

**Ordinance No. 678-2020**

**By Council Members:** McCormack, Johnson and Brancatelli (by departmental request)

**An emergency ordinance authorizing the Director of Capital Projects to issue a permit to Electric Gardens, LLC to encroach into the public right-of-way of West 4th Street by installing, using and maintaining streetscape and landscape improvements.**

**WHEREAS**, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:**

**Section 1.** That the Director of Capital Projects is authorized to issue a permit, revocable at the will of Council, to Electric Gardens, LLC, 2515 Jay Avenue, Suite 101, Cleveland, OH 44113 (“Permittee”), to encroach into the public right-of-way of West 4th Street by installing, using and maintaining various streetscape and landscape improvements including, but not limited to, 7 (seven) tree plantings, grass and several flower plantings, several lawn terraces (12 inches high or less), 3 (three) wood benches, 11 (eleven) low voltage pathway lighting fixtures less than three feet tall, ADA compliant crushed and packed #57 gravel path, future art installations to be determined, at the following location:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio as known as being a portion of West 4th Street (66.00 feet wide) (formerly Lawrence Street) in the S. S. Stone’s Survey of College Tract of part of Original Brooklyn Township Lot Number 87 as shown by the recorded plat in Volume 2 of Maps, Page 31 of Cuyahoga County Map Records, further described as follows:

Being all that portion of West 4th Street (66.00 feet wide) (formerly Lawrence Street) extending from the Southeast line of Literary Road S.W. (60.00 feet wide) southeasterly to its intersection with the Northeasterly prolongation of the southerly line of Parcel “AA” in the Plat of Consolidation for Electric Gardens as shown by the recorded plat in A.F.N. 201908160659 of Cuyahoga County Records.

Legal Description approved by Greg Esber, Section Chief, Plats, Surveys and House Numbering Section.

**Section 2.** That the Director of Law shall prepare the permit authorized by this ordinance and shall incorporate such additional provisions as the Director of Law determines necessary to protect and benefit the public interest. The permit shall be issued only when, in the opinion of the Director of Law, the prospective Permittee has properly indemnified the City against any loss that may result from the encroachments permitted.

**Section 3.** That Permittee may assign the permit only with the prior written consent of the Director of Capital Projects. That the encroachments permitted by this ordinance shall conform to plans and specifications first approved by the Manager of the City's Division of Engineering and Construction. That Permittee shall obtain all other required permits, including but not limited to Building Permits, before installing the encroachments.

**Section 4.** That the permit shall reserve to the City reasonable right of entry to the encroachment location.

**Section 5.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

**Referred to the Directors of Capital Projects; City Planning Commission; Finance; and Law; Committees on Municipal Services and Properties; and Development, Planning and Sustainability.**