

..Number
181429
..Version
PROPOSED SUBSTITUTE
..Reference

..Sponsor
ALD. BAUMAN

..Title
A substitute ordinance relating to review and approval of site work within an overlay zone.

..Section
295-311-8 cr
295-311-9-a am
295-311-9-b am
295-311-9-c-0 am
295-311-9-e-0 am
295-311-9-f am
295-311-9-g cr
295-311-9-h cr
295-1003-2-h am
295-1007-2-h am
295-1009-2-g am

..Analysis
This ordinance:

1. Provides that any person may appeal to the common council the decision of the city plan commission regarding an application for approval of site work within a development incentive or site plan review overlay zone. The appellant shall file a written request with the city clerk within 20 days of the date on which the city plan commission rendered its decision with respect to site work approval. The city clerk shall file the request to appeal with the common council. After a public hearing at the next regularly-scheduled meeting of the common council's zoning committee, the council may, by majority vote of the common council, reverse or modify the decision of the commission based on whether the development plan for the site work meets the established standards for the relevant overlay zone.

2. Requires that any deviation from the performance or design standards of an established neighborhood conservation, development incentive or site plan review overlay zone be reviewed by the city plan commission and reviewed and approved by the common council. Currently, only city plan commission review and approval is required.

..Body
The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 295-311-8 of the code is created to read:

8. APPEALS OF SITE WORK DECISIONS; OVERLAY ZONES. Any person may appeal to the common council the decision of the city plan commission regarding an application for approval of site work within a development incentive or site plan review overlay zone. The appellant shall file a written request with the city clerk within 20 days of the date on which the city plan commission rendered its decision with respect to site work approval. The city clerk shall file the request to appeal with the common council. After a public hearing at the next regularly-scheduled meeting of the common council's zoning committee, the council may, by majority vote of the common council, reverse or modify the decision of the commission based on whether the development plan for the site work meets the standards of s. 295-1007-3-b or s. 295-1009-3-b, as the case may be.

Part 2. Section 295-311-9-a, b, c-0, e and f of the code is amended to read:

9. DEVIATIONS FROM PERFORMANCE OR DESIGN STANDARDS; OVERLAY ZONES.

a. ~~[[Plan Commission]]~~ >>Common Council<< Approval Required. Deviations from performance or design standards for established neighborhood conservation, development incentive and site plan review overlay zones may be approved by the ~~[[city plan commission]]~~ >>common council, following review by the city plan commission and the common council's zoning committee<< .

b. Application. Every application for a deviation from a performance or design standard shall be made upon a form furnished by the commission secretary. The applicant shall provide all information requested on the form and any additional information requested by the commission chair or secretary that is necessary to inform the commission >>and the common council<< of the facts of the request for deviation. ~~[[Upon receiving an application for deviation from a performance or design standard, the commission secretary shall provide a copy of the application to the commissioner.]]~~

c. Criteria for Deviation. The application shall state the specific grounds for the deviation and identify the provisions of the neighborhood conservation plan or the development, performance or design standards or criteria applicable to the request for deviation. A deviation from a performance or design standard shall be approved by the ~~[[commission if the commission]]~~ >>common council if the council<< finds all of the following to be true:

e. >>Plan Commission<< Public Hearing. The commission shall establish a reasonable time for a hearing of the application and give public notice thereof, as well as due notice to the interested parties.

f. Commission Action. The commission shall ~~[[approve or deny]]~~ >>review<< the application ~~[[for a deviation from the performance or design standards of the established~~

~~overlay zone]] >>and make a determination as to whether the deviation meets all of the standards of par. c<< .~~

Part 3. Section 295-311-9-g and h of the code is created to read:

g. Zoning Committee Review. The commission secretary shall prepare a report of the commission's findings and recommendation and provide a copy to the city clerk, who shall refer the report to the zoning committee of the common council. The committee shall hold a hearing on the application, following which it shall prepare a recommendation to the common council, basing its recommendation on its determination as to whether the deviation meets the standards of par. c.

h. Common Council. Following receipt of the committee's recommendation, the common council shall approve or deny the deviation.

Part 4. Section 295-1003-2-h of the code is amended to read:

295-1003. Neighborhood Conservation Overlay Zone (NC).

2. PROCEDURES.

h. Deviations. An application requesting a deviation from a performance or design standard of a neighborhood conservation overlay zone shall be submitted, along with the required fee specified in s. 200-33, to the commission secretary and considered by the commission >>and the common council<< according to the procedures and criteria of s. 295-311-9.

Part 5. Section 295-1007-2-h of the code is amended to read:

295-1007. Development Incentive Overlay Zone (DIZ).

2. PROCEDURES.

h. Deviations. An application requesting a deviation from a performance or design standard of a development incentive overlay zone shall be submitted, along with the required fee specified in s. 200-33, to the commission secretary and considered by the commission >>and the common council<< according to the procedures and criteria of s. 295-311-9.

Part 6. Section 295-1009-2-g of the code is amended to read:

295-1009. Site Plan Review Overlay Zone (SP).

2. PROCEDURES.

g. Deviations. An application requesting a deviation from a performance or design standard of a site plan review overlay zone shall be submitted, along with the required fee specified in s. 200-33, to the commission secretary and considered by the commission >>and the common council<< according to the procedures and criteria of s. 295-311-9.

..LRB
APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

LRB173189-5

Jeff Osterman

03/29/2019