of West Oregon Avenue starting from a point approximately thirty-seven feet two inches (37'-2") west of the South 10th Street west curbline to a point approximately thirty-two feet five inches (32'-5") farther west leaving a minimum nine feet (9'-0") of clear unobstructed footway.

SECTION 2. The construction, 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 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 their 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) Maintains and keeps in good repair and working order the Encroachments to the satisfaction of the Department of Streets;

(b) Agrees to 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 Streets has determined that the Encroachments no longer meet the City's placement requirements; any portion of the Encroachments must be removed to accommodate a municipal or municipally sponsored public project; or the Department of Streets has granted a temporary permit to close the sidewalk; or

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

(c) 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;

(d) 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 reason of the construction of the Encroachments;

(e) 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;

(f) Shall insure that all construction contractors for the Encroachments 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;

(g) 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 Encroachments described in Section 1;

(h) Indemnifies and holds harmless the City, its officers, employees and agents from and against any and all loss resulting from injury 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. Owner shall also agree to release the City from any and all claims relating to the Encroachments, including if ordered removed or when street, sidewalk or utility construction occurs;

(i) Furnishes 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 compliance with all the terms and conditions of this Ordinance and the Agreement, or in lieu thereof, submits documentation in a form and content acceptable to the City that Owner self-assumes the liabilities and obligations normally covered by the Surety Bond;

(j) Shall adhere to all applicable requirements in The Philadelphia Code, including the requirements set forth in Sections 9-208 and 11-603 of the Code;

(k) Limits the number of benches in the sidewalk café to eight (8) benches; and

(l) Agrees to manage the Encroachments in a manner that prevents nuisance behavior as that term is defined under Chapter 9-4400 of The Philadelphia Code.

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 Encroachments 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.