



Legislation Text

File #: 161047, **Version:** 1

161047
SUBSTITUTE 1
941066

Ald. Bauman

Substitute resolution amending a special privilege for change of ownership to Mader's German Restaurant Incorporated, for addition of a moveable planter, and for removal of several items from the public right-of-way for the premises at 1037 North Old World Third Street, in the 4th Aldermanic District.

This resolution amends a special privilege for change of ownership to Mader's German Restaurant Incorporated, for addition of a moveable planter, and for removal of several items from the public right-of-way for the premises at 1037 North Old World Third Street.

Whereas, G. Victor Mader applied for a special privilege to install and maintain electrical outlets and gas lamps and to keep and maintain a decorated, code non-compliant marquee in the public right-of-way; and

Whereas, Permission for said items to occupy the public right-of-way was granted under Common Council Resolution File Number 941066; and

Whereas, Mader's German Restaurant Incorporated now owns the building; and

Whereas, The gas lamps and all but one of the electrical outlets has been removed from the public right-of-way; and

Whereas, A site visit revealed the presence of a concrete moveable planter in the public right-of-way, and

Whereas, Said moveable planter 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 liability for said items 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Resolved, By the Common Council of the City of Milwaukee that Common Council Resolution File Number 941066 is hereby rescinded; and, be it

Further Resolved, That Mader's German Restaurant Incorporated, 1037 North Old World Third Street, Milwaukee, Wisconsin, 53203 is hereby granted the following special privileges:

1. To keep and maintain a decorative, code non-compliant marquee centered approximately 120 feet south of the south line of West Highland Avenue. The marquee projects 9 feet into the west, 12-foot wide sidewalk are of North Old World Third Street for a distance of 8.7 feet. Said marquee structure is approximately 18.2 feet tall, which is in excess of the 8 feet permitted by Milwaukee Code of Ordinances section 245-10-6-e. The lowest portion of the marquee is 9 feet above the adjacent sidewalk grade, which is lower than the 10 feet required by Milwaukee Code of Ordinances section 245-10-5.
2. To keep and maintain one electrical outlet on the west side of North Old World Third Street located approximately 41 feet south of the south line of West Highland Avenue and 8 feet east of the west line of North Old World Third Street in a tree box out. Said electrical outlet is 1 foot above the adjacent sidewalk grade.

3. To install and maintain a concrete moveable planter in the west, 12-foot wide sidewalk area of North Old World Third Street. Said planter is 2 feet 8 inches in diameter and 1 foot 10 inches tall. The planter is located adjacent to the building face, which is the west line of North Old World Third Street, and is centered approximately 105 feet south of the south line of West Highland Avenue.

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 building items shall be maintained or removed from the public right-of-way, at such future time as it is 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, Mader's German Restaurant 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 \$50.00. 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

..Drafter

Administration Division

JERREL KRUSCHKE/DAWN SCHMIDT

April 28, 2020

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