



## Legislation Text

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**File #: 080119, Version: 1**

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080119  
SUBSTITUTE 1  
950490  
THE CHAIR

Substitute resolution amending a special privilege for change of ownership to Mimma's café, Inc. of various items and for addition of a wood enclosure for utility pipes, a set of steps and an additional door in the public right-of-way for the premises at 1303-1307 East Brady Street, in the 3<sup>rd</sup> Aldermanic District.

This resolution amends a special privilege for change of ownership to Mimma's Café, Inc. for three sets of entrance steps, two door swings, planter boxes, a platform with steps and moveable planters and for addition of a wood enclosure for utility pipes, a set of steps and an additional door in the public right-of-way for the premises at 1303-1307 East Brady Street.

Whereas, Joseph A. Megna, d/b/a Mimma's Café, requested permission to keep and maintain three sets of entrance steps, two door swings, three planter boxes, platform with stairs and moveable planters in the public right-of-way; and

Whereas, Permission for said items was granted in 1995 under Common Council File Number 950490; and

Whereas, A site visit revealed the presence of a wood enclosure for utility pipes, a set of steps and an additional excess door swing; and

Whereas, Mimma's Café, Inc. now owns the property; and

Whereas, For the liability to be formally transferred to the current property owner, the Common Council needs to adopt an amending resolution; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Common Council Resolution File Number 950490 is hereby rescinded; and, be it

Further Resolved, That Mimma's Café, Inc., 1303-07 East Brady Street, Milwaukee, WI 53202 is hereby granted the following special privileges:

1. To keep and maintain three existing sets of entrance steps projecting 4 feet 6 inches into the south variable width sidewalk area of East Brady Street. Said steps are 4 feet 6 inches, 4 feet 8 inches and 6 feet wide and are centered approximately 20, 38 and 55 feet east of the eastline of North Arlington Place, respectively.
2. To keep and maintain nine rectangular moveable planters with legs in the south variable width sidewalk area of East Brady Street. Said planters, which vary in length between 2 feet and 6 feet 6 inches, are 1 foot 2 inches wide and are 2 feet tall.
3. To keep and maintain three planter boxes projecting 11 inches into the south variable width sidewalk area of East Brady Street. The planter boxes vary in length between 11 feet and 16 feet. Said planter boxes are mounted to the building face at a height of 4 feet 2 inches above the sidewalk grade.
4. To keep and maintain a door swing that, when fully open, projects 2 feet 3 inches in the south, variable width sidewalk area of East Brady Street in excess of the 12 inches allowed under Section 245-4-8 of the Milwaukee Code of Ordinances. Said door is centered approximately 63 feet east of the eastline of North Arlington Place.

5. To keep and maintain a platform with steps in the public right-of-way of North Arlington Place. Said 9-foot long platform with steps project 4 feet 6 inches into the east variable width sidewalk area of North Arlington Place. Said platform with steps is centered approximately 6 feet south of the southline of East Brady Street.
6. To keep and maintain a door swing that, when fully open, projects 3 feet into the east, variable width sidewalk area of North Arlington Place, in excess of the 12 inches allowed under Section 245-4-8 of the Milwaukee Code of Ordinances. Said door swing is centered approximately 9 feet south of the southline of East Brady Street and projects out over the platform of Item #5, above.
7. To keep and maintain three moveable planters with legs in the east variable width sidewalk area of North Arlington Place. Said planters are 6 feet 1 inch in length, 1 foot 2 inches wide and 2 feet high.
8. To keep and maintain a wood enclosure for utility pipes projecting 2 feet 4 inches into the east, variable width sidewalk area of North Arlington Place. The wood enclosure is 8 feet 10 inches in length and is centered approximately 16 feet south of the southline of East Brady Street.
9. To keep and maintain a door swing that, when fully open, projects 3 feet 7 inches into the east, variable width sidewalk area of North Arlington Place in excess of the 12 inches allowed under Section 245-4-8 of the Milwaukee Code of Ordinances. Said door swing is centered approximately 46 feet south of the southline of East Brady Street.
10. To keep and maintain a set of steps projecting 2 feet 8 inches into the east variable width sidewalk area of North Arlington Place. Said steps are 5 feet 6 inches in length and are centered approximately 65 feet south of the southline of East Brady Street.

Said above-mentioned items shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

Said items shall be maintained or removed from the public right-of-way, at such future time as they are no longer needed, to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantee, Mimma's Café, Inc. shall:

1. Become primarily liable for damages to persons or property by reason of the granting of this special privilege.
2. File with the City Clerk a bond of a surety company duly incorporated in the State of Wisconsin, or duly licensed to do business in this State, in the sum of \$4,000 such bond to be approved by the City Attorney. This applicant shall also file with the City Clerk a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident and \$10,000 covering property damage to any own owner on the area or areas included within the special privilege and naming the City of Milwaukee as an insured. Both bond and insurance policy shall provide that they shall not be cancelled until after at least thirty days' notice in writing to the City Clerk.
3. Pay to the City Treasurer an annual fee, which has an initial amount of \$814.40. The subsequent annual fee is subject to change pursuant to the annual fee schedule in effect at the time of annual billing.
4. Whenever this special privilege is discontinued for any reason whatsoever, including public necessity whenever so ordered by resolution adopted by the Common Council not only remove all construction work executed pursuant to this special privilege, but shall also restore to its former condition and to the approval of the Commissioner of Public Works

and curb, pavement or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Such grantee shall be entitled to no damages due to the alteration and/or removal for such purposes.

5. Waive the right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes (1999), or the amount of the annual fixed fee, payable on or before July 1<sup>st</sup> of each year.

6. Put this special privilege into use within one year after approval by the Common Council of the City of Milwaukee; failing to do so in the time specified, the Commissioner of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Department of Public Works  
Infrastructure Services Division

MDL: ns  
August 27, 2008  
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