

STATE OF WISCONSIN

VILLAGE OF OCONOMOWOC LAKE

WAUKESHA COUNTY

ORDINANCE NO. 115

AN ORDINANCE TO CREATE CHAPTER 25
ENTITLED CONSTRUCTION AND EFFECT OF ORDINANCES
IN THE MUNICIPAL CODE
FOR THE VILLAGE OF OCONOMOWOC LAKE

The Village Board of the Village of Oconomowoc Lake,
Waukesha County, Wisconsin DO ORDAIN AS FOLLOWS:

SECTION 1. The Village Board of the Village of
Oconomowoc Lake hereby creates Chapter 25 entitled Construction and
Effect of Ordinances to be inserted in the Municipal Code for the
Village of Oconomowoc Lake to read as follows:

03/18/91

CHAPTER 25

CONSTRUCTION AND EFFECT OF ORDINANCES

- 25.01 Rules of Construction
- 25.02 Conflict and Separability
- 25.03 Clerk to File Documents
 Incorporated by Reference
- 25.04 Penalty Provisions
- 25.06 Effect of Repeals
- 25.07 Title; Effective Date; Citation

25.01 RULES OF CONSTRUCTION. In the construction of this Municipal Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

(1) WISCONSIN STATUTES. All references to 'Wisconsin Statutes' or 'Wis. Stats.' means the latest published volumes of the Wisconsin Statutes and specifically includes any adopted legislation amending or modifying the same.

(2) GENDER, SINGULAR AND PLURAL. Every word in this Code imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.

(3) PERSON. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless plainly inapplicable.

(4) ACTS OF AGENTS. When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(5) VERBS. The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

25.02 CONFLICT AND SEPARABILITY. (1) CONFLICT OF PROVISIONS. If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(2) SEPARABILITY OF CODE PROVISIONS. If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of a decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Board hereby declares that it would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

25.03 CLERK TO FILE DOCUMENTS INCORPORATED BY REFERENCE.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the Clerk shall file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the Clerk may prescribe for their preservation.

25.04 PENALTY PROVISIONS. (1) GENERAL PENALTY.

Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(a) **First Offense.** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$5 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County jail until such forfeiture and costs are paid, but not exceeding 90 days.

(b) **Second Offense.** Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County jail until such forfeiture and costs are paid, but not exceeding 6 months.

(2) **CONTINUED VIOLATIONS.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(3) **EXECUTION AGAINST DEFENDANT'S PROPERTY.** Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(4) **CITATION METHOD OF ENFORCEMENT.** (a) **Statutory Authorization.** Pursuant to ss.66.119, Wis. Stats., the Village elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists, and ss.66.119 is hereby incorporated and made a part of this section.

(b) Contents of Citation. The citation shall contain the following:

1. Name and address of the alleged violator.
2. Factual allegations describing the alleged violation.
3. Time and place of the offense.
4. Number and section of the ordinance violated.
5. A designation of the offense in such a manner as can readily be understood by a person making a reasonable effort to do so.
6. Time and date in which the violator may appear in court.
7. A statement which informs the violator:
 - a. That a cash deposit based on the established schedule may be delivered or mailed to the Clerk of Circuit Court prior to the time of the scheduled court appearance.
 - b. That if a deposit is made no appearance in court is necessary unless he is subsequently summoned.
 - c. That if a cash deposit is made and the alleged violator does not appear in court at the specified time, an action may be commenced to collect the forfeiture.
 - d. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the require statement has been read. Such statement shall be sent or brought with the cash deposit.
8. Deposits shall be made in cash, money order or certified check to the Clerk of Municipal Court who shall provide a receipt therefor.

(c) Issuance of Citations. The Chief of Police and all police officers employed by the Village may issue citations authorized under this section.

25.06 EFFECT OF REPEALS. The repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the Board shall not:

(1) By implication be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect.

(2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Village.

(3) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.

(4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid is repealed or amended; but the right of action shall continue and the offender shall be subject to the penalty as in all respects, as if such ordinance had not been repealed; except all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code.

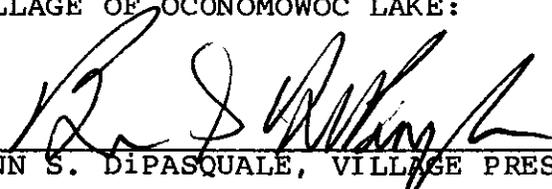
25.07 TITLE; EFFECTIVE DATE; CITATION. These ordinances shall be known as the "Municipal Code of the Village of Oconomowoc Lake" and shall take effect from and after passage and publication as provided in ss.66.035, Wis. Stats. All references thereto shall be cited by section number (example: ss. 13.06, Municipal Code of the Village of Oconomowoc Lake).

SECTION 2. SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections, or portions thereof of the ordinance which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and adopted this 18th day of March, 1991.

BY THE VILLAGE BOARD OF THE
VILLAGE OF OCONOMOWOC LAKE:



BENN S. DIPASQUALE, VILLAGE PRESIDENT

ATTEST:



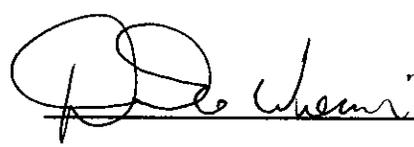
JUNE PERKINS, VILLAGE CLERK

STATE OF WISCONSIN)
COUNTY OF WAUKESHA) SS

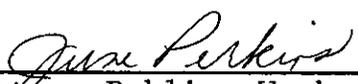
AFFIDAVIT OF POSTING
#114 & 115 ORDINANCES

The undersigned, being first duly sworn, on oath deposes and states that on April 8th, 1991, at the direction of the Clerk of the Village of Oconomowoc Lake, he posted copies of the above ordinance in the following public places in said Village, to-wit:

- (1) Opposite the entrance to the Oconomowoc Lake Club on the northern side of the road in front of the Club;
- (2) At the entrance to the Village Hall on West Pabst Road;
- (3) At the northeast corner of the junction of County Trunk Highway "P" (West Beach Road) and the private drive (South Beach Road) leading into the Ibach, LaBelle, McNellis, et al properties.



Subscribed and sworn to before me this
8th 11th day of April, 1991



Notary Public, Waukesha County, Wisconsin

My Commission expires June 23, 1991