

# City of Philadelphia



(Bill No. 060960)

## AN ORDINANCE

Authorizing Wachovia Bank, its successors and assigns, to place a freestanding ATM kiosk on the north sidewalk of E. Allegheny Avenue adjacent to the bank entrance at the Wachovia Bank located at 861 E. Allegheny Avenue, Philadelphia, PA 19134, under certain terms and conditions.

**WHEREAS**, Wachovia Bank maintains a branch location at 861 E. Allegheny Avenue, Philadelphia, PA 19134.

**WHEREAS**, Wachovia Bank has requested permission to place a freestanding ATM kiosk on the north sidewalk of E. Allegheny Avenue adjacent to the bank; now, therefore

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

**Section 1.** Wachovia Bank, its successors and assigns, is hereby authorized to place a freestanding ATM kiosk on the north sidewalk of E. Allegheny Avenue adjacent to the bank. The ATM structure is approximately nine feet three inches (9'-3") in length by three feet seven inches (3'-7") in width. The ATM kiosk is covered by a roof approximately ten feet eight inches (10'-8") in length by seven feet three inches (7'-3") in width by one foot eight inches (1'-8") thick. The roof is approximately nine feet (9'-0") above the sidewalk.

### **Encroachment Description**

The freestanding ATM kiosk is located approximately seventy-six feet (76'-0") east of the east curb line of Shelbourne Street and approximately twenty-one feet (21'-0") north of the north curb line of E. Allegheny Avenue. Telephone and electrical service connection is provided from the building.

**Section 2.** The placement of the freestanding ATM kiosk on the north sidewalk of E. Allegheny Avenue adjacent to the bank 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.

**Section 3.** Before exercising any rights or privileges under this Ordinance, Wachovia Bank 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

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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, Wachovia Bank shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in a form satisfactory to the Law Department, to provide that Wachovia Bank shall, *inter alia*:

- (a) agree that upon one hundred and eighty (180) days notice from the City, it shall remove the freestanding ATM kiosk on the north sidewalk of E. Allegheny Avenue adjacent to the bank without cost or expense to the City, and shall restore the cartway and footways adjacent to the bank entrance at E. Allegheny Avenue at no cost and expense to the City when given written notice to do so by the City to accommodate a municipal or municipal-sponsored construction project;
- (b) 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, and to protect and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as a result of the construction, maintenance or use of the freestanding ATM kiosk or its removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that Wachovia Bank self-assumes liabilities and obligations normally covered by Surety Bond;
- (c) 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) 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 placement of the freestanding ATM kiosk;
- (e) 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 Law Department, or in lieu thereof, submit documentation in form and content acceptable to the City that Wachovia Bank 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;

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- (f) insure that all construction contractors for the freestanding ATM kiosk 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 Law Department; and
- (g) 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 right-of-way on the north sidewalk of E. Allegheny Avenue.

**Section 4.** The Law Department 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 Wachovia Bank for the placement of a freestanding ATM kiosk described in Section 1 shall expire without any further action by the City of Philadelphia if Wachovia Bank 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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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on February 22, 2007. The Bill was Signed by the Mayor on March 7, 2007.



Patricia Rafferty  
Chief Clerk of the City Council