

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

..Sponsor  
ALD. BAUMAN

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

..Section  
295-311-9-a           am  
295-311-9-b           am  
295-311-9-c-0       am  
295-311-9-e           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  
295-1007-3-b-0      rc  
295-1009-2-d       am  
295-1009-2-g       am  
295-1009-3-b-0      rc  
295-1017-2-g-0      am  
295-1017-2-h       am

..Analysis  
This ordinance:

1. Requires city plan commission review, and common council review and approval, of any site work within a development incentive overlay zone or a site plan review overlay zone. Presently, only city plan commission review and approval is required.
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.
3. Clarifies the requirement for common council approval of a master sign program for a property within a master sign program overlay zone.

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

Part 1. Section 295-311-9-a, b and c-0, e and f of the code is amended to read:

## 295-311. Appeals.

### 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<< . >>The commission secretary shall prepare a report of the commission's findings and recommendation and provide a copy of the report to the city clerk.<<

Part 2. Section 295-311-9-g and h of the code is created to read:

g. Council 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 3. 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 4. 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 5. Section 295-1007-3-b-0 of the code is repealed and recreated to read:

**3. STANDARDS.**

b. Review and Approval of Site Work. Common council approval or conditional approval shall be required for any site work within a development incentive overlay zone. Whenever an application for site work is received, the department shall refer the application to the city plan commission for its review and recommendation. 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. The commission and the committee shall base their recommendations on whether the development plan for the site work:

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

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

## 2. PROCEDURES.

d. Development Plan Review. Once the site plan review overlay zone has been established, plans for all site work within the zone shall be submitted to the city plan commission for ~~[[its]]~~ >>commission review and common council review and~~<< approval~~ >>in accordance with the procedure set forth in sub. 3-b<< . ~~[[The approved design standards shall be used by the commission in its review of development plans within the zone.]]~~

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.

Part 7. Section 295-1009-3-b-0 of the code is repealed and recreated to read:

## 3. STANDARDS.

b. Review and Approval of Site Work. Common council approval or conditional approval shall be required for any site work within a site plan review overlay zone. Whenever an application for site work is received, the department shall refer the application to the city plan commission for its review and recommendation. 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. The commission and the committee shall base their recommendations on whether the development plan for the site work:

Part 8. Section 295-1017-2-g-0 and h of the code is amended to read:

### **295-1017. Master Sign Program Overlay Zone (MSP).**

## 2. PROCEDURES.

g. Required Findings. No master sign program shall be approved unless the ~~[[commission]]~~ >>common council<< finds all of the following to be true:

h. Conditions of Approval. In approving a master sign program, the ~~[[commission]]~~ >>common council<< may impose, upon the applicant and the site to which the program would apply, any reasonable conditions necessary to carry out the intent of this subsection while still providing each sign user with opportunities for effective identification and communication.

..LRB  
APPROVED AS TO FORM

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Legislative Reference Bureau

Date: \_\_\_\_\_

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

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Office of the City Attorney

Date: \_\_\_\_\_

..Requestor

..Drafter

LRB173189-3

Jeff Osterman

02/07/2019