



## Legislation Text

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**File #:** 031693, **Version:** 1

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031693

SUBSTITUTE

THE CHAIR

Substitute resolution to formally grant permission to keep, use and maintain masonry retaining walls, steps, sidewalk pavement, a paved patio slab and landscaping vegetation in the East Vine Street public right-of-way adjacent to 1818 North Hubbard Street, in the 6<sup>th</sup> Aldermanic District in the City of Milwaukee.

This resolution grants a special privilege to keep, use and maintain various landscaping elements such as retaining walls, steps, sidewalk pavement, a paved patio slab and landscaping vegetation in the East Vine Street right-of-way adjacent to 1818 North Hubbard Street.

Whereas, There is a significant grade change between North Hubbard Street and North Commerce Street and steps, built and owned by the City of Milwaukee in the East Vine Street public right-of-way, connect North Hubbard Street and North Commerce Street; and

Whereas, The applicant is desirous of beautifying and using the area adjacent to its building at 1818 North Hubbard Street; and

Whereas, The applicant, without permit, built a structural block retaining wall in order to make the slope usable for an outdoor patio and several lannon stone retaining walls to create terraced planting beds, all of said items being located predominantly, within the East Vine Street right-of-way; and

Whereas, The applicant also built a sidewalk and two sets of steps from the City-owned East Vine Street steps to a patio entrance to a restaurant, Roots, at the premises of 1818 North Hubbard Street; and

Whereas, The applicant also constructed a brick patio within the East Vine Street public right-of-way; and

Whereas, EG 1818 Hubbard, LLC has formally requested permission to keep, use and maintain various landscaping elements including retaining walls, steps, sidewalk pavement, a brick paved patio slab and landscaping vegetation with the knowledge that these 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 EG 1818 Hubbard, LLC, 1818 North Hubbard Street, Milwaukee, Wisconsin 53212 is hereby granted the following special privileges:

1. To keep and maintain an 11-inch wide structural brick retaining wall which encroaches into the East Vine Street right-of-way a length of approximately 29 feet 1 inch abutting 1818 North Hubbard Street. The wall, located between 55 feet and 40 feet east of the eastline of North Hubbard Street, varies in height between 6 feet and 2 feet tall.
2. To keep and maintain 8-inch wide, lannon stone retaining walls, averaging approximately 2 feet in height, in various locations within an area between the eastline of North Hubbard Street and approximately 60 feet east of the eastline of North Hubbard Street and between the northline of East Vine Street and approximately 38 feet

south of the northline of East Vine Street abutting 1818 North Hubbard Street. The total length of said lannon stone retaining walls is approximately 146 feet 11 inches.

3. To keep, use and maintain two 4-foot wide sets of steps located approximately 4 feet and 20 feet south of the northline of East Vine Street. The two sets of steps approximately 2 feet 6 inches and 16 feet in length, are centered approximately 4 feet and 20 feet south of the northline of East Vine Street and 30 feet and 35 feet east of the eastline of North Hubbard Street, respectively.

4. To keep, use and maintain two 4-foot wide concrete walk areas and one concrete landing abutting 1818 North Hubbard Street. The concrete walk sections, 2 feet 9 inches and 12 feet long, are centered approximately 2 feet and 10 feet south of the northline of East Vine Street and 30 feet and 28 feet east of the eastline of North Hubbard Street, respectively. The concrete landing, located at the bottom of the aforementioned steps and an odd shape, is approximately 104.96 square feet in size and is centered approximately 30 feet south of the northline of East Vine Street and 45 feet east of the eastline of North Hubbard Street.

5. To keep, use and maintain a brick paved patio area that is approximately 18 feet 6 inches long and 16 feet 8 inches wide. The patio area is centered approximately 9 feet 3 inches south of the northline of East Vine Street and 12 feet east of the eastline of North Hubbard Street.

6. To keep and maintain various landscaping vegetation within the area approximately between the eastline and 60 feet east of the eastline of North Hubbard Street and the northline and 35 feet south of the northline of East Vine Street abutting 1818 North Hubbard 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. All necessary permits shall have been obtained.

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, EG 1818 Hubbard, 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 \$10,000.00 such bond to be approved by the City Attorney. The 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 \$100,000 covering bodily injury to any one person and \$200,000 covering bodily injury to more than one person in any one accident and \$40,000 covering property damage to any one 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 canceled 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 \$2,093.15. 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 any 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 the Department of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Department of Public Works  
Infrastructure Services Division

MDL:cjt  
December 1, 2004  
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