



## Legislation Text

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**File #:** 111226, **Version:** 1

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111226  
SUBSTITUTE 1

ALD. HAMILTON, DAVIS, AND COGGS

A substitute ordinance relating to the implementation of the small business development program.

370-1 rc

370-23 am

370-25-9 cr

This ordinance implements an additional certification requirement for a small business enterprise in the city's small business enterprise program. This requirement is that the business shall be at least 51% owned, operated and controlled by one or more individuals at a disadvantage. An individual at a disadvantage means a person who is at an economic disadvantage, who is a citizen or lawful permanent resident of the United States and who is experiencing substantial difficulty in achieving business-related success in the Milwaukee metropolitan area as a result of at least 3 of the following:

1. At a disadvantage with respect to business location.
2. At a disadvantage with respect to education.
3. At a disadvantage with respect to employment.
4. At a social disadvantage.

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

Part 1. Section 370-1 of the code is repealed and recreated to read:

**370-1. Definitions.** In this chapter:

1. **AFRICAN-AMERICAN** means a person having origins in any black racial group of Africa.
2. **ASIAN-AMERICAN** means a person having origins in any of the original people of the Far East, Southeast Asia or the Indian subcontinent.
3. **AT A DISADVANTAGE WITH RESPECT TO BUSINESS LOCATION** means location within an enterprise zone within the Milwaukee metropolitan area for a period of not less than one year of the applicant's principal office and business of which the applicant is the sole owner or one of the owners and a principal operator.
4. **AT A DISADVANTAGE WITH RESPECT TO EDUCATION** means failure to attain a high school degree or its equivalent for good reason or attendance in schools which have repeatedly achieved ratings below national, state and community averages in educational standards, educational standardized test scores and student grade point averages.
5. **AT A DISADVANTAGE WITH RESPECT TO EMPLOYMENT** means a pattern of nonachievement

in hiring, promotion and other aspects of employment advancement due to factors beyond the individual's reasonable control, a lack of current knowledge and skills necessary for employment, career advancement or consistent earning of average annual income below the median income level of adults of comparable age in this city.

**6. AT A SOCIAL DISADVANTAGE** means an applicant's experience of substantial difficulty in attaining employment or business success at least in part due to location of the individual's residence and lack of mobility, physical handicap or other causes beyond the individual's reasonable control.

**7. AT AN ECONOMIC DISADVANTAGE** means an inability to compete in the free enterprise system due to diminished capital, credit or bonding opportunities. Factors which will be considered as an indication that an individual has been economically disadvantaged include, but are not limited to, failure to accumulate adequate business capital or obtain sufficient credit to start or support a going business concern, failure to acquire business-related credit or bonding under terms or circumstances as favorable as those generally experienced by nondisadvantaged individuals, consistent failure to receive awards or bids of governmental contracts despite competitive pricing or other similar factors which have disadvantaged the applicant in the development of a business.

**8. CONSTRUCTION** means the erection, rehabilitation, alteration, conversion, extension, demolition or repair of improvements to real property, including facilities providing utility service and includes the supervision, inspection and other on-site functions incidental to construction.

**9. CONTRACT** means a binding agreement by which the city is committed to expend or does expend its funds or other resources for in connection with any of the following purposes:

- a. Construction of any public improvements.
- b. Purchase of any personal property.
- c. Purchase of any services, goods or supplies.
- d. Lease of any personal or real property.
- e. Concession agreements whereby the city grants a specific permission, privilege or license.

**10. CONTRACTING DEPARTMENT** means any city department, agency, board or commission that has contracting responsibilities.

**11. CONTRACTOR** means a separate and distinguishable business entity participating or seeking to participate in the performance of a contract.

**12. ENTERPRISE ZONE** means an area within the Milwaukee metropolitan area for which an application for designation as an enterprise zone has been submitted to, or has been designated by, the United States secretary of housing and urban development as an enterprise zone under 42 U.S.C., ss. 11501, et seq., as amended, or similar area designated disadvantaged by the common council.

**13. HISPANIC-AMERICAN** means a person of Spanish or Portuguese culture with origins in Cuba, Puerto Rico, Mexico, South or Central America, regardless of race.

**14. INDIVIDUAL AT A DISADVANTAGE** means a person who is at an economic disadvantage, who is a citizen or lawful permanent resident of the United States and who is experiencing substantial difficulty in achieving business-related success in the Milwaukee metropolitan area as a result of at

least 3 of the following:

- a. At a disadvantage with respect to business location.
- b. At a disadvantage with respect to education.
- c. At a disadvantage with respect to employment.
- d. At a social disadvantage.

**15. JOINT VENTURE** means an association of 2 or more persons or businesses carrying out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.

**16. MANAGER** means the manager of the office of small business development.

**17. MILWAUKEE METROPOLITAN AREA** means the counties of Milwaukee, Ozaukee, Washington and Waukesha.

**18. MINORITY** means an individual who is African-American, Asian-American, Hispanic-American or Native American.

**19. MINORITY BUSINESS ENTERPRISE** means a business that has been certified by the office of small business development based on the requirements specified in s. 370-13.

**20. NATIVE AMERICAN** means a person having no less than 1/16<sup>th</sup> percentage origin in any of the Native-American tribes as recognized by the U.S. department of the interior, bureau of Indian affairs.

**21. OWNED, OPERATED AND CONTROLLED** means a business which is one of the following:

- a. A sole proprietorship legitimately owned, operated and controlled by a minority, woman or individual at a disadvantage.
- b. A partnership or joint venture legitimately owned, operated and controlled by individuals who are minorities, women or individuals at a disadvantage and who own at least 51% of the beneficial ownership interests in the enterprise and who hold at least 51% of the voting interests of the enterprise.
- c. A corporation legitimately owned, operated and controlled by one or more individuals who are a minority, woman or individual at a disadvantage and who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

**22. PHYSICAL BUSINESS ADDRESS** means owned or leased real property within the geographical boundary of the Milwaukee metropolitan area. Post office box numbers shall not suffice to establish compliance. A residential address may suffice to establish compliance, but only if the business does not own or lease other real property.

**23. SMALL BUSINESS ENTERPRISE** means a business that has been certified by the office of small business development based on the requirements specified in s. 370-25.

**24. WOMAN BUSINESS ENTERPRISE** means a business that has been certified by the office of small business development based on the requirements specified in s. 370-19.

Part 2. Section 370-23 of the code is amended to read:

**370-23. Creation.** There is created a small business enterprise program to assist and protect the interests of individuals >>at a disadvantage<< owning, operating and controlling small businesses to promote and encourage full and open competition in the city, and to enhance opportunities for individuals who are at an economic disadvantage to successfully compete in a free market as independent business owners. The program shall apply to all contracts and shall include the taking of steps to increase the participation of small business enterprises, assisting in small business enterprise development programs and the identification and elimination of barriers that deny small business enterprises equal opportunity.

Part 3. Section 370-25-9 of the code is created to read:

**370-25. Certification Requirements for a Small Business Enterprise.**

9. The business shall be at least 51% owned, operated and controlled by one or more individuals at a disadvantage.

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: \_\_\_\_\_

Mary E. Turk  
1/24/12  
LRB136287-2