

ORDINANCE NO. 310

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 17.17(10) ENTITLED "OCCUPANCY BOND REQUIRED" IN THE VILLAGE OF OCONOMOWOC LAKE ZONING CODE

WHEREAS, the Zoning Administrator has referred the matter to the Village Plan Commission for report and recommendation; and

WHEREAS, the Plan Commission has reviewed the ordinance and recommended the same to the Village Board; and

WHEREAS, upon publication of a class 2 notice per Chapter 985, Wisconsin Statutes once each week for two consecutive weeks prior to the hearing, and such other notice as required by law, the Village Board held a public hearing regarding this Ordinance on August 16, 2021; and

WHEREAS, the Village Board finds that this change to the Village Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the supermajority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this Ordinance; and

WHEREAS, upon consideration of the recommendations of the Village of Oconomowoc Lake Plan Commission, and all of the information received at the public hearing, and being fully advised, and for the purpose of promoting the health, safety, morals and general welfare of the community, and to provide a safe and efficient system for pedestrian and vehicular traffic, attractive recreational and landscaped open spaces, economic design and location of public and private utilities and community facilities, and to ensure adequate standards of construction and planning; and to zone the land in accordance with the Village of Oconomowoc Lake Comprehensive Plan, and other purposes of the Village of Oconomowoc Zoning Code, the Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin intends to adopt the recommendation of Plan Commission.

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of Oconomowoc Lake Village Code entitled "Zoning Code," Section 17.17 (10) entitled "Occupancy Bond Required" is hereby repealed and recreated to read as follows:

17.17 (10) OCCUPANCY BOND REQUIRED

- (a) Deposit required. No building permit shall be issued by the Village of Oconomowoc Lake for the construction of a building or construction of an addition to or remodeling of an existing building on any land if the project is subject to Architectural Review Board approval or has a projected dollar

amount greater than \$20,000.00 until a cash deposit, based on the total amount of all estimated costs of all proposed improvements to include but is not limited to construction and landscaping costs in the amount of the greater of 5% or \$5,000.00 and shall not be more than \$100,000.00 has been deposited with the Village. The deposit shall be paid to the Village of Oconomowoc Lake at the time an application is made for issuance of the building permit.

(b) No razing permit shall be issued by the Village of Oconomowoc Lake for the demolition of a building until a cash deposit in the amount of the greater of 5% or \$5,000.00 and shall not be more than \$25,000.00 has been deposited with the Village. The deposit shall be paid to the Village of Oconomowoc Lake at the time an application is made for issuance of the razing permit.

(c) Deposit returned.

(1) The sums deposited shall be retained by the Village of Oconomowoc Lake until such time as the treasurer receives written notice from the Village Administrator to refund some or all of the money deposited. The Village Administrator shall not authorize any refund of the money deposited until after grading and landscaping of the premises has been completed with grass established, if required, certification that the construction or demolition of a building or construction of an addition to a remodeling of an existing building to the satisfaction of the Village Administrator has been completed, construction debris removed, all applicable ordinances have been complied with and occupancy, if applicable, has been granted. If changes to the structure, grading, or landscaping approved by the Architectural Control Board have been made without Village approval, there shall be a charge against the bond of 125% of the actual cost incurred by the Village to bring the construction into compliance along with any other remedies allowed by law. All construction as well as landscaping shall be concluded in accordance with those plans that had been originally submitted to and previously approved by the Village of Oconomowoc Lake Architectural Control Board.

(2) In the event damage is done to Village roads or to the road ditch adjacent to the property as a result of construction activities, the deposit shall be used to pay any cost incurred by the Village, to repair such damage. In the event the deposit is insufficient to cover all costs incurred by the Village, the property owner shall be liable to the Village for payment of any excess costs and no occupancy permit shall be issued for the property until such costs are paid. The balance of the deposit, after deducting such expenses incurred by the Village to repair the damage, or alternatively, the entire deposit in the event no such damage has occurred, shall be disbursed to the then-current owner of the subject property by the treasurer after receipt of written note from the building inspector as noted in subsection (b)(1) of this section.

- (3) The property owner shall pay and reimburse the Village promptly upon billing for all fees, expenses, costs, and disbursements which shall be incurred by the Village work contemplated by or to enforce the building permit or razing permit including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. Any such charge not paid by property owner within thirty (30) days of being invoiced may be charged against the deposit held by the Village pursuant to this agreement or assessed against the subdivision land as a special charge pursuant to 66.0627, Wis. Stats.
- (4) The property owner is solely responsible to claim disbursement of the deposit from the treasurer. If the work contemplated by the building permit or razing permit is fully complete, including landscaping, removal of construction debris, compliance with ordinances and an occupancy permit has been granted, and the property owner makes no claim for recovery of the deposit within 24 months of such completion, the deposit shall be automatically and irrevocably forfeited to the Village. Upon such forfeiture, the treasurer is directed to place the deposit into the Village general fund.
- (d) Time to pay. The Village shall give each property owner billed for payment of any excess costs a period of time not to exceed 30 days to pay and, thereafter, if that charge remains unpaid, the clerk shall automatically charge that delinquent bill against the deposit on file with the Village and/or charge the current or next tax roll as a delinquent tax against the property as provided by law. In the event the statement rendered to the property owner, or the time given for the property owner to pay is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.
- (e) Appeal. Any person who wishes to dispute the amount of refund may contact the clerk and request to appear before the Village Board at the upcoming regular Village Board meeting and may, at that time, present the matter to the Village Board for resolution. Appeal from the decision of the Village Board shall be by writ of certiorari to circuit court.

SECTION 2: SEVERABILITY

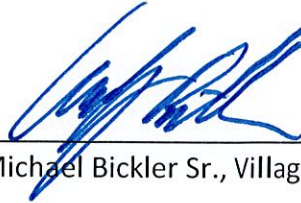
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the 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 ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE

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

Dated this 16th day of August, 2021.

VILLAGE OF OCONOMOWOC LAKE

A handwritten signature in blue ink, appearing to read "Michael Bickler Sr.", written over a horizontal line.

Michael Bickler Sr., Village President

ATTEST:

A handwritten signature in black ink, appearing to read "Teri Sayles", written over a horizontal line.

Teri Sayles, Village Clerk