

# City of West Allis Matter Summary

File Number	Title	Status
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R-2011-0127      Resolution      Introduced

Resolution Granting a Privilege for Encroachment (Major) to the School District of West Allis-West Milwaukee, et al. for property located at 1205 South 70th Street.

Introduced: 5/17/2011

Controlling Body: Public Works Committee

Sponsor(s): Public Works Committee

**COMMITTEE RECOMMENDATION**

*Approve*

**ADOPT**

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<i>5/19/2011</i>			Barczak	✓			
			Czaplewski	✓			
			Kopplin				
			Lajsic				
			Narlock				
			Reinke				
		✓		Roadt	✓		
				Sengstock	✓		
			✓	Vitale			
			Weigel	✓			
			TOTAL	<i>5</i>			

**SIGNATURE OF COMMITTEE MEMBER**

*[Signature]* \_\_\_\_\_  
Chair      Vice-Chair      Member

**COMMON COUNCIL ACTION**

**ADOPT**

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<i>MAY 17 2011</i>	✓		Barczak	✓			
			Czaplewski	✓			
		✓	Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale	✓			
			Weigel	✓			
			TOTAL	<i>10</i>			



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number: R-2011-0127**

**Final Action:**

**Sponsor(s):** Public Works Committee

MAY 17 2011

Resolution Granting a Privilege for Encroachment (Major) to the School District of West Allis-West Milwaukee, et al. for property located at 1205 South 70th Street.

WHEREAS, the School District of West Allis-West Milwaukee, et al. requests from the City of West Allis a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of the installation of a sign, a five foot (5') wide landscape bed along South 70th Street to include a fence, poured concrete curb and landscaping (trees, shrubs, perennial grasses and hardwood mulch) on said property located at 1205 South 70th Street, in the City of West Allis, WI (the "Privilege").

NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to the School District of West Allis-West Milwaukee, et al. the Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of the installation of a sign, a five foot (5') wide landscape bed along South 70th Street to include a fence, poured concrete curb and landscaping (trees, shrubs, perennial grasses and hardwood mulch) on said property located at 1205 South 70th Street, in the City of West Allis, WI.

BE IT FURTHER RESOLVED that additional improvements on said area must require prior approval of the Board of Public Works.

BE IT FURTHER RESOLVED that the Mayor and City Administrative Officer, Clerk/Treasurer of the City of West Allis are hereby authorized and directed to execute and deliver the aforesaid Privilege on behalf of the City of West Allis.

ATTR-Encroachment-School District WA-WM

**ADOPTED**

MAY 17 2011

**APPROVED**

5/20/11

Paul M. Ziebler, City Admin. Officer, Clerk/Treas.

Dan Devine, Mayor

**PRIVILEGE FOR ENCROACHMENT  
(MAJOR)**

Beyond Lot Line and Within a Public Street Right-of-Way

School District of West Allis-West Milwaukee, et al., owner(s) of property located at 1205 South 70<sup>th</sup> Street, West Allis, hereinafter "Grantee(s)", desire to maintain an encroachment extending beyond the lot line and on the City's right-of-way consisting of the installation of a sign, a five foot (5') wide landscape bed along South 70<sup>th</sup> Street to include a fence, poured concrete curb and landscaping (trees, shrubs, perennial grasses and hardwood mulch) on that portion of the right-of-way adjoining Lots 22 thru 30 and South 13.13 feet of Lot 31 in Otjen Pullen and Shenner's Subdivision, Block 2, being a subdivision of the Southwest ¼ of Section 34, Township 7 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin, more particularly described as follows:

Beginning at the Southeast corner of said Lot 22; thence Northerly, 283.13 feet along the West right-of-way line of South 70<sup>th</sup> Street; thence Easterly, 12.0 feet; thence Southerly, 283.13 feet parallel with said West right-of-way line; thence Westerly, 12.0 feet to the Point of Beginning of this description.

Tax Key No. 440-0256-002.

The Board of Public Works is satisfied that the granting of this privilege is not adverse to the public interest.

NOW, THEREFORE, Pursuant to the authority contained in Section 66.0425 of the Wisconsin Statutes, the Board of Public Works does hereby grant the above-described privilege, subject to the following terms and conditions:

1. Upon acceptance hereof, the Grantee(s) shall become primarily liable for damages to persons or property by reason of the granting of this privilege; and the Grantee(s) agree to hold the City harmless for any damage to their property resulting from snow plowing or snow removal operations.
2. The Grantee(s) shall be obligated to remove the encroachment upon ten (10) days notice by the State of Wisconsin or City of West Allis, and shall be entitled to no damages for removal of the encroachment. I hereby grant permission to the City of West Allis to remove the encroachment if it is not

removed pursuant to Sec. 66.0425(2), Wisconsin Statutes, the cost of which shall be at Grantee's expense.

The cost of removal by the City shall be charged to Grantee and, if unpaid after thirty (30) days, assessed as a special charge under Sec. 66.0701, Wisconsin Statutes.

3. The Grantee(s), by acceptance hereof, waives any right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes.

4. Any third parties whose rights are interfered with by the granting of this privilege shall have a right of action against the Grantee(s) only.

5. Plans and specifications of any repair/alterations being performed in the public right-of-ways for which this privilege is granted, other than the sign, fence, poured concrete curb and landscaping bed (trees, shrubs, perennial grasses and mulch) as provided herein, shall require submission to, and final approval of, the Director of Public Works/City Engineer of the City of West Allis.

6. It is understood that Grantee(s), their heirs, successors and assigns, shall file a Performance Bond with the City Clerk/Treasurer in the amount of Ten Thousand Dollars (\$10,000.00) and a Certificate of Insurance in the amount of at least One Million Dollars (\$1,000,000.00), in a form approved by the City Attorney, for damages to person or property by reason of the granting of this privilege. The City of West Allis shall be named as an additional insured, as its interest may appear, on the certificate of insurance. The insurance certificate shall further provide that ten (10) day written notice to the City of West Allis shall be provided in the event of any material change, or cancellation of insurance coverage.

7. Grantee(s) shall pay to the City of West Allis as compensation for this privilege the sum of Fifty Dollars (\$50.00).

8. This privilege shall be in force and have effect only upon payment of the required fee and filing of the Certificate of Insurance and Performance Bond referred to above. This privilege shall cease upon the lapse or cancellation of the said insurance coverage. New application and new payment shall then be required to extend grant of privilege.

9. This privilege shall be binding upon and inure to the benefit of the Grantee(s), their respective heirs, successors and assigns.

Dated at West Allis, Wisconsin, this 23 day of May, 2011.

CITY OF WEST ALLIS

BY: Dan Devine  
Dan Devine, Mayor

BY: Paul M. Ziebler  
Paul M. Ziebler  
CAO, City Clerk/Treasurer

ACCEPTED BY:

SCHOOL DISTRICT OF WEST ALLIS –  
WEST MILWAUKEE, ET AL.

By: Kurt A. Wachholz  
Kurt Wachholz, Superintendent

Date: 4-18-11

Approved as to form this 11 day  
of May, 2011.

[Signature]  
City Attorney

C/Encroachment/Encrmajor-School District WAWM