



## Legislation Text

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File #: 231338, Version: 2

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### 231338 SUBSTITUTE 2

ALD. PEREZ, STAMPER, MURPHY, ZAMARRIPA AND BAUMAN

A substitute ordinance relating to reviews for potential environmental contamination prior to the issuance of occupancy certificates.

200-26-4-0           am  
200-26-4-a-5       cr  
200-26-4-a-6       cr  
200-42-3-e         cr  
200-42-3-f         cr

This ordinance requires that an application for an occupancy certificate for a residential use, in a structure that was previously a non-residential use, undergo a review from the health commissioner based on available environmental contamination information and data, and environmental contamination reviews from the appropriate state agencies.

Whereas, The process for obtaining an occupancy permit does not currently require that the conversion from an industrial use to a residential use be reviewed by the Health Commissioner; and

Whereas, The Department of Neighborhood Services (DNS) evaluates buildings and sites for compliance with building and zoning codes prior to issuing occupancy certificates, while environmental contamination associated with soil, groundwater and vapor intrusion are regulated by the State of Wisconsin; and

Whereas, The Code of Ordinances does not require DNS to check the subsurface environmental status of a building or site, including the vapor intrusion pathway status, prior to issuing an occupancy certificate; and

Whereas, To promote health and safety, the City should ensure that potential residential structures are subject to the Wisconsin Department of Natural Resources' guidance on vapor and undergo environmental site testing; now, therefore

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

Part 1. Section 200-26-4-0 of the code is amended to read:

#### **200-26. Application for Permits.**

**4. HEALTH COMMISSIONER'S ~~[[APPROVAL]]~~ >>REVIEW<<.**

Part 2. Section 200-26-4-a-5 and 6 of the code is created to read:

a-5. Residential or group residential uses in structures or sites that previously contained industrial uses, as defined in s. 295-203.

a-6. Residential or group residential uses in industrial zoning districts that require variances from the board of zoning appeals.

Part 3. Section 200-42-3-e and f of the code is created to read:

**200-42. Certificate of Occupancy.**

**3. WHEN ISSUED.**

e. No certificate of occupancy shall be issued for any site for a change from an industrial occupancy to a residential occupancy without submittal of an American society of testing and materials E-1527-21, or current standard, phase I environmental site assessment and phase II environmental site assessment. If the site assessment identifies volatile organic compounds or other vapor intrusion contaminants specified in the state of Wisconsin's department of natural resources vapor intrusion guidance, the owner shall submit the results of, and Wisconsin department of natural resources-approved documents for, a complete site investigation, remedial action plan, vapor mitigation plan, and vapor system commissioning to the department of neighborhood services.

f. An application for a certificate of occupancy to change from an industrial occupancy to a residential occupancy shall be accompanied by a signed disclosure from the applicant indicating the presence or absence of environmental contamination on the site and certifying the existence or lack of orders prohibiting the requested occupancy by any state or federal agency.

APPROVED AS TO FORM

*K. Broadnax*

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Legislative Reference Bureau

Date: January 8, 2024

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

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Office of the City Attorney

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

Alex Highley/jdo

LRB179559-2

01/08/2024

