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**Effective date:**

**Title:** A substitute ordinance relating to the change in zoning, from Parks to Institutional, of lands located south of West Hampton Avenue and east of North Port Washington Road (6th Aldermanic District).

**Sponsors:** ALD. KOVAC, ALD. BOHL

**Indexes:** ZONING

**Attachments:** 1. City Attorney Opinion, 2. Follow Up E-Mail on Annual Operating Costs of Repair Option, 3. Follow up E-Mail on Remediation, 4. Milwaukee County Presentation, 5. MMSD Additional Information Requested at ZND Meeting, 6. Follow Up E-Mail on Annual Operating Costs of Repair Option (4 attachments below relate to this), 7. Flood Forecast Request, 8. Emergency Action Plan for Estabrook Dam, 9. Map of Dams and Affected Homes, 10. Dam Keeper Job Description, 11. PowerPoint, 12. Zoning Change Boundary Map.pdf, 13. City Plan Commission Letter.pdf, 14. Letter in Opposition from Sen Darling and Rep Sanfelippo, 15. Letter in Support from County Executive Abele, 16. Blaeske OPPOSE.pdf, 17. Dorner OPPOSE.pdf, 18. E-Mail in Support, 19. E-Mail in Opposition, 20. E-Mail in Opposition, 21. Goebel e-mail in Opposition, 22. MMSD doc excerpt removal not remove from floodplane (2), 23. MMSD-Owned Dam Not Eligible for Grant, 24. Copy of MMSD SAMPLES 2002-2014 RI 23 4 (2), 25. Glendale shoreline restoration resolution October 2016, 26. 2nd E-Mail from Glen Goebel, 27. Glendale shoreline restoration resolution October 2016, 28. E-Mail from Milwaukee River Keepers, 29. Dam removal petition from Milwaukee River Keepers, 30. Dam removal petition from Milwaukee River Keepers, 31. Estabrook Dam Petition Signers from Milwaukee River Keepers, 32. Milwaukee Common Council Petition from Milwaukee River Keepers, 33. Response to legal, liability and other issues questions and comments related to the Estabrook Dam, 34. Estabrook Dam Removal Petitions and Links, 35. Provencher Article 2008, 36. E-Mail in Support of Removing the Dam, 37. Mailing Labels - Mailed on 10/14/16, 38. E-Mail from Brian Kreuziger - Attachments Below, 39. 1. civil works admin report\_april 1934, 40. 2. Proposed Dam Estabrook Park Milwaukee County. Circa. April 1937., 41. 3. 4 19 37 Field Tech comment attached to dam proposal indicates Natl Park service paying for part, 42. 6. Dam permit 1937, 43. 76. Milw River debris flood and Blatz (2), 44. 11A. wis state planning board excerpts highlighted, 45. 7. progress report WERA\_aug 1935, 46. 75. full MMSD resolution, 47. 79. Pirrung Dorner email 6 17 15, 48. 77. SEWRPC modeling info, 49. 78. Historical documents from County expert report, 50. 63. Kreuziger Hahn email 8 13 14, 51. E-Mail from Brian Kreuziger and Attachments Below, 52. 23B. Revised for 2015 Estabrook impoundment riparian property values, 53. 69. removal estimate 5 9 14, 54. 73. MRPA alternative cross claim, 55. 70. Glendale shoreline restoration resolution October 2016, 56. 71. Realtor expt report FINAL, 57. 22A. Projected Property value and real estate tax losses due to removal of Estabrook Dam, 58. 25. Northouse landscape proposal, 59. 21. N AVE DNR to present plans for river project JS 2 26 97, 60. 26. Realtor's Letter As Of 9 26 2014, 61. 22. Storm Sewer upstream cost City of Glendale WI City Administrator i, 62. 29. McDill dam drawdown lowers assessed values Stevens Point Journal 10-23-12, 63. The real costs of removing the Estabrook Dam, 64. 74. Holmes cost of Removal, 65. Cover E-Mail for 189 Letters in Support, 66. LetterstoMilwaukeeCommonCouncil\_10.30.16\_1, 67. E-Mail from Glen Goebel and Attachments Below, 68. MKERiver-DissolvedOxygenData, 69. MKERiver-FecalColiformData, 70. MKERiver-TempData, 71. MKERiver-TotalLeadData, 72. Recreation at the Estabrook Dam Lake Prior to 2008, 73. 13. Cty expert rpt water quality discussion from Riverkeeper, 74. MRPA to Milwaukee Zoning Committee 10 30 16, 75. E-Mail from Dave Dorner and 3 attachments below, 76. Estabrook Dam Estimates and Bid background docs, 77. Estabrook Dam Estimates and Bid History, 78. Estabrook Dam Repair Estimates and Bid History, 79. Speakers -Misc., 80. Speakers

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Date	Ver.	Action By	Action	Result	Tally
6/14/2016	0	COMMON COUNCIL	ASSIGNED TO		
10/4/2016	1	CITY CLERK	DRAFT SUBMITTED		
10/4/2016	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
10/10/2016	1	CITY CLERK	PUBLISHED		
10/14/2016	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
10/17/2016	1	CITY PLAN COMMISSION	RECOMMENDED FOR PASSAGE AND ASSIGNED	Pass	4:1
10/25/2016	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	SUBSTITUTED	Pass	5:0
10/25/2016	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	5:0
11/1/2016	2	COMMON COUNCIL	PASSED	Pass	12:2
11/1/2016	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	3:0
11/2/2016	2	MAYOR	SIGNED		
11/17/2016	2	CITY CLERK	PUBLISHED		

160339  
SUBSTITUTE 2

ALD. KOVAC AND BOHL

A substitute ordinance relating to the change in zoning, from Parks to Institutional, of lands located south of West Hampton Avenue and east of North Port Washington Road (6<sup>th</sup> Aldermanic District). This ordinance changes the zoning of lands located south of West Hampton Avenue and east of North Port Washington Road from Parks (PK) to Institutional (TL).

Whereas, The Estabrook Dam on the Milwaukee River has been in decline and has developed major structural issues due to years of neglect; and

Whereas, The dam is a crumbling "public nuisance" that hasn't operated since a 2008 Wisconsin Department of Natural Resources order to shut it down; and

Whereas, Industrial pollutants, including polychlorinated biphenyls, have been accumulating near the dam for decades, mostly from industrial sources upstream in the Lincoln Creek watershed; and

Whereas, There is no viable reason to maintain the dam and keep it permanently open as the short-term repair costs and long-term maintenance costs of that scenario would far exceed removal costs; and

Whereas, The dam removal alternative means the complete removal of the dam, including the gated control structure and fixed crest spillway, and the creation of a free-flow condition; and

Whereas, Removing the dam and restoring free-flow conditions would allow for unimpeded passage

of boats, fish and aquatic invertebrates, yield the greatest positive impacts on river ecology, flood management, water quality, sediment management, fish and aquatic life, terrestrial wildlife and recreation, would support natural wetland hydrology, and may result in a net gain of wetland acreage; and

Whereas, The ecological health created by a free-flowing river offers greater long-term value than maintaining the present water body behind the dam; and

Whereas, On May 12, 2016, the City of Milwaukee passed resolution number 141707 expressing the City of Milwaukee's support for the removal of the Estabrook Dam; and

Whereas, On April 21, 2016 the Wisconsin Department of Natural Resources (DNR) issued a final Environmental Impact Statement which serves as a basis to permit the owner of the dam, Milwaukee County, to repair rather than to remove the dam; and

Whereas, The DNR failed to consider certain issues and failed to appropriately apply the law in various ways that would have supported dam removal and not dam repair; and

Whereas, Cheryl Nenn and Milwaukee Riverkeeper filed a Petition for Review Pursuant to Wis. Stats. § 227.52 seeking judicial review of the DNR's decision to issue the final Environmental Impact Statement on grounds similar to those stated above; and

Whereas, The City of Milwaukee's legally protected interests, as well as those of its residents, will be harmed by the DNR's decision to allow Milwaukee County to repair, rather than remove, the dam; and

Whereas, Removal of the dam is the only option to permanently abate the public nuisance caused by years of neglect and protect the interests of the City of Milwaukee and its residents; and

Whereas, Changing the zoning of Estabrook Dam will facilitate the removal of the dam; now, therefore

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

Part 1. There is added to the Milwaukee Code of Ordinances a new section to read as follows:

The zoning map is amended to change the zoning of all lands within the following described area from Parks (PK) to Institutional (TL):

That part of Lots 132 and 133 of Comstock and Williams Subdivision, a recorded subdivision, in the Northeast 1/4 of Section 5, Township 7 North, Range 22 East, described as follows: Commencing at the point of intersection of the present easterly line of North Port Washington Road and the south line of West Hampton Avenue; thence Easterly, along said south line and the south line of East Hampton Avenue to a point on the southwesterly line of the former railroad right-of-way; thence Southeasterly, along said southwesterly line, to a point in the east line of said 1/4 Section; thence Southerly, along said east line, to a point in the center line of the Milwaukee River; thence Northwesterly, along said center line to a point in the limit line between the City of Milwaukee and the City of Glendale; thence

continuing Northwesterly, along said centerline and said city limits line, to a point in the present easterly line of North Port Washington Road extended; thence Northerly, along said present easterly line and its extension, to the point of commencement.

LRB165073-2  
Jeff Osterman  
10/05/2016