

ORDINANCE NO. 243

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 17.39(1) AND SECTION 17.39(2) OF THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE, REGARDING USES WITHIN THE B-1 BUSINESS DISTRICT

WHEREAS, the Village of Oconomowoc Lake is a residential community that surrounds Oconomowoc Lake; and

WHEREAS, the Village has undertaken significant measures to protect and preserve the high quality of the natural resources within the Village, including but not limited to Oconomowoc Lake itself; and

WHEREAS, in recent years these measures have included the adoption of a shoreland and floodland protection ordinance; adoption of a shoreland/wetlands zoning ordinance; adoption of a lowland conservancy overlay district; adoption of an ordinance regarding the preservation of topography; adoption of an ordinance to regulate outdoor lighting; and an ordinance to establish standards for property maintenance within the Village of Oconomowoc Lake; and

WHEREAS, the intent of the foregoing regulations, among other reasons, has been to prevent and control water pollution; to protect spawning ground and fish and aquatic life; to protect against flood hazards; to preserve shore cover and natural beauty; to further the appropriate use of land and conservation of natural resources; to preserve and promote the beauty of the Village; and to stabilize and protect property values; and

WHEREAS, this intention to protect Oconomowoc Lake and its environment was one of the key reasons that the Village was initially incorporated in 1959, out of the unincorporated Town of Summit; and

WHEREAS, the intention to maintain and enhance the water quality and recreation quality of the Village of Oconomowoc Lake is the number one general goal identified in Master Plan for the Village of Oconomowoc Lake that has been in effect since 1990, and which continues in effect today; and

WHEREAS, the Village of Oconomowoc Lake Master Plan also recommends that commercial development should be controlled so that it does not adversely affect the

"Zoning Code," Section 17.39 entitled "B-1 Business District," subsection (1) entitled "Principle Uses" is hereby repealed and re-created with the title "Intent" as follows:

- (1) **INTENT.** The regulations within the B-1 Business District are established with the intent of ensuring that the uses within this District maintain the environmental quality of Oconomowoc Lake and the tributaries and adjoining lakes which flow into Oconomowoc Lake; protecting wetlands, woodlands, and wildlife habitats; protecting against adversely affecting the adjoining residential properties; and, in general, maintaining and enhancing the residential character, high property values, beautiful natural environment, health, safety and welfare of the Village of Oconomowoc Lake. It is, therefore, intended that there shall be no uses permitted by right in the B-1 Business District, to allow the commercial uses to be considered on a case-by-case basis pursuant to the standards and the intent described herein. All properties existing in the B-1 Business District on the date of adoption of this ordinance are allowed to continue pursuant to the conditions of existing conditional use permits or as described in Section 17.32(1) of this Chapter.

SECTION 2: Chapter 17 of the Village of Oconomowoc Lake ordinances

entitled "Zoning Code," Section 17.39 entitled "B-1 Business District," subsection (2) entitled "Conditional Uses" is hereby repealed and re-created as follows:

(2) **CONDITIONAL USES**

- (a) **Standards.** The Village Plan Commission shall review the application and make recommendations to the Village Board concerning the following issues:

- (1) Whether the proposed use is consistent with the planning objectives described in the Village of Oconomowoc Smart Growth Plan adopted March 17, 2008; and

- (2) Whether the proposed use is consistent with the business uses that have existed within the Village of Oconomowoc Lake in the years immediately preceding the application, including whether the proposed use is an expansion or modification to an existing use; and

- (3) Whether conditions should be imposed, which may include: commencement, staging and completion dates; types of construction;

adjoining residential neighborhoods, and commercial uses are discouraged in all areas within or abutting the Village limits except in commercial lots fronting on the Highway 16 corridor; and

WHEREAS, the Village has a population of approximately 600 residents, and the Village is consistently reported by the State of Wisconsin as having one of the highest per capita residential property values in the State of Wisconsin; and

WHEREAS, the Village Board finds that protection of the environmental quality of Oconomowoc Lake and its watershed and tributaries and preservation of residential property values are not only key elements of the Village of Oconomowoc Master Plan, they are also essential to the health, safety and welfare of the Village of Oconomowoc Lake; and

WHEREAS, the Village Board finds that commercial uses within the Village of Oconomowoc Lake occupy only approximately 40 acres of land, they are not of primary importance to the prosperity of the Village as a whole, and as stated in the Master Plan, they "should be controlled so that [commercial development] does not adversely affect the adjoining residential neighborhoods;" and

WHEREAS, the Village of Oconomowoc Board of Trustees has, therefore, initiated this amendment to the Village of Oconomowoc Lake Village Code, and has referred the matter to the Village Plan Commission for its review and recommendation; and

WHEREAS, upon due notice as provided in Section 17.62(5) of the Village of Oconomowoc Lake Village Code, the Village Board for the Village of Oconomowoc Lake held a public hearing on December 15, 2008 to consider this amendment to the Village of Oconomowoc Lake Village Code; and

WHEREAS, having considered all information presented in this matter including the recommendation of the Plan Commission, and having determined that all procedural requirements have been met, the Village Board of the Village of Oconomowoc Lake finds that the public necessity, convenience, general welfare and good zoning practice require that the Village of Oconomowoc Lake Village Zoning Code be amended as described herein.

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

SECTION 1: Chapter 17 of the Village of Oconomowoc Lake ordinance entitled

landscaping; planting or other screening; parking requirements; fencing requirements; lighting requirements; hours of operation limitations; site plan and plan of operation; highway access and loading restriction; traffic circulation requirement; sign limitation; noise controls; or other special requirements characteristic to the use as may be deemed necessary to protect the property values of adjoining properties or the Village as a whole; and

(4) Whether the use will comply with all applicable laws and regulations.

- (b) Permissible Uses. Those uses specified in Section 17.55 subject to the procedure and standards as outlined in Sections 17.50, 17.51, and 17.60.
- (c) Special Exceptions. If a conditional use is granted for a use in the B-1 Business District, upon petitioner's request, the Village Plan Commission may grant a special exception to the setback requirements from public streets, private roads and easements, as described in this subsection. The special exception shall only be granted if the Plan Commission finds that the requested setback from public streets, private roads and easements will not be adverse to the public health, safety or welfare; will not be in conflict with the spirit or intent of this Chapter; and will not otherwise be detrimental to the Village of Oconomowoc Lake or the immediate neighborhood where the structure would be located. The Plan Commission shall issue a decision on such a special exception request in writing, including any conditions of approval and provide a copy of the decision to the Petitioner. The decision of the Plan Commission shall be final, and cannot be appealed to the Zoning Board of Appeals. If granted, the grant of the special exception shall be noted in the conditional use order, and the conditional use order shall be recorded against the land to run with the land in perpetuity unless stated otherwise in the conditional use order.

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 15TH day of DECEMBER, 2008.

VILLAGE OF OCONOMOWOC LAKE



Richard J. Kreiser, Village President

ATTEST:



Cindy J. Schlieve, Village Clerk/Treasurer

Published and/or posted this 17th day of February, 2009.

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

AFFIDAVIT OF POSTING

Ordinance #243 regarding uses in the
B-1 Business District

The undersigned, being first duly sworn, on oath deposes and states that on February 17, 2009, 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 17th day of February, 2009

Cindy J. Schlieve

Notary Public, Waukesha County, Wisconsin
My Commission expires: 07/03/2011

