

RESOLUTION #
ORDINANCE AMENDMENT #2-2020
CHAPTER 9 OF THE ONEIDA COUNTY ZONING AND SHORELAND PROTECTION
ORDINANCE, ARTICLE 9, SECTION 9.92

Ordinance Amendment offered by the Planning and Development Committee.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

WHEREAS, the Planning & Development Committee, having considered Ordinance Amendment #2-2020, which was filed January 2, 2020 (copy attached) to amend Section 9.92 of the Oneida County Zoning and Shoreland Protection Ordinance, and having given notice thereof as provided by law and having held a public hearing thereon January 22, 2020 pursuant to Section 59.69(5), Wisconsin Statutes, with one written comment and two verbal comments against the proposal, and having been informed of the facts pertinent to the changes which are as follows:

WHEREAS, pursuant to Wis. Stat. Sec. 59.692, a Shoreland Zoning Ordinance may not regulate a matter more restrictively than the matter is regulated by a Shoreland Zoning Standard; and

WHEREAS, ordinance amendment #2-2020 only affects wetlands within the shoreland area of all the towns in Oneida County. It does not affect all other wetlands outside this area in all the towns and the city of Rhinelander; and

WHEREAS, a grading setback to a shoreland wetland is a matter Oneida County can regulate; and

WHEREAS, the setback to a shoreland wetland was 5' for just over 14 years from February of 2004 to April of 2018 and changed to 15' to accommodate a push for higher shoreland wetland protection without fully understanding the impact to property owners; and

WHEREAS, protecting a shoreland wetland with a properly installed and maintained silt fence has no more impact to a wetland at 5' verses 15'; and

WHEREAS, passage in April of 2018 to increase the setback from 5' to 15' decreased a property owners use of his land substantially because of lakebed wetland, Ordinary High Water Mark (OHWM) and wetland setbacks; and

WHEREAS, structures built between 2004 to 2018 and were built less than 15' to a shoreland wetland would now be considered a non-conforming structure; and

WHEREAS, 8 of the 9 countries that surround Oneida County have a 0' setback to a wetland; and

WHEREAS, the Planning and Development committee has carefully studied the proposed changes, considered the impacts pro and con to this change and considered the comments made at the public hearing and recommends approval.

NOW, THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS

52 **DOES ORDAIN AS FOLLOWS:**

53 Section 1. Any existing ordinances, codes, resolutions, or portions thereof in
54 conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.

55 Section 2. This ordinance shall take effect the day after passage and publication
56 as required by law.

57 Section 3. If any claims, provisions or portions of this ordinance are adjudged
58 unconstitutional or invalid by a court of competent jurisdiction, the remainder of this
59 ordinance shall not be affected thereby.

60 Section 4. Chapter 9 of the General Code of Oneida County, Wisconsin, is
61 amended as follows [additions noted by underline, deletions noted by strikethrough]:

62
63 **9.92 SHORELAND-WETLAND RESTRICTIONS**

64
65 A. Purpose

66
67 Wetlands are critical natural environmental features which provide habitat
68 for native animals and plants, help purify surface and subsurface waters,
69 and add to, or help protect, the natural appearance of the northwoods. This
70 section provides the minimum land use restrictions determined to be
71 essential to protect shoreland wetlands.

72
73 B. Applicability

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75 This section applies to all areas identified as shoreland wetlands on the
76 most recent version of the Wisconsin Wetland Inventory as depicted on the
77 Department of Natural Resources Surface Water Data Viewer. The
78 following restrictions do not apply to public utilities and public roads.
79 Provisions of this section do not supersede more restrictive requirements
80 identified in section 9.91 Shoreland-Wetland Zoning District or involving
81 structures in a floodplain zoning district.

82
83 C. Restrictions

- 84
85 1. No grading or other land disturbing activities shall be permitted closer
86 than ~~45~~ 5 feet from the edge of a shoreland wetland. An elevated
87 walkway may be permitted pursuant to section 9.91(D)(2)(e).
88 2. Grading or other land disturbing activities less than 25 feet from a
89 shoreland wetland shall require silt fencing. Installation shall be done
90 in accordance with the standards and specifications outlined in the
91 Wisconsin Construction Site Best Management Practices Handbook
92 (WDNR Pub. WR-222 1993 Revision).

93
94
95 The County Clerk shall, within seven (7) days after adoption of Ordinance Amendment
96 #2-2020 by the Oneida County Board of Supervisors, cause a certified copy thereof to
97 be transmitted by mail to the Town Clerks of Oneida County and the Wisconsin
98 Department of Natural Resources.
99

100 Approved for presentation to the County Board by the Planning and Development
101 Committee this day of , 2020.

102
103 Consent Agenda Item: YES NO
104

105 Vote Required: Majority = _____ 2/3 Majority = _____ 3/4 Majority = _____
106

107 The County Board has the legal authority to adopt: Yes _____ No _____ as
108 reviewed by the Corporation Counsel, _____, Date:
109 _____
110

111
112 Offered and passage moved by: Scott Holwush
113 Supervisor
114 Mark K. ...
115 Supervisor
116 Wilson ...
117 Supervisor
118
119 Supervisor
120
121 Supervisor
122

123
124
125 _____ Ayes

126
127 _____ Nays

128
129 _____ Absent

130
131 _____ Abstain

132
133
134 _____ Enacted

135
136 by the County Board of Supervisors this _____ day of _____, 2020.

137
138 _____ Defeated

139
140
141 _____
142 Tracy Hartman, Clerk

143 _____
David Hintz, County Board Chair

