



City of Philadelphia

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

BILL NO. 120565

Introduced June 7, 2012

Councilmember Squilla

**Referred to the
Committee on Streets and Services**

AN ORDINANCE

Authorizing PNC Bank, NA ("Owner") to construct, use and maintain encroachments within the right-of-way on South Street between 10th Street and Adler Street and on Adler Street between South Street and Bainbridge Street ("Property"), under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Owner to construct, use and maintain encroachments at the Property ("Encroachments") as follows:

Concrete Planters

Three (3) concrete planters will encroach within the public right-of-way adjacent to the curb line onto the south footway of South Street between 10th Street and Adler Street. The planters will measure two feet (2') by four feet (4') and will encroach approximately five feet (5') onto the south footway of South Street, leaving approximately seven feet (7') of clear unobstructed footway.

One (1) concrete planter will encroach within the public right-of-way along the property line onto the east footway of Adler Street between South Street and Bainbridge Street. The planter will measure two feet – six inches (2' – 6") by six feet (6') and will encroach approximately one foot – nine inches (1' – 9") onto the east footway of Adler Street, leaving approximately five feet (5') 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

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City of Philadelphia, and specifically those of the Department of Licenses and Inspections and the Department of Streets, 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 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, Owner shall enter into an agreement (“Agreement”) with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Owner shall, *inter alia*:

- (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 construction of the Encroachments;
- (c) carry public liability and property damage insurance that covers the Encroachments, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the Law Department.
- (d) upon one hundred and eighty (180) days notice from the City, remove the encroachments described in Section 1 without cost or expense to the City and shall remove the encroachments described in Section 1 at no cost or expense to the City of Philadelphia when given written notice to do so by the City to accommodate a municipal or municipal sponsored construction project;
- (e) insure that each construction contractor for 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;

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- (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; and
- (h) furnish the City with 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.

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 Owner to construct, 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 the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

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