

STATE OF WISCONSIN VILLAGE OF OCONOMOWOC LAKE WAUKESHA COUNTY

ORDINANCE NO. 195

AN ORDINANCE TO REPEAL ORDINANCE 31 AND
RECREATE A VILLAGE OF OCONOMOWOC LAKE
ORDINANCE TO CONTROL FIRES

WHEREAS, Village ordinance no. 31 entitled "to control fires" was enacted on or about July 16, 1962; and

WHEREAS, the in the intervening years since 1962, the state laws that apply to controlling fires have been modified in some respects; and

WHEREAS, the Village wishes to ensure that persons and property in the Village are adequately protected from the risks of fires; and

WHEREAS, the Village finds that reasonable protection from fire can best be provided by restricting the types of fires that can be started in the Village, limiting the circumstances when those fires can be started based upon safety considerations, and by requiring that a permit be obtained before a fire can be started, with some exceptions as described herein.

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

SECTION 1: GENERAL RULES.

- 1) **Open Burning Regulated.** No person, firm or corporation shall start any outdoor fire within the corporate limits of the Village except as described in this Ordinance.
- 2) **Size of Fire.** Materials that are to be burned shall be in a pile that is no larger than 3 feet in height, and 4 ft. x 4 ft. in space on the ground.
- 3) **Location.** The fire must be located at least 50 ft. from any structure, wood pile, or wooden fence, and provision shall be made to prevent the fire from spreading to within 50 ft. of such items.
- 4) **Material.** The material for burning must be dry material only, not ignited with flammable or combustible liquids. Material shall not be: rubbish, garbage, trash, or any material made of, or coated with, rubber, plastic, leather, or petroleum based products.

- 5) **Supervision.** The fire shall be attended by a competent person, at least 16 years of age, until the fire is extinguished.
- 6) **Time of Burn.** The fire shall only be allowed to burn during daylight hours, with the fire being started after the sun has risen and extinguished before the sun sets, except by special permission of the Village Police Chief.
- 7) **Dates of Burn.** Burning shall be permitted only on the Spring and Fall burning dates as established annually by the Village Board.
- 8) **Circumstances.** Burning is prohibited when local circumstances make the fire potentially hazardous. Such circumstances during which burning is prohibited include, but are not limited to, thermal inversions, gusty winds, winds in excess of 9 m.p.h., ozone alerts, or very dry conditions.
- 9) **Inspection.** The site may be inspected by the Village Police Chief prior to issuance of a permit.
- 10) **Police Chief Authority.** The authority granted to the Fire Chief by Wisconsin Administrative Code Section COMM 14, subchapter IV including any amendments that may be made thereto in the future, is delegated to and shall be exercised by the Village Police Chief.

SECTION 2: SPECIFIC RULES FOR BURNING OF LEAVES AND GRASS.

In addition to the foregoing General Rules, except as modified herein, the burning of leaves, grass and similar vegetation shall also be subject to the requirements of this section.

- 1) **Fire suppressant.** Before starting a grass or leaf fire, a person shall have on hand and in readiness either:
 - (a) A garden hose attached to a source of water under pressure; or
 - (b) A tank or pails filled with water; or
 - (c) Portable fire extinguishing equipment of suitable size and capacity.

In addition to one or more of the foregoing, beating equipment, such as brooms or burlap sacks, must also be available.

- 2) **Constant attendance.** Persons starting grass or similar vegetation fires, or any fire for the disposal of leaves or lawn rubbish, shall remain in constant attendance of such fire, or make suitable provisions for such attendance, and must be ready and able to check such fire and keep it under control at all times.

- 3) **Exception regarding size of fire.** The size of such fire may be larger than described in the General Rules, provided that such larger size is specifically requested by the applicant, and approved by the Village Police Chief in the written burning permit.

SECTION 3: PERMIT REQUIRED; CONDITIONS.

There shall be no fires started in the corporate limits of the Village unless a permit is first issued for the fire by the Village Police Chief, except as described in Section 4, subsection 1, below. No fee shall be charged for the issuance of a burning permit. All burning permits shall be subject to compliance with all applicable requirements of this ordinance, and also all of the following conditions which shall be deemed to be incorporated into the applicant's acceptance of the burning permit:

- 1) **Specific dates and materials.** Burning permits shall be issued for specific dates, and related to specific materials that are described in the permit application. The permit may allow for alternative burning dates, to allow for the possibility that conditions may not be favorable for the burning activity on the original date indicated. No burning shall be conducted outside of the permitted date(s).
- 2) **No Waiver.** The issuance of a burning permit shall not constitute any assurance that the circumstances are such that the fire can be safely conducted on the permitted date(s), or that the proposed burn is in compliance with the requirements of this ordinance. The issuance of a burning permit does not constitute a waiver of any right the Village may have to enforce the requirements of this ordinance regarding the conduct of the fire on the permitted date(s).
- 3) **Acceptance and Indemnification.** Issuance of the permit shall be conditioned upon the applicant agreeing to be solely responsible for all damages done by the fire. The applicant's acceptance shall include an agreement to release, hold harmless and to indemnify and accept tender of defense, and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the Village of Oconomowoc Lake, its officers, agents, employees and independent contractors growing out of the permit and any burning activities authorized.

SECTION 4: EXCEPTIONS.

The requirements of this ordinance are not applicable to the following activities, except as described below:

- 1) **Outdoor cooking.** Fires that are started for the sole purpose of cooking food outdoors, and that are located in a device or structure that is specifically designed for that purpose, including but not limited to a grill, are exempt from the requirements of this ordinance, except that the requirements of section 5, below, shall apply.
- 2) **Diseased trees.** Fires that are started for the sole purpose of destroying trees or tree limbs that are infected with disease that could otherwise spread, including but not limited to Oak Wilt disease, may be exempt from the requirements of Section 1, subsection (2) (Size of Fire), subsection (6) (Time of Burn) and/or subsection (7) (Dates of Burn) of this ordinance, if waived by the Village Police Chief as may be necessary to allow for timely and adequate destruction of the infected trees or tree limbs. The Village Police Chief may, but is not obligated to, require proof of such infection, and/or proof that no reasonable alternative is available to protect against spread of the disease before granting any such waiver. Upon application for a burning permit, if the Village Police Chief finds that the fire is subject to this exception, the Village Police Chief shall note which subsections (2), (6), and/or (7) of the General Rules are waived, and may instead establish reasonable limitations in lieu of the waived provisions that will allow the fire to proceed. All requirements of this ordinance that are not specifically waived shall apply to such fires.
- 3) **Fire Department training.** Fires that are started for the sole purpose of providing training for a fire department may be exempt from any or all requirements of this ordinance except for Section 3, if waived by the Village Police Chief. A burning permit shall be required, as stated in Section 3, and may not be waived. Upon application for a burning permit, if the Village Police Chief finds that the fire is subject to this exception, the Village Police Chief shall note which sections of this ordinance are waived, and may instead establish reasonable limitations in lieu of the waived provisions that will allow the fire to proceed. All requirements of this ordinance that are not specifically waived shall apply to such fires.

SECTION 5: COST OF FIRE RESPONSE.

Any person, firm or corporation who violates the terms of this ordinance, or who burns in a manner which results in a response from a fire department, in addition to the penalties provided herein, shall be liable to the Village of Oconomowoc Lake for the actual costs incurred by the Village for the fire department response.

SECTION 6: PENALTY.

Any person, firm or corporation who violates the provisions of this Ordinance shall, upon being found guilty thereof, forfeit to the Village of Oconomowoc Lake an amount not to exceed \$500, and not less than \$100, for each violation, plus all applicable court fees and costs, and the costs of prosecution. In the event that the forfeiture imposed by a court of competent jurisdiction is not paid within the time period fixed by the court, the court is authorized to order the violator to be incarcerated in the Waukesha County Jail for a term not to exceed 90 days.

SECTION 7: 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 9: EFFECTIVE DATE.

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

Dated this 25th day of April, 2001.

VILLAGE OF OCONOMOWOC LAKE
Raymond Foster, Jr.
Raymond Foster, Jr., Village President

ATTEST:

Barbara Stern

Barbara Stern, Village Clerk

Published and posted this 25th day of April, 2001.

STATE OF WISCONSIN)
COUNTY OF WAUKESHA)

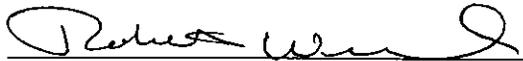
AFFIDAVIT OF POSTING

Ord 195 Burning Ord

The undersigned, being first duly sworn, on oath deposes and states that on April 25, 2001, at the direction of the Clerk of the Village of Oconomowoc Lake, he posted copies of the foregoing proceedings of the Village Board 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 Village Boat Launch located at 35622 E. Wisconsin Avenue.


Posting Officer

Subscribed and sworn to before me

This 25th day of April, 2001

Barbara Stein

Notary Public, Waukesha County, Wisconsin

My Commission expires: 4-20-03