



Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Passed

**File created:** 5/8/2007      **In control:** ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE

**On agenda:**      **Final action:** 6/19/2007

**Effective date:**

**Title:** A substitute ordinance relating to required board of zoning appeals findings for the granting of special use permits.

**Sponsors:** ALD. BOHL, ALD. MURPHY, ALD. DONOVAN, ALD. D'AMATO, ALD. HAMILTON, ALD. PUENTE, ALD. DUDZIK, ALD. BAUMAN, ALD. ZIELINSKI, ALD. WADE

**Indexes:** BOARD OF ZONING APPEALS, ZONING

**Attachments:** 1. Opinion request and City Attorney's opinion June 2007, 2. 2004 Legal Opinion, 3. 2001 Legal Opinion Related to Overconcentration, 4. Board of Zoning Appeals Memo Re. Concentration, 5. Letter from the Zoning Code Technical Committee dated 5-18-2007.pdf, 6. City Plan Commission Letter.pdf, 7. Motion, 8. Board of Zoning Appeals Case No. 23020, 9. City Plan Commission Notice Published on May 18 and May 25, 2007.PDF, 10. Notice Published on 7-6-07.PDF

Date	Ver.	Action By	Action	Result	Tally
5/8/2007	0	COMMON COUNCIL	ASSIGNED TO		
5/9/2007	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
5/9/2007	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
5/18/2007	0	CITY CLERK	PUBLISHED		
6/4/2007	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
6/5/2007	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
6/12/2007	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	SUBSTITUTED	Pass	4:0
6/12/2007	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
6/12/2007	1	CITY CLERK	DRAFT SUBMITTED		
6/19/2007	1	COMMON COUNCIL	PASSED	Pass	14:0
6/28/2007	1	MAYOR	SIGNED		
7/6/2007	1	CITY CLERK	PUBLISHED		

070160  
Substitute 1

ALD. BOHL, MURPHY, DONOVAN, D'AMATO, HAMILTON, PUENTE, DUDZIK, BAUMAN, ZIELINSKI AND WADE

A substitute ordinance relating to required board of zoning appeals findings for the granting of special use permits.

295-311-2-d-1 am

295-311-2-d-2 am

Currently, in order to approve a special use permit, the board of zoning appeals is required to make 4 findings, including findings that:

1. The use will be designed, located and operated in a manner so that the public health, safety and welfare is protected
2. The use, value and enjoyment of other property in the neighborhood will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use.

This ordinance provides that the board of zoning appeals may consider geographic concentration of establishments of the same type as the proposed special use as evidence that either or both of these standards will not be met.

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

Part 1. Section 295-311-2-d-1 and 2 of the code is amended to read:

**295-311. Appeals.**

**2. SPECIAL USE PERMITS.**

**d. Findings.**

d-1. Protection of Public Health, Safety and Welfare. The use will be designed, located and operated in a manner so that the public health, safety and welfare is protected. >>A geographic concentration of establishments of this type may be evidence, in certain circumstances, that the public health, safety and welfare will not be protected.<<

d-2. Protection of Property. The use, value and enjoyment of other property in the neighborhood will not be substantially impaired or diminished by the establishment, maintenance or operation of the special use. >>A geographic concentration of establishments of this type may be evidence, in certain circumstances, that the proposed use will substantially impair or diminish property values.<<  
APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

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

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

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

LRB07243-2

JDO

06/04/2007