

**ORDINANCE NO. 267**

**AN ORDINANCE TO REPEAL AND RE-CREATE  
SECTION 18.05 ENTITLED CERTIFIED SURVEY MAP AND  
SECTION 18.14 ENTITLED ALL LAND DIVISIONS REGULATED  
WITHIN THE VILLAGE OF OCONOMOWOC LAKE  
SUBDIVISION AND PLATTING CODE**

**WHEREAS**, the Village Board originally requested that the Village Plan Commission investigate whether or not Chapter 18 of the Village of Oconomowoc Lake Subdivision and Platting Code should be amended to allow for the transfer of lands to or from a legal non-conforming lot of record in limited situations; and

**WHEREAS**, the Village Plan Commission initiated a petition and the Village Board adopted an ordinance, after holding a public hearing, amending section 18.14 on August 20, 2012; and

**WHEREAS**, the Village Plan Commission has come to realize that additional amendments need be made to section 18.14 as well as section 18.05 in order to fully accomplish the goals originally contemplated and therefore the Village Plan Commission initiated this new amendment to the Village of Oconomowoc Lake Village Subdivision and Platting Code and recommended the same to the Village Board; and

**WHEREAS**, upon receipt of the Village Plan Commission's recommendation, the Village Board of Trustees held a public hearing on December 17, 2012 after providing all required notice, as set forth in Section 236.45(4), Wis. Stats.; and

**WHEREAS**, the Village Board for the Village of Oconomowoc Lake finds that the public necessity, convenience, general welfare and good platting practice requires the Village Board to amend, change or supplement the regulations established by the Village of Oconomowoc Lake Subdivision and Platting Code 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Chapter 18 entitled Subdivision and Platting, subsection 18.05 entitled Certified Survey Map, subsection (5) is hereby repealed and recreated to read as follows:

**18.05 CERTIFIED SURVEY MAP**

....

- (5) The Plan Commission and the Village Board of Trustees may not approve any certified survey map creating a lot unless the land in question complies with:
  - (a) All applicable zoning ordinance requirements contained in Chapter 17, or

the land in question is determined to be a legal nonconforming lot of record under the provisions of Chapter 17, or

the land in question has been modified pursuant to the procedure set forth in section 18,14(2), or

the land in question is subject to a legal non-conforming conditional use for the land, or

a variance has been approved by the Zoning Board of Appeals pursuant to Subsection 17.61 of the Zoning Ordinance, and

(b) All Subdivision and Platting Ordinance requirements contained in Chapter 18, or a variance has been approved by the Plan Commission and Village Board of Trustees pursuant to Subsection 18.08 of the Subdivision and Platting Ordinance.

SECTION 2: Chapter 18 entitled Subdivision and Platting, subsection 18.14 entitled All Land Divisions and Land Transfers Regulated is hereby repealed and recreated to read as follows:

18.14 ALL LAND DIVISIONS AND LAND TRANSFERS REGULATED.

(1) ALL LAND DIVISIONS REGULATED.

No person, firm or corporation shall divide any land located within the corporate limits of the Village of Oconomowoc Lake or within the Extraterritorial Plat Approval Jurisdiction thereof which shall result in a Subdivision or Certified Survey Map as defined herein without complying with the provisions of this Chapter 18 of the Village of Oconomowoc Lake Code.

(2) ATTACHMENT OF LANDS TO AND/OR DETACHMENT OF LANDS FROM A LEGAL NON-CONFORMING LOT OF RECORD.

(A) **Conveyance. In the case of a lot of record**

which does not conform to the zoning regulations of the Village of Oconomowoc Lake (legal non-conforming lot) and

**which adjoins:**

**a legal lot of record** which does conform to the zoning regulations of the Village of Oconomowoc Lake (legal conforming lot) or

**another legal non-conforming lot,**

**no lands may be attached to a legal non-conforming lot**  
(unless all of the resulting lots are in compliance with the Village of Oconomowoc Lake Zoning Code either as:

- a legal lot, or
- a lot modified by this procedure, or
- a lot under a legal non-conforming conditional use, or
- a variance has been approved by the Zoning Board of Appeals pursuant to Subsection 17.61 of the Zoning Ordinance

and

a certified survey map of all of the lots is approved by the Village of Oconomowoc Lake)

**and/or**

**no lands may be detached from a legal non-conforming lot**

(unless all of the resulting lots are in compliance with the Village of Oconomowoc Lake Zoning Code either as:

- a legal lot, or
- a lot modified by this procedure, or
- a lot under a legal non-conforming conditional use, or
- a variance has been approved by the Zoning Board of Appeals pursuant to Subsection 17.61 of the Zoning Ordinance

except in conformity with the following:

- 1) Petition for Determination. The owner of any legal lot of record or legal non-conforming lot, as set forth above may, at any time prior to the proposed conveyance of all or portion of said lot, file an application.
- 2) Refer to Village Administrator. Such petition shall be submitted to the Village Administrator who shall prepare a report for the Village Plan Commission for use in making a recommendation to the Village Board. The Village Administrator shall determine whether the proposed conveyance is in compliance with this section and shall comment on the following objective and subjective criteria.
- 3) Refer to Village Plan Commission. Such petition shall be submitted to the Village Plan Commission and the Village Plan Commission shall make a

recommendation to the Village Board upon consideration of the following objective and subjective criteria as to whether approval of the proposed conveyance should be granted.

- 4) Village Board Action. The Village Board shall make a final determination after careful consideration of the Village Plan Commissions' recommendation as well as the following objective and subjective criteria as to whether approval of the proposed conveyance should be granted.
  - a. Compatibility. The size, quality, and character of the existing lots and building development in the immediate area with a view toward maintaining compatibility and protecting existing property values as determined in the sole discretion of the Village Board.
  - b. Practicality. The economic and engineering practicality of any possible re-division or combination of the lots as determined in the sole discretion of the Village Board.
  - c. Building Location. All newly created parcels shall have a building site location, which complies with locational requirements of Village of Oconomowoc Zoning Code.
  - d. Public Improvements. All newly created lots must meet the minimum standards for right-of-way access. In making its decision, the Village Board shall look to whether or not the transfer of lands:
    1. enhances ingress and egress to a public or private road or drive; or
    2. eliminates easements,

as determined in the sole discretion of the Village Board.

- e. Compliance with Zoning District Regulations. All newly created lots must comply with the zoning district regulations for the district in which the lots are located pursuant to the Village of Oconomowoc Zoning Code to the extent determined necessary by the Village Board.
- f. Value to Village. The proposed conveyance will create a value to the Village as determined in sole discretion of the Village Board.
- g. Conformity. The proposed conveyance will bring the legal non-conforming lot more into compliance with the Village of Oconomowoc codes as determined in the sole discretion of the Village Board.
- h. Impact. The impact on the lot from which the lands are proposed to be detached will be de minimis as determined in the sole discretion of the Village Board.
- i. Additional Lots. No additional lots may be created under this procedure.
- j. Adjoining Properties. There can be no material negative impact on the subject lots or adjoining properties as determined in the sole discretion of the Village Board. Additional, in making its decision, the Village Board shall look to whether or not the transfer of lands will eliminate or minimize potential conflicts between neighbors as determined in the sole discretion of the Village Board.
- k. Principal Structures. There can be no material negative impact on the principal structures on the subject lots or the adjoining properties as determined in the sole discretion of the Village Board. No such transfer shall create a non-conforming principal structure.

- l. Accessory Structures. There can be no material negative impact on the accessory structures on the subject lots or on any adjoining properties as determined in the sole discretion of the Village Board. No such transfer shall create a non-conforming accessory structure.
  - m. Use of the Property. The transfer of lands will not result in the increase use of the subject lots as determined in the sole discretion of the Village Board. The Village Board may require the elimination of any or all legal non-conforming use on either of the subject lots as a condition of approval.
  - n. Additional Structures on the Subject Lots. The transfer of the lands will not result an increase in the number and/or size of structures, which will result in a negative effect on the subject lots or the adjoining properties as determined in the sole discretion of the Village Board.
  - o. Intent of Zoning Code. The transfer of lands will meet the spirit of the Village of Oconomowoc Zoning Code and in particular the purpose and intent of the same as set forth in sections 17. 02 and 17.03 as determined in the sole discretion of the Village Board.
- 5) The Village Plan Commission shall make its recommendation to the Village Board within a reasonable time after receiving all necessary information and the Village Board shall act within a reasonable time to receipt of the Village Plan Commission's recommendation. The Village Board may impose reasonable conditions upon any approval.
- (B) Certified Survey Map Required. Any approval by the Village Board under this section must be accomplished by a Certified Survey Map for the subject lots, which is subject to the approval of the Village Board.
- (C) At no time can an existing legal conforming lot be made non-conforming by the transfer of lands between adjoining property owners.

- (D) For purposes of this ordinance, for properties to be considered adjoining, the properties must connect at more than a point and may not be separated in any way by right-of-way or navigable water.

SECTION 3: SEVERABILITY.

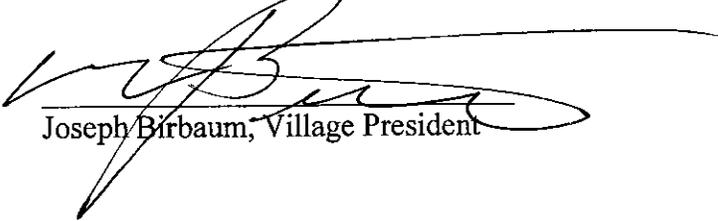
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, 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.

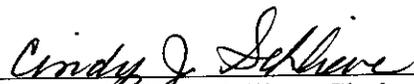
This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 17th day of December, 2012.

VILLAGE OF OCONOMOWOC LAKE

  
Joseph Birbaum, Village President

ATTEST:

  
Cindy J. Schlieve, Village Clerk

STATE OF WISCONSIN )  
 )  
COUNTY OF WAUKESHA )

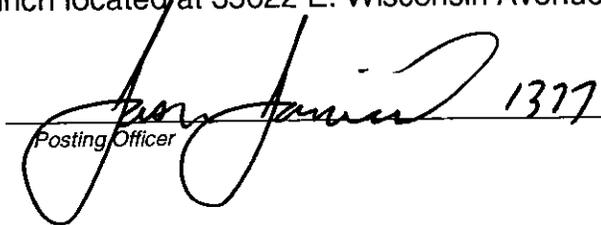
AFFIDAVIT OF POSTING

Ordinance No. 267 Regarding  
Revisions to Section 18.05 and 18.14  
of the Subdivision and Platting Code  
Approved by the Village Board of  
Trustees on 12/17/2012

The undersigned, being first duly sworn, on oath deposes and states that on January 14, 2013, 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 14th day of January, 2013

  
Notary Public, Waukesha County, Wisconsin  
My Commission expires: June 7, 2015

