



Legislation Text

File #: 170448, **Version:** 1

170448
SUBSTITUTE 1

ALD. BOHL AND STAMPER

Substitute ordinance relating to community participation in development agreements.

355-13-5 cr
355-17 rc

This ordinance provides that every development agreement subject to the requirements for community participation in development agreements shall include a provision indicating that if the developer fails to comply with all resident preference hours, the commissioner of city development shall cause financial assistance to be withheld, reduced or reimbursed to the city. The provision shall include a schedule of intermediate phases of the project, benchmarks for resident preference hours following the completion of each intermediate phase of the project, and a formula setting forth the amount of direct financial assistance that the commissioner shall withhold, reduce or require to be reimbursed to the city if the actual resident preference hours are less than the established benchmark at each intermediate phase of the project.

This ordinance also provides that any financial assistance that is withheld, reduced or required to be reimbursed to the city may be reinstated or returned after the developer remedies any deficiency in the required resident preference hours or with the approval of the common council.

This ordinance also provides that every development agreement subject to the requirements for community participation in development agreements shall include a provision indicating that the department of administration shall impose sanctions and may seek a forfeiture as currently permitted by the code. In addition, any sanction imposed as a result of non-compliance with resident preference hours, other than a forfeiture or withholding of payment, shall be subject to approval by the common council.

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

Part 1. Section 355-13-5 of the code is created to read:

355-13. Other Requirements.

5. COMMUNITY PARTICIPATION ENFORCEMENT. Every development agreement subject to the requirements of this chapter shall include a provision indicating that if the developer fails to comply with all community participation provisions of ss. 355-7 to 355-9, the commissioner shall cause financial assistance to be withheld, reduced or reimbursed to the city. The provision shall include:

a. A schedule of intermediate phases of the project to be used for reporting on compliance with the

provisions of ss. 355-7 to 355-9.

b. Benchmarks for the actual participation by city residents in compliance with all provisions of ss. 355-7 to 355-9 following the completion of each intermediate phase of the project, including any credit for worker hours achieved on other projects under s. 355-7-2-a.

c. A formula setting forth the amount of financial assistance that the commissioner shall withhold, reduce or require to be reimbursed to the city if the actual participation by city residents is less than the benchmark at each intermediate phase of the project. No adjustment to the financial assistance shall be required if the total participation by city residents at the completion of an intermediate phase exceeds the sum of the benchmarks for all completed intermediate phases of the project.

d. A requirement that any financial assistance that is withheld, reduced or required to be reimbursed to the city in accordance with this subsection may be reinstated or returned after the developer remedies any deficiency in the required participation or with the approval of the common council.

Part 2. Section 355-17 is repealed and recreated to read:

355-17. Sanctions. 1. GENERAL. Every development agreement subject to the requirements of this chapter shall contain language indicating that if a developer receiving financial assistance is not in compliance with the requirements of this chapter or if any document submitted to the city by a developer receiving financial assistance, a contractor or subcontractor under this chapter contains false, misleading, fraudulent information, the department of administration may seek prosecution under s. 355-19 and shall impose sanctions which shall include one or more of the following:

- a. Imposition of a requirement that remedial efforts be undertaken by developers for the remaining portion of a project where initial reports demonstrate non-compliance with the resident preference hours required for the project.
- b. Specific performance or specified remedies under any written agreement pertaining to small business enterprise participation or first-source recruitment agreement.
- c. Remedies available to the city under a development agreement for such non-compliance.
- d. Withholding of payments.
- e. Termination, suspension or cancellation of the contract or agreement in whole or in part.
- f. After a due process hearing, denial of right to enter into agreements with the city for 2 years.

2. RESIDENT PREFERENCE HOURS. Any sanction imposed that arises from non-compliance with resident preference hours, other than a forfeiture under s. 355-19 or withholding of payments, shall be subject to approval by the common council.

APPROVED AS TO FORM

Date: _____
IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

Dana J. Zelazny
LRB168027-2
July 18, 2017