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RESOLUTION # 18-2018
ORDINANCE AMENDMENT #1-2018
CHAPTER 13 OF THE ONEIDA COUNTY PRIVATE ONSITE WASTEWATER
TREATMENT SYSTEMS ORDINANCE, SUBCHAPTER 5

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 #1-2018, (copy attached) which was filed February 8, 2018 (copy attached) to amend Subchapter 5 of the Oneida County Private Onsite Wastewater Treatment Systems (POWTS) Ordinance, and having given notice thereof as provided by law and having held a public hearing thereon February 7, 2018, and having been informed of the facts pertinent to the changes which are as follows:

WHEREAS, 2015 Wisconsin Act 55 prohibits local governments from creating or enforcing time of sales requirements for a real estate sale; and

WHEREAS, Chapter 13, Oneida County Private Onsite Wastewater Treatment System Ordinance, Subchapter 5, contained such provisions; and

WHEREAS, Oneida County is now accepting and will be requiring POWTS maintenance reports to be submitted electronically to the department in an effort to streamline and automate POWTS maintenance program; and

WHEREAS, all towns were notified and no comments were received for or against the proposed language; and

WHEREAS, the Planning and Development committee has carefully studied the proposed changes and no public comments were made at the public hearing and recommends approval.

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existing ordinances, codes, resolutions, or portions thereof in conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.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. Chapter 13 of the General Code of Oneida County, Wisconsin, is amended as follows [additions noted by underline, deletions noted by strikethrough]:

13.51 SEPTIC TANK MAINTENANCE PROGRAM.

6. The owner or owner's agent of a POWTS shall furnish, in a manner specified by the county, the Department with a copy of the inspection report verifying

51 the condition of the tank, whether wastewater or effluent from the POWTS is
52 ponding on the ground surface and the date of pumping within 30 calendar
53 days of the date of inspection and pumping. Reports shall include all
54 information required in SPS 383.55, Wisconsin Administrative Code, and be
55 signed by the person(s) inspecting and pumping the private sewage system.
56 Other maintenance or management reports required by SPS 383 or SPS 384,
57 Wisconsin Administrative Code, shall be included with this report.
58

59 13.51 (1) through (5) and (7) remain unchanged.
60

61 13.53 PROPERTY TRANSFER REQUIREMENTS is being deleted in its entirety
62 to comply with 2015 Wisconsin Act 55.
63

64 The County Clerk shall, within seven (7) days after adoption of Ordinance Amendment
65 #1-2018 by the Oneida County Board of Supervisors, cause a certified copy thereof to
66 be transmitted by mail to the Town Clerks of Oneida County and the Wisconsin
67 Department of Natural Resources.
68

69 Approved by the Planning and Development Committee this 14th day of February 2018.
70

71 Consent Agenda Item: YES NO
72

73 Vote Required: Majority = _____ 2/3 Majority = _____ 3/4 Majority = _____
74

75 The County Board has the legal authority to adopt: Yes No _____ as
76 reviewed by the Corporation Counsel, *[Signature]*, Date:
77 2/16/18
78

79 Offered and passage moved by:
80

[Signature]
Supervisor
[Signature]
Supervisor
[Signature]
Supervisor
[Signature]
Supervisor
[Signature]
Supervisor

91
92
93 _____ Ayes

94
95 _____ Nays

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97 _____ Absent

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99 _____ Abstain

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_____ Enacted

by the County Board of Supervisors this ____ day of _____, 2018.

_____ Defeated

Tracy Hartman, Clerk

David Hintz, County Board Chair

**ONEIDA COUNTY
PLANNING & ZONING DEPARTMENT**

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Fax: (715)358-3276
Email: zoning@co.oneida.wi.us

Memorandum

To: Oneida County Board of Supervisors
From: Karl Jennrich, Zoning Director
Cc: Brian Desmond, Corporation Counsel
Date: March 14, 2018
Re: Resolutions related to Chapter 13, the Oneida County Private Onsite Wastewater Treatment System Ordinance and Chapter 15 the Oneida County Subdivision Control Ordinance

At the March 20, 2018 Oneida County Board of Supervisors meeting, you will asked to take action on two ordinance amendments proposed by the Oneida County Planning and Development Committee. On July 12, 2015, Governor Walker signed the 2015-2017 state budget into law (2015 Wis. Act 55). One provision in Act 55 is a new restriction on local time of sale (TOS) requirements. The provision in §706.22, Wis. Stat., specifically prohibits any local governmental unit from restricting by ordinance, resolution, or any other means, the ability of an owner or real property to sell or otherwise transfer title to or refinance the property by requiring the owner or an agent of the owner to take certain actions with respect to the property that are imposed by a local unit of government. A copy of §706.22, Wis. Stats., has been included with this memo.

Prior to July 12, 2015, Oneida County required a detailed Private Onsite Wastewater Treatment System (POWTS) inspection, including a soil boring, to be performed for all septic systems installed prior to 1980 upon the transfer of a parcel of property. This was required pursuant to the Oneida County Private Onsite Wastewater Treatment System Ordinance, Section 13.53, Property Transfer Requirements.

The two amendments to Chapter 13 and Chapter 15, would remove the TOS requirements that were required in Section 13.53 of the Oneida County Private Onsite Wastewater Treatment System Ordinance. It would transfer those requirement to Chapter 15 the Oneida County Subdivision Control Ordinance when a property is subdivided. These provisions would apply to minor subdivisions and town, county, and state plats. Oneida County has been requiring divisions of land to comply with having an existing POWTS inspection, including a soil boring, since 2010.

If you have any questions regarding these ordinance amendments/resolutions prior to the meeting, please feel free to contact me at (715) 369-6176 or kjennrich@co.oneida.wi.us.

Vetoed
In Part

(2) A requirement that individuals requesting an independent dispute resolution must first exhaust any internal grievance procedure established by the insurer for grievances related to conduct under s. 632.87 (3).

(3) The application procedure and qualifications, including conflict of interest provisions, for individuals to act as independent reviewers under the independent dispute resolution process and the inclusion of retired members of the state judiciary as individuals who are eligible to act as independent reviewers.

(4) The procedure for selecting an independent reviewer to review a particular complaint.

(5) The procedures, including timelines, that an independent reviewer must follow when reviewing a complaint and a requirement that an independent reviewer must render a decision regarding a particular complaint within 9 months after the commissioner receives the request for independent dispute resolution.

(6) Procedures for setting and paying the fees of the independent reviewers.

(7) A requirement that the insurer about which the independent dispute resolution is requested pay the fees of the independent reviewer.

(8) The relief to which an individual who requests independent dispute resolution and who prevails is entitled, including injunctive and declaratory relief and monetary relief due to underpayments by the insurer.

SECTION 4591. 632.895 (10) (a) of the statutes is amended to read:

632.895 (10) (a) Except as provided in par. (b), every disability insurance policy and every health care benefits plan provided on a self-insured basis by a county board under s. 59.52 (11), by a city or village under s. 66.0137 (4), by a ~~political subdivision~~ local governmental unit or technical college district under s. 66.0137 (4m), by a town under s. 60.23 (25), or by a school district under s. 120.13 (2) shall provide coverage for blood lead tests for children under 6 years of age, which shall be conducted in accordance with any recommended lead screening methods and intervals contained in any rules promulgated by the department of health services under s. 254.158.

SECTION 4594g. 655.001 (8c) of the statutes is created to read:

655.001 (8c) "Insurer" includes a foreign insurer that is a risk retention group that issues health care liability insurance under this chapter.

SECTION 4594m. 655.23 (3) (am) of the statutes is created to read:

655.23 (3) (am) For purposes of par. (a) only, a foreign insurer that is a risk retention group and that has not been issued a certificate of authority under s. 618.12 is authorized to do business in this state if the risk retention group is registered with the commissioner, is approved by the commissioner to provide health care liability insurance coverage under this chapter, and has and main-

tains a risk-based capital ratio of at least 300 percent as determined under the risk-based capital instructions adopted by the National Association of Insurance Commissioners.

SECTION 4594r. 703.195 (1) (c) of the statutes is amended to read:

703.195 (1) (c) "Condemnor" means a person specified in ~~s. 32.01 (1)~~ who has the authority to condemn property under ch. 32.

SECTION 4595. 705.04 (2g) of the statutes is amended to read:

705.04 (2g) Notwithstanding subs. (1) and (2), the department of health services may collect, from funds of a decedent that are held by the decedent immediately before death in a joint account or a P.O.D. account, an amount equal to the medical assistance that is recoverable under s. 49.496 (3) (a), an amount equal to aid under s. 49.68, 49.683, ~~or 49.685~~, or 49.785 that is recoverable under s. 49.682 (2) (a) or (am), or an amount equal to long-term community support services under s. 46.27 that is recoverable under s. 46.27 (7g) (c) 1. and that was paid on behalf of the decedent or the decedent's spouse.

SECTION 4595c. 706.22 of the statutes is created to read:

706.22 Prohibition on imposing time-of-sale requirements. (1) DEFINITIONS. In this section:

(a) "Actions with respect to the property" include such actions as having an inspection made by an employee or agent of, or contractor with, the local governmental unit; making improvements or repairs; removing junk or debris; mowing or pruning; performing maintenance or upkeep activities; weatherproofing; upgrading electrical systems; paving; painting; repairing or replacing appliances; replacing or installing fixtures or other items; and actions relating to compliance with building codes or other property condition standards.

(b) "Local governmental unit" means any of the following:

1. A political subdivision of this state.
2. A special purpose district in this state.
3. An agency or corporation of a political subdivision or special purpose district in this state.
4. A combination or subunit of any entity under subs. 1. to 3.
5. An employee or committee of any entity under subs. 1. to 4.

(2) REQUIREMENTS TIED TO SALE OF PROPERTY PROHIBITED. (a) Except as provided in par. (b), no local governmental unit may by ordinance, resolution, or any other means restrict the ability of an owner of real property to sell or otherwise transfer title to or refinance the property by requiring the owner or an agent of the owner to take certain actions with respect to the property or pay a related fee, to show compliance with taking certain actions with respect to the property, or to pay a fee for

failing to take certain actions with respect to the property, at any of the following times:

1. Before the owner may sell, refinance, or transfer title to the property.
2. At the time of the sale or refinancing of, or the transfer of title to, the property.
3. Within a certain period of time after selling, refinancing, or transferring title to the property.

(b) Paragraph (a) does not prohibit a local governmental unit from requiring a real property owner or the owner's agent to take certain actions with respect to the property not in connection with the sale or refinancing of, or the transfer of title to, the property.

(3) EXISTING ORDINANCE, RESOLUTION, OR POLICY UNENFORCEABLE. If a local governmental unit has in effect on the effective date of this subsection [LRB inserts date], an ordinance, resolution, or policy that is inconsistent with sub. (2) (a), the ordinance, resolution, or policy does not apply and may not be enforced.

SECTION 4598. 753.061 (5) of the statutes is repealed.

SECTION 4601b. 758.19 (5) (a) of the statutes is repealed.

SECTION 4601e. 758.19 (5) (b) of the statutes is repealed and recreated to read:

758.19(5) (b) From the appropriation under s. 20.625 (1) (d), the director of state courts shall make payments to counties for circuit court costs. The director of state courts, at the direction of the supreme court, shall define circuit court costs for the purposes of this subsection.

SECTION 4601h. 758.19 (5) (b) of the statutes, as affected by 2015 Wisconsin Act (this act), is amended to read:

758.19(5) (b) From the appropriation under s. 20.625 (1) (d) (cg), the director of state courts shall make payments to counties for circuit court costs. The director of state courts, at the direction of the supreme court, shall define circuit court costs for the purposes of this subsection.

SECTION 4601L. 758.19 (5) (c) of the statutes is repealed.

SECTION 4601p. 758.19 (5) (d) of the statutes is repealed.

SECTION 4601r. 758.19 (5) (f) of the statutes is amended to read:

758.19(5) (f) A county that fails to meet the requirements under par. (e) is not eligible for a payment under par. (b) for one fiscal year, as defined in s. 237.01 (3), after the May 15 that the information was not provided, or until the information is provided, whichever is earlier. Except as provided in this paragraph and par. (g), the information regarding the amount of actual costs reported under par. (e) does not affect the amount paid to a county under par. (b).

SECTION 4601u. 758.19 (5) (g) of the statutes is repealed.

SECTION 4601y. 758.19 (5) (h) of the statutes is repealed.

SECTION 4602. 758.19 (6) of the statutes is repealed.

SECTION 4603. 758.19 (8) of the statutes is repealed.

SECTION 4605. 767.75 (1f) of the statutes is amended to read:

767.75 (1f) PAYMENT ORDER AS ASSIGNMENT OF INCOME. A payment order constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, lottery prizes that are payable in installments, and other money due or to be due in the future to the department or its designee. The assignment shall be for an amount sufficient to ensure payment under the order, obligation, or stipulation and to pay any arrearages due at a periodic rate not to exceed 50% of the amount of support due under the order, obligation, or stipulation so long as the addition of the amount toward arrearages does not leave the party at an income below the poverty line established under 42 USC 9902 (2).

SECTION 4606. 767.75 (2m) (a) 1. of the statutes is amended to read:

767.75(2m) (a) 1. An obligation to pay unpaid fees under s. 767.57 (1e) (b) 1m. constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, lottery prizes that are payable in installments, and other money due or to be due in the future to the department or its designee.

SECTION 4607. 767.75 (2m) (a) 2. of the statutes is amended to read:

767.75(2m) (a) 2. An obligation to pay unpaid fees under s. 767.57 (1e) (b) 2m. constitutes an assignment of all commissions, earnings, salaries, wages, pension benefits, income continuation insurance benefits under s. 40.62, duty disability benefits under s. 40.65, benefits under ch. 102 or 108, lottery prizes that are payable in installments, and other money due or to be due in the future to the clerk of court to whom the fees are owed, or to his or her successor.

SECTION 4610b. 800.09 (1j) of the statutes is amended to read:

800.09(1j) If the court orders the defendant to perform community service work in lieu of making restitution or of paying the forfeiture, surcharges, fees and costs, or both, the court may order that the defendant perform community service work for a public agency or a nonprofit charitable organization that is approved by the court and agreed to by the public agency or nonprofit charitable organization. Community service work may be in lieu of restitution only if also agreed to by the person to whom restitution is owed. The number of hours of community service work required may not exceed the