

**ORDINANCE
ROCK COUNTY BOARD OF SUPERVISORS**

COLIN BYRNES
INITIATED BY



JODI TIMMERMAN
DRAFTED BY

PLANNING & DEVELOPMENT
COMMITTEE
SUBMITTED BY

OCTOBER 17, 2014
DATE DRAFTED

AMENDING CHAPTER 4 PART 2 OF THE ROCK COUNTY ORDINANCE REGARDING
THE ZONING OF SHORELANDS, CREATING 4.218, AND AUTHORIZING AN
INTERGOVERNMENTAL AGREEMENT BETWEEN ROCK COUNTY AND
ALL 20 TOWNS IN ROCK COUNTY

1 WHEREAS, the Rock County Board of Supervisors supports the Farmland Preservation
2 Program, and

3
4 WHEREAS, the goal of the Farmland Preservation Program is to preserve Wisconsin farmland
5 through land use planning and zoning while also offering tax relief to farmland owners, and

6
7 WHEREAS, the Wisconsin Court of Appeals issued a recent decision in Hegwood v. Town of
8 Eagle Zoning Board of Appeals, 351 Wis.2d 196, 839 N.W.2d 111 (2013), holding that towns do not
9 have the authority to zone inside a county shoreland district, and

10
11 WHEREAS, landowners enrolled in the Farmland Preservation Program can only claim
12 farmland preservation tax credits on land that is covered by a certified farmland preservation zoning
13 ordinance, and

14
15 WHEREAS, the impact of the Hegwood decision is that landowners enrolled in the Farmland
16 Preservation Program in towns currently under town zoning may not be able to claim the tax credit on
17 land that is within the county shoreland district, unless action is taken to address this issue, and

18
19 WHEREAS, in order to preserve the tax credits for each landowner in Rock County in the
20 Farmland Preservation Program, Rock County needs to amend Chapter 4 Part 2 of the Rock County
21 Code to adopt and incorporate by reference the zoning ordinance for each town in Rock County, by text
22 and map, to the extent that said town ordinance does not conflict with Chapter 4, Part 2, of the Rock
23 County Code and Wisconsin Administrative Code section NR 115; and

24
25 WHEREAS, pursuant to Wis. Stat §59.692(4) and 66.0301, and by an intergovernmental
26 agreement with each town in Rock County, the County will delegate administrative and enforcement
27 authority for the incorporated terms of each town's zoning ordinances back to each respective town
28 upon incorporation of the town's zoning ordinance into Rock County's Shoreland Zoning Ordinance,
29 and

30
31 WHEREAS, Rock County shall maintain administrative authority over Chapter 4, Part 2,
32 Zoning of Shoreland, and

33
34 WHEREAS, this amendment to Chapter 4, Part 2, along with each intergovernmental
35 agreement with the respective towns in Rock County shall be repealed on December 31, 2016, unless a
36 legislative change allows for an earlier repeal or an extension is agreed upon by the parties,

37

14-11D-144

41 NOW THEREFORE, BE IT ORDAINED by the Rock County Board of Supervisors duly
42 assembled this 11 day of December, 2014, that they amend Chapter 4 Part 2 of the Rock County
43 Ordinance regarding Zoning of Shorelands by creating 4.218 which reads as follows:

44
45 **4.218 Town Zoning in Shoreland Zoning**


- 46
47 (1) The County Board adopts and incorporates by reference, as if set forth in full, the town
48 zoning ordinances for each of the 20 respective towns in Rock County, by text and by
49 map as may be amended from time to time.
50
51 (2) The County Board authorizes the creation of an Intergovernmental Agreement with each
52 town in Rock County, pursuant to Wis. Stat. §§ 59.692(4) and 66.0301 for the purpose
53 of delegating the administration and enforcement of town zoning, as it relates to
54 shoreland areas, back to each respective town in Rock County.
55
56 (3) This subsection shall be repealed effective December 31, 2016, along with each
57 Intergovernmental Agreement, unless earlier repealed or extended upon the agreement
58 of the parties.
59

60 BE IT FURTHER ORDAINED, that the Rock County Board of Supervisors authorizes the
61 entering of an Intergovernmental Agreement with each town in Rock County, pursuant to Wis. Stat.
62 59.692(4) and 66.0301 for the purpose of delegating administration and enforcement of town zoning,
63 as it relates to shoreland areas, back to each respective town in Rock County. The County Board Chair
64 is authorized to enter into these agreements.

65
66 BE IT FURTHER ORDAINED that this amendment shall be effective upon passage and
67 publication.

Respectfully submitted:

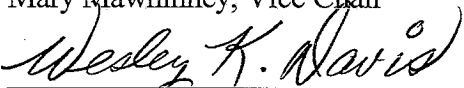
PLANNING & DEVELOPMENT COMMITTEE



Alan Sweeney, Chair




Mary Mawhinney, Vice Chair



Wesley K. Davis



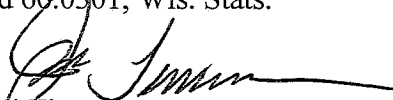
Wayne Gustina



Jason Heidenreich

LEGAL NOTE:

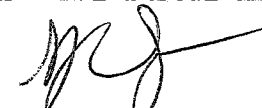
The County Board is authorized to take this action pursuant to secs. 59.01, 59.02(2), 59.51, 59.692(4) and 66.0301, Wis. Stats.



Jodi Timmerman
Deputy Corporation Counsel

FISCAL NOTE:

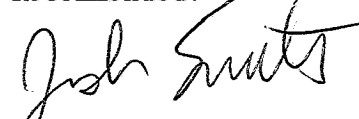
Minimal fiscal impact.



Sherry Oja
Finance Director

ADMINISTRATIVE NOTE:

Recommended.



Josh Smith
County Administrator

EXECUTIVE SUMMARY

In Hegwood v. Town of Eagle Board of Appeals, the Wisconsin Court of Appeals held that, except in limited circumstances, towns have no authority to zone shorelands. The impact of this decision is that towns cannot zone for farmland preservation inside the county shoreland district. Landowners can only claim farmland preservation tax credits on land that is covered by a certified farmland preservation zoning ordinance. As a result of Hegwood, property located in a Shoreland Area that had previously been in a certified Farmland Preservation Zoning District is no longer in a certified Farmland Preservation Zoning District and may no longer be eligible for farmland preservation tax credits.

The Wisconsin Counties Association, in conjunction with the Wisconsin Towns Association is recommending that counties adopt the pre-existing town zoning in shoreland in the county's shoreland zoning by text and may reference, and enter into an agreement assigning the administration of town zoning in shoreland areas to each respective town.

The intent of this resolution is to assure that landowners enrolled in the Farmland Preservation Program continue to be eligible to receive tax credits. Additionally, it is intended that the county and each town will continue to administer and enforce zoning as has been done prior to the Hegwood decision.

The Wisconsin Counties Association and the Wisconsin Towns Association have expressed an intent to seek a legislative solution to this issue in 2015. If and when this occurs, this amendment would be repealed.