

ORDINANCE NO. 266

**AN ORDINANCE TO AMEND ORDINANCE NO. 115,
BY REPEALING AND RECREATING
SECTION 25.04(1), AND CREATING SECTION 25.04(5),
REGARDING PENALTIES AND BOND AMOUNTS
FOR VIOLATIONS OF VILLAGE ORDINANCES,
AND TO REPEAL VILLAGE ORDINANCES NOS. 136 AND 149
RELATING TO PENALTIES**

WHEREAS, the Village of Oconomowoc Lake Village Board adopted Ordinance No. 115 on or about March 18, 1991, intending to create Chapter 25 of what would thereafter become a code book for the Village of Oconomowoc Lake; and

WHEREAS, the Village has not proceeded to create a Village Code at this time; and

WHEREAS, the establishment of penalties for Village ordinances, therefore, has not been uniform as was contemplated by the 1991 Ordinance No. 115, in the intervening years; and

WHEREAS, the Village has attempted to update its penalty provisions from time to time, including by Ordinance No. 136 and Ordinance No. 149, however these updates have not resulted in a continuing uniformity of the penalty provisions, and a new update is now in order to maintain consistency with applicable laws; and

WHEREAS, the Village Board also intends to create a deposit schedule, for the issuance of citations in conformity with applicable laws.

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

SECTION 1: Ordinance No. 115 dated on or about March 18, 1991, Section 1, Chapter 25 entitled "Construction and Effect of Ordinances," Section 25.04 entitled "Penalty Provisions," subsection (1) entitled "General Penalty," is hereby repealed and recreated as follows:

25.04 PENALTY PROVISIONS. (1) GENERAL PENALTY.

(a) Definitions. For purposes of this Section 25.04, the following terms are defined as follows:

Adult. An “adult” shall mean a person who constitutes an “adult” as defined in Wisconsin Statutes Section 938.02(1).

Juvenile. A “juvenile” shall mean a person who constitutes a “juvenile” as defined in Wisconsin Statutes Section 938.02(10m).

(b) Interpretation. All future amendments, revisions, renumbering or other modifications of the current or future State Statutes referenced in this Section 25.04 are incorporated herein in order to secure uniform statewide regulation of peace and good order.

(c) General Adult Penalty. In addition to, and not to the exclusion or prejudice of, such other penalties and remedies as may apply, any adult person who shall violate any of the provisions of any Village ordinance unless specifically set forth below in section (e), shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

1. First Offense - Penalty. Any adult person who shall violate any provision of any Village ordinance shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00), together with all costs, surcharges, penalty assessments, and any other taxable item of cost as provided for by the laws of the State of Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other provision of Village ordinances, and in default or payment of the same, any adult person shall be subject to the provisions of Section 800.095 Wisconsin Statutes.

2. Second and Subsequent Offenses - Penalty. Any adult person who is found guilty of violating any ordinance or part of an ordinance of any Village ordinance who has previously been convicted of a violation of the same ordinance or part of an ordinance within three (3) years from the date of the last offense to the date of the current offense shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than Two Thousand Five Hundred (\$2,500.00) for each such offense, together with all costs, surcharges, penalty assessments, and any other taxable item of cost as provided for by the laws of the State of Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other

provision of Village ordinances, and in default or payment of the same, any adult person shall be subject to the provisions of Section 800.095 Wisconsin Statutes.

(d) Disposition of Juveniles Adjudged to Have Violated an Ordinance.

1. If the court finds that a juvenile violated a Village ordinance, other than the truancy, school dropout, alcohol or drug offenses described in Section 938.17(2)(e), (g), or (i), Wis. Stats., it shall enter an order making one or any combination of the dispositional orders permitted under Section 938.343, Wis. Stats.

2. If the court finds that a juvenile violated an ordinance adopted in strict conformity with the truancy, school dropout, alcohol or drug offenses described in Section 938.17(2)(e), (g), or (i), Wis. Stats., it shall order one or any combination of the penalties specified directly or by reference in such State Statute.

3. If the court finds that a juvenile violated a condition of his or her dispositional order, the court may impose any of the sanctions specified directly or by reference in Section 938.17(2)(h), Wis. Stats.

(e) Specific Adult Penalty. In addition to, and not to the exclusion or prejudice of, such other penalties and remedies as may apply, any adult person who shall violate any of the provisions of any of the following Village ordinances shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

1. First Offense - Penalty. Any adult person who shall violate any provision of any of the following Village ordinances shall, upon conviction thereof, forfeit not less than the amount as set forth in the chart below nor more than the amount as set forth in the chart below, together with all costs, surcharges, penalty assessments, and any other taxable item of cost as provided for by the laws of the State of Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other provision of Village ordinances, and in default or payment of the same, any adult person shall be subject to the provisions of Section 800.095 Wisconsin Statutes.

2. Second and Subsequent Offenses - Penalty. Any adult person who is found guilty of violating any of the following ordinances or part of any of the following ordinances of any Village ordinance who has previously been convicted of a violation of the

same ordinance or part of an ordinance within three (3) years from the date of the last offense to the date of the current offense shall, upon conviction thereof, forfeit not less than the amount as set forth in the chart below nor more than the amount as set forth in the chart below for each such offense, together with all costs, surcharges, penalty assessments, and any other taxable item of cost as provided for by the laws of the State of Wisconsin as applicable to forfeiture actions that are in effect at the time of the offense, and any other taxable costs as imposed by any other provision of Village ordinances, and in default or payment of the same, any adult person shall be subject to the provisions of Section 800.095 Wisconsin Statutes.

| <u>Ordinance</u> | <u>Topic</u> | <u>first offense</u> | | <u>second and subsequent offense</u> | |
|---|------------------|----------------------|----------------|--------------------------------------|----------------|
| | | <u>Minimum</u> | <u>Maximum</u> | <u>Minimum</u> | <u>Maximum</u> |
| NO. 195 | Burning | \$100 | \$500 | \$100 | \$500 |
| NO. 196 | Fireworks | | | | |
| Subsection 1(A)1 and 2 | | \$1000 | \$1000 | \$1000 | \$1000 |
| Subsection 1(A)3 | | \$10,000 | \$10,000 | \$10,000 | \$10,000 |
| NO. 223 | Fertilizer | \$100 | \$500 | \$500 | \$1000 |
| NO. 253 | Parades | \$500 | \$2000 | \$500 | \$2000 |
| NO. 254 | Zoning | \$500 | \$2000 | \$500 | \$2000 |
| NO. 256 | Sex Offender | | | | |
| Subsections 1-heading 3(b) and (c) | | \$1000 | \$2000 | \$1000 | \$2000 |
| Subsections 1-heading 3(a) and heading 4(a) | | \$500 | \$1000 | \$500 | \$1000 |
| NO. 263 | Electronic signs | \$500 | \$1000 | \$500 | \$1000 |

SECTION 2: Ordinance No. 115 dated on or about March 18, 1991, Section 1, Chapter 25 entitled "Construction and Effect of Ordinances," Section 25.04 entitled "Penalty Provisions," subsection (5) entitled "Bond Schedule," is hereby created as follows:

(5) BOND SCHEDULE. The deposit amount and schedule required by Section 800.037, Wis. Stats., is hereby established as described in Exhibit A that is attached hereto and incorporated herein by

reference. Such deposit amount and schedule has been approved as necessary by the judge of the municipal court.

SECTION 3: Ordinance No. 136 entitled "An Ordinance to Repeal and Recreate the Penalty Provisions of All Previously Adopted Village of Oconomowoc Lake Ordinances," dated on or about September 20, 1994, is hereby repealed.

SECTION 4: Ordinance No. 149 entitled "An Ordinance to Repeal and Recreate the Penalty Provisions of All Previously Adopted Village of Oconomowoc Lake Ordinances," dated on or about September 16, 1996, is hereby repealed.

SECTION 5: 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 6: EFFECTIVE DATE.

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

Dated this 20th day of August, 2012.

VILLAGE OF OCONOMOWOC LAKE



Joseph Birbaum, Village President

ATTEST:



Cindy J. Schlieve, Village Clerk

Published and/or posted this 27th day of August, 2012.

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