

## ORDINANCE NO. 2023-7

**AN ORDINANCE TO REPEAL AND RE-CREATE OR ADD CERTAIN DEFINED TERMS WITHIN CHAPTER 35, SECTION 35-300 OF THE MUNICIPAL CODE OF THE VILLAGE OF ROCHESTER**

**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**, various sections of the Code reference specific terms; and

**WHEREAS**, some of the referenced terms, while defined, create conflicts of interpretation; and

**WHEREAS**, some of the referenced terms are undefined, creating conflicts of interpretation; and

**WHEREAS**, the Village staff have recommended adopting or clarifying the definitions of these terms 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 May 8, 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:** Within Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-300 entitled “Definitions,” the following specifically defined terms and their associated definitions are hereby repealed and re-created to read as follows:

“Bed & Breakfast” or “B & B” means a residential property that offers short-term overnight sleeping accommodations in exchange for compensation.

"Building Height" of a residential structure or any structure within a residential district shall be measured from the finish yard grade along the street yard face of the structure to the peak of the roof. Building height of nonresidential structures in nonresidential districts shall be measured from the mean elevation of the finished yard grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or the deck line of mansard roofs.

"Mobile Recreational Vehicle" means a vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Excluded from this definition are semi tractors as well as manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes.

“Yard” means any improved or unimproved open space on the same lot with a structure, exclusive of any structures themselves. The street and rear yards extend the full width of the lot.

**Section 2:** Within Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-300 entitled “Definitions,” the following terms are added and defined as follows:

“Commercial Vehicle” has the meaning as defined by Wisconsin Statutes Section 340.01(8).

“Motor Vehicle” means any motor-driven vehicle required to be registered under Chapter 341, Wisconsin Statutes, except mopeds.

**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**

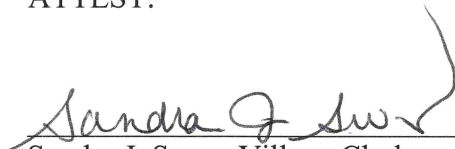
This ordinance shall take effect on May 8, 2023 after passage and posting and/or publication as provided by law.

Passed and adopted this 8 day of May, 2023.

VILLAGE OF ROCHESTER

  
Edward Chart, Village President

ATTEST:

  
Sandra J. Swan, Village Clerk