

AN ORDINANCE CREATING  
CHAPTER 12  
OF THE VILLAGE OF OCONOMOWOC LAKE MUNICIPAL CODE  
ENTITLED  
SHORELAND PROTECTION ORDINANCE

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

SECTION 1: Chapter 12 of the Municipal Code of the Village  
of Oconomowoc Lake entitled Shoreland Protection Ordinance is  
hereby created to read as follows:

12.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF  
PURPOSE AND TITLE.

- (1) STATUTORY AUTHORIZATION. This Code is adopted pursuant to the authorizations in §§61.35, 61.351, 87.30 and 144.26, Wis. Stats.
- (2) FINDINGS OF FACT. Uncontrolled use of shorelands and pollution of the navigable waters in the Village of Oconomowoc Lake would adversely effect the public health, safety, convenience and general welfare and impair the tax base. The legislature of Wisconsin has delegated to the Village of Oconomowoc Lake responsibility to:
  - (a) Promote the public health, safety, convenience and general welfare;
  - (b) Maintain the storm and flood water storage capacity of wetlands;
  - (c) Prevent and control water pollution by preserving shorelands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
  - (d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
  - (e) Prohibit certain uses detrimental to shoreland buffer areas;

- (f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover;
  - (g) Protect the quality of the navigable waters of the Village of Oconomowoc Lake by providing a buffer zone of natural filtration for runoff of effluent, nutrition and erosion from the lands surrounding the navigable waters;
  - (h) Preserve and enhance the natural beauty of the shoreland;
  - (i) Preserve and enhance the environmental value of the plant, animal, bird, water fowl and aquatic communities;
  - (j) Maintain the aesthetic value of the navigable waters of the Village of Oconomowoc Lake for property owners, fishermen and other visitors; and
  - (k) Preserve the economic value to the lakeshore property owners.
- (3) PURPOSE. For the purpose of promoting the public health, safety, convenience and welfare, this Code has been established to preserve shore cover and natural beauty through
- (a) Restricting the removal of natural shoreland cover;
  - (b) Protecting scenic beauty;
  - (c) Controlling erosion; and
  - (d) Reducing effluent and nutrient flow from the shoreland.
- (4) IDEAL. A shoreland buffer zone ideally results in a three-tiered complex of tall trees, shorter trees and shrubs, and ground level vegetation such as ferns, creepers and grasses.
- (5) TITLE. Shoreland Protection Ordinance for the Village of Oconomowoc Lake, Waukesha County, Wisconsin.

12.02 GENERAL PROVISIONS.

- (1) COMPLIANCE. The use of the shoreland and the alteration of the shoreland within the shoreland area of the municipality shall be in full compliance with the terms of this Code and other applicable local, state or federal regulations.
- (2) PROPERTY RIGHTS.
  - (a) The provisions of this Code shall not apply to the removal of dead, diseased or dying trees or shrubbery at the discretion of the property owner or to silvicultural thinning in accordance with accepted forestry practices.
  - (b) This section reserves to the property owner the express right to landscape in such manner as:
    - (i) To substantially maintain all lake views; and
    - (ii) To maintain intended use of any affected structure; and
    - (iii) To maintain access to the lake.
- (3) LEGAL NON-CONFORMING.
  - (a) Property owners have a legal non-conforming right to maintain their existing landscaping until the property is transferred to an unrelated third party.
  - (b) Any unrelated third party new property owner must submit to the Architectural Control Board for approval a landscape plan detailing how the property is to be brought into compliance with this section within six (6) months of the transfer of title and must fully implement such plan within one year of Architectural Control Board approval.
  - (c) No property owner may remove vegetation in a manner which would create or increase the extent of non-compliance with this Code.
- (4) A SPECIAL PLAN. A special plan allowing greater cutting or alternate planting may be permitted by the Architectural Control Board by issuance of a special exception permit, pursuant to \$17.60 of the Zoning Ordinance. An application for such a permit shall

include a sketch of the lot providing the following information: location of parking, topography of the land, existing vegetation, existing structures, proposed cutting, and proposed replanting. The Architectural Control Board may grant such a permit only if it finds that such special cutting plans:

- (a) Will not cause erosion or destruction of scenic beauty; and
- (b) Will provide substantial visual screening from the water of dwellings, accessory structures and parking areas.

Where the plan calls for replacement plantings, the Architectural Control Board may require the submission of a cash bond which guarantees the performance of the planned tree or shrubbery replacement by the property owner.

(5) ABROGATION AND GREATER RESTRICTIONS.

- (a) This Code supersedes all the provisions of any municipal code enacted under §61.35, 62.23 or 87.30, Wis. Stats., which relate to shoreland buffer zones, except that where another municipal zoning code is more restrictive, than that code shall continue, in full force and effect to the extent of the greater restriction, but not otherwise.
- (b) This Code is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Code imposes greater restrictions, the provisions of this Code shall prevail.

(6) INTERPRETATION. In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Code is required by a standard in ch. NR 115, Wis. Adm. Code, and where the code provision is unclear, the provision shall be interpreted in light of the ch. NR 115 standards in effect on the date of the adoption of this Code or in effect on the date of the most recent text amendment to this Code.

- (7) SEVERABILITY. The several sections of this Code are declared to be severable. If any section or portion thereof shall be declared by 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 shall not affect the validity of any other provisions, sections or portions thereof of the Code. The remainder of the Code shall remain in full force and effect. Any other codes whose terms are in conflict with the provisions of this Code are hereby repealed as to those terms that conflict.

12.03 PRESERVATION OF SHORE COVER.

A shoreline buffer zone of natural vegetation consisting of trees, shrubbery and ground cover in an area parallel to the ordinary high-water mark and extending twenty (20) feet inland from all points along the ordinary high-water mark, shall be maintained in a state of natural vegetation except as provided below:

(1) AREA.

- (a) Not more than seventy (70) feet of any lot two hundred thirty-five (235) feet or less in width, as measured along the ordinary high-water mark, may be maintained as developed area.
- (b) Not more than thirty percent (30%) of any lot greater than two hundred thirty-five (235) feet in width, as measured along the ordinary high-water mark, may be maintained as developed area.

(2) STRUCTURES.

- (a) Structures in the Shoreline Buffer Zone which are in compliance with §12.04 of this Code shall not be considered developed area.
- (b) Structures in the Shoreline Buffer Zone which are not in compliance with §12.04 of this Code shall be considered developed areas.

- (3) Rip rap or other shoreline protection approved by permit issued by the Department of Natural Resources is not subject to the provisions of this section. Shoreline buffer zones shall begin immediately behind such rip rap or other protection.

- 12.04 SCREENING OF STRUCTURES. All structures within seventy-five (75) feet of the ordinary high-water mark shall be visually screened as defined in §12.07(5), to the extent practical, from view from the lake utilizing natural vegetation.
- 12.05 MAINTENANCE AND PRESERVATION OF SLOPES. All lands within seventy-five (75) feet of the shore of the high-water mark and with an average slope of two units horizontal to one unit vertical or greater shall be maintained with natural vegetative cover adequate to control erosion. Mulched, gravel or other non-vegetative surface treatment is not allowed. Improvements excepted from the definition of structures under §17.10 are allowed.
- 12.06 PATHS. Any path, road or passage within the seventy-five (75) foot area shall be constructed and surfaced so as to effectively control erosion.
- 12.07 DEFINITIONS. All words or phrases of this Code shall be defined as follows, as defined in this Code, as defined in §17.10 of the Zoning Code, or as defined in §11.08 of the Shoreland-Wetland Code.
- (1) DEVELOPED AREAS shall mean areas from which natural vegetation has been removed and replaced with structures, patios, decks, lawns or any other improvements allowed by the Village.
  - (2) NATURAL VEGETATION shall mean the following, left to grow in a natural manner:
    - (a) Shrubs indigenous to Wisconsin,
    - (b) Trees indigenous to Wisconsin,
    - (c) Ground cover indigenous to Wisconsin, or
    - (d) Other species or cultivars similar in appearance and habit.
  - (3) ORDINARY HIGH-WATER MARK shall be as defined in §11.08 of the Shoreland-Wetland Zoning Code.
  - (4) STRUCTURES shall be as defined in §17.10 of the Zoning Code.
  - (5) SCREENED. Installation and maintenance, to the extent practical, of natural vegetation in a manner so as to break the outline of roofs, foundations, side edges and windowless aspects of the structure.

12.08 PENALTIES.

- (1) Any person, firm or corporation who removes plant material in violation of this ordinance shall upon conviction thereof forfeit not less than
  - (a) Twenty-five (\$25) dollars nor more than fifty (\$50) dollars per day until such time as the conditions which existed prior to the violation are restored, and
  - (b) Costs of prosecution for each violation.

Anyone in default of payment of such forfeiture and cost shall be imprisoned in the County Jail until payment thereof pursuant to the law. Each day a violation exists or continues shall constitute a separate offense.

- (2) Any person, firm or corporation who fails to bring property which has been a legal non-conforming use under the provisions of this Code into compliance when such period has expired as provided herein shall upon conviction thereof forfeit not less than
  - (a) Ten (\$10) dollars nor more than twenty-five (\$25) dollars per day until the property is in compliance, and
  - (b) Costs of prosecution for each violation.

Anyone in default of payment of such forfeiture and cost shall be imprisoned in the County Jail until payment thereof pursuant to the law. Each day a violation exists or continues shall constitute a separate offense.

- (3) ENFORCEMENT BY INJUNCTION. Compliance with the provisions of this Code may also be enforced by injunctive order at the suit of the Village or one or more owners of real estate situated within the area affected by the regulations of this Code. It shall not be necessary to prosecute for forfeiture or imprisonment before resorting to injunctive procedures.

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 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 shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance 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.

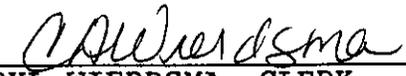
This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

This ordinance passed this 19<sup>th</sup> day of October, 1992.

BY THE VILLAGE BOARD OF THE  
VILLAGE OF OCONOMOWOC LAKE:

  
EDMUND O. TEMPLETON, PRESIDENT

ATTEST:

  
\_\_\_\_\_  
CHERYL WIERDSMA, CLERK

STATE OF WISCONSIN }  
COUNTY OF WAUKESHA } SS

ORDINANCE  
AFFIDAVIT OF POSTING:  
Public Hearing Notice  
Approved Ordinance # 127  
*Shoreland*

The undersigned, being first duly sworn, on oath deposes and states that on October 28, 1992, 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.

*Robert Wharf*

Subscribed and sworn to before me this

28 day of October 1992

*Cheryl A. Wiersma*  
Notary Public, Waukesha County, Wisconsin

My Commission expires 11-19-95