



# City of West Allis

Resolution: R-2020-0222

**File Number: R-2020-0222**

**Final Action: 4/22/2020**

**Sponsor(s):** Public Works Committee

Resolution granting a Major Privilege of Encroachment to West Quarter West, LLC for properties located at 1135-39 and 1205 S. 70 St. (Tax Key Nos. 440-0257-002 and 440-0256-002)

WHEREAS, by Resolution No. R-2019-0519, adopted July 16, 2019, the City of West Allis granted to West Quarter West, LLC a certain Privilege of Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of an existing sign, an existing canopy, an existing five foot (5') wide landscape bed along South 70th Street to include a fence, poured concrete curb and landscaping, and the installation of a new sign on said property located at 1205 South 70th Street, in the City of West Allis, WI ("Privilege"); and,

WHEREAS, by Resolution No. R-2019-0520, adopted July 16, 2019, the City of West Allis granted to West Quarter West, LLC a certain Privilege of Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of an existing sign and an existing canopy on the property located at 1135 South 70th Street, in the City of West Allis, WI ("Privilege"); and,

WHEREAS, West Quarter West, LLC, desires to retain the existing Privileges by combining them into one Privilege in addition to modifying it by requesting from the City of West Allis a certain Privilege of Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of the installation of a new deck, balcony and roof structure with footings on the property located at 1139 South 70th Street, in the City of West Allis, WI ("Privilege"); and,

NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to West Quarter West, LLC the Privilege of Encroachment Beyond the Lot Line and within Public Street Right-of-Way consisting of an existing sign, an existing canopy, an existing five foot (5') wide landscape bed along South 70th Street to include a fence, poured concrete curb and landscaping, the installation of a new sign, and the installation of a new deck, balcony and roof structure with footings on the properties located at 1135-39 and 1205 South 70th Street, in the City of West Allis, WI.

BE IT FURTHER RESOLVED that additional improvements on said area must require prior approval of the Board of Public Works.

BE IT FURTHER RESOLVED that the Mayor and City Clerk of the City of West Allis are hereby authorized and directed to execute and deliver the aforesaid Privilege on behalf of the City of West Allis.

ATTR-Encroachment- WestQuarterWest(1135-39&1205S70)

**ADOPTED** 4/22/2020

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**Rebecca Grill, City Administrator/Clerk**

**APPROVED**

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**Dan Devine Mayor**

**PRIVILEGE FOR ENCROACHMENT AGREEMENT  
(MAJOR)**

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

West Quarter West, LLC, owner(s) of property located 1135-39 and 1205 South 70<sup>th</sup> Street, West Allis, hereinafter "Grantee(s)", desire to maintain an encroachment extending beyond the lot line and on the City's right-of-way consisting of an existing sign, an existing canopy, an existing five foot (5') wide landscape bed along South 70<sup>th</sup> Street to include a fence, poured concrete curb and landscaping, the installation of a new sign, and the installation of a new deck, balcony and roof structure with footings, on that portion of the right-of-way adjoining Lots 22 thru 42 in Otjen Pullen and Shenner's Subdivision, Block 2, being a subdivision of the Southwest ¼ of Section 34, Township 7 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, more particularly described as follows:

Beginning at the Southeast corner of said Lot 22; thence Northerly, 623.02 feet along West right-of-way line of South 70<sup>th</sup> Street to the Northeast corner of said Lot 42; thence Easterly, 15.50 feet; thence Southerly, 623.02 feet, parallel with said West right-of-way line; thence Westerly, 15.50 feet to the Point of Beginning of this description. Tax Key Nos. 440-0256-002 and 440-0257-002.

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 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. The cost of removal by the City shall be charged to Grantee and, if unpaid after thirty (30) days, assessed as a special assessment under Sec. 66.0701, Wisconsin Statutes.

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 sign shall be at least two (2) feet from the abutting sidewalk.

6. Plans and specifications of any repair/alterations being performed in the public right-of-ways for which this privilege is granted, other than signs, canopy, fence, poured concrete curb, landscaping, deck, balcony and roof structure as provided herein, shall require submission to, and final approval of, the City Engineer of the City of West Allis.

7. It is understood that Grantee(s), their heirs, successors and assigns, shall file a Bond with the City Clerk/Treasurer in the amount of Ten Thousand Dollars (\$10,000) and a Certificate of Insurance in the amount of at least 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 and endorsements. The insurance certificate and endorsement 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.

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

9. 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.


10. 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, Wisconsin, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF WEST ALLIS

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

Approved as to form this 14th day  
of April, 2020.

  
\_\_\_\_\_  
City Attorney

BY: \_\_\_\_\_  
Steven Braatz, Jr., City Clerk

ACCEPTED BY:  
WEST QUARTER WEST, LLC

By:   
\_\_\_\_\_  
Scott Yauck, Registered Agent

Date: 4/15/2020