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RESOLUTION #83-2011

**GENERAL CODE OF ONEIDA COUNTY, WISCONSIN
ORDINANCE AMENDMENT #**

**Ordinance Amendment offered by Supervisors of the Law Enforcement and
Judiciary Committee**

Whereas, 2011 Wisconsin Act 35 has amended state law to allow the concealed carry of weapons; and

Whereas, 2011 Wisconsin Act 35 bans the carrying of "weapons" (as defined below) in the Courthouse building and Sheriff Office; and

Whereas, Oneida County owns a multitude of buildings where concealed carry will be allowed under 2011 Wisconsin Act 35: and

Whereas, Sections 943.13(1m)(c)(4) and 175.60 Wis. Stats., permit local governments that are owners, occupiers, or otherwise in control of buildings, to prohibit the carrying of firearms and concealed weapons in or on such buildings; and,

Whereas, should the County ban the carry of "weapons" from all County buildings the County will be required, by law, to post signs at all entrances indicating the ban on weapons in the County owned buildings; and

Whereas, 2011 Wisconsin Act 35 provides immunity to those governmental entities that choose not to ban concealed carry of weapons in their buildings; and

Whereas, adoption of this ordinance abrogates the immunity afforded by law, however, even with immunity the County may still be liable for injuries/deaths in County buildings if concealed carry is allowed under the legal theories of foreseeable harm and failure to warn or protect individuals; and

Whereas, the County, in exercise of its police powers, believes it reasonable to ban all weapons, whether carried in an open or concealed fashion, from all County Buildings; and

Whereas, violation of this ordinance is to be enforced by a citation for violation of County Code section 10.943.13 or by a referral to the District Attorney for as a misdemeanor violation of Wis. Stat. s. 943.13.

**NOW, THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS
DOES ORDAIN AS FOLLOWS:**

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existing ordinances, codes, resolutions, or portions thereof in conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.

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

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

Section 4. Section 10.07 of the General Code of Oneida County, Wisconsin, is amended as follows [additions noted by underline, deletions noted by strikethrough]:

10.07 RESERVED. CONCEALED CARRY OF WEAPONS PROHIBITED.

(1) PREAMBLE

This policy was prompted, in significant part, by 2011 Wisconsin Act 35. It is intended to preserve and promote public protection and safety, public peace and good, and workplace safety and health.

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(2) DEFINITIONS.

- A. “Law Enforcement Officer” means a Wisconsin law enforcement officer, as defined in Section 175.46(1)(g) Wisconsin Statutes or a federal law enforcement officer, as defined in Section 175.40(7)(a)1 Wisconsin Statutes.
- B. “Licensee” means an individual holding a valid license to carry a concealed weapon under Section 175.60 Wisconsin Statutes or an out-of-state licensee per Section 175.60(1)(f) 1.-2. Wisconsin Statutes.
- C. “Motor Vehicle” means a vehicle which is self-propelled, including but not limited to a passenger car, truck, and van, bus, taxi, commercial motor vehicle, motorcycle, moped, motor bicycle, snowmobile, and all-terrain vehicle.
- D. “Placard” means a small card or plaque.
- E. “Sign” means a sign that states a restriction imposed hereunder and that is at least 5 inches by 7 inches.
- F. “Special Event” means an event that is open to the public, is for a duration of not more than three (3) weeks, and either has designated entrances to and from the event that is locked when the event is closed or requires an admission.
- G. “Weapon” includes, without limitation, any firearm (including a handgun), an electric weapon (as defined in Section 941.295(1c)(a) Wisconsin Statutes), a knife (except a pocket knife with a blade less than 2.5 inches), a switchblade (as defined in Section 941.24(1) Wisconsin Statutes), a billy club, oleoresin capsicum (OC) spray devices (also known as pepper spray or pepper mace), Metallic knuckles, nunchaku, shuriken, cestus, manrikigusari, or any device designed or used as a weapon and capable of producing great bodily harm or death.

(3) PROHIBITIONS

- A. No person may, while carrying or possessing a weapon, enter or remain in any part of a building that is owned, occupied, or controlled by the County
 - 1. This prohibition does not apply to:
 - (a) Certified law enforcement officers, entitled to carry a weapon, while acting in their official capacity and with lawful authority.
 - (b) A person who leases residential or business premises in the building.
 - (c) A person if a firearm is in a vehicle driven or parked in the parking facility, or to any part of the building used as a parking facility.
 - (d) A judge who is a licensee, a district attorney or assistant

97 district attorney who is a licensee, or any other licensee
98 given written permission by a judge to carry a concealed
99 weapon in a courthouse or courtroom.

100 B. Organizers of any "special event" may prohibit any persons carrying or
101 possessing a weapon from entering or remaining at the "special event".

102 1. This prohibition does not apply to:

103 (a) Certified law enforcement officers, entitled to carry
104 a weapon, while acting in their official capacity and with
105 lawful authority.

106 (b) If the firearm is in a vehicle driven or parked in the parking
107 facility, or to any part of the special event grounds or
108 building used as a parking facility.

109 (4) NOTICE

110 A. For purposes of (3) PROHIBITIONS A. above:

111 1. A sign will be posted that is located in a prominent place near all
112 of the entrances to any building to which the restrictions apply,
113 where any individual entering the building can be reasonably
114 expected to see the sign.

115 2. Suggested language for a sign:

116 *"PURSUANT TO WISCONSIN STATE STATUTE*
117 *WEAPONS ARE PROHIBITED IN THIS FACILITY."*
118

119 B. For purposes of (3) PROHIBITIONS B. above:

120 1. A sign will be posted that is located in a prominent place near all
121 of the entrances to the special event, such that any individual
122 attending the special event can be reasonably expected to see the
123 sign.

124 2. Suggested language for a sign:

125 *"NO PERSON MAY ATTEND THIS INSERT NAME OF SPECIAL*
126 *EVENT WHILE CARRYING OR POSSESSING A FIREARM OR*
127 *OTHER WEAPON"*
128

129 (5) MISCELLANEOUS PROVISIONS

130 A. This policy is intended to be consistent with, and cannot supersede, state
131 law/ or federal law.

132 B. If any provision or clause of this policy or its application to any person or
133 circumstance is held invalid, the invalidity shall not affect other provisions
134 or applications of this policy that can be given effect without the invalid
135 provision or application, and to this end the provisions of this policy are
136 severable.

137 C. Reference to the Wisconsin Statutes herein include as such statutes now
138 exist or are hereafter amended.
139

140 (6) PENALTIES FOR VIOLATION

- 141 A. If applicable, referral to law enforcement or the district attorney for
- 142 prosecution under Wisconsin Statutes, including Section 943.13
- 143 Wisconsin Statutes; and/or
- 144 B. If applicable, a County Citation for violation of Code Section 10.943.13 if a
- 145 firearm is carried on a premise where the owner has posted that the
- 146 carrying of firearms is prohibited.
- 147 C. If applicable, a County Citation for a Violation of Code Section 10.07 for
- 148 carrying any Weapon in a County Building.

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150 **25.04 PENALTY PROVISIONS.**

151 **TABLE INSET:**

<u>10.07(3) A</u>	<u>Carrying Weapon in County Building</u>	<u>150.00</u>	<u>312.00</u>
<u>10.07(3) B</u>	<u>Carrying weapon at Special event</u>	<u>150.00</u>	<u>312.00</u>

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153 [Remainder of section 25.04 is to remain unchanged

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157 Approved by the Law Enforcement and Judiciary Committee this _____ day of
158 _____, 2011.

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160 Vote Required: Majority = _____ 2/3 Majority = _____ 3/4 Majority =
161 _____

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163 The County Board has the legal authority to adopt: Yes _____ No _____ as
164 reviewed by the Corporation Counsel, _____, Date:
165 _____

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168 Offered and passage moved by: _____

169 Supervisor

170 _____

171 Supervisor

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173 Supervisor

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175 Supervisor

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177 Supervisor

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181 _____ Ayes

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183 _____ Nays

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185 _____ Absent

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187 _____ Abstain

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190 _____ Enacted

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192 by the County Board of Supervisors this _____ day of _____, 2011.

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194 _____ Defeated

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198 _____
Mary Bartelt, County Clerk

Ted Cushing, County Board Chair

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