

STATE OF WISCONSIN

VILLAGE OF ROCHESTER

RACINE COUNTY

ORDINANCE NO. 2023-8

**AN ORDINANCE AMENDING CHAPTER 35
OF THE MUNICIPAL CODE OF THE VILLAGE OF ROCHESTER
TO PERMIT NON-AGRICULTURAL BUSINESSES WITHIN THE A-2 ZONING
DISTRICT AS CONDITIONAL USES AND RELOCATE AND CLARIFY THE
RESTRICTIONS ON OFF-ROAD TRAILS**

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 agricultural zoning districts within the Village of Rochester permit business uses, but only those business uses closely related to agriculture; and

WHEREAS, the Village of Rochester acknowledges that many non-agricultural businesses exist within agriculturally-zoned districts within the Village; and

WHEREAS, many of the existing non-agricultural businesses located within agriculturally-zoned districts are not legal nonconforming uses; and

WHEREAS, non-agricultural businesses should be properly located within an appropriate zoning district; and

WHEREAS, the Village recognizes that some Village residents may rely on these businesses for their livelihoods; and

WHEREAS, the Village does not seek to cause unnecessary hardship to these residents through strict enforcement of the current zoning code; and

WHEREAS, the Village finds that, on a case-by-case basis, non-agricultural businesses may exist in agriculturally-zoned districts without any harmful effect on the Village; and

WHEREAS, the Village believes that non-agricultural businesses within agriculturally-zoned districts should be closely monitored to ensure that they are not detrimental to the health, safety and/or welfare of the public, existing streets, neighboring development, nearby residences, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality; and

WHEREAS, the Village Board has the power to enact zoning ordinances in accordance with Section 62.23(7), Wisconsin Statutes; and

WHEREAS, the Village Board feels that it would be in the best interest of the Village to allow non-agricultural businesses within agriculturally-zoned districts as conditional uses; 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 _____, 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 35-62 entitled “A-2 General Farming and Residential District,” Subsection A. entitled “Uses,” Paragraph 3. is hereby repealed and re-created to read as follows:

3. Conditional Uses. See s. 35-100.

All conditional uses in the A-1 General Farming District, unless the use is a permitted use under subsection 1. or is revised below.

The parking of school buses, semi-tractors and trailers or other vehicles of a commercial nature provided all such uses are at least 600 feet from any residential district and 100 feet from any other residence and landscape screening to be determined on a site specific basis is in place. If the vehicles are parked inside a structure, the above distance may be reduced. Only one vehicle unit (school bus, semi-tractor and trailer, etc.) may be allowed on a parcel land.

Airstrips and landing fields for the use of the property owner for personal and farm related activities

Bed and Breakfast Establishments

Cluster Residential Developments

Manufactured Home Communities as set forth in s. 35-100

Storage and maintenance of construction equipment and vehicles. The storage area for all such equipment and vehicles shall be at least 600 feet from Residential, Institutional Park, and Recreational Park districts.

Off season storage facilities for boats and other recreational vehicles, such as campers, travel trailers, snowmobiles, off-road vehicles and motor homes. Such storage may not occur in a barn or other accessory building that was constructed prior to January 1, 2000

Non-municipal, non-commercial off-road trails for off-road vehicles as set forth in s. 35-100

Non-Agricultural Businesses as set forth in s. 35-100

Section 2: Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-100 entitled “Conditional Uses,” Subsection H. entitled “Amendment of Conditional Use Permits” is hereby repealed and re-created to read as follows:

H. NON-MUNICIPAL, NON-COMMERCIAL OFF-ROAD TRAILS FOR OFF-ROAD VEHICLES

1. Purpose and Intent. The increasing use of off-road vehicles within the municipal boundaries of the Village of Rochester has generated safety, recreational, and environmental issues, which are the responsibility of the Village of Rochester to address. The purpose of this section is to regulate the use of off-road vehicles to protect the environment, to ensure that the recreational use of off-road vehicles is compatible with all other recreational uses within municipal boundaries, to promote the health and safety of the operators and the general public by requiring adherence to certain rules and regulations designed to ensure the safe operation of such vehicles, and to restrict the use of off-road vehicles to areas where such is appropriate and permitted.

2. Definitions.

- a. “Off-Road Trail” means a new or existing repetitive track made for the use of an off road vehicle(s) where a permanent and defined path has been created and/or where the landscape has been manipulated in such a manner as to create a path or ruts that may or may not include jumps, pits, hills, and/or berms.
- b. “Off-Road Vehicle” means a motorized vehicle designed for use on a variety of non-improved surfaces including but not limited to, dune buggies, four-wheel drive vehicles, snowmobiles, all-terrain vehicles (ATVs), dirt bikes, mini bikes, motor bikes, mopeds and trail bikes. Agricultural equipment (such as farm tractors, seeders, combines, cultivators, etc.) used in the operation of a farm, garden tractors and riding lawnmowers are not off-road vehicles.

3. Regulations. Off-road trails for off-road vehicles are subject to the following:

a. Lot Size and Setback Requirements. All off-road vehicle trails shall be operated on property that is five or more contiguous acres in size with the consent of the property owner, subject to the following conditions:

(1) Only the owner(s) and/or occupants of the real estate with the consent of the property owner may operate an off-road vehicle on the off-road trail.

(2) No off-road vehicles shall be operated within 100 feet of any property line.

b. Protective Head Gear. Off-road vehicle operators shall comply with the State of Wisconsin statutory requirements for protective head gear.

c. Nuisance Control. Off-road vehicles involved in the operation of off-road trails shall comply with the following standards:

(1) All off-road vehicles shall not exceed a noise level of 72 decibels, measured at any point along the property line.

(2) No person shall operate an off-road vehicle that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the noise of the exhaust.

(3) All off-road vehicles shall be equipped with a working spark arrestor.

(4) No person may modify the exhaust system of any off-road vehicle in any manner which will increase the noise emitted above the emission standard provided in Paragraph 3(c)(1).

(5) There shall not be any racing of engines that will cause unnecessary and/or unusual noise which annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of others.

(6) The operation of off-road vehicles shall not cause any unnecessary or unusual circulation of dust.

d. Setbacks from Environmental Sensitive Areas. The proposed off-road vehicle trail shall have a minimum setback of 100 feet from a floodplain or floodway, designated wetland area and/or isolated natural area as defined by the State of Wisconsin Department of Natural Resources, and freshwater marshes and bogs, preservation easements, and primary and secondary corridors. Off-road vehicle trails shall be located at least 600 feet from residential, institutional, and recreational park districts.

e. Exemptions. Seasonal snowmobile trails mapped by the Racine County Alliance of Snow Mobile Clubs and/or with the oversight by the Racine County Public Works Department are exempt. This regulation does not apply to the same type of vehicles used strictly for agricultural, governmental, emergency, transportation or utilitarian purposes or on vehicle trails, which would be allowed in all districts without permits in compliance with all other laws and regulations.

f. Hours of Operation. Hours of operation shall be limited to 11:00 a.m. until 7:00 p.m., Monday through Friday and 10:00 a.m. until 5:00 p.m. on Saturdays and Sundays.

g. Reckless Behavior. No person may operate an off-road vehicle in such a way as to recklessly create a substantial risk of serious bodily injury.

h. Liability. No permit shall be issued unless the permittee has adequate liability insurance with minimum limits of \$2,000,000 bodily injury and property damage, combined single limit, naming the Village, its officers, employees and agents as additional insured parties. Said insurance shall indemnify and defend the Village, its officers, employees and agents against all claims, liability, loss damages or expenses, whether caused by or contributed to by the negligence of the Village, its officers, employees or agents. Said insurance shall provide that the Village receive written notice 30 days prior to any cancellation, nonrenewal, or material change in the policy. Proof of said insurance shall be submitted to the Village, prior to the issuance of the zoning permit. Failure to maintain adequate insurance in accordance with this paragraph is grounds for permit revocation.

i. Restoration. If landscaping is altered for purposes of off-road trails for off-road vehicles, a restoration plan must be submitted to the Village Plan Commission, and is subject to the approval of the Village Plan Commission, prior to commencement of use. Upon abandonment or termination of the use, and prior to the property being transferred to a new owner, the property must be restored pursuant to the approved restoration plan.

Section 3: Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-100 entitled “Conditional Uses,” Subsection I. entitled “Penalties” is hereby repealed and re-created to read as follows:

I. NON-AGRICULTURAL BUSINESSES IN AGRICULTURAL DISTRICTS

The purpose of agricultural zoning districts is to ensure that property is managed properly for agricultural uses, as well as residential uses that may support agriculture. Business and industrial uses are to be located in appropriate business or industrial zoning districts. The Village of Rochester acknowledges, however, that in certain situations, businesses that are agriculture-adjacent or entirely non-agricultural may exist in agricultural districts without detrimental effect to the land, air, water, traffic patterns, or surrounding properties. If a non-agricultural

business complies with the requirements of this subsection and is permitted as a conditional use by the zoning district, a conditional use permit may be issued.

1. All non-agricultural businesses are subject to the following general provisions:

a. No merchandise shall be handled for sale or service rendered on the premises except such as are incidental or accessory to the approved conditional use, except for sales or service to industrial/commercial customers (no retail sales establishments)

b. Unless an approved conditional use must naturally be conducted outdoors, all operations and activities of all non-agricultural businesses shall be conducted wholly inside a building or buildings

c. No continuous or intermittent noise from operations greater than the volume and range of noise emanating from normal vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any other property

d. No toxic matter, noxious matter, smoke, gas, odors, or particulate matter detectable beyond the lot lines shall be emitted

e. No vibrations shall be detectable beyond the lot lines

f. No glare or heat shall be detectable beyond the lot lines

g. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any residential property or into public streets or parks

h. Business-related traffic to, from, or within the business site should not noticeably and adversely affect neighboring properties, traffic patterns, road conditions, or public maintenance requirements.

i. The business must not be hazardous, offensive, or otherwise adverse to the environmental quality, water quality, or shoreland cover in the Village.

2. The storage or use of chemicals, whether solid, liquid or gas, shall be subject to the following conditions:

a. The storage, utilization, or manufacturing of materials or products ranging from incombustible to moderate burning is permitted

b. The storage, utilization or manufacturing of materials, or products ranging from free to active burning is permitted provided the following condition is met: said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system

c. The manufacture or bulk storage of flammable materials which produce explosive vapors or gases is prohibited

3. Approval Process.

No non-agricultural business shall be operated or located within an agricultural zoning district without first obtaining an approved conditional use permit pursuant to this section.

a. Application.

Applications for permits shall be submitted in writing to the Village Plan Commission and shall set forth the following information:

- (1) Completed conditional use application form.
- (2) Completed fire inspection of the premises by the Rochester Volunteer Fire and Rescue Company within the previous 12 months of the date of application.
- (3) A written report and site plan outlining the following issues:
 - (a) Name and address of the applicant.
 - (b) Name and address of the owner of the site on which use is taking place.
 - (c) Address of site.
 - (d) Statement of the nature of the proposed operation, and appropriate exhibits, including:
 - [1] List of equipment and machinery to be used to conduct operations.
 - [2] Type and amount of hazardous materials (including fuel and oil) to be used or stored, if any.
 - [3] Size, location, and use of the buildings to be constructed or utilized on the site for business purposes.
 - [4] Smoke and dust control devices to be utilized, if any.
 - [5] Access and egress plan for business-related vehicular traffic to and from the site, as well as anticipated daily traffic volume.
 - [6] Deodorants or odor control devices, if any.
 - [7] Anticipated noise-generating activities and proposed methods of muffling noise, if any.
 - [8] The employment of safety devices to protect the public from dangers inherent to the proposed use.

[9] Method of screening or concealing from public view unsightly deposits, including outdoor storage, if any.

[10] Employee and machinery/equipment parking areas.

[11] Any other pertinent data which the applicant deems material, or as requested by the Village.

(e) Zoning of the site to be used. Existing land use and zoning abutting subject property.

(f) Days and hours of operation.

(g) Number of employees working on site daily.

(h) Method and manner of draining surface water and accumulated water from the premises.

(i) Landscaping berms, fencing, and gates.

(j) Sign location and size. Only one sign is permissible per business site, permitted separately. The sign may be a non-illuminated nameplate (name, address and type of business) not to exceed two square feet in area either mounted flat on a building or a yard light post or signpost set back a minimum of five feet from the street right-of-way line.

(k) Existing and proposed access roads.

(l) Water supply facilities, including the source quantity and disposition of the water to be used.

(m) Proposed sanitary facilities (obtain Racine County sanitary approval for on-site sanitary facilities).

(n) Highway access restrictions, deed restrictions, and traffic control, along with repair plans for Village roads adversely affected by the operation. If determined necessary by the Village Plan Commission, the applicant shall submit a financial surety for the projected road repair.

c. Fees.

(1) An application for an original permit or a renewal of an existing permit shall be accompanied by a fee, in an amount set by the Village Board and set forth in the Village of Rochester Fee Schedule, to defray the cost of publication of notice of hearing, investigation of the site, public hearing, and permitting.

d. Review and Hearing.

(1) Upon receipt of an application submitted the Village Plan Commission and/or village staff may inspect the site for which a permit is requested and shall review the proposed structures, neighboring land and water uses, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply system, effect of the proposed use and operation upon use of surrounding lands and properties, natural beauty, soil erosion, water quality, wildlife habitat, and shoreland cover.

(2) A public hearing shall be held by the Village Plan Commission at its regular meeting place and a notice of said meeting shall be sent by regular mail to the applicant and all persons owning property lying within 500 feet of the site designated in the application. In addition, the Village Clerk shall post a notice of such meeting and a Class 2 notice shall be published. At such hearing, the Village Plan Commission shall hear all persons interested in granting or denying said permit and may, if it deems fit, take testimony relative to the applications.

(3) Where the permit applied for relates to the continuation of an existing business that previously held a conditional use permit, Plan Commission shall hold a public hearing to permit neighboring property owners an opportunity to voice concerns about the continuation of the business. An application for the expansion of, or changes to, an existing business shall similarly require a public hearing.

e. Determination by Plan Commission.

Within 90 days after the public hearing, the Plan Commission shall either grant or deny the conditional use permit. In making such determination, the Plan Commission shall consider whether the proposed use will be detrimental to the health, safety, and/or welfare of the public; such determination shall be made on the basis of the information contained in the application, the recommendation of the Village, and information presented at the public hearing. The Plan Commission may also inspect the site.

The Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality, and shall also consider the effect the business may have on nearby residences.

Non-agricultural businesses existing within an agricultural zoning district at the time this ordinance is enacted may continue to operate and not be in violation of this subsection from the time a completed conditional use permit application is received by the Village of Rochester to the time that the Plan Commission makes its determination.

f. Terms of Permit.

(1) A conditional use permit issued pursuant to this Section shall be for a term of not to exceed three years and may be renewed upon application for successive periods of not more than three years. Modifications or additional conditions may be imposed upon application for renewal and the procedure for renewal shall be the same as that in application for the original permit. In any event, such permit shall terminate:

(a) Upon change of ownership of the site for which the permit is issued; or upon change of ownership of the firm, company, corporation, or municipality operating the business holding the conditional use permit.

(b) In the event the use for which the permit was issued is discontinued for any period of more than one year during the term of the permit.

(c) In the event the operation of the business constitutes a public nuisance that is not adequately mitigated.

(d) In the event of the occurrence of (a) or (b), above, another permit shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the business, the operation of a new business, or the resumption of the discontinued business.

(e) In the event of application for a permit to which (a) above applies, the Plan Commission may consider the application without the necessity of holding a public hearing.

(2) Any permit issued pursuant to this subsection shall be deemed an original permit and the permitted operator shall be bound by the terms thereof.

g. Suspension and Revocation.

(1) The following acts shall constitute grounds for suspension or revocation of a non-agricultural business conditional use permit:

(a) Failure to comply with the requirements and restrictions set forth in this section.

(b) The use specified in the permit is not carried on in accordance with the representations contained in the application or conditions required by the Plan Commission, or any change in the manner of operation specified in the conditional use permit approved by the Plan Commission.

(c) Failure to operate the business otherwise in compliance with the underlying zoning district.

(d) Failure to comply with conditions required in the conditional use permit issued by the Plan Commission.

(2) A proceeding to suspend or revoke a permit shall be instituted pursuant to s. 35-100.K.3.

Section 4: Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-100 entitled “Conditional Uses,” Subsection J. is hereby created to read as follows:

J. Amendment of Conditional Use Permits.

1. When permissible: application. At such time as the holder of a conditional use permit wishes to change the terms of its permit in a manner which does not change the nature of the use but that could increase or expand the operation of the use by 25% or less, the holder of the permit shall apply to the Plan Commission for an amendment to its permit, and shall state in its application the precise changes it wishes to make and the expected effect of the changes upon the site, neighboring uses, parking, traffic generation and circulation, and the drainage, sewerage and water systems. The applicant shall also list the names of the property owner and all abutting property owners. Changes to a permit which are expected to change the nature of a use, change the location of the use to a site which is not in the same structure as the existing use, or create greater than a twenty-five-percent increase in the operation of a use may not be made; in that event, application must be made for a new conditional use permit. When a holder of a conditional use permit sells or transfers the underlying business or other use, this section shall apply. When a use is vacant for 12 months or longer, a new conditional use permit shall be required.

2. Procedure. An applicant for an amendment to a conditional use permit shall pay a fee as set forth in the Village of Rochester fee schedule. Upon application for an amendment to a conditional use permit, the Clerk shall schedule such application for review by the Plan Commission at an open meeting, and shall mail notice thereof to the property owner and all abutting property owners along with a copy of the application not less than 14 days prior to the date of the scheduled review. No public hearing shall be required, but the Plan Commission shall accept comments from any person attending the open meeting.

3. Review and approval. The Village Plan Commission shall conduct a review of the application as set forth in s. 35-100C. If the Plan Commission denies the amendment, the applicant may appeal from the decision from the Zoning Board of Appeals within 30 days of the final decision by writ of certiorari to the Racine County Circuit Court.

Section 5: Chapter 35 of the Village of Rochester Zoning Code entitled “Planning and Zoning,” Section 35-100 entitled “Conditional Uses,” Subsection K. is hereby created to read as follows:

K. Penalties.

1. In every instance where work commences upon a project subject to this Section prior to the conditional use permit being applied for and granted, there

shall be a double fee imposed for the permit, and the applicant shall remain required to meet full compliance with this chapter.

2. It shall be unlawful to use or improve any structure or land in violation of any of the provisions of the section. In addition to penalties imposed under Chapter 50 of this Code, the Village may institute appropriate action to enjoin a violation of this section, or to cause any structure so constructed or altered to be vacated or removed.

3. It shall be unlawful to use or improve any structure or land in violation of any of the terms of a conditional use permit. In addition to or as an alternative to the penalties imposed under s. 35-500 and Chapter 50, the Village may:

a. Send notice to the permit holder of the violation, and require that the violation be corrected within five days, or more if allowed by the Zoning Administrator or Village Attorney, after written notice is given.

b. If the violation is not corrected, or a second violation is incurred within a twelve-month period of the first violation, the Village may act to suspend or revoke the conditional use permit, as follows:

(1) Complaint. The Zoning Administrator or any resident may file a sworn written complaint with the Village Clerk alleging one or more violations.

(2) Summons. Upon the filing of the complaint, the Plan Commission shall issue a summons, signed by the Clerk and directed to any peace officer in the municipality. The summons shall command the permit holder complained of to appear before the Plan Commission on a day and place named in the summons, not less than three days and not more than 30 days from the date of issuance, and show cause why his or her conditional use permit should not be revoked or suspended. The summons and a copy of the complaint shall be served on the permit holder at least three days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under Wis. Stat. ch. 801 for service in civil actions in Circuit Court.

(3) Procedure on hearing.

(a) If the permit holder does not appear as required by the summons, the allegations of the complaint shall be taken as true, and if the Plan Commission finds the allegations sufficient, the Plan Commission shall report its findings to the Village Board. If the Village Board concurs, the Conditional Use Permit shall be revoked. The Village Clerk shall give notice of the revocation to the person whose permit is revoked.

(b) If the permit holder appears as required by the summons and denies the complaint, both the complainant and the permit holder may produce

witnesses, cross-examine witnesses and be represented by counsel. The permit holder shall be provided a written transcript of the hearing at his or her expense.

(4) The Plan Commission shall make findings of fact, conclusions of law and a decision with respect to the conditional use permit. The Commission shall provide the complainant and the permit holder with a copy of the decision.

(5) If the Plan Commission finds the complaint to be true, the conditional use permit shall be suspended or revoked as determined by the Plan Commission.

(6) If the Plan Commission finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Plan Commission finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant.

(7) The Village Clerk shall give notice of each suspension or revocation to the person whose permit is suspended or revoked.

(8) Effect of revocation. When a conditional use permit is revoked under this subsection, the revocation shall be recorded by the Village Clerk and no other conditional use permit issued under this chapter may be granted within 12 months of the date of revocation to the person whose permit was revoked. In the event, however that a new application reveals a material difference in any of the items specified hereof, the Plan Commission may, upon a finding that the new application does include such material difference, proceed to hear and determine such application within said year.

(9) Judicial review. The action of the Plan Commission in suspending or revoking any permit, or the failure to revoke or suspend any permit for good cause, may be reviewed by the circuit court for Racine County by writ of certiorari commenced within 30 days of the Village Clerk's notice of the decision.

Section 6: Chapter 35 of the Village of Rochester Zoning Code entitled "Planning and Zoning," Section 35-100 entitled "Conditional Uses," Subsection F. entitled "Industrial / Manufacturing Uses," Paragraph 3. entitled "Special Conditional Use Provisions for Quarrying Operations," Subdivision g. entitled "Suspension and Revocation," Subdivision paragraph (2) is hereby repealed and re-created to read as follows:

(2) A proceeding to suspend or revoke a permit shall be instituted pursuant to s. 35-100.K.3.

Section 7: Chapter 35 of the Village of Rochester Zoning Code entitled "Planning and Zoning," Section 35-100 entitled "Conditional Uses," Subsection F. entitled "Industrial / Manufacturing Uses," Paragraph 3. entitled "Special Conditional Use Provisions for Solid Waste Facilities, Scrap Iron, Steel or Nonferrous Metal Processing Facilities, Recycling Facilities, Auto Junkyards and Auto Scrap Metal Salvage Yards," Subdivision g. entitled "Suspension and Revocation," Subdivision paragraph (2) is hereby repealed and re-created to read as follows:

(2) A proceeding to suspend or revoke a permit shall be instituted pursuant to s. 35-100.K.3.

Section 8: 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 9: SEVERABILITY

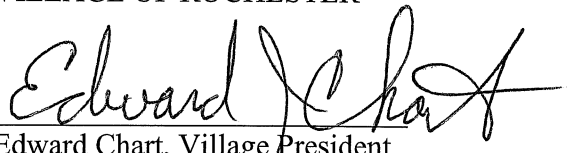
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the 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 10: EFFECTIVE DATE

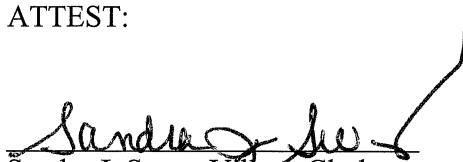
This ordinance shall take effect on June 12, 2023 after passage and posting and/or publication as provided by law.

Passed and adopted this 12 day of June, 2023.

VILLAGE OF ROCHESTER


Edward Chart, Village President

ATTEST:


Sandra J. Swan, Village Clerk