



## Legislation Text

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**File #:** 001574, **Version:** 1

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001574  
SUBSTITUTE 1  
870837  
THE CHAIR

Substitute resolution amending a special privilege for change of ownership to Marcus W LLC for stationary planters, moveable planters, sidewalk medallions, and an extended canopy and to grant permission for three moveable planters for the premises at 135-39 East Kilbourn Avenue, in the 4<sup>th</sup> Aldermanic District of the City of Milwaukee.

This resolution formally grants an amended special privilege changing the name to Marcus W LLC for stationary planters, moveable planters, sidewalk medallions, and an extended canopy and grants permission for three moveable planters for the premises at 135-39 East Kilbourn Avenue.

Whereas, MTD Partners, which developed the Milwaukee Center (Theater District) of the block bounded by East Kilbourn Avenue, North Water Street, East Wells Street and the Milwaukee River, requested permission for a canopy, columns with lights, above-ground planters with lights and granite sidewalk medallions for the entire block; and

Whereas, Permission was granted in 1988 by adoption of Common Council Resolution File Number 870837; and

Whereas, Subsequently, the development was divided and portions sold to different owners; and

Whereas, The current owner of the building at 135-39 East Kilbourn Avenue is Marcus W LLC; and

Whereas, Site visits revealed the presence of three moveable planters located in the public way of East Kilbourn Avenue during the summer season; and

Whereas, In order to transfer liability for special privilege items to the current owners, the Common Council must adopt an amending resolution; and

Whereas, Said new items may only legally encroach into the public right-of-way by the 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Resolved, By the Common Council of the City of Milwaukee, that Common Council Resolution File Number 870837 is hereby rescinded; and, be it

Further Resolved, That Marcus W LLC, 100 East Wisconsin Avenue, Suite 1900, Milwaukee, Wisconsin 53202 is hereby granted the following special privileges:

1. To keep and maintain granite ornamental sidewalk medallions which are approximately 9 inches square. Said medallions are spaced uniformly in the 15-foot wide, south sidewalk area of East Kilbourn Avenue and in the variable width, west sidewalk area of North Water Street. Said medallions are installed flush with the surrounding sidewalk pavement.
2. To keep and maintain six stationary planters in the west sidewalk area of North Water Street, which is 15 feet wide adjacent to the premises at 135-39 East Kilbourn Avenue. Said planters are 7 feet 6 inches long, 7 feet 6 inches wide and 2 feet 9 inches tall and project 4 feet into the west sidewalk area of North Water Street. Said planters have a 1-foot wide wall and are centered approximately 52, 65, 79, 92, 106 and 119 feet south of the southline of East Kilbourn Avenue.

3. To keep and maintain an extended canopy centered approximately 95 feet west of the westline of North Water Street, projecting approximately 11 feet 6 inches into the public right-of-way of East Kilbourn Avenue. The 95-foot long canopy is supported entirely by the building and provides a minimum vertical clearance of 12 feet 6 inches. Said canopy projects into the public way in excess of the maximum 6 feet allowed under Section 245-8 of the Milwaukee Code of Ordinances.

No sign or advertising device shall be hung from, attached to, or painted on the canopy other than to identify the name and address of the premises.

The grantee shall keep and maintain "Loading Zone" or "No Parking Zone" status adjacent to the canopy location as long as the canopy occupies the public right-of-way.

4. To keep and maintain four moveable planters located on the splitter island adjacent to the extended canopy of item 3 above. Said planters centered about a point approximately 95 feet west of the westline of North Water 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, Marcus W 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 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 \$10,000 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 \$50,000 covering bodily injury to any one person and \$100,000 covering bodily injury to more than one person in any one accident and \$20,000 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 \$2389.23. 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 no 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:lja  
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