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Resolution #77-2008

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

**Ordinance Amendment offered by Supervisors of the Land & Water Conservation
Committee**

Whereas, the Oneida County Board of Supervisors enacted Ordinance § 10.05 to prevent the spread of aquatic invasive species by making it illegal to transport aquatic invasive species; and

Whereas the Oneida County Board of Supervisors recognizes that the use of ‘Dry Hydrants’ by fire departments may contribute to the spread of aquatic plants, animals and pathogens; and

Whereas, the Oneida County Board of Supervisors seeks to prevent the spread of aquatic plants, animals, and pathogens through the use of ‘Dry Hydrants’; and

Whereas, the Oneida County Board of Supervisors recognizes that the removal of water from lakes, rivers, tributaries and ponds, may contribute to the spread of aquatic plants, animals, and pathogens if the water there from is transferred or released into a different location within or outside the lakes, rivers, tributaries, or ponds; and

Whereas, the Oneida County Board of Supervisors seeks to ensure that fire departments are not unduly hindered in fulfilling the important and necessary task of providing quality fire control and protection to the citizens of Oneida County.

**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existing ordinances, codes, resolutions, or portions thereof in conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.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 10.055 of the General Code of Oneida County, Wisconsin, is amended as follows [additions noted by underline, deletions noted by strikethrough]:

10.055 REGULATION OF DRY HYDRANTS

(1) PURPOSE AND STATUTORY AUTHORITY. The purpose of this ordinance is to prevent the spread of aquatic invasive species in Oneida County and surrounding lakes, rivers, tributaries, or ponds in order to protect property values, the property tax base, and ensure quality recreational opportunities without unduly hindering fire departments in the exercise of their duties and functions. This ordinance is adopted under authority of Section 59.03 of the Wisconsin Statutes.

46 (2) DEFINITIONS.

47 (a) The term “Aquatic Plants” has the meaning as set forth in Oneida County
48 Ordinance §10.05 and is incorporated herein by reference.

49 (b) The terms “Animal” and “Aquatic Animal” are identical and have the meaning as
50 set forth for “invasive animal” in Oneida County Ordinance §10.05 and is
51 incorporated herein by reference. “Animal” shall also include any vertebrate or
52 invertebrate, wild or domestic, that is dependent on an aquatic environment,
53 freshwater or saline, for part or all of its life cycle.

54 (c) “Pathogen” means an infectious organism that is a potential contributing
55 environmental factor to disease. These include bacteria, viruses (such as viral
56 hemorrhagic septicemia (VHS)), and fungi.

57 (d) “Container” means a vessel, receptacle, or other compartment, enclosed or open,
58 permanently affixed or portable, and capable of holding liquid contents during a
59 journey by one or several means of transport. “Container” shall include, but is
60 not limited to: a portable pump, tank truck, fire suppression transport bucket,
61 tank, and fire bucket.

62 (e) “Dry Hydrant” means a non-pressurized pipe system permanently installed in
63 lakes, rivers, tributaries, or ponds for the purpose of providing a suction supply of
64 water to a fire department tank truck.

65 (f) “Disinfect” means to treat water in a container by mixing household chlorine
66 bleach with the water in that container to produce a concentration of two hundred
67 (200) parts per million (0.5 oz chlorine per gallon or 1 Tablespoon chlorine per
68 gallon of water (e.g. three and one half (3.5) gallons of household chlorine bleach
69 per one thousand (1,000) gallons of water)), and ensuring that the chlorine bleach
70 has a contact duration of not less than ten (10) minutes.

71 (g) “Neutralize” means to treat previously disinfected water in a container by mixing
72 sodium thiosulfate with the water in that container to produce a concentration of
73 three (3) grams of sodium thiosulfate per gallon of water and ensuring that the
74 sodium thiosulfate is circulated within the container for not less than three (3)
75 minutes (e.g. connecting the output and input valves of the container and
76 circulating the water within the container using a high volume pump.).

77 (h) “Permeable” means the capacity of porous rock, sediment, or soil to transmit
78 water including, but not limited to, an area of a vehicular use area paved with
79 material that permits rapid water penetration into the soil. Permeable pavement
80 may consist of any porous surface materials which are installed, laid or poured.

81 (i) “Person” means a natural person and includes any corporate, statutory, or
82 municipal entity.

83 (3) PROHIBITED TRANSPORT OF AQUATIC PLANTS, ANIMALS, OR PATHOGENS.
84 No person may transport, in a container any water containing an aquatic plant, animal, or
85 pathogens from any lake, river, tributary, or pond, which was removed through a dry hydrant,
86 onto any roadway open to the public except as set forth in paragraph (5) below.

87 (4) PROHIBITED TRANSFER OR RELEASE OF WATER CONTAINING AQUATIC
88 PLANTS, ANIMALS, OR PATHOGENS. No person may remove any water containing an
89 aquatic plant, animal, or pathogen from any lake, river, tributary, or pond through a dry hydrant,
90 or other means, except as provided for in this ordinance. Any water containing an aquatic plant,
91 animal, or pathogen shall, if returned to an aquatic environment, be discharged only into the same
92 water source in the same location from whence the water containing the aquatic plant, animal, or
93 pathogen was removed.

94
95 (5) EXCEPTIONS TO THE TRANSPORT OF AQUATIC PLANTS ANIMALS AND
96 PATHOGENS.

97
98 (a) Fire departments shall be exempt from the prohibitions contained herein while
99 actively engaged in fire suppression.

100
101 (b) for disposal as part of a harvest or control activity conducted under an aquatic
102 plant management permit issued under ch. NR 109

103
104 (6) EXCEPTIONS TO DRY HYDRANT FLUSHING PROHIBITIONS. Unless otherwise
105 prohibited by law, a person may utilize dry hydrants as follows:

106
107 (a) Fire departments shall be exempt from the prohibitions contained herein while
108 actively engaged in fire suppression.

109
110 (b) Fire departments may utilize a high-volume portable pump adjacent to a dry
111 hydrant site by inserting the pump intake into the lake, river, tributary, or pond
112 and flushing the lake, river, tributary, or pond water through the hydrant. The
113 portable pump and hoses shall be disinfected prior to use at a new dry hydrant
114 site by flushing two hundred (200) parts per million (0.5 oz per gallon or 1
115 Tablespoon per gallon) chlorine through the portable pump and discharging the
116 mixture onto a permeable surface, to prevent the disinfected water from entering
117 a lake, river, tributary, or pond and without damaging vegetation.

118
119 (c) Fire departments may pump water from a lake, river, tributary or pond to flush a
120 dry hydrant without prior disinfection only if the water is from that same dry
121 hydrant location. The container shall then be transported empty to the next dry
122 hydrant site. Any residual water in the container shall be disinfected and
123 neutralized. The disinfected and neutralized water shall then be discharged onto
124 a permeable surface, to prevent the disinfected and neutralized water from
125 entering a lake, river, tributary, or pond. This protocol does not require a permit
126 from the Wisconsin Department of Natural Resources.

127
128 (d) Fire departments may remove water from a dry hydrant and disinfect water in the
129 container prior to discharge at a separate dry hydrant site. Fire Departments
130 MAY NOT discharge this water into a lake, river, tributary, pond or at a dry
131 hydrant site prior to completing disinfection and neutralization. This protocol
132 will require a permit from the Wisconsin Department of Natural Resources if the
133 discharged amount of the chlorinated solution exceeds four (4) parts per million.

134
135 (e) In order to complete above (a)-(d), a person may transport to a permeable surface
136 to disinfect, neutralize, and/or discharge the contents of the container.

137 (7) CITATION AND ENFORCEMENT.

138 (a) Any person who violates a provision of this ordinance shall be subject to a
139 forfeiture of not less than \$500 and not more than \$1,000 for each violation. Said
140 person shall be also subject to court costs for such violation.

141
142 (b) Each violation shall be considered a separate offense.

143
144 (c) Legal action may be initiated against a violator by the issuance of a citation
145 pursuant to Section 66.0113, Wisconsin Statutes. Said citation may be issued by
146 a law enforcement officer of Oneida County.

147
148 (d) The citation shall contain the following:

149 i. The first, middle, and last name, address, and date of birth of the alleged
150 violator.

151 ii. Factual allegations describing the alleged violation.

152 iii. The date, time and place of the offense.

153 iv. The ordinance and section of the violation.

154 v. A description of the offense in such a manner as can be readily
155 understood by a person making a reasonable effort to do so.

156 vi. The date and time at which the alleged violator may appear in court.

157 vii. A statement which, in essence, informs the alleged violator:

158 (a) That a cash deposit based on the schedule established by this
159 section may be made which shall be delivered to the Clerk of Courts
160 prior to the time of the scheduled court appearance.

161 (b) That if a deposit is made, no appearance in court is necessary
162 unless subsequently summoned.

163 (c) That if a cash deposit is made and the alleged violator does not
164 appear in court, they will be deemed to have entered a plea of no contest
165 or, if the court does not accept the plea of no contest, a summons will be
166 issued commanding them to appear in court to answer the complaint.

167 (d) That if no cash deposit is made and the alleged violator does not
168 appear in court at the time specified, an action may be commenced to
169 collect any forfeiture.

170 (e) A direction that if the alleged violator elects to make a cash
171 deposit, the statement which accompanies the citation shall be signed to
172 indicate that the statement required under Paragraph (7)(d) vii., above,
173 has been read. Such statement shall be returned with the cash deposit.

174 (f) Such other information as the County deems necessary.

175
176 (e) Section 66.0113(3), Wisconsin Statutes, relating to violator's options and
177 procedure on default, is hereby adopted and incorporated herein by reference.

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179
180 Approved by the Land and Water Conservation Committee on this ____ day of _____,
181 2008.

182
183 Vote Required: Majority = _____ 2/3 Majority = _____ 3/4 Majority = _____

184
185 The County Board has the legal authority to adopt: Yes _____ No _____ as reviewed by
186 the Corporation Counsel, _____, Date: _____

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Offered and passage moved by: _____

Supervisor

Supervisor

Supervisor

Supervisor

Supervisor

Seconded by: _____

_____ Ayes

_____ Nays

_____ Absent

_____ Abstain

_____ Adopted by the County Board of Supervisors this _____ day of _____ 2008.

_____ Defeated

Robert Brusio, Clerk

Andrew P. Smith, County Board Chair