



## Legislation Text

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**File #: 030307, Version: 1**

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030307  
SUBSTITUTE 1

ALD. HENNINGSEN

A substitute ordinance relating to special privileges for wholesale food distributors on Commission Row.

245-4-29 cr

245-7-8 am

245-7-9 cr

This ordinance provides that special privileges shall not be required for the maintenance, repair, alteration or replacement of existing fixed awnings that project into the public right-of-way in the Historic Third Ward. (Such awnings are used primarily by wholesale food distributors located in the 300 block of North Broadway ("Commission Row")). However, a building permit shall be required for the repair, alteration or replacement of an awning of this type. In addition, whenever a building permit is required, the owner of the building to which the awning is attached shall be required to submit a surety bond of up to \$10,000, as well as a certificate of insurance for a public liability policy which provides bodily injury and property damage coverage and lists the city of Milwaukee as an insured party.

Whereas, Milwaukee's wholesale produce distribution district, known as "Commission Row" and historically located in the 300 and 400 blocks of North Broadway, is an important link to the city's past and a unique form of commercial development within the city; and

Whereas, The Common Council desires to preserve the character and viability of Commission Row and to stimulate compatible new development in this 2-block area and the entire Historic Third Ward; and

Whereas, Among the most distinct building design features of Commission Row are the numerous long awnings that project far over the public sidewalk and were installed to protect the produce distributors' goods from the elements; and

Whereas, In order to preserve the distinctive appearance of Commission Row and to ensure that these building awnings are safe and in proper repair, the Code of Ordinances must be revised to allow timely awning replacement without subjecting building owners to the currently-required special privilege procedure, which can be both time-consuming and costly; now, therefore

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

Part 1. Section 245-4-29 of the code is created to read:

**245-4. Permissible Projections and Encroachments.**

29. Fixed awnings in the Historic Third Ward which are allowed to project beyond the street line pursuant to s. 245-7-9.

Part 2. Section 245-7-8 of the code is amended to read:

**245-7. Fixed Awnings.**

8. EXISTING FIXED AWNINGS. All fixed awnings heretofore erected and projecting beyond the street line >>, except fixed awnings covered under sub. 9,<< shall be made to conform to the regulations of this section, or they shall be removed within 30 days after the adoption of this section. [section initially effective August 12, 1977]

Part 3. Section 245-7-9 of the code is created to read:

9. FIXED AWNINGS IN THE HISTORIC THIRD WARD. A fixed awning which is located in the Historic Third Ward Arts District, as defined in s. 308-71-2-e, projects beyond the street line and was in existence on the effective date of this ordinance [December 16, 2003] may be maintained without a special privilege. Such awning may also be repaired, altered or replaced without a special privilege, provided the projection from the street line is equal to that of the existing awning or 20 feet, whichever is greater. Such awnings shall be constructed in accordance with sub. 6-a to c. A permit shall be required for repair, alteration or replacement of an awning, but not for maintenance of an awning. Whenever a permit is required, the owner of the building to which the awning is attached shall:

a. Become primarily liable for damages to persons or property by reason of the granting of a permit for the awning.

b. File with the city clerk a bond of a surety company duly incorporated in the state of Wisconsin or duly licensed to do business in this state, in a sum not exceeding \$10,000, such bond to be approved by the city attorney. Individual sureties shall not be deemed in compliance with this paragraph. The owner shall also file with the city clerk a certificate of insurance indicating that the owner holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident, as well as \$10,000 covering property damage to any one owner of property located under the permitted awning, and naming the city of Milwaukee as an insured. Both the bond and the insurance policy shall provide that they shall not be cancelled until after at least 30 days' notice in writing to the city clerk.

c. Remove the awning whenever public necessity so requires. When removal is ordered by resolution adopted by the common council, the owner shall not be entitled to damages relating to such removal.

APPROVED AS TO FORM

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Legislative Reference Bureau

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

IT IS OUR OPINION THAT THE ORDINANCE

IS LEGAL AND ENFORCEABLE

Office of the City Attorney

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

LRB03246-2

JDO

9/11/03