



Legislation Text

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**File #: 061418, Version: 1**

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061418  
SUBSTITUTE 1  
891379  
892037  
THE CHAIR

Substitute resolution amending a special privilege for change of ownership to Aurora Health Care, Inc. for a backup driveway, a double excess door swing, and a retaining wall and for addition of two trash receptacles for the premises at 3301-55 West Forest Home Avenue, in the 8<sup>th</sup> Aldermanic District.

Substitute resolution amending a special privilege for change of ownership to Aurora Health Care, Inc. for a backup driveway, a double excess door swing, and a retaining wall and for addition of two trash receptacles for the premises at 3301-55 West Forest Home Avenue.

Whereas, B Stores Inc. requested permission to reconstruct and maintain two backup driveways and to keep and maintain three sets of double excess door swings within the public right-of-way; and

Whereas, Permission for said items was granted in 1989 under Common Council File Number 891379; and

Whereas, FPC Investments requested permission to keep and maintain a retaining wall in the public right-of-way; and

Whereas, Permission for said retaining wall was granted in 1990 under Common Council Resolution File Number 892037; and

Whereas, A site visit revealed that one of the backup driveways and two sets of the double excess door swings have been removed from the public right-of-way; and

Whereas, Said site visit also revealed the presence of two trash receptacles; and

Whereas, Aurora Healthcare, Inc. now owns the property; and

Whereas, Said trash receptacles may only legally encroach into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; and

Whereas, For the liability for previously permitted items to be formally transferred to the current property owner, the Common Council needs to adopt an amending resolution; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Common Council File Numbers 891379 and 892037 are hereby rescinded; and, be it

Further Resolved, That Aurora Health Care, Inc., 3000 West Montana Street, Milwaukee, WI 53215, is hereby granted the following special privileges:

1. To keep and maintain a backup driveway in the west, 10-foot wide sidewalk area of South 32<sup>nd</sup> Street centered approximately 80 feet north of the northline of West Montana Avenue. Vehicles shall be parked in such a manner so as not to project more than 8 feet beyond the west curb face of South 32<sup>nd</sup> Street. Grantee is to provide sufficient traffic control to allow for continued two-way traffic while the backup driveway is in use.

2. To keep and maintain one pair of 3-foot wide doors that, when fully open, project 2 feet 5 inches into the west, 10-foot wide sidewalk area of South 32<sup>nd</sup> Street. Said doors are centered approximately 80 feet north of the northline of West Montana Avenue. The doors project in excess of the 12 inches allowed under Section 245-4-8 of the Milwaukee Code of Ordinances.
3. To keep and maintain a retaining wall in the east, 15-foot wide sidewalk area of South 34<sup>th</sup> Street approximately 388 feet 6 inches long, excluding a driveway. Said wall is 12 inches wide; varies in height between 1 foot 6 inches and 4 feet; and encroaches 2 feet into the public way.
4. To keep and maintain two plastic trash receptacles in the west, 10-foot wide sidewalk area of South 32<sup>nd</sup> Street adjacent to the double door swing of Item #2. The first of said trash receptacles is 1-foot 6-inches in diameter, the second 1-foot 6-inches square. Both trash receptacles are 2 feet 6 inches tall.

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, Aurora Healthcare, Inc., 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 \$2,000 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 \$1922.64. 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 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.
7. Owner must ensure sufficient traffic control while using the back up driveway to allow continued, safe traffic flow on

South 32<sup>nd</sup> Street. Traffic control measures may include, but are not limited to flag persons and traffic cones.  
Department of Public Works  
Infrastructure Services Division  
MDL:lja  
March 19, 2007  
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