

ORDINANCE NO. 2025-5

**AN ORDINANCE REPEALING SECTION 35-190, ARCHITECTURAL CONTROL,
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, a literal application of the provisions of code section 35-190 would drastically change the way zoning permits are and have historically been issued in the Village by requiring that the majority of zoning permit applications be reviewed by the Plan Commission; and

WHEREAS, Code section 35-190 functionally turns permitted uses into conditional uses by requiring that subjective conditions be applied to otherwise permitted uses; and

WHEREAS, Code section 35-190 simultaneously restricts the duties of the Zoning Administrator while allowing for excessive discretion, in conflict with sections 35-9 and 35-10; and

WHEREAS, the repeal of Code section 35-190 would leave several unnecessary references to that section throughout Chapter 35, in sections 35-12, 35-100, and 35-230; 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 12, 2025 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 35-190 entitled "Architectural Control" is hereby repealed and reserved.

Section 2: Chapter 35 of the Village of Rochester Zoning Code entitled "Planning and Zoning," Section 35-12 entitled "Uses Not Requiring a Zoning Permit" is hereby repealed and re-created to read as follows:

No Zoning Permit shall be required in any of the following instances: for repairs or improvements to an existing building not involving a change in the use of a structure, or an increase in the floor area of the structure, except in compliance with this Chapter and other applicable chapters of this Municipal Code; provided, however, that any work not requiring a permit shall comply with the applicable setback, yard, height and other requirements of this Chapter. No zoning permit shall be required for the necessary and customary construction, reconstruction or maintenance of overground or underground public utility service lines and mechanical appurtenances; except in compliance with floodplain districts (see Chapter 37). No permit shall be required for gardening accessory to a principal use. See also Chapters 36 to 39 for specific uses.

Section 3: Chapter 35 of the Village of Rochester Zoning Code entitled "Planning and Zoning," Section 35-100 entitled "Conditional Uses," Subsection C entitled "Review and Approval," Paragraph 1, Subdivision d. is hereby repealed and re-created to read as follows:

d. Existing and proposed structures and architectural plans for conformance with Ch. 35, s. 35-22 C. "Building, Design, Layout and Construction Principles," and s. 35-22 D. "Site Planning and Design Standards";

Section 4: Chapter 35 of the Village of Rochester Zoning Code entitled "Planning and Zoning," Section 35-230 entitled "Plan Commission Approval," Subsection D entitled "Form of Submittal," Paragraphs 9 and 10, are hereby repealed and re-created to read as follows:

9. The type, size, location, height, and dimensions of all structures including fences and walls showing conformance with all provisions of the underlying zoning district, such as lot width and area, setbacks, yards, building heights, etc.; Ch. 35, s. 35-22 B. "Site Planning and Design Principles;" s. 35-22 C. "Building, Design, Layout and Construction Principles;" and s. 35-22 D. "Site Planning and Design Standards," subsections 2. and 3. "Open Space Requirements" and "Site Landscaping."

10. Primary building materials used in construction of all structures showing conformance with Ch. 35, s. 35-22 "Principles and Standards for the Aesthetic Evaluation of Site and Building Projects," subsection C. "Building, Design, Layout and Construction Principles."

Section 5: 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 6: SEVERABILITY

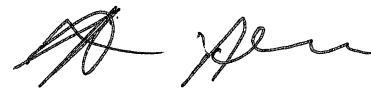
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the 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 7: EFFECTIVE DATE

This ordinance shall take effect on MAY 12, 2025 after passage and posting and/or publication as provided by law.

Passed and adopted this 12TH day of MAY, 2025.

VILLAGE OF ROCHESTER



Nick Ahlers, Village President

ATTEST:



Daniel Colwell, Village Clerk