

ENROLLED ORDINANCE 178-38

CREATE THE WAUKESHA COUNTY FLOODLAND PROTECTION ORDINANCE
(RZ123)

WHEREAS, Section 87.30, Wisconsin Statutes requires that counties establish floodplain zoning requirements for unincorporated area; and

WHEREAS, Waukesha County has maintained floodplain zoning regulations within the Waukesha County Shoreland and Floodland Protection Ordinance since 1970; and

WHEREAS, this ordinance will create a stand-alone floodplain zoning ordinance to comply with Section 87.30, Wisconsin Statutes; and

WHEREAS, the Waukesha County Department of Parks and Land Use held a public hearing on July 20, 2023; and

WHEREAS, the Waukesha County Park and Planning Commission has forwarded the proposed ordinance and the Staff Report and Recommendation to the Land Use, Parks and Environment Committee and to the Waukesha County Board of Supervisors with its recommendation that the proposed ordinance be approved.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the creation of the Waukesha County Floodland Protection Ordinance, and more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use, made available to the public on the website of Waukesha County on the webpage for the Department of Parks and Land Use, Division of Planning and Zoning, and made a part of this Ordinance by reference RZ123, is hereby approved, subject to the following conditions:

1. The effective date of this ordinance shall be October 19, 2023.
2. This approval is subject to the final review of the DNR.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with each of the town clerks within Waukesha County.

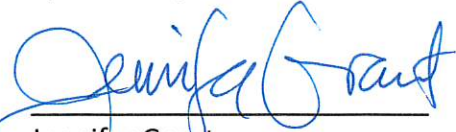
CREATE THE WAUKESHA COUNTY FLOODLAND PROTECTION ORDINANCE (RZ123)

Presented by:

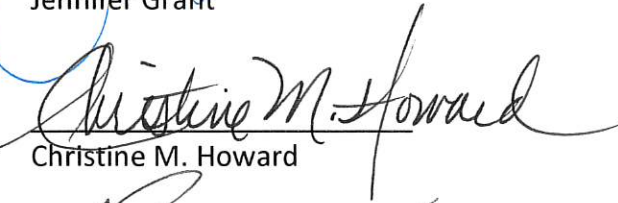
Land Use, Parks, and Environment Committee



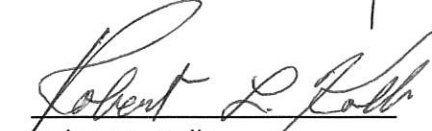
Tyler J. Foti, Chair




Jennifer Grant



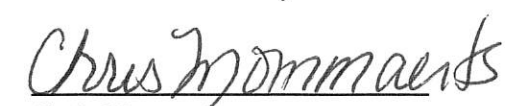
Christine M. Howard



Robert L. Kolb



Brian Meier



Chris Mommaerts



Gary J. Szpara

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 8/28/2023, Margaret Wartman
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: _____


Date: 8/28/2023, Paul Farrow
Paul Farrow, County Executive

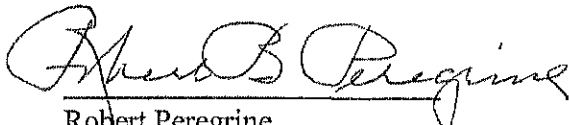
COMMISSION ACTION


The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to create the Waukesha County Floodland Protection Ordinance hereby recommends **approval** of **RZ123 (Waukesha County Park & Planning Commission)** in accordance with the attached "Staff Report and Recommendation".

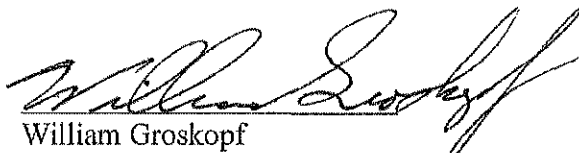
PARK AND PLANNING COMMISSION

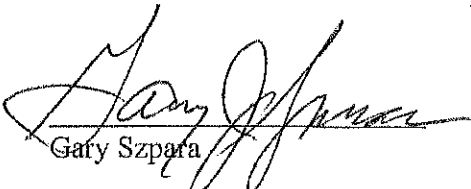
July 20, 2023


James Siepmann, Chairperson


Robert Peregrine


Richard Morris


William Groskopf


Gary Szpara

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
CREATE THE WAUKESHA COUNTY FLOODLAND PROTECTION ORDINANCE

FILE NO.: RZ123

DATE: July 20, 2023

PETITIONER: Waukesha County Park and Planning Commission

REQUEST:
Create the Waukesha County Floodland Protection Ordinance.

PUBLIC HEARING DATE: July 20, 2023

PUBLIC COMMENT:
Any comments offered by the public at the July 20, 2023 hearing will be made a part of the record and considered in the final staff recommendation.

Peter Jensen, W345 S10489 Cty Hwy E -- Mr. Jensen, Chairperson for the Eagle Spring Lake Management District, noted that he was in support of the separation of shoreland and floodplain zoning rules into two ordinances and was in support of the proposed modifications to the regulations. In addition, he shared the concerns of two property owners with lots on one of the islands on Eagle Spring Lake who believe that the FEMA maps do not take into account the topography of the island.

Don Reinbold, N73 W32385 River Rd., asked about floodplain regulations around North Lake. He stated the importance of maintaining the flood protection provided by the zoning in place (North Lake Overlay District).

Shane Schlieve, W378 S5089 W. Pretty Lake Rd., had questions about septic systems in floodplains and environmental corridors.

Sandy Scherer, Ottawa Town Planner, provided a number of administrative considerations and suggestions in writing.

STAFF ANALYSIS:
The Federal Emergency Management Agency (FEMA) has recently finalized new floodplain mapping panels that must be adopted by communities that administer floodplain zoning ordinances. The FEMA map update process has been many years in the making and included a local open house where maps were displayed. An appeals period was also provided as is typical of any FEMA map update. Waukesha County administers floodplain zoning within the county's eight unincorporated towns. As part of the map update, FEMA also requires that zoning ordinance text be brought into compliance with updated state and federal floodplain zoning standards. Those standards are maintained in a state model floodplain zoning ordinance that was used as the framework for this ordinance. Some unique language is proposed to supplement model language in order to continue to maintain Waukesha County's protections of flood prone property. The unique language is identified in a "tracked changes" format (see Exhibit A). FEMA has set October 19, 2023 as the effective date for the new mapping and the deadline by which the county must adopt the new maps and the updated zoning ordinance text.

Unincorporated Waukesha County is just one of many local floodplain zoning entities that experiences some change with the new FEMA maps. This update largely focused on new detailed studies for major

tributaries to the Fox River. However, there are not many major tributaries to the Fox River within Waukesha County's zoning jurisdiction, so the areas of change within the county's jurisdictional portion of the Fox River basin are fairly modest. One stream that is newly studied is Spring Brook along STH 83 in Genesee and Mukwonago. The study results in significantly less FEMA floodplain along that stream. Many areas both within and outside of the Fox River basin have unstudied floodplains that become refined because an engineering basis is being incorporated. This results in some significant reductions in floodplain area in the western part of the county. Revised floodplain boundaries can be viewed by visiting the Waukesha County Internet Mapping site (www.waukeshacounty.gov/interactivemap) and clicking the Floodplains box and then the Floodplain Data (Other Sources) box. To compare against existing floodplains, click the FEMA Floodplain box.

The county has long maintained both shoreland and floodland (floodplain) standards within the Waukesha County Shoreland & Floodland Protection Ordinance. Because the floodplain standards are spread throughout the combined ordinance and mixed with shoreland provisions, updates to floodplain standards have become more time intensive and difficult over time. The proposed ordinance would consolidate floodplain zoning regulations in a single ordinance making the floodplain rules easier for the code reader to understand and for staff to administer. The move to a single ordinance also makes DNR and FEMA review more expedient. Shoreland zoning standards will be maintained within a revised Waukesha County Shoreland Protection Ordinance (pending as rezone file RZ124).

A summary of changes is attached as Exhibit B. The county has historically zoned existing homes and structures within floodplains within an Existing Floodplain Development District. This district recognized that existing houses within floodplains were constructed before zoning rules and represent significant family financial assets. Accordingly, the district allowed for re-builds and vertical expansions of structures within the floodplain. However, the district was quite restrictive in mandating floodproofing measures of homes where even very minor structural changes were proposed. This ordinance would ease that requirement and allow for improvements up to 50% of a structure's equalized value without the need for floodproofing. The ordinance standards will also allow for limited horizontal expansions of floodplain structures but will require floodplain compensation for any fill. This will ensure that neighboring properties are not adversely affected.

FEMA map panels and other floodplain studies, such as dam failure studies, are incorporated into the ordinance by text reference and contained within floodplain tables at the end of the ordinance. While state and federal floodplain standards are not changing significantly at the present time, the transition to a standalone floodplain zoning ordinance will make future administrative changes, such as modified definitions, easier to implement.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved** subject to the following conditions.

1. The effective date of this ordinance shall be October 19, 2023.
2. This approval is subject to the final review of the DNR and Waukesha County Corporation Counsel's office.

As conditioned, the proposed ordinance will become effective on the same day that new FEMA mapping becomes effective. The proposed ordinance consolidates floodplain zoning provisions in a stand-alone ordinance that is compliant with state and federal floodplain zoning standards. These provisions ensure the

protection of life and property in flood prone areas while also allowing for limited improvement of existing structures within the floodplain.

Enclosures: Exhibit A (draft zoning ordinance located at www.waukeshacounty.gov/planningandzoning -at bottom of page, click the blue “Zoning Ordinances” tab and then “Draft County/Town Ordinances”).
Exhibit B – Summary of Floodplain Changes

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning & Zoning Manager

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2023 floodplain ordinance amendments- summary of proposed changes

What stays the same?

- Replacement structures are the only new buildings permitted within the floodplain/floodway.
- First floor of residences must be 2' above 1% flood elevation.
- Basement must be 2' above 1% flood elevation.
- Crawlspace must be at or above the flood elevation and floodproofed.
- No fill of floodplain without compensation.
- Flood storage districts.
- Permitted uses in the floodplain.
- Redevelopment standards for structures damaged or substantially destroyed in a non-flood disaster.

What is new or different?

- Mapping
 - New FEMA mapping must be adopted into ordinance.
 - Many A zones assigned an engineering basis, which causes smaller floodplains in many cases.
 - Some tributaries of Fox River studied in detail, Ashippun River updates rolled in.
- Floodplain Standards
 - Separates floodplain rules from shoreland zoning rules (two separate ordinances). Makes updates, administration and ordinance interpretation easier.
 - Separates C-1 (floodplain) rules from C-1 (wetland) rules.
 - Creates a new general floodplain district for A Zones on the Federal Insurance Rate Maps.
 - Creates floodway district whereas floodway rules were previously somewhat scattered.
 - Eliminates the EFD Existing Floodplain Development District in favor of reliance upon non-conforming rules and floodplain storage compensation rules. Will afford owners of floodplain structures more ability to expand provided that they can compensate for any lost storage.
 - Allows for improvements to both floodplain and floodway structures, up to 50% of their value, whereas existing rules required floodproofing in the floodfringe for very minor structural changes and prohibited any improvements to floodway structures. Floodway structure improvements may require obstruction analysis.
 - Allows parking lots within floodplain and floodway areas with proper flood warning system.
 - More flexibility to propose fill projects without rezoning lands.
 - Amend appeal procedures to be consistent with the model (30 days to appeal).

Other changes:

- The most current DNR wetlands inventory and SEWRPC environmental corridor inventory will be incorporated into draft zoning maps.
- We are exploring the possibility of becoming a CRS (Community Rating System) community. This could potentially reduce flood insurance rates for property owners in the floodplain.

VOTE RESULTS >

24

YES

0

NO

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ABSTAIN

1

ABSENT

Ordinance 178-O-038

Ordinance 178-O-038: Create the Waukesha County Floodland Protection Ordinance (RZ123)

 **Passed By Majority Vote**

D1 - Foti	AYE	D10 - Thieme	AYE	D19 - Enriquez	AYE
D2 - Weil	AYE	D11 - Howard	AYE	D20 - Schellinger	AYE
D3 - Morris	AYE	D12 - Wolf	AYE	D21 - Gaughan	AYE
D4 - Batzko	AYE	D13 - Decker	AYE	D22 - Szpara	AYE
D5 - Grant	AYE	D14 - Mommaerts	AYE	D23 - Hammitt	AYE
D6 - Walz	AYE	D15 - Kolb	AYE	D24 - Bangs	AYE
D7 - LaFontain	AYE	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Koremenos	ABSENT	D17 - Meier	AYE		
D9 - Heinrich	AYE	D18 - Nelson	AYE		

5th Meeting, 178th Year of the County Board of Supervisors - August 22 2023 07:09:33M

August 22, 2023

