



## Legislation Text

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**File #:** 181429, **Version:** 3

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181429  
SUBSTITUTE 3

ALD. BAUMAN

A substitute ordinance relating to review and approval of site work within an overlay zone.

295-311-8	cr
295-311-9-a	rc
295-311-9-b	rc
295-311-9-c-0	am
295-311-9-e	am
295-311-9-f	am
295-311-9-g	cr
295-1003-2-h	am
295-1007-2-h	am
295-1009-2-g	am

This ordinance:

1. Provides that any person may appeal to the common council the decision of the city plan commission regarding an application for approval of site work within a development incentive or site plan review overlay zone. The appellant shall file a written request with the city clerk within 20 days of the date on which the city plan commission rendered its decision with respect to site work approval. The city clerk shall file the request to appeal with the common council. After a public hearing at the next regularly-scheduled meeting of the common council's zoning committee, the council may, by majority vote of the common council, reverse or modify the decision of the commission based on whether the development plan for the site work meets the established standards for the relevant overlay zone.

2. Requires that any deviation from the performance or design standards of a neighborhood conservation, development incentive or site plan review overlay zone established on or after the effective date of this ordinance be reviewed by the city plan commission and reviewed and approved by the common council. For any deviation from the performance or design standards of an overlay zone established before the effective date of this ordinance, the current requirement -- review and approval by the city plan commission only - remains in effect.

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

Part 1. Section 295-311-8 of the code is created to read:

### **295-311. Appeals.**

**8. APPEALS OF SITE WORK DECISIONS; OVERLAY ZONES.** Any person may appeal to the

common council the decision of the city plan commission regarding an application for approval of site work within a development incentive or site plan review overlay zone. The appellant shall file a written request with the city clerk within 20 days of the date on which the city plan commission rendered its decision with respect to site work approval. The city clerk shall file the request to appeal with the common council. After a public hearing at the next regularly-scheduled meeting of the common council's zoning committee, the council may, by majority vote of the common council, reverse or modify the decision of the commission based on whether the development plan for the site work meets the standards of s. 295-1007-3-b or s. 295-1009-3-b, as the case may be.

Part 2. Section 295-311-9-a and b of the code is repealed and recreated to read:

## 9. DEVIATIONS FROM PERFORMANCE OR DESIGN STANDARDS; OVERLAY ZONES.

a. Plan Commission Approval Required. A deviation from the performance or design standards for a neighborhood conservation, development incentive or site plan review overlay zone established before the effective date of this ordinance [city clerk to insert date] may be approved by the city plan commission. An application for a deviation of this type shall be made upon a form furnished by the commission secretary. The applicant shall provide all information requested on the form and any additional information requested by the commission chair or secretary that is necessary to inform the commission of the facts of the request for deviation.

b. Common Council Approval Required. A deviation from the performance or design standards for a neighborhood conservation, development incentive or site plan review overlay zone established on or after the effective date of this ordinance [city clerk to insert date] may be approved by the common council, following review by the city plan commission and the common council's zoning committee. An application for a deviation of this type shall be made upon a form furnished by the commission secretary. The applicant shall provide all information requested on the form and any additional information requested by the commission chair or secretary that is necessary to inform the commission and the common council of the facts of the request for deviation.

Part 3. Section 295-311-9-c-0, e and f of the code is amended to read:

c. Criteria for Deviation. The application shall state the specific grounds for the deviation and identify the provisions of the neighborhood conservation plan or the development, performance or design standards or criteria applicable to the request for deviation. A deviation from a performance or design standard shall be approved by the commission >>or the common council, as provided in pars. a and b,<< if the commission >>or the common council, whichever applies,<< finds all of the following to be true:

e. >>Plan Commission or Zoning Committee<< Public Hearing. The commission >>or the common council's zoning committee, whichever applies under pars. a and b,<< shall establish a reasonable time for a hearing of the application and give public notice thereof, as well as due notice to the interested parties.

f. Commission Action. [[The]] >>In the case of a deviation under par a., the<< commission shall approve or deny the application [[for a deviation from the performance or design standards of the established overlay zone]] >>following the public hearing and making a determination as to whether the deviation meets all of the standards of par. c<< .

Part 4. Section 295-311-9-g of the code is created to read:

g. Zoning Committee and Common Council Action. In the case of a deviation under par. b, the plan commission secretary shall prepare a report of the commission's findings and recommendation and provide a copy to the city clerk, who shall refer the report to the zoning committee of the common council. The committee shall hold a hearing on the application, following which it shall prepare a recommendation to the common council, basing its recommendation on its determination as to whether the deviation meets all of the standards of par. c. Following receipt of the committee's recommendation, the common council shall approve or deny the deviation.

Part 5. Section 295-1003-2-h of the code is amended to read:

**295-1003. Neighborhood Conservation Overlay Zone (NC).**

**2. PROCEDURES.**

h. Deviations. An application requesting a deviation from a performance or design standard of a neighborhood conservation overlay zone shall be submitted, along with the required fee specified in s. 200-33, to the commission secretary and considered by the commission >> or the commission and the common council,<< according to the procedures and criteria of s. 295-311-9.

Part 6. Section 295-1007-2-h of the code is amended to read:

**295-1007. Development Incentive Overlay Zone (DIZ).**

**2. PROCEDURES.**

h. Deviations. An application requesting a deviation from a performance or design standard of a development incentive overlay zone shall be submitted, along with the required fee specified in s. 200-33, to the commission secretary and considered by the commission >> or the commission and the common council,<< according to the procedures and criteria of s. 295-311-9.

Part 7. Section 295-1009-2-g of the code is amended to read:

**295-1009. Site Plan Review Overlay Zone (SP).**

**2. PROCEDURES.**

g. Deviations. An application requesting a deviation from a performance or design standard of a site plan review overlay zone shall be submitted, along with the required fee specified in s. 200-33, to the commission secretary and considered by the commission >> or the commission and the common council,<< according to the procedures and criteria of s. 295-311-9.

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: \_\_\_\_\_

LRB173189-6

Jeff Osterman

05/16/2019