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Title: Substitute resolution granting a special privilege to Downer Hardware Inc to keep and maintain merchandise racks and assorted seasonal merchandise in the public right-of-way for the premises at 2629 North Downer Avenue, in the 3rd Aldermanic District.

Sponsors: THE CHAIR

Indexes: SPECIAL PRIVILEGE PERMITS

Attachments: 1. Cover Letter, 2. Petition and Drawing, 3. Map, 4. Photos, 5. Hearing Notice List

Date	Ver.	Action By	Action	Result	Tally
9/1/2010	0	COMMON COUNCIL	ASSIGNED TO		
9/2/2010	0	CITY CLERK	REFERRED TO		
5/26/2011	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
6/2/2011	1	PUBLIC WORKS COMMITTEE	RECOMMENDED FOR ADOPTION	Pass	4:0
6/14/2011	1	COMMON COUNCIL	ADOPTED	Pass	15:0
6/23/2011	1	MAYOR	SIGNED		

100448

SUBSTITUTE

THE CHAIR

Substitute resolution granting a special privilege to Downer Hardware Inc to keep and maintain merchandise racks and assorted seasonal merchandise in the public right-of-way for the premises at 2629 North Downer Avenue, in the 3rd Aldermanic District.

This resolution grants a special privilege to Downer Hardware Inc to keep and maintain merchandise racks and assorted seasonal merchandise in the public right-of-way for the premises at 2629 North Downer Avenue.

Whereas, The applicant has placed merchandise racks and seasonal merchandise in the sidewalk area adjacent to its business for a number of years; and

Whereas, The applicant is requesting formal permission to keep and maintain merchandise racks and assorted seasonal merchandise in the public right-of-way; and

Whereas, Said items may only legally encroach into the public right-of-way by granting of a special privilege resolution adopted by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that Downer Hardware Inc., 2629 North Downer Avenue, Milwaukee, Wisconsin 53211, is hereby granted the following special privilege:

To keep and maintain six merchandise racks and assorted seasonal merchandise in west, variable width sidewalk area of North Downer Avenue adjacent to the premises at 2629 North Downer Avenue. Three of said merchandise racks measure 6 feet 6 inches long and 2 feet 4 inches wide. The other three merchandise racks measure 3 feet 10 inches long and 1 foot 9 inches wide. Additionally, assorted seasonal merchandise will be displayed in the public right-of-way adjacent to the

concrete public sidewalk.

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 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, Downer Hardware 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 Commissioner of Public Works a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident and \$10,000 covering property damage to any one owner on the area or areas included within the special privilege and naming the City of Milwaukee as an insured. The insurance policy shall provide that it shall not be cancelled until after at least thirty days' notice in writing to the Commissioner of Public Works.
3. Pay to the City Treasurer an annual fee, which has an initial amount of \$204.53. 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 1st 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. Maintain a 5-foot wide clear path for pedestrians on the concrete paved public sidewalk. At no time shall the merchandise racks or assorted seasonal merchandise interfere with the concrete public sidewalk.

Department of Public Works
Infrastructure Services Division

MDL:ns

May 10, 2011

100448