



Legislation Text

File #: 980159, **Version:** 1

980159

SUBSTITUTE

930519

THE CHAIR

Substitute resolution amending a special privilege for change of ownership to Charles E. Spahn for encroachment into the public right-of-way of existing items and formally grants permission for encroachment of an air conditioner for the building at 2800 West Forest Home Avenue, in the 8th Aldermanic District in the City of Milwaukee.

This resolution grants an amended special privilege to Charles E. Spahn for encroachment into the public right-of-way of a set of wood stairs and an excess door swing, as well as formally granting permission for the encroachment of an air conditioner, for the building at 2800 West Forest Home Avenue.

Whereas, Scott E's Pub requested permission for a sidewalk area dining facility consisting of eight tables and two chairs for each table; and

Whereas, A site visit also revealed the presence of a set of wood stairs and an excess door swing encroachment; and

Whereas, Permission for these items was granted in 1993 by adoption of Common Council Resolution File Number 930519; and

Whereas, Charles E. Spahn bought the property; and

Whereas, The sidewalk area dining facility no longer appears to be in the public right-of-way and permission via special privilege for any future sidewalk dining facility is no longer required as long as it is in conformance with Section 115-32-6 of the City of Milwaukee Code of Ordinances; and

Whereas, A site revealed the presence of a window air conditioner projecting into the west sidewalk area of South 28th Street; and

Whereas, To grant permission for said air conditioner and to formally transfer liability for previously permitted items to the current owner, the Common Council needs to adopt an amending resolution; now, therefore, be it

Resolved, That Common Council Resolution File Number 930519 is hereby rescinded;

and, be it

Further Resolved, By the Common Council of the City of Milwaukee, that Charles E. Spahn, 2800 West Forest Home Avenue, Milwaukee, Wisconsin 53215 is hereby granted the following special privileges:

1. To keep, use and maintain a set of wood stairs approximately 2 feet 6 inches in height and 3 feet wide and encroach approximately 2 feet 5 inches into the 16-foot wide west sidewalk area of South 28th Street. Said

stairs are centered approximately 58 feet north of the northline of West Forest Home Avenue.

2. To keep, use and maintain an excess door swing encroachment centered approximately 58 feet north of the northline of West Forest Home Avenue. The door is 3 feet wide and, when fully opened, encroaches 3 feet into the west, 16-foot wide sidewalk area of South 28th Street, which is in excess of the 12 inches allowed per Section 245-4-8 of City of Milwaukee Code of Ordinances. The bottom of said door swings open approximately 2 feet 8 inches above the sidewalk grade, over the wood stairs of item number 1.

3. To keep, use and maintain an air conditioner centered approximately 68 feet north of the northline of West Forest Home Avenue. The 2-foot wide air conditioner projects approximately 1 foot into the 16-foot wide west sidewalk area of South 28th Street approximately 8 feet 6 inches above the sidewalk grade.

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, Charles E. Spahn, 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 \$1,000.00 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 \$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. 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 \$35.00. 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.

Department of Public Works
Infrastructure Services Division

MDL:dr

June 9, 2005

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2800 W FOREST HOME AVE