

**INSTRUCTION SHEET
ADDITIONS TO
MILWAUKEE CODE OF ORDINANCES
VOLUME 3**

SUMMARY

This supplement incorporates changes to Volume 3 of the Milwaukee Code of Ordinances enacted by the following Common Council file:

260109 A substitute ordinance relating to revisions of various provisions of the code for purposes of correcting errors, clarifying language, eliminating obsolete provisions, and updating references.

Remove old MEMO (Suppl. #382)

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
				v-vi	v-vi
355-7-1-c	am	260109	8/1/2026	1091-1092	1091-1092
355-13-4-c	am	"	"	1095-1096	1095-1096
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Abbreviations:

am=amended
cr=created
corr=correction

ra=renumbered and amended
rc=recreated

rn=renumbered
rp=repealed

Revised 7/14/2026
Suppl. #383

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through July 14, 2026.

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CHAPTER 355
COMMUNITY PARTICIPATION IN DEVELOPMENT AGREEMENTS

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355-1. Definitions. In this chapter:

1. DEPARTMENT means department of city development or other city department partnering on a private construction project.

2. DIRECT FINANCIAL ASSISTANCE means the value of below-market land sales, any direct subsidies to developers and city expenditures for private improvements, with a combined value of \$1 million or more, as determined by the commissioner of the department, targeted specifically to a project. It includes the value of tax increment financing and below-market-rate loans provided by the city.

3. UNEMPLOYED OR UNDER-EMPLOYED means that the resident has worked less than 1200 hours in the preceding 12 months or has not worked in the preceding 15 days or, regardless of employment status, has household income at or below the federal poverty guidelines as adjusted by the Wisconsin department of public instruction to define eligibility for reduced lunch in public schools.

355-3. Requirements for Projects Receiving Direct Financial Assistance. All persons or entities receiving direct financial assistance for projects approved after August 8, 2009, shall comply with this chapter in the implementation of such projects.

355-5. Application Process. 1. All developers seeking direct financial assistance for a project shall complete an application in the form provided by the department.

2. Once the application has been completed, the department and the city comptroller shall provide to the common council an analysis of the project's financial feasibility, market assumptions, rate of return, and jobs impact, including wage and benefit information. The department shall further provide a separate report discussing the quality of proposed building and site design, the impact of the project on the city's historic building stock, and the project's sustainable features, including use of alternative energy sources and recycled and low-impact materials, creation of public open space, incorporation of transit- and pedestrian-oriented design features and amenities, and eligibility for certification under the Leadership in Energy and Environmental Design Green Building Rating System or other national certification.

3. Any resolution proposing direct financial assistance shall include a term sheet outlining the conditions under which such assistance is to be provided.

4. The department shall negotiate development agreements governing the implementation of projects for which direct financial assistance is approved. Such agreements shall incorporate the conditions contained in the term sheet approved by the common council. No city funds may be released for any project governed by this chapter without the approval of a term sheet and execution of a development agreement. Development agreements shall require compliance with all provisions of ss. 355.7 to 355.13, except that the common council may by resolution impose lesser or different requirements.

5. Any developer seeking direct financial assistance for a project shall prepare a report, to be attached to the application required by sub. 1, on the estimated cost of including solar power and other sustainable features as part of the project. This report shall also include an estimate of the amount of time that would be required to recover the cost of the solar-power features through energy-cost savings. The environmental collaboration office established under s. 310.3 shall develop and provide administrative procedures and technical assistance for this report, and shall provide information on financing options, including property assessed clean energy (PACE) financing, to the developer.

355-7 Community Participation In Development Agreements

355-7. Participation of City Residents.

1. REQUIREMENTS. Recipients of direct financial assistance shall:

a. Ensure compliance with aspects of the development agreement regarding the use of unemployed and underemployed residents for construction of the project. For the purpose of this section, "worker hours" includes work performed by persons filling apprenticeship and on-the-job training programs and excludes the number of hours of work performed by all non-Wisconsin residents.

b. Ensure that all of the recipients' contracts with contractors and sub-contractors for the project include a provision in which such contractor or subcontractor certifies that it knows of the provisions of this section, intends to comply with them and authorizes the city to enforce its terms.

c. Require that contractors and subcontractors maintain personnel records for each construction contract, and any records demonstrating that the employees utilized by the contractors and subcontractors in meeting the requirements of this section are residents of the city. These records shall be maintained for 7 years after the contractor or subcontractor has received final payment under its construction contract, and shall be made available to the department of compliance and engagement for inspection upon reasonable notice.

2. ADMINISTRATION. The department of city development and department of compliance and engagement shall be responsible for the planning, implementation and enforcement of this section.

a. Prior to submitting a proposed term sheet for a project, the commissioner of city development, in consultation with the department of compliance and engagement or such other entity as may be designated by the city from time to time, shall determine the appropriate level of participation of unemployed and underemployed residents of the city for the project to reflect the job or trade categories required for the project and the pool of available certified and qualified workers within each job or trade category. The total appropriate level of participation shall be presumed to be 40%, unless the commissioner determines there is sufficient reason to impose a lesser requirement. The recipient of direct financial assistance shall submit a city resident utilization plan and gap analysis detailing how the level of

required participation will be achieved. Up to one-third of required worker hours may be achieved by documenting the use of unemployed or underemployed residents on projects undertaken by the developer where such compliance is not required, or by hiring unemployed or underemployed residents on a full-time permanent basis for non-construction job categories connected to the project. Such adjustments must be proposed in an affidavit on a form provided by the department of city development setting forth the facts upon which the request for adjustment is based.

a-1. At least one quarter of the appropriate level of participation required in par. a shall be performed by unemployed or underemployed residents who maintain their permanent residence in high or extreme poverty ZIP Codes. The poverty rate for each ZIP Code shall be calculated by the city clerk within 90 days of the effective date of this ordinance, and by January 1 every 5 years thereafter. Every worker hour performed by a worker from a high poverty ZIP Code exceeding this requirement shall count for one-and-a-half hours toward the requirement of par. a. For every worker hour exceeding this requirement performed by a worker hired from an extreme poverty ZIP Code, 2 hours shall be credited toward the requirements of par. a.

a-2. If a developer cannot meet the participation requirements of par. a, the appropriate level of participation may, at the discretion of the department of compliance and engagement, be met by utilizing unemployed or underemployed residents to work on concurrent projects in any Wisconsin county, provided those residents began their employment on projects in the city.

a-3. The hours worked by a resident who meets the definition of unemployed or underemployed solely under the 15-day provision of s. 355-1-3 shall not be credited toward meeting the appropriate level of participation required in par. a unless the resident had not worked on the same project for the same contractor or subcontractor prior to the 15-day period.

b. Prior to the release of funds, the department of compliance and engagement shall confirm that all contractors and subcontractors, prior to commencement of their work, have submitted an affidavit in the form supplied by the department of compliance and engagement from employees utilized to meet the requirements of this section, stating that the employee is unemployed or underemployed and is a resident of the city.

5. COMPLIANCE NOT REQUIRED. First-source recruitment agreements shall not require contractors or subcontractors to comply with this section if job vacancies or newly-created positions are filled by transfer or promotion from existing staff or from a file of qualified applicants previously referred by the department of compliance and engagement or its designee.

6. DISTRIBUTION OF INFORMATION. The department of city development and the department of compliance and engagement shall distribute information about the first-source employment program to all developers of commercial, industrial and mixed-use projects in the city, including all developers not receiving direct financial assistance.

7. ENFORCEMENT. The department of compliance and engagement shall monitor compliance with this section.

355-13. Other Requirements. 1. CASH FLOW AND COST-SAVINGS PARTICIPATION. When determined feasible by the commissioner, development agreements shall include provisions under which the city benefits financially from either lower-than-expected project costs or higher-than-expected project cash flow.

2. PAYMENTS IN LIEU OF TAXES. When direct financial assistance is provided to a project in the form of tax incremental financing, the development agreement shall require a payment in lieu of taxes with respect to any parcel or building within the project that is or becomes exempt from real property taxes. This provision shall be incorporated into a covenant running with the land.

3. WAGE REQUIREMENTS. A development agreement shall include provisions requiring, unless precluded by s. 66.0903, Wis. Stats., that an employee who performs work that is funded by financial assistance from the city receive, at a minimum, a living wage as defined in s. 310-13-2-a. The department of administration shall monitor compliance with this subsection.

4. SMALL BUSINESS ENTERPRISES.
a. The developer of any project receiving direct financial assistance from the city shall use a small business enterprises as defined in s. 370-1-23 for project expenditures in a total aggregate dollar amount equal to the following.

- a-1.** Construction: 25%.
- a-2.** The purchase of goods and services: 25%.

a-3. The purchase of professional services: 18%.

b. The requirement to use small business enterprises shall be included in a written agreement between the city and the entity receiving the direct financial assistance.

c. A business that is certified with Milwaukee County, the state of Wisconsin or the U.S. federal government as a disadvantaged, emerging or small business enterprise, or some other program that in the discretion of the director of the department of compliance and engagement is comparable to the city's small business enterprise program, shall qualify as a small business enterprise for the purposes of this chapter, and shall be included when determining compliance with the subsection.

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.

355-17 Community Participation In Development Agreements

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.

355-19. Penalty. Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this chapter by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$2,000 nor more than \$5,000 together with the costs of prosecution.

For the legislative history of chapter 355, contact the Municipal Research Library.

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