

ORDINANCE NO. 2024-6

**AN ORDINANCE AMENDING CHAPTER 35 OF THE MUNICIPAL CODE
OF THE VILLAGE OF ROCHESTER TO ALLOW FOR THE BULK STORAGE OF
FUEL BY APPROVED NON-AGRICULTURAL BUSINESSES**

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, Code section 35-100(I)(2)(c) prohibits the manufacture or bulk storage of flammable materials that produce explosive vapors; and

WHEREAS, the Village intends to allow for the bulk storage of flammable materials that produce explosive vapors for approved non-agricultural businesses in agricultural districts by conditional use; 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 _____, 2024 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 35-100 entitled “Conditional Uses,” Subsection I entitled “Non-Agricultural Businesses

in Agricultural Districts,” Paragraph 2, Subdivision c. is hereby repealed and re-created to read as follows:

c. The manufacture of flammable materials that produce explosive vapors or gases is prohibited. Bulk storage of flammable materials that produce explosive vapors or gases is permitted subject to the following conditions:

- (1) Only above ground storage tanks shall be allowed.
- (2) Storage tanks shall be a minimum 200-foot distance from any well.
- (3) Storage tanks shall be a minimum 300-foot distance from any structure on any neighboring property.
- (4) Storage tanks must be located within a secondary means of containment with interior volume equivalent to at least the entire capacity of the largest single container held within. The construction of the secondary containment must be sufficiently impervious in order to contain all discharged liquids.
- (5) Storage tanks may be located under an accessory structure constructed for the sole purpose of providing shade to the tanks, but shall not be located inside of a fully enclosed structure.

Section 2: 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 3: 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 4: EFFECTIVE DATE

This ordinance shall take effect on _____, 2024 after passage and posting and/or publication as provided by law.

Passed and adopted this _____ day of _____, 2024.

VILLAGE OF ROCHESTER

Nick Ahlers, Village President

ATTEST:

Sandra J. Swan, Village Clerk