

ORDINANCE NO. 2023-4

**AN ORDINANCE TO REPEAL AND RECREATE CERTAIN SECTIONS OF
CHAPTER 35 OF THE MUNICIPAL CODE OF THE VILLAGE OF ROCHESTER
TO CLARIFY FENCE PLACEMENT RESTRICTIONS WITHIN THE VILLAGE**

WHEREAS, the Village of Rochester seeks to update certain sections of the Village of Rochester Zoning Code for the sake of clarification, consistency, and to remedy oversights within the Village of Rochester Zoning Code; and

WHEREAS, the Village of Rochester has become increasingly residential as farmland is subdivided and developed; and

WHEREAS, as that farmland is developed and converted to residential-use, those properties have not always been rezoned to a residential zoning district; and

WHEREAS, these residential-use properties that are zoned non-residential cause some conflicts of Code interpretation regarding placement and permitting of fences; and

WHEREAS, the Village staff have recommended adopting clarifying language to resolve the conflicts of interpretation and simplify administration and enforcement of the Code; and

WHEREAS, this zoning amendment was initiated pursuant to Section 35-220 B. of the Village of Rochester Zoning Code; and

WHEREAS, the matter was duly referred to the Village of Rochester Plan Commission for report and recommendation pursuant to Section 35-220 D. of the Village of Rochester Zoning Code, and the Plan Commission has reviewed the matter and offered its recommendation to the Village Board; and

WHEREAS, a public hearing was conducted by the Village Board of the Village of Rochester on April 10, 2023 as required by Section 35-220 F. of the Village of Rochester Zoning Code, upon due notice as required by Section 35-240 of the Village of Rochester Zoning Code and Section 62.23(7)(d), Wisconsin Statutes; and

WHEREAS, the Village Board finds that this change to the Village of Rochester 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 super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, the Village Board for the Village of Rochester finds that the public necessity, convenience, general welfare, and good zoning practice require the amendment to the Village Code described herein; and

NOW, THEREFORE, the Village Board of the Village of Rochester, Racine County, Wisconsin, does hereby ordain as follows:

Section 1: Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-180 entitled “Modifications,” Subsection B. entitled “Yards,” Paragraph 3. is hereby repealed and re-created to read as follows:

3. Residential Fences and Walls are allowed without a permit on the property lines of residential properties, but shall not in any case exceed a height of six feet in side and rear yards and four feet in street yards; and shall not be closer than one foot to any public right-of-way. No residential fence may be located in a driveway, drainage, utility, or preservation easement.

Section 2: Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-180 entitled “Modifications,” Subsection B. entitled “Yards,” Paragraph 5. is hereby repealed and re-created to read as follows:

5. Security Fences are allowed on the property lines in all districts except residential districts, and only on property lines of non-residential properties, but shall not exceed ten feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

Section 3: CONTINUATION OF PROVISIONS

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution, or proceeding brought for the enforcement of any right or liability established, accrued, or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provision is stayed pending the final resolution of such actions, including appeals.

Section 4: 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 5: EFFECTIVE DATE

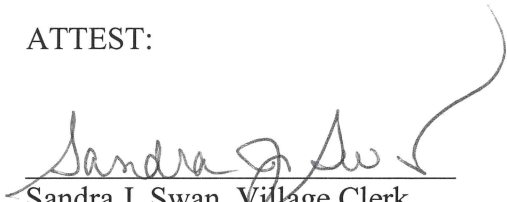
This ordinance shall take effect on April 10, 2023 after passage and posting and/or publication as provided by law.

Passed and adopted this 10 day of April, 2023.

VILLAGE OF ROCHESTER


Edward Chart, Village President

ATTEST:


Sandra J. Swan, Village Clerk