

**PRIVILEGE FOR ENCROACHMENT**  
**Major**

Beyond Lot Line and Within a Public Street Right-of-Way

Karen D. Schoenfeld, owner(s) of property located at 9411-9427 West Greenfield Avenue, West Allis, hereinafter "Grantee(s)", desire to maintain an encroachment extending beyond the lot line and within the public street right-of-way consisting of a concrete block retaining wall on West Greenfield Avenue and continuing along South 94<sup>th</sup> Street, patio fencing mounted in a concrete curb for outdoor dining on West Greenfield Avenue, and an elevated sign on West Greenfield Avenue on that portion of the right-of-way on West Greenfield Avenue and South 94<sup>th</sup> Street, adjoining Lots 1, 2, 3 and 4 in Block 3 of Zingen and Braun's Fair Park Subdivision, being a subdivision of Northeast ¼ of Section 5, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, more particularly described as follows:

Commencing at Southeast corner of Said Lot 1; thence Northerly, 23.00 feet, along the West right-of-way line of South 94th Street to the Point of Beginning; thence continue Northerly, 85.00 feet along the said West right-of-way line to the Northeast corner of said Lot 1 and South right-of-way line of West Greenfield Avenue; thence Westerly, 227.50 feet, along South right-of-way line of West Greenfield Avenue, to the Northwest corner of said Lot 7; thence Northerly, 1.00 foot, at right angle to said right-of-way line; thence Easterly, 190.50 feet, parallel with said South right-of-way line; thence Northerly, 2.50 feet; thence Easterly, 2.00 feet; thence Southerly, 2.50 feet; thence Easterly, 39.00 feet; thence Southerly, 86.00 feet, parallel with the West right-of-way line of South 94th Street; thence Westerly, 4.00 feet to the point of beginning. Tax Key No. 450-0022-001.

The Board of Public Works is satisfied that the granting of this privilege is not adverse to the public interest.

NOW, THEREFORE, pursuant to the authority contained in Section 66.0425 of the Wisconsin Statutes, the Common Council of the City of West Allis does hereby grant the above-described privilege, subject to the following terms and conditions:

1. Upon acceptance hereof, the Grantee(s) shall become primarily liable for damages to persons or property by reason of the granting of this privilege; and the Grantee(s) agree to hold the City harmless for any damage to their property resulting from snow plowing or snow removal operations.
2. The Grantee(s) shall be obligated to remove the encroachment upon ten (10) days notice by the State of Wisconsin or City of West Allis, and shall be entitled to no damages for removal of the encroachment. Grantee(s) grant permission to the City of West Allis to remove the encroachment if it is not removed pursuant to Sec. 66.0425(2), Wisconsin Statutes, the cost of which shall be at Grantee's expense.
3. The Grantee(s), by acceptance hereof, waives any right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes.
4. Any third parties whose rights are interfered with by the granting of this privilege shall have a right of action against the Grantee(s) only.
5. The City will not be responsible for snow and ice that is plowed onto the sidewalk or the concrete dining area.
6. The concrete block retaining wall, the patio fencing mounted in a concrete curb, and the sign shall be constructed and maintained in a manner to safeguard the public and shall specifically comply with the West Allis Municipal Code.
7. Grantee(s) shall repair to the City's satisfaction any damage to the sidewalk or sidewalk area.

8. Plans and specifications of any repair/alterations being performed in the public right-of-way for which this privilege is granted, other than the concrete block retaining wall, the patio fencing mounted in a concrete curb, and the sign as provided herein, shall require submission to, and final approval of, the City Engineer of the City of West Allis.

9. It is understood that Grantee(s), their heirs, successors and assigns, shall file a Bond to insure performance with the City Clerk/Treasurer in the amount of Ten Thousand Dollars (\$10,000.00) and a Certificate of Insurance in the amount of One Million Dollars (\$1,000,000.00), in a form approved by the City Attorney, for damages to person or property by reason of the granting of this privilege. The City of West Allis shall be named as an additional insured, as its interest may appear, on the certificate of insurance. The insurance certificate shall further provide that ten (10) day written notice to the City of West Allis shall be provided in the event of any material change, or cancellation of insurance coverage.

10. Grantee(s) shall pay to the City of West Allis as compensation for this privilege the sum of Fifty Dollars (\$50.00).

11. This privilege shall be in force and have effect only upon payment of the required fee and filing of the Certificate of Insurance and Bond referred to above. This privilege shall cease upon the lapse or cancellation of the said insurance coverage. New application and new payment shall then be required to extend grant of privilege.

12. This privilege shall be binding upon and inure to the benefit of the Grantee(s), their respective heirs, successors and assigns.

Dated at West Allis, WI, this 18 day of Dec, 2012.

CITY OF WEST ALLIS

BY: \_\_\_\_\_  
Dan Devine, Mayor

BY: \_\_\_\_\_  
Paul M. Ziehler  
CAO, City Clerk/Treasurer

ACCEPTED BY:  
(KAREN D. SCHOENFELD)

BY: Karen D. Schoenfeld  
Karen D. Schoenfeld

Date: 12/18/12

Approved as to form this 18 day 3-6-2013  
of Dec, 2012.  
[Signature]  
City Attorney

C/Encprimajor-Schoenfeld

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Dated at West Allis, WI, this 18 day of Dec, 2012.

CITY OF WEST ALLIS

BY: Dan Devine  
Dan Devine, Mayor

BY: Paul M. Ziehler  
Paul M. Ziehler  
CAO, City Clerk/Treasurer

ACCEPTED BY:  
(KAREN D. SCHOENFELD)

BY: Karen D. Schoenfeld  
Karen D. Schoenfeld

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