



Legislation Text

File #: 131756, **Version:** 1

131756

SUBSTITUTE 1

Substitute resolution granting a special privilege to Milwaukee Smoked BBQ Incorporated for a fence, dumpster enclosure and step in the public right-of-way for the premises at 3902 South Whitnall Avenue, in the 14th Aldermanic District.

This resolution grants a special privilege to Milwaukee Smoked BBQ Incorporated to construct and maintain a fence, dumpster enclosure and step in the public right-of-way for the premises at 3902 South Whitnall Avenue.

Whereas, The applicant has converted the property from a motorcycle repair shop into a takeout restaurant; and

Whereas, The applicant constructed a line fence to provide a buffer between the parking lot and the public sidewalk; and

Whereas, A site visit revealed the presence of a concrete step and dumpster enclosure 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 Milwaukee Smoked BBQ Incorporated, 3902 South Whitnall Avenue, Milwaukee, WI 53207 is hereby granted the following special privileges:

1. To construct and maintain a line fence in the south, 15-foot wide sidewalk area of East Howard Avenue and in the east, 7-foot 6-inch wide sidewalk area of South Whitnall Avenue. The 6-foot tall, decorative metal fence commences at a point approximately 48 feet east of the eastline of South Whitnall Avenue and 2 feet north of the south line of East Howard Avenue, extends west 46 feet 8 inches, then turns to the southwest, and extends 5 feet 7 inches to a point 1 foot west of the eastline of South Whitnall Avenue.
2. To construct and maintain a wood dumpster enclosure projecting 1 foot 8 inches into the south, 15-foot wide sidewalk area of East Howard Avenue. Said enclosure commences at a point approximately 98 feet east of the eastline of South Whitnall Avenue and extends west 8 feet.
3. To construct and maintain a set of concrete steps projecting 6 inches into the east, 15-foot wide sidewalk area of East Howard Avenue. Said 4-foot long steps are centered approximately 107 feet east of the eastline of South Whitnall Avenue.

Said 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, Milwaukee Smoked BBQ 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 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 \$72.25. 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 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

Administration Division

MICHAEL LOUGHRAN/DAWN SCHMIDT/C. MURPHY

August 22, 2014