



## Legislation Text

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**File #: 080508, Version: 1**

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080508  
SUBSTITUTE 1  
901271  
940413  
THE CHAIR

Substitute resolution amending a special privilege to Pfister LLC for change of ownership for items previously granted permission; for deletion of items; and for addition of items in the public right-of-way for the premises at 424 East Wisconsin Avenue, in the 4<sup>th</sup> Aldermanic District.

This resolution amends a special privilege to Pfister LLC for change of ownership for a solarium (greenhouse-type structure), entrance enclosure, bronze medallion, moveable planters, dumpsters and granite pavers; for deletion of a sidewalk area dining facility (sidewalk café) and trash compactor; and for addition of a sculpture, several moveable planters, three ventilation ducts, private light fixtures, excess door swings, non-code compliant moveable awnings and a downward set of stairs in the public right-of-way for the premises at 424 East Wisconsin Avenue.

Whereas, Pfister Corporation requested permission to install a trash compactor and nine dumpsters in the public right-of-way; and

Whereas, Permission for items was granted in 1990 under Common Council Resolution File Number 901271; and

Whereas, Pfister Hotel Corporation requested permission to construct and maintain a solarium (greenhouse-type structure); an entrance enclosure; a bronze medallion in the sidewalk pavement; granite pavers; a sidewalk café; and moveable planters in the public right-of-way; and

Whereas, Permission for said items was granted in 1994 under Common Council Resolution File Number 940413; and

Whereas, Sidewalk Cafes are presently permitted by the Milwaukee Code of Ordinances with the issuance of a Sidewalk Area Dining Facility Permit; and

Whereas, Pfister LLC now owns the property; and

Whereas, A site visit revealed the presence of a sculpture, mounted above the restaurant entrance at the corner of East Mason Street and North Jefferson Street, several additional moveable planters; three ventilation ducts; non-code compliant moveable awnings; excess door swings; and a downward set of stairs in the public right-of-way; and

Whereas, For the liability for items previously granted permission to be formally transferred to the current property owner, the Common Council needs to adopt an amending resolution; and

Whereas, Said sculpture, ventilation ducts, downward stairs, non-code compliant moveable awnings and additional moveable planters may only legally encroach into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Common Council Resolution File Numbers 901271 and 940413 are hereby rescinded; and, be it

Further Resolved, That Pfister, LLC, 424 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, is hereby granted the following special privileges:

1. To keep and maintain three, 2-foot diameter ventilation ducts projecting into the 14-foot wide, north-south alley. Said ducts are centered approximately 38, 98, and 170 feet south of the southline of East Mason Street and project 2 feet into the 14-foot wide north-south alley adjacent to the subject property. All of said ducts are located a minimum of 10 feet above the adjacent alley grade, but project in excess of the 1-foot allowed under Section 245-4-23 of the Milwaukee Code of Ordinances.
  2. To keep and maintain six concrete moveable planters in the north, 20-foot wide sidewalk area of East Wisconsin Avenue. Said planters are centered approximately 3 feet south of the northline of East Wisconsin Avenue and are evenly spaced between North Jefferson Street and the adjacent north-south alley. Said planters are 3 feet 4 inches in diameter and 2 feet 6 inches tall.
  3. To keep and maintain four concrete moveable planters in the west, 15-foot wide sidewalk area of North Jefferson Street. Said planters are centered approximately 3 feet east of the westline of North Jefferson and are located between the northline of East Wisconsin Avenue and a point 65 feet north of the northline of East Wisconsin Avenue. Said planters are 3 feet 4 inches in diameter and 2 feet 6 inches tall.
  4. To keep and maintain a downward stairway projecting 5 feet into the west, 15-foot wide sidewalk area of North Jefferson Street. Said stairway commences at a point approximately 15 feet north of the northline of East Wisconsin Avenue and extends 19 feet to the north.
  5. To keep and maintain a solarium (greenhouse-type structure) projecting 8 feet 3 inches into the west, 15-foot wide sidewalk area of North Jefferson Street for an indoor café. The 14-foot tall solarium commences at a point approximately 100 feet north of the northline of East Wisconsin Avenue and extends north 63 feet.
- The building shall be maintained in such a manner that the solarium can be removed from the public right-of-way, should such action be required by public necessity as determined by the Common Council subsequent to review by the Commissioner of Public Works and the Commissioner of the Department of Neighborhood Services.

Grantee shall maintain a minimum pedestrian clear path of 5 feet at all times. The sidewalk area adjacent to the solarium shall be kept clear of snow, ice and any other debris at all times.

6. To keep and maintain a line fence projecting perpendicularly 6 feet 8 inches into the west, 15-foot wide sidewalk area of North Jefferson Street. Said fence is centered approximately 180 feet north of the northline of East Wisconsin Avenue and is constructed on a 1-foot wide concrete base.
7. To keep and maintain a 12-foot 6-inch tall entrance structure enclosure with revolving door projecting 7 feet 6 inches into the 15-foot wide west sidewalk area of North Jefferson Street. Said entrance structure commences at a point approximately 65 feet north of the northline of East Wisconsin Avenue and extends 20 feet 4 inches to the north.
8. To keep and maintain a section of 12-inch by 24-inch granite pavers in the 15-foot sidewalk area of North Jefferson Street commencing at a point approximately 65 feet north of the northline of East Wisconsin Avenue and extending 20 feet 4 inches to the north.
9. To keep and maintain a 33-inch diameter bronze medallion within the sidewalk surface of the west, 15-foot wide sidewalk area of North Jefferson Street. Said medallion is centered approximately 76 feet north of the northline of East Wisconsin Avenue and approximately 11 feet east of the westline of North Jefferson Street.
10. To keep and maintain fourteen wooden moveable planters, thirteen in the west sidewalk area of North Jefferson Street and one in the south sidewalk area of East Mason Street. All of said planters are 1 foot 9 inches square and 2 feet tall. In North Jefferson Street, said planters are centered approximately 2 feet east of the westline of North Jefferson Street and are evenly spaced between the southline of East Mason Street and a point approximately 130 feet to the south. In East

Mason Street, said planter is centered approximately 2 feet north of the northline of East Mason Street and 3 feet west of the westline of North Jefferson Street.

11. To keep and maintain 15 private light fixtures mounted to the building and projecting 8 inches into the public right-of-way. Seven light fixtures project into the west sidewalk area of North Jefferson Street being evenly spaced between the southline of East Mason Street and a point approximately 75 feet to the south. Eight light fixtures project into the south sidewalk area of East Mason Street being evenly spaced between the westline of North Jefferson Street and a point approximately 80 feet to the west. All of the aforementioned light fixtures are mounted to the building such that their minimum elevation is less than the 7 feet required under Section 245-4-25 of the Milwaukee Code of Ordinances.

12. To keep and maintain a sculpture centered at the intersection of the southline of East Mason Street and the westline of North Jefferson Street. Said sculpture is mounted at a minimum elevation of 15 feet above the adjacent sidewalk grade. The 18-inch wide sculpture and support project approximately 5 feet into the public way.

13. To keep and maintain four sets of double doors, each comprised of two 3-foot wide doors that, when fully open, project 3 feet into the south sidewalk area of East Mason Street. Said doors are evenly spaced between the westline of North Jefferson Street and a point approximately 80 feet to the west. Said doors project into the public way in excess of the 12 inches allowed under Section 245-4-8 of the Milwaukee Code of Ordinances.

14. To keep and maintain non-code compliant moveable fabric awnings. Said awnings project up to 9 feet into the south 15-foot wide sidewalk area of East Mason Street in excess of the 6 feet allowed under Section 245-6-4 of the Milwaukee Code of Ordinances. Said moveable awnings commence at a point approximately 11 feet west of the westline of North Jefferson Street and extend 53 feet 6 inches to the west.

15. To keep and maintain a maximum of nine wheeled dumpsters located in the north-south alley in the block bounded by North Jefferson Street, East Mason Street, North Milwaukee Street and East Wisconsin Avenue. Said dumpsters may project up to 4 feet into the 14-foot wide alley.

Said above-mentioned items shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services. All necessary permits shall have been obtained prior to the granting of this special privilege.

Said items shall be maintained or removed from the public right-of-way, at such future time as it is 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, Pfister, LLC, 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 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 \$19,329.60. 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  
June 30, 2009  
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