

ORDINANCE NO. 207

AN ORDINANCE TO REQUIRE PROPER CARE OF TREES  
TO PREVENT THE SPREAD OF DISEASE AND TO EMPOWER  
THE VILLAGE FORESTER TO ENFORCE THESE REQUIREMENTS

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

SECTION 1: PURPOSE.

It is hereby declared to be the intent of the Village of Oconomowoc Lake to regulate and control the removal, maintenance and protection of trees, plants and shrubs in or upon all public areas of the Village in order to:

- a. Avoid dangerous conditions which may result in injury to persons using the public highways and other public areas.
- b. Promote and enhance the aesthetics and general welfare of the Village.
- c. Prohibit the undesirable and unsafe removal, treatment and maintenance of trees and shrubs located in the public areas.
- d. Protect all trees and shrubs, both public and private, within the Village against the spread of disease, insects or pests.

SECTION 2: AUTHORITY.

The Village of Oconomowoc Lake Plan Commission, pursuant to Sections 27.08, 27.09, and 27.13, Wis. Stats., is hereby authorized to exercise the powers and duties of a Board of Park Commissioners to administer and enforce the provisions of this ordinance subject to the supervision and control specifically reserved to the Village Board under this ordinance.

**SECTION 3: VILLAGE FORESTER.**

A Village Forester shall be designated and appointed by the Village Board pursuant to Section 27.09(1), Wis. Stats. The Village Forester, under the direction of the Village Administrator, and the Village Administrator shall serve as the agents of the Plan Commission in enforcing and administering provisions of this ordinance.

**SECTION 4: JURISDICTION.**

The Village Plan Commission and Village Forester, under the direction of the Village Administrator, and the Village Administrator shall have jurisdiction as to all trees within the Village wherever located insofar as is necessary to control and eliminate hazardous and dangerous conditions to the public, including the prevention and spread of disease and pests which tend to adversely effect, damage, or destroy life or property.

**SECTION 5: PREVENT SPREAD OF DISEASE.**

The Village Forester, under the direction of the Village Administrator, and the Village Administrator shall oversee all trees, plants, and shrubs within the Village to prevent the spread of disease, insects or pests. The Village Forester, under direction of the Village Administrator, the Village Forester's authorized representative, under the direction of the Village Administrator, or the Village Administrator shall conduct inspections of trees located on private property upon the request of the property owner or occupant, upon complaint, or if he/she has reasonable cause to believe that diseased, pestiferous trees, or trees otherwise injurious to the general tree population or some portion thereof, may exist; and to take necessary samples for examination to determine necessary and/or advisable tree care measures to be taken by the property owner at the

property owner's expense; except that the cost of the inspection and examination shall be at the Village's expense.

**SECTION 6: PUBLIC NUISANCE.**

Any tree or part thereof, whether alive or dead, which is infected or hazardous so as to endanger the public or other trees, plants or shrubs growing within the Village of Oconomowoc Lake, whether growing upon public or private premises is hereby declared to be a public nuisance.

**SECTION 7: NOTICE TO ABATE NUISANCE.**

If the Village Forester, under the direction of the Village Administrator, or the Village Administrator shall report that there exists a public nuisance as described in Section 6, above, the Village President may direct the Chief of Police to serve notice personally or by registered mail upon the owner or person in charge of the premises where such nuisance is permitted or maintained. Such notice shall direct the owner or person in charge of the premises to abate, remove and destroy such nuisance in the manner and time required by the Village Forester, under the direction of the Village Administrator, or the Village Administrator and shall state that unless such nuisance is so abated, removed or destroyed, the Village of Oconomowoc Lake will cause the same to be abated and will charge the cost thereof to the owner; provided that upon written application of the owner or person in charge of the premises to the President of the Village, the Village Forester or the Village Administrator, the President or the Village Forester, under the direction of the Village Administrator, or the Village Administrator may grant an extension of time (but in no event beyond the next succeeding first day of

March) to so abate, remove and destroy such nuisance for good cause shown. Such notice shall also indicate that the owner or person in charge of the premises may, within the fourteen (14) days, request a hearing before the Plan Commission on the issue.

**SECTION 8: HEARING.**

Upon timely request made by the owner or person in charge of the premises, following receipt of a direction to abate a public nuisance, the Plan Commission shall hold a public hearing to consider the matter. After the public hearing, the Plan Commission shall determine whether the best interest of the public requires the directive to be upheld, modified or rescinded, and the Plan Commission shall issue its decision in writing. The action of the Plan Commission shall be final.

**SECTION 9: SUMMARY ABATEMENT.**

If the nuisance is not abated, removed and destroyed within the time provided, or as so extended, or if a hearing is timely requested and the order of the Plan Commission is not obeyed, or if the owner or person in charge cannot be found upon reasonable diligence, the Chief of Police shall cause the abatement or removal of such public nuisance.

**SECTION 10: COSTS.**

The cost of abating, removing and destroying such public nuisance shall be billed to, and collected from the owner of the property where the nuisance was situated as a special charge, pursuant to Section 66.0627, Wis. Stats. If said costs are not paid within thirty (30) days after billing, then the cost shall be assessed against the real estate as a special charge pursuant to Section 66.0627, Wis. Stats., and the same shall be collected in all respects like other Village taxes upon real estate.

**SECTION 11: NO LIABILITY.**

No damages, costs, reimbursements or other compensation shall be paid to any owner or other person for the destruction or removal (pursuant to this ordinance) of any tree or part thereof, or for incidental damage arising from the same.

**SECTION 12: INTERFERENCE PROHIBITED.**

It shall be unlawful for any person, firm or corporation to prevent, delay or interfere, or cause or authorize or procure any interference or delay with the Village Forester, under the direction of the Village Administrator, or any of his employees, agents or servants, under the direction of the Village Administrator, or the Village Administrator while they are engaged in and about the work herein specified.

**SECTION 13: PENALTY.**

The penalty for violation of any provision of this ordinance shall be a forfeiture of not less than \$25.00 nor more than \$500.00, together with the costs of prosecution. Each and every day during which such violation continues shall be deemed a separate offense. This Section shall be in addition to, and shall not be a limitation or restriction upon, such other penalties, remedies and alternative legal actions as may be available.

**SECTION 14: 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 15: EFFECTIVE DATE.**

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

Dated this 28<sup>th</sup> day of January, 2003.

VILLAGE OF OCONOMOWOC LAKE

Raymond Foster, Jr.  
Raymond Foster, Jr., Village President

ATTEST:

Barbara Stern  
Barbara Stern, Village Clerk

Published and posted this 28<sup>th</sup> day of January, 2003.

STATE OF WISCONSIN )  
 )  
COUNTY OF WAUKESHA )

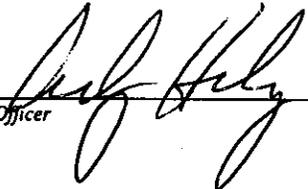
AFFIDAVIT OF POSTING

Ordinance 207  
Tree Care

The undersigned, being first duly sworn, on oath deposes and states that on January 28, 2003, 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.

  
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Posting Officer

Subscribed and sworn to before me

This 28th day of January, 2003

Barbara Stern

Notary Public, Waukesha County, Wisconsin

My Commission expires: 4-20-03