



## Legislation Text

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**File #:** 051090, **Version:** 1

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051090

SUBSTITUTE

960426

THE CHAIR

Substitute resolution amending a special privilege for change of ownership to Richard T. Miswald Builders Incorporated for encroachment into the public right-of-way of items previously granted permission for the building at 1345 North Astor Street, in the 3<sup>rd</sup> Aldermanic District in the City of Milwaukee.

This resolution amends a special privilege for change of ownership to Richard T. Miswald Builders Incorporated for encroachment into the public right-of-way of a covered walk, five moveable planters, two window box planters and an excess door swing encroachment for the building at 1345 North Astor Street. Whereas, Richard T. Miswald petitioned for a special privilege for a covered walk, planters, wood railings, tree grates and a sidewalk cafe; and

Whereas, Permission for said items was granted in 1996 under Common Council Resolution File Number 960426; and

Whereas, Sidewalk cafes are now permissible under Section 245-4-28 of the Milwaukee Code of Ordinances; and

Whereas, A site visit revealed that the wood railings and tree grates are not present within the public right-of-way; and

Whereas, Richard T. Miswald Builders Incorporated is the owner of the property; and

Whereas, For the liability for the remaining items encroaching into the public right-of-way to be formally transferred to the current 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Resolved, By the Common Council of the City of Milwaukee, that Common Council File Number 960426 is hereby rescinded; and, be it

Further Resolved, By the Common Council of the City of Milwaukee, that Richard T. Miswald Builders, Incorporated, 1345 North Astor Street, Milwaukee, Wisconsin 53202 is hereby granted the following special privileges:

1. To keep and maintain a covered walk projecting 14 feet into the 15-foot wide, south sidewalk area of East Ogden Avenue. Said covered walk, 6 feet in width, is centered approximately 74 feet west of the westline of North Astor Street. The minimum vertical clearance between the skirt of the covered walk and the sidewalk below shall be 8 feet.

Said covered walk shall generally be constructed in accordance with the policies set forth in Common Council

Resolution File Number 62-1211-a adopted July 24, 1962. The covered walk frame shall be designed and supported to withstand snow and other loads of not less than 25 pounds per square foot applied in any direction. No guy wires, brackets or diagonal braces shall be permitted lower than 7 feet above the sidewalk level. The covering shall be of approved material.

All fixtures and materials for illumination of covered walks shall be indicated upon the construction plans and approved prior to installation. No sign or advertising device shall be hung from, attached to, printed or painted on any part of the covered walk. The business may be indicated only on the vertical portion of the covering and not to exceed 8 inches in height.

The grantee shall maintain "Loading Zone" or "No Parking" status adjacent to the proposed covered walk location and maintain this status as long as the covered walk occupies the public right-of-way.

2. To keep and maintain an excess door swing encroachment centered approximately 27 feet south of the southline of East Ogden Avenue. Said door, when fully open, projects 3 feet 4 inches into the 22-foot 6-inch wide west sidewalk area of North Astor Street, in excess of the 12 inches allowed under Section 245-4-8 of the Milwaukee Code of Ordinances.
3. To keep and maintain two 72-inch long and 8-inch wide window box planters in the 22-foot 6-inch wide sidewalk area of North Astor Street. Said window box planters are centered approximately 67 and 36 feet south of the southline of East Ogden Avenue and are placed approximately 2 feet 6 inches above the sidewalk grade.
4. To keep and maintain two 2-foot 6-inch tall moveable planters centered approximately 2 feet east of the westline of North Astor Street and 37 and 17 feet south of the southline of East Ogden Avenue. Said planters are 2 feet in diameter.
5. To keep and maintain three square planters centered approximately 2 feet north of the southline of East Ogden Avenue and 2, 14 and 30 feet west of the westline of North Astor Street in the 15-foot wide, south sidewalk area of East Ogden Avenue. Said planters are 2 feet long, 2 feet wide and 2 feet 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. All necessary permits shall have been obtained prior to the granting of this special privilege.

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, Richard T. Miswald Builders, Incorporated, 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 \$2,000.00 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 \$180.91. 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.

Department of Public Works  
Infrastructure Services Division  
MDL:cjt  
February 1, 2006