



Legislation Details (With Text)

File #: 230005 **Version:** 2

Type: Ordinance **Status:** Passed

File created: 4/18/2023 **In control:** COMMON COUNCIL

On agenda: **Final action:** 5/9/2023

Effective date:

Title: A substitute ordinance relating to issuance of certificates of repose to owners of properties subject to the city's historic preservation code provisions.

Sponsors: ALD. BAUMAN

Indexes: HISTORIC PRESERVATION

Attachments: 1. Hearing Notice List, 2. Notice published 5/26/2023

| Date | Ver. | Action By | Action | Result | Tally |
|-----------|------|-----------------------------------------------|-------------------------|--------|-------|
| 4/18/2023 | 0 | COMMON COUNCIL | ASSIGNED TO | | |
| 5/2/2023 | 1 | ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE | RECOMMENDED FOR PASSAGE | Pass | 5:0 |
| 5/2/2023 | 0 | ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE | AMENDED | Pass | 5:0 |
| 5/9/2023 | 1 | COMMON COUNCIL | SUBSTITUTED | Pass | 15:0 |
| 5/9/2023 | 2 | COMMON COUNCIL | PASSED | Pass | 15:0 |
| 5/16/2023 | 2 | MAYOR | SIGNED | | |
| 5/26/2023 | 2 | CITY CLERK | PUBLISHED | | |

230005
SUBSTITUTE 2

ALD. BAUMAN

A substitute ordinance relating to issuance of certificates of repose to owners of properties subject to the city's historic preservation code provisions.

320-21-3-a rn
320-21-3-a cr
320-21-3-b rn
320-21-3-c rn
320-21-3-d rn
320-21-3-e rn
320-21-3-f rn
320-21-3-g rn
320-21-3-h rn
320-21-3-i rn
320-21-3-j rn
320-21-8-h rn
320-21-8-h cr
320-21-8-i rn

320-21-8-j rn
320-21-11.5 cr

The ordinance authorizes the historic preservation commission to issue a certificate of repose to a property owner whose property is in violation of the city's historic preservation code provisions, and the violation occurred before the current owner obtained ownership. Currently, there are no provisions providing an exemption for an owner in possession of a historic property with violations of the historic preservation code where the violations occurred before the current owner obtained ownership. The certificate of repose exempts an owner from remediating the violations, provided each of the following criteria is met:

1. A minimum of one deed of transfer as an arm's length transaction between the current owner and previous owner occurred prior to service of an order to correct the violation under ch. 200.
2. The current owner provides proof that a minimum of 3 years has elapsed since the work that violated the ordinance was performed.
3. The violation does not violate ch. 200 or 275 of the code, and presents no safety hazards as determined by the department of neighborhood services.
4. The current owner is able to demonstrate that the cost to remedy the violation exceeds \$1,000, provided the remedy requires materials beyond paint.
5. No citation relating to the violation, performed without a certificate of appropriateness under s. 320-21-11, has been issued against the prior owner.

Finally, the ordinance provides that unresolved, previous violations of the historic preservation ordinance brought against the previous owner shall be eligible for consideration under the ordinance's mothball certificate provision.

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

Part 1. Section 320-21-3-a to j of the code is renumbered 320-21-3-b to k.

Part 2. Section 320-21-3-a of the code is created to read:

320-21. Historic Preservation Commission.

3. DEFINITIONS.

a. "Arm's length transaction" means an agreement in which the buyer and seller act independently, in their own best interest, without one party influencing the other.

Part 3. Section 320-21-8-h, i and j of the code is renumbered 320-21-8-i, j and k.

Part 4. Section 320-21-8-h of the code is created to read:

8. FUNCTIONS, POWERS, AND DUTIES.

h. Issue certificates of repose, under sub. 11.5.

Part 5. Section 320-21-11.5 of the code is created to read:

11.5. CERTIFICATE OF REPOSE FOR VIOLATIONS BY PRIOR OWNER. Whenever a property is in violation of any provision of this section, and the violation occurred before the current owner obtained ownership of the property, the commission shall grant the current owner a certificate of repose, exempting the current owner from remediating the violation, for the lifespan of any materials used as part of the violation, provided each of the following criteria is met:

- a. A minimum of one deed of transfer as an arm's length transaction shall have occurred prior to service of an order to correct the violation under ch. 200.
- b. The current owner provides proof that a minimum of 3 years has elapsed since the work that violated this section was performed.
- c. The violation of this section does not violate ch. 200 or 275 of the code and presents no safety hazards as determined by the department of neighborhood services.
- d. The current owner is able to demonstrate that the cost to remedy the violation exceeds \$1,000, provided the remedy requires materials beyond paint.
- e. No citation relating to the work performed without a certificate of appropriateness under sub. 11 and in violation of this section has been issued against the prior owner.
- f. Unresolved, previous violations of this section brought against the previous owner shall be eligible for consideration under sub. 15.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFOCEABLE

Office of the City Attorney

Date: _____

LRB 178008-3
Christopher Hillard
5/3/2023