

ONEIDA COUNTY ZONING AND SHORELAND PROTECTION ORDINANCE

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9.80 ZONING ADMINISTRATION – GENERALLY (#11-2022)

A. Oneida County Board of Supervisors

The Oneida County Board of Supervisors is responsible for enactment, amendment and repeal of the Oneida County Zoning and Shoreland Protection Ordinance.

B. Oneida County Planning and Zoning Committee

The Committee is a committee created pursuant to sec. 59.69(2), Wis. Stats., and the Oneida County Code of Ordinances and is responsible for overseeing the office of the Zoning Administrator and for such other functions assigned to it by this ordinance or by state law.

C. Zoning Administrator

1. The Oneida County Board shall employ a qualified person to act as Zoning Administrator. All applicants for said position shall be first reviewed by the Committee, who shall then make their recommendation to the Oneida County Board. The Zoning Administrator's duty is to interpret, administer and enforce the provisions of this ordinance, including the issuance and revocation of permits and to oversee operation of the zoning office. For the purpose of this ordinance, the Zoning Administrator shall have the power to enforce the ordinance as provided in Ch. 59, Wis. Stats.
2. The Committee shall employ qualified staff, as authorized by the Oneida County Board, to assist the Zoning Administrator. For the purpose of this ordinance, the authorized qualified staff shall have the power to enforce the ordinance as provided in Ch. 59, Wis. Stats.

D. Annual Report

The Zoning Administrator shall make an annual report to the County Board. Meetings of the Committee may be called by the Chairman of the Committee or at the request of the Zoning Administrator.

E. Duties and Powers

The Zoning Administrator has the following duties and powers:

1. Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications.
2. Make determinations and issue permits in accordance with this ordinance.
3. Inspect properties for compliance with this ordinance, regardless of whether a permit has been applied for or issued under this ordinance. Prior to entering a property, the Zoning Administrator or designee shall attempt to contact the owner or occupant of a property. If the property owner or occupant does not respond to attempts to contact, or prior to contact is counterproductive, the Zoning Administrator or designee may proceed to the nearest entryway to a structure to attempt to contact the occupant/owner. The Zoning Administrator or designee may consider any violations in plain view on the route to the entryway, but shall not otherwise conduct an inspection of the property. Nothing in this chapter shall preclude Zoning Administrator or designee from proceeding as provided in Wis. Stat. §66.0119 (§66.0119 is a special inspection warrant).
4. Keep records of all permits issued, inspections made, work approved and other official actions or activities pursuant to this ordinance.
5. Issue demands for compliance when, upon inspection or investigation, becoming aware of a condition which is or is likely to become unlawful.
6. Report violations of this ordinance and other applicable regulations to the Committee and corporation counsel.
7. Issue citations for violations of this ordinance.
8. Such other duties and powers as provided in this ordinance and/or state law.

9.81 FINANCIAL MATTERS

- A. All fees collected by the Department pursuant to this ordinance shall be deposited with the County treasurer.
- B. Annually, the County Board shall appropriate money to the Committee for the purpose of operating the Department and administering this ordinance.

- C. A complete set of financial records for the Department shall be kept by the Zoning Administrator.

9.82 ENFORCEMENT AND PENALTIES (#22-2006)

The provisions of this ordinance shall be administered, and enforced by and under the direction of the County Board of Supervisors.

A. Investigation and Compliance; Notice of Violation

1. The Department is responsible for conducting the necessary inspection and investigation to insure compliance with this ordinance and, through field notes, photographs and other means, documenting the presence of violations.
2. If, upon investigation, the Department becomes aware of a violation of this ordinance, it shall immediately notify responsible parties and those potentially liable. Such notice shall include a demand that the condition that is alleged to constitute a violation be halted or remedied, and a statement that a complaint about the condition will be transmitted to the County corporation counsel for prosecution if remedial action has not occurred within 10 days. Responsible parties and those potentially liable shall include but not be limited to the landowner, tenants, and contractors.
3. If the same or similar violation recurs within a two-year period, whether or not it involves the same property or the same or similar conduct by the owner, agent or contractor, notification of violation may be waived by the Department or corporation counsel and immediate legal action can be commenced to prosecute the violation.
4. The Department may issue a citation for any violation within the ten-day notification period.

B. Prosecution, Injunctions, Fines and Forfeitures, Imprisonment

1. It shall be the duty of the corporation counsel to expeditiously review all violations of this ordinance reported by the Department or Committee and take action as appropriate.
2. A forfeiture of not less than \$25, nor more than \$250, plus costs, shall be imposed for each violation of this ordinance.
3. Upon failure to pay a forfeiture, the violator may be confined in the County jail until such forfeiture is paid, for a period not exceeding six months.
4. Each day a violation exists or continues shall be considered a separate and distinct offense.

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5. As a substitute for or in addition to forfeiture actions, the corporation counsel may, on behalf of the County, seek enforcement of any and all parts of this ordinance by court actions seeking injunctive orders or restraining orders and/or by pursuing nuisance actions against the violator.
6. Compliance with this ordinance may be enforced pursuant to sec. 59.69(11), Wis. Stats.

C. Violations of Permits Issued Under This Ordinance

Violation of a permit issued under this ordinance shall be deemed a violation of this ordinance and shall constitute grounds for revocation of the permit, as well as fines and forfeitures and any other available remedies. Any person who has applied for and received a permit and begins work on the project authorized by the permit acknowledges that they have read, understand, and agree to follow all conditions and requirements of the permit.

D. Revocation of Permits

The Committee shall retain continuing jurisdiction over all activities authorized by the permit for the purpose of assuring compliance with this ordinance and other ordinances and the terms of the permit. Such authority shall be in addition to the enforcement authority of the Zoning Administrator. Upon notice to the Committee of an alleged violation of any permit, in its sole discretion, the Committee may hold a public hearing to consider amending, suspending or revoking the permit. Notice of the hearing and alleged violation shall be served upon the property owner and permit holder either in person or via certified mail to the address provided on the permit application form or otherwise provided to the Department a minimum of 72 hours prior to conducting the public hearing. The notice shall contain the date, time and place of the hearing, a description of the property, a description of the activity authorized by the permit, and a statement of the alleged violation(s). Notice shall also be published as a class 2 notice. Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Committee at its sole discretion may hold additional public hearings. If the Committee finds after the hearing that the permit holder is not in compliance with the terms of the permit, it may amend, suspend or revoke the permit. The decision of the Committee shall be furnished to the permit holder in writing, stating the reasons therefore.

E. Permit Issued in Violation of This Ordinance

A permit issued in violation of this ordinance, the Wisconsin Administrative Code or the Wisconsin Statutes, gives the permit holder no vested right to continue the activity authorized by the permit, and the permit is considered voidable.

F. In the event the circuit court determines that a permit or mitigation plan has been violated and orders compliance within a time certain, an abridged judgment or order to that effect shall be recorded by the Department with the register of deeds if the property owner does not

comply. Upon compliance, the Department shall file an affidavit to that effect. (#30-2001)

9.83 COMPOSITION OF BOARD OF ADJUSTMENT / JURISDICTION (Amended 09-2006)

A. Pursuant to sec. 59.694(2)(a), Wis. Stats., the Board of Adjustment shall have five regular and two alternate members, none of whom shall be a member of the Oneida County Board of Supervisors. Appointment and voting by members shall be prescribed in Chapter 17, Oneida County Code.

B. The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any administrative official in the enforcement or administration of this ordinance.
2. To authorize upon appeal in specific cases, special exceptions to and variances from the terms of the ordinance as will not be contrary to the public interest, when owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and which shall be in harmony with the spirit and general purposes of the ordinance and will result in substantial justice being done.
3. To hear and decide appeals of CUPs and any other permit decisions made by the Committee pursuant to this ordinance.
4. To exercise all of the powers and perform all of the duties conferred on such boards by sec. 59.694, Wis. Stats.

9.84 VARIANCES

No variance from the terms of this ordinance shall be granted which is contrary to the public interest. A variance may be granted where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. The granting of a variance shall not have the effect of granting or increasing any use of property which is prohibited in that zoning district by this ordinance. When considering a variance request, the Board of Adjustment shall consider the following:

- A. The particular physical surroundings, shape or topographic conditions of the specific property involved could result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out.
- B. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification.
- C. The purpose of the variance is not based exclusively on a desire for economic or material gain by the applicant or owner.
- D. The alleged difficulty or hardship is caused by this ordinance and has not been created by a person who had or has an interest in the property.
- E. The granting of a variance will not be detrimental to the welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- F. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets increase the danger of fire or otherwise endanger the public health, safety and welfare of substantially diminish or impair property value in the neighborhood.
- G. The Board of Adjustment may impose such conditions and restrictions upon the premises benefited by the variance as may be necessary to comply with the above standards and to better carry out the general intent of this ordinance.

9.85 APPEALS TO THE BOARD OF ADJUSTMENT

A. Appeals

Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department or board of the local government affected by a decision of the Zoning Administrator or his agent, or other administrative officer. Such appeal shall be taken within thirty (30) days after the date of receipt or written notification, of the decision or order of the administrative officer by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from who the appeal is taken shall promptly transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

B. Fee

Each appeal must be accompanied by a fee in an amount as periodically determined by the County Board.

C. Board Procedure

In conducting its proceedings and making its determinations, the Board of Adjustment shall follow its duly adopted rules as contained in Chapter 17 of the Oneida County Code of Ordinances.

D. Hearing

The Board of Adjustment shall hold hearings in accordance with sec. 59.694(6), Wis. Stats., and in accordance with rules of procedure adopted by the Board of Adjustment and/or Oneida County Board contained in Chapter 17 of the Oneida County Code of Ordinances, as applicable. A copy of the current rules is available from the Department.

E. Stays

A timely appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment that a stay would cause imminent peril of life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record.

9.86 CHANGES AND AMENDMENTS

A. Authority

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In order to meet the public necessity, convenience, general welfare and promote good zoning practice, the Oneida County board may from time to time amend, supplement, or change by ordinance the boundaries of districts or regulations herein established, including the repeal of this zoning ordinance.

B. Effectiveness

Any and all ordinances which may amend or change this ordinance shall become effective in accordance with provisions of sec. 59.69, Wis. Stats.

C. Initiation

Petitions for amendment may be initiated by the owner of property that would be affected by the change or amendment, by the County Board, by the Committee, or by any member of the County Board, town board, the owner's agent, or the Zoning Administrator.

D. Petitions

Petitions for amendments shall be made on forms approved by the Committee and made available from the Department.

E. Procedure

The procedures of sec. 59.69(5), Wis. Stats., shall apply to any amendment.

F. General Standards

When reviewing a petition, the Committee and County Board shall consider the following:

1. Whether the change is in accord with the purpose of this ordinance.
2. Whether the change is consistent with land use plans of the County, the affected town, and towns adjacent to the affected town.
3. Whether conditions have changed in the area generally that justify the change proposed in the petition.
4. Whether the change would be in the public interest.
5. Whether the character of the area or neighborhood would be adversely affected by the change.
6. Whether the uses permitted by the change would be appropriate in the area.
7. Whether the town board of the town in which the change would occur approves of the change.
8. The size of the property that is the subject of the proposed change.

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9. Whether the area to be rezoned is defined by recognizable or clearly definable boundaries such as those found in U.S.G.S. Land Office Survey maps or recorded plats, or those created by highways, railroad rights-of-way, meandering streams or lakes.

10. Position of affected landowners.

G. Floodplain Petitions

Petitions concerning floodplains shall also be referred to the DNR for comment.

9.87 [Reserved for future use]

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