

Lee, Chris

From: Owczarski, Jim
Sent: Friday, September 19, 2025 3:12 PM
To: Lee, Chris
Subject: Fw: File # 250779
Attachments: 250779.docx

Please see the attached?

Jim

From: Anger, Meighan <manger@milwaukee.gov>
Sent: Friday, September 19, 2025 3:00 PM
To: Owczarski, Jim <jowcza@milwaukee.gov>
Cc: Wilson, Julie <jwilson@milwaukee.gov>
Subject: File # 250779

Hello Mr. Owczarski,

The proposed Suspension of Flood-Related Permit Fees ordinance is legal and enforceable.

The ordinance provides the reason for the temporary suspension of flood-related permit fees, the suspension period, the impacted permit fees, and it relies on established criteria to determine who qualifies for the waiver. The City Attorney's Office suggests that the Department of Neighborhood Services submit its established criteria with the proposed ordinance. The criteria does treat property owners differently. However, it does not involve a suspect class and the purpose is to promote and continue home ownership. This provides a reasonable basis to justify the classification. *Rubin v. Wauwatosa*, 116 Wis. 2d 305, 318 (Ct. App. 1983).

The ordinance also allows the Department to refund flood-related permit fees paid prior to the ordinance's adoption. This application provides the benefit to all qualifying owner-occupied residential properties.

The definition of the term owner occupied drives who qualifies for the waiver. Who is included in this definition is a policy decision. Generally, a grantor puts property in a trust and the trustee owns/manages the property for the beneficiaries named in the trust. A trustee may or may not live at property or the grantor may live at and retain control of the property. The terms of a trust may vary and the Department of Neighborhood Services will need to use its common sense when assessing whether a property held in trust qualifies as owner occupied based on a review of the facts presented. Alternatively, the ordinance may apply to all property owners impacted by floodwaters between August 9 and August 10, 2025.

The Common Council, the City's legislative body, has the authority to pass ordinances establishing the City's fee schedules. The Department of Neighborhood Services has the authority to issue the permits, collect the fees and enforce the Milwaukee Code of Ordinances. While the proposed ordinance temporarily suspends flood-related permit fees for qualifying owner-occupied residential properties, it still requires permits. Permits ensure that all work performed complies with the Milwaukee Code of Ordinances.

Meighan M. Anger

Assistant City Attorney – Ordinance Enforcement Division | Office of the City Attorney | City of Milwaukee

