

ORDINANCE NO. 199

AN ORDINANCE TO AMEND ORDINANCE NO. 176
TO ALLOW FOR EMERGENCY REPAIR
OF PRIVATE ROADS IN LIMITED CIRCUMSTANCES

WHEREAS, the Village of Oconomowoc Lake has, within its boundaries, a considerable number of private roads; and

WHEREAS, it has long been the policy of the Village of Oconomowoc Lake to permit and encourage private roads and driveways in order to maintain the rural ambiance of the Village, to assure privacy to its residents and minimize construction and maintenance costs to the Village as a whole; and

WHEREAS, Village residents who own private roads have the responsibility of maintaining those roads to allow for safe passage of persons and vehicles, including satisfaction of the minimum maintenance requirements described in Village of Oconomowoc Lake Ordinance No. 176 in order to continue receiving Village services such as snow plowing; and

WHEREAS, concerns have been raised by persons residing on private roads regarding inadequate maintenance that may have occurred, or may occur in the future, which may give rise to unsafe conditions and limit vehicular access to residences located on private roads; and

WHEREAS, in order to protect the health, safety and welfare of persons residing on private roads in the Village of Oconomowoc Lake, it is necessary for the Village of Oconomowoc Lake to have the authority to repair those private roads to a minimum standard as will allow safe access for emergency vehicles, fire vehicles and ambulance vehicles to properties lying beyond the poorly repaired section of a private road.

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

SECTION 1: Village of Oconomowoc Lake Ordinance No. 176 entitled "An Ordinance to Impose Construction Maintenance Requirements Upon Public Streets, Private Roads and Private Driveways", Section 1 entitled "Construction and Maintenance Requirements for Public Streets, Private Roads and Private Driveways", subsection 1(G) is hereby created as follows:

G. EMERGENCY REPAIR OF PRIVATE ROADS. In addition to the penalties and other remedies described herein, the Village of Oconomowoc Lake shall have the authority, but not the obligation, to enter private roads and make the minimum level of emergency repair as the Village Administrator deems to be necessary to allow safe access for Village emergency vehicles, fire vehicles and ambulance vehicles, in the circumstances described in this paragraph. The Village may only exercise its authority under this paragraph if the property owner has been provided a notice as described in subsection E and the property owner has failed to correct the defective private road, and the Village Administrator reasonably believes that without the emergency repair there is a risk that emergency vehicles, fire vehicles and/or ambulance vehicles may not be able to safely access properties on the private road beyond the property where the repair is needed. The Village Administrator, or designated representative, must provide written notice to the property owner which shall describe the defect, describe the minimum repair that is needed to allow safe access for emergency vehicles, fire vehicles and ambulance vehicles, and advise the property owner that if the minimum repair is not made within 30 days the Village may perform the emergency repair at the property owner's expense. If the property owner fails to make the minimum necessary repair within 30 days following receipt of the notice, the Village may make the emergency repair as the Village deems necessary and appropriate, and charge the property owner for all costs that the Village incurs in doing so, including costs of all materials, labor, mileage, costs of sending the notice(s) and reimbursement of all professional fees incurred (including, but not limited to, attorneys fees and engineering fees), which shall be charged as a special charge pursuant to Section 66.0627, Wisconsin Statutes, and entered as a lien against the property if not timely paid. The emergency repair that is made for purposes of safety under this section is not intended to be a permanent solution, or to be made necessarily in accordance with the best engineering practice, or to be performed necessarily in the manner desired by the property owner. Any such emergency repair may be inadequate to alleviate the risk of damage to vehicles, or to allow the resumption of Village services that may have been denied under paragraph E.

Section 2: Village of Oconomowoc Lake Ordinance No. 176 entitled "An Ordinance to Impose Construction Maintenance Requirements Upon Public Streets, Private Roads and Private Driveways", Section 1 entitled "Construction and Maintenance Requirements for Public Streets, Private Roads and Private Driveways", subsection 1(H) is hereby created as follows:

H. RESPONSIBILITY FOR PRIVATE ROAD AND PRIVATE DRIVEWAY. This ordinance shall not be interpreted as the assumption, by the Village, of any responsibility for adequate maintenance or repair of private roads or private driveways. Owners of private roads and private driveways assume all risks, liability and responsibility regarding private road and private driveway maintenance and repair, and regarding all foreseeable and unforeseeable consequences that follow from inadequate maintenance and repair.

SECTION 3: 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 4: EFFECTIVE DATE.

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

Dated this 16th day of October, 2001.

VILLAGE OF OCONOMOWOC LAKE

Raymond Foster
Raymond Foster, Village President

ATTEST:

Barbara Stern
Barbara Stern, Village Clerk

Published and posted this 16th day of October, 2001.

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STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

AFFIDAVIT OF POSTING

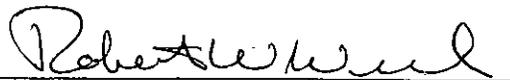
OKD #199

Allows REPAIR to private roads
for emergency vehicles

The undersigned, being first duly sworn, on oath deposes and states that on
October 16, 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.


Robert W. Wink
Posting Officer

Subscribed and sworn to before me

This 16th day of October, 2001


Barbara Stern
Notary Public, Waukesha County, Wisconsin
My Commission expires: 4-20-03