

ENROLLED ORDINANCE 172-050

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION
ORDINANCE TO INCORPORATE REVISED LANGUAGE RELATED TO CITATION
FORFEITURES AND MODIFICATIONS TO THE FORFEITURE SCHEDULE OF THE
WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE
(SZ-1459P)

WHEREAS the Waukesha County Board of Supervisors enacted the Waukesha County Shoreland and Floodland Protection Ordinance on January 23, 1970; and

WHEREAS, the Waukesha County Board of Supervisors may make amendments to such Ordinance pursuant to Section 59.692, Wisconsin Statutes; and

WHEREAS, the Waukesha County Department of Parks and Land Use, Planning and Zoning Division Staff is in the process of undertaking a review of the current Shoreland and Floodland Protection Ordinance and have recommended certain amendments to the Ordinance; and

WHEREAS, the proposed amendments have been the subject of a public hearing held on October 19, 2017, following the notice and procedures of Section 59.692, Wisconsin Statutes; and

WHEREAS, the proposed amendments have been duly referred, considered and approved by the Waukesha County Park and Planning Commission at its meeting of October 19, 2017; and

WHEREAS, the proposed amendments are on file in the Waukesha County Department of Parks and Land Use, Room AC 230, 515 W. Moreland Blvd., Waukesha, Wisconsin; and

WHEREAS, the Waukesha County Park and Planning Commission has forwarded the proposed amendments 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 amendments be approved.

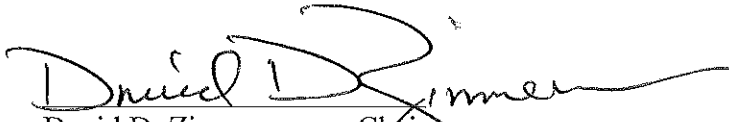
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Waukesha County Shoreland and Floodland Protection Ordinance and the violation forfeiture schedule of the Waukesha County Shoreland and Floodland Protection Ordinance are hereby amended in accordance with the proposed amendments adopted by the Land Use, Parks and Environment Committee and on file with the Waukesha County Department of Parks and Land Use and the Waukesha County Clerk.

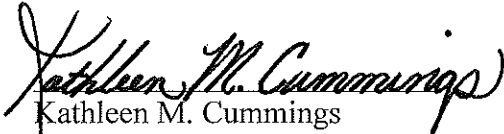
BE IT FURTHER ORDAINED that this Ordinance shall become effective upon passage and publication.

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.

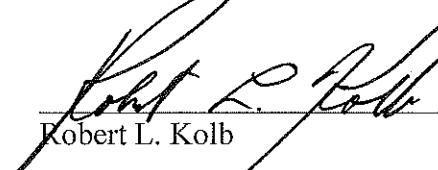
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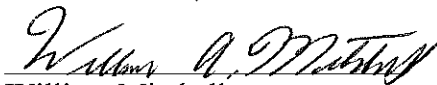
Presented by:
Land Use, Parks, and Environment Committee

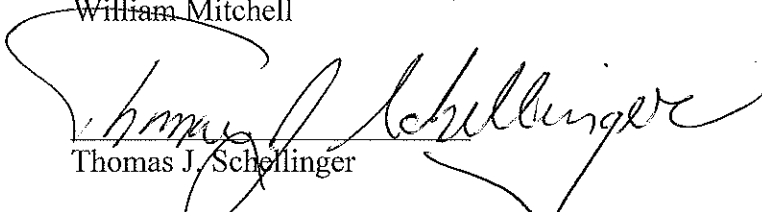

David D. Zimmermann, Chair


Kathleen M. Cummings

ABSENT
Keith Hammitt

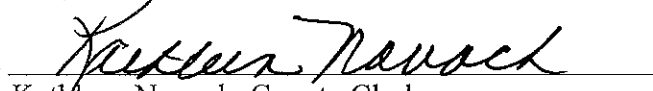

Robert L. Kolb


William Mitchell



Thomas J. Schellinger

ABSENT
Ted Wysocki

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

Date: 11/28/17, 
Kathleen Novack, County Clerk

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

Approved: X
Vetoed: _____
Date: 12/4/17, 
Paul Farrow, County Executive

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
TEXT AMENDMENTS TO THE
WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE
AND FORFEITURE SCHEDULE

FILE NO.: SZ-1459P
DATE: October 19, 2017
PETITIONER: Waukesha County Park and Planning Commission

REQUEST:
Text amendments are proposed to the Waukesha County Shoreland and Floodland Protection Ordinance to incorporate revised language related to violations and the issuance of forfeitures. Modifications are also proposed to the violation forfeiture schedule.

PUBLIC HEARING DATE:
October 19, 2017.

PUBLIC COMMENT:
Public comment will be considered as part of the public hearing, which will take place on October 19, 2017, prior to the Plan Commission considering and acting on the request.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:

The Shoreland and Floodland Protection Ordinance is a mechanism used to implement the goals and objectives of the County Development Plan. Enforcement provisions within the ordinance and an associated forfeiture schedule are critical to successful implementation of the Plan.

STAFF ANALYSIS:

Text amendments to the Waukesha County Shoreland and Floodland Protection Ordinance were enacted by the County Board in September of 2016. As a result of the text amendments, staff reviewed the existing forfeiture schedule and related ordinance text. It was determined that the following provisions require modification:

- The range of allowable forfeiture amounts do not accurately reflect the existing base forfeiture schedule adopted by the County Board in 2010.

The text amendments accurately reflect the existing forfeiture amounts.

- The code refers to assessments that do not apply to the implementation of the ordinance, such as domestic abuse or consumer information assessments.

The text amendments remove assessments that do not apply, but include any fees or assessments enacted by the Wisconsin Legislature.

- The code requires that the County Board approve the base forfeiture, including assessments determined by the Wisconsin Legislature.

The text amendments only require County Board approval for adjustments to the base forfeiture, not for assessments enacted by the Wisconsin Legislature.

- Modifications are proposed to the forfeiture schedule in order to include sections of the code that were not previously included and to reflect new provisions, such as impervious surface, mitigation, and building footprint. The Wisconsin State Statutes also limits the maximum forfeiture allowed for floodplain related violations.

A copy of the proposed text amendments are attached as Exhibit "A." A copy of the "track changes" version (deletions in strike-through and text additions in italics with grey highlight) is attached as Exhibit "B." A copy of the proposed Forfeiture Schedule (additions and/or modifications in italics with grey highlight) is attached as Exhibit "C." The amendments are also available for viewing on the Planning and Zoning Division webpage at www.waukeshacounty.gov/planningandzoning - click "Draft Citation Schedule."

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**. The text amendments are minor in nature and are proposed to accurately reflect the practical application of the violation section of the Shoreland and Floodland Protection Ordinance. The modifications to the forfeiture schedule are proposed in order to include sections of the code that were not previously included and to reflect new provisions. The enforcement provisions of the code are critical to ensuring proper implementation of the Shoreland and Floodland Protection Ordinance and Comprehensive Development Plan.

Respectfully submitted,

Amy Barrows

Amy Barrows
Senior Planner

Exhibits "A", "B" and "C"

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**Amendments to the
Waukesha County Shoreland and Floodland Protection Ordinance**

EXHIBIT "A"

- Repeal and re-create Section 41(c)1. to read as follows:

Penalties: Any person, firm, company, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance, shall be subject to a base forfeiture of not less than fifty dollars (\$50.00) and not to exceed the sum of one thousand dollars (\$1000.00) for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the County Jail of Waukesha County, for a period not to exceed six (6) months or until such fine and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such. Restoration of environmental damage may also be required in addition to any forfeitures levied.

- Repeal and re-create Section 41(c)4.B.vii.c. to read as follows:

That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, a crime lab assessment and any other fees or assessments enacted by the Wisconsin Legislature. If the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.

- Repeal and re-create Section 41(c)4.B.vii.d. to read as follows:

That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, penalty assessment, jail assessment, crime lab assessment and any other fees or assessments enacted by the Wisconsin Legislature.

- Repeal and re-create Section 41(c)4.C. to read as follows:

The base forfeiture schedule of cash deposits excluding penalty assessment, jail assessment, crime lab assessment and any other fees or assessments enacted by the Wisconsin Legislature for use with citations issued under this section shall be as adopted by the County Board from time to time and such schedule shall be on file in the Offices of the Sheriff, Zoning Administrator, County Clerk and Clerk of Court and receipts shall be given for cash deposits.

**Amendments to the
Waukesha County Shoreland and Floodland Protection Ordinance**

(All changes are highlighted in grey. Deletions are shown with a strikethrough and additions are shown in italics.)

EXHIBIT "B"

41(c)1.

Penalties: Any person, firm, company, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or who resists the enforcement of any of the provisions of this Ordinance, shall be subject to a ~~fine base forfeiture~~ of not less than ~~ten fifty~~ dollars (\$~~1050~~.00) and not to exceed the sum of one thousand dollars (\$1000.00) for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the County Jail of Waukesha County, for a period ~~of~~ not to exceed six (6) months or until such fine and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such. Restoration of environmental damage may also be required in addition to any forfeitures levied.

41(c)4.B.vii.c.:

That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, ~~a~~ crime lab assessment and ~~drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments of any other fees or assessments enacted by the Wisconsin Legislature,~~ if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.

41(c)4.B.vii.d.:

That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, penalty assessment, jail assessment, crime lab assessment and ~~drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments~~ *any other fees or assessments enacted by the Wisconsin Legislature.*

41(c)4.C.:

The ~~base forfeiture~~ schedule of cash deposits ~~including~~ *excluding* penalty assessment, jail assessment, crime lab assessment and ~~drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments~~ *any other fees or assessments enacted by the Wisconsin Legislature* for use with citations issued under this section shall be as adopted by the County Board from time to time and such schedule shall be on file in the Offices of the Sheriff, Zoning Administrator, County Clerk and Clerk of Court and receipts shall be given for cash deposits.

EXHIBIT "C"

Waukesha County Shoreland and Floodland Protection Ordinance Violation Forfeiture Schedule

Shoreland Ordinance Section	Offense	Base Forfeiture	Penalty Assessment	Court Costs	Crime Lab/DEA	Justice Information Fee	Jail Assessment	Court Support	Total
3	Noncompliance with General Provisions	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(c)1.	Failure to Obtain Zoning Permit Prior to Construction	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(c)3.C	Failure to Comply with Terms of a Permit	\$500.00	\$130.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$767.50
3(c)4.	Zoning Permit Expired	\$100.00	\$25.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$263.50
3(d)3	Junk, Undesirable Buildings or Structures	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(d)5.A.	Floodplain FIB Violation	\$50.00	\$13.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$100.50
3(d)5.B.	Shoreland FIB Violation	\$1,000.00	\$260.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$1,397.50
3(d)5.C.	Relinquish Well Violation or Land Altering Violation	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(d)5.D	Streambank and Shoreline Stabilization Violation	\$500.00	\$130.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$767.50
3(e)9.	Shoreland Cutting Violation	\$1,000.00	\$260.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$1,397.50
3(e)1.	Failure to Obtain or Noncompliance with Approved Site Plan and/or Plan of Operation or other Use Regulations	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(f)9	Noncompliance with Water Performance Standards	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(f)0	Noncompliance with Building Location Requirements	\$100.00	\$25.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$263.50
3(f)0	Noncompliance with Height Regulations	\$100.00	\$25.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$263.50
3(f)0	Noncompliance with Area 4 Building Footprint Regulations	\$100.00	\$25.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$263.50
3(f)0	Noncompliance with Offstreet Parking Regulations	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(m)	Noncompliance with Mobile Home, Recreational Vehicles and Trailer Regulations	\$100.00	\$25.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$263.50
3(n)	Noncompliance with Signage Regulations	\$100.00	\$25.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$263.50
3(o)	Noncompliance with Legal Nonconformity	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(o)	Noncompliance with Swimming Pool Regulations	\$100.00	\$25.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$263.50
3(o)	Noncompliance with Guesthouse Regulations	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
3(o)	Noncompliance with Boothouse Regulations	\$500.00	\$130.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$767.50
3(p)	Noncompliance with Impervious Surface Standards	\$500.00	\$130.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$767.50
3(p)	Noncompliance with Mitigation Standards	\$1,000.00	\$260.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$1,397.50
3(v)	Noncompliance with Protected Area/Ordained Establishments	\$500.00	\$130.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$767.50
4(a)	Failure to Obtain CU Permit	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
4(b)	Noncompliance with CU Permit	\$500.00	\$130.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$767.50
4(f)	Conditional Use Permit Expiration, Modification or Termination	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
7 through 37	Noncompliance with Zoning District Regulations	\$250.00	\$65.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$452.50
8(c)	Unauthorized Building Within the Floodplain/Floodproofing Violation	\$50.00	\$13.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$200.50
38	Noncompliance with Board of Adjustment Decision	\$500.00	\$130.00	\$25.00	\$13.00	\$21.50	\$10.00	\$68.00	\$767.50

Per Sec. 67.30(2)(e), Wis. Stats., the maximum forfeiture for floodplain regulatory violations is \$50.00 per day.

Note: The Waukesha County Department of Parks and Land Use is authorized to update this Forfeiture Schedule regarding statutory assessments, fees and costs as those amounts are periodically modified by the Wisconsin Legislature.


Effective _____ by Enrolled Ordinance _____

COMMISSION ACTION

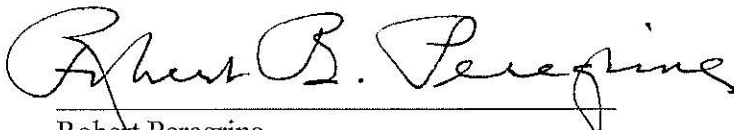
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Subdivision Control Ordinance, hereby recommends approval of **(SZ-1459P Waukesha County Park and Planning Commission - Text Amendments)** in accordance with the attached "Staff Report and Recommendation."

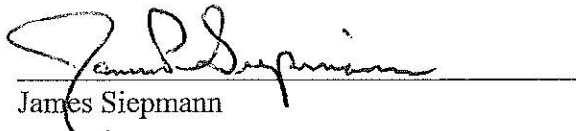
PARK AND PLANNING COMMISSION

October 19, 2017


Richard Morris, Chairperson


William Mitchell


Robert Peregrine


James Siepmann


William Maslowski

D1 - Kolb	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	Absent	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Zaborowski	AYE
D9 - Heinrich	AYE	D22 - Wysocki	Absent
D10 - Swan	Absent	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	(2) AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

172-0-050

Passed (22 Y - 0 N - 3 Absent)

Majority Vote

