<center>**Ordinance No. 697-031124**</center>

<center>**AMENDING AND RECREATING THE VILLAGE'S OFFICIAL ZONING CODE,
CREATING A RESTAURANT OVERLAY DISTRICT (RO-1)**</center>

SEC. 245-27.2 – RO – RESTAURANT OVERLAY DISTRICT

Purpose. The purpose of the standards in this Section is to regulate the number, location and operation of various types of restaurants in order to maintain the Village's unique character, the vitality of the commercial districts, and the quality of life of Waterford's residents.

(a) Definitions:
General Restaurant means an eating-place, whether a principal use or accessory use, selling a full line of prepared food and drinks using non-disposable plates, glasses and utensils for immediate consumption on the site. The business provides tables and chairs, table service, and is available to persons of all ages. The use shall not exhibit the characteristics of a drive-in, formula or fast-food establishment. Customers shall be provided with individual menus while seated at a table or counter.

Food sold for consumption off the premises shall be incidental to the primary use. Such food shall be placed in covered containers or wrappings, and all house-brand labeled food store goods such as vinegars, oils and salad dressings shall be prepackaged and sealed.

Drive-In Restaurant means an eating place, whether a principal use or accessory use, which sells: (a) prepares food intended for consumption in vehicles that may or may not be parked on the site; or (b) provides for the ordering of food while the customers are seated in vehicles.

Formula Restaurant means an eating-place, whether a principal use or accessory use, that is one of a chain or group of three or more establishments and which satisfies at least two of the following three descriptions:

(1) It has the same or similar name, brand, trade name, or trademark as others in the chain or group;

(2) It offers any of the following characteristics in a style which is distinctive to and standardized among the chain or group: (a) Exterior design or architecture; (b) Uniforms, except that a personal identification or simple logo will not render the clothing a uniform; (c) Standardized menus, ingredients, food preparation or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.

(3) It is a fast-food restaurant.
Fast Food Restaurant means an eating-place, whether a principal use or accessory use, selling food to be consumed on or off the site and (a) food is quickly made upon the customer's order or pre-made and wrapped before customers place orders, and/or (b) food is served with disposable tableware for on-site food consumption. A Fast Food restaurant also exhibits two or more of the following characteristics: food is ordered from a wall menu at a service counter; food consumed on the premises is ordered while customers are standing; payment is made by customers before food is consumed; the service counter is closer to an entry/exit than is the seating/dining area; the business interior is brightly illuminated (greater than 8 candle foot power as measured in a horizontal plane three feet above the floor).

Take-Out Restaurant means an eating place, whether a principal use or accessory use, selling ready-to eat, prepared snack food and full meals for immediate consumption off the site while patrons are walking or standing in the public right-of-way or are seated in vehicles.

Drive-up Window Restaurant in this section means a window opening to the outdoors designed to furnish food or beverages to motorists.

Walk-up Window Restaurant means a window opening to the outdoors designed to furnish food or beverages to pedestrians. Drive-through Restaurant in this section means a paved area serving as a queuing or staging area for motorist to receive food that they have ordered.

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(b) Applicability.
The regulations in this section shall apply as an overlay district for the
B-3 Downtown Business District to all B-3 Downtown Business District Zoned properties with at least one lot line boundary on the Fox River. The only permissible use of B-3 Zoned properties that affront the Fox River properties, as described herein, shall be for a restaurant.

(c) Permitted Uses.
A general restaurant whether a principal use or accessory use, shall be permitted subject to the following requirements.
> (1) Underlying district lot area and width; building height and area; setbacks; special standards and parking.
> (2) Site plan and architectural review and such others as apply.

(d) Conditional Uses.

A fast food, drive-in or take-out restaurant whether a principal use or accessory use may be granted a conditional use permit subject to the following requirements.

(1) Underlying district lot area and width; building height and area; setbacks; special standards and parking.

(2) Site plan and architectural review.

(3) Approval of the fast food, drive-in or take-out restaurant with or without a walk-up window – restaurant will contribute to a diverse and appropriate blend of businesses in the Village;

(4) Approval of the fast food, drive-in or take-out restaurant will complement those businesses already in the Village and help promote and foster the local economic base as a whole.

(5) The fast food, drive-in or take-out restaurant will be compatible with existing surrounding uses; has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambiance; and the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites, including but not limited to the following:
> a. The size of any individual fast food, drive-in or take-out restaurant shall not to exceed two thousand five hundred (2,500) square feet of gross floor area.
> b. The street frontage of any individual fast food, drive-in or take-out restaurant shall not exceed sixty-five feet (65') in width.

c. So long as the Planning Commission finds that establishing or relocating the fast food, drive-in or take-out restaurant will not increase the intensity of use on the site to a level that will adversely impact:

  1. Land uses in the area;
  2. Pedestrian or motor vehicle traffic; or,
  3. The public welfare.

d. There shall not be a substantial impact to the public safety from increased traffic. At the discretion of the Plan Commission, the applicant may be required to submit a traffic study, prepared by a Wisconsin Registered Professional Engineer, approved by the Plan Commission.

e. There shall not be any impacts to the roadway or abutting properties from the loading area.

f. Approval of the fast food, drive-in or take-out restaurant will be consistent with the policies and standards of the Comprehensive Plan as approved and amended.

(e) Excluded Uses.

The following uses are excluded from the overlay district.

(1) Formula restaurants, drive-up window restaurants and drive-through restaurants, which are all prohibited.

(2) Reserved.

(f) Change of occupancy or intensity of use.
A change of occupancy, change of intensity of use, or a change in type of restaurant shall require Plan Commission review and approval. A change of business model shall not require Plan Commission review and approval unless the change is deemed significant by the Zoning Administrator. Change of ownership shall not, by itself, require Plan Commission approval unless there is a change of occupancy, change of intensity of use, change of business model or a change in type of restaurant. The regulations in this Section shall be used by the Plan Commission in reviewing an application or an application for occupancy.

3. Existing Restaurants and Businesses.

All B-3 Zoned restaurants and retail businesses with their respective business models in existence as of January 1, 2024, shall be considered "grandfathered non-conforming uses" if they do not meet any of the regulations in this Section.

Introduced: March 11, 2024
Adopted: March 11, 2024

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Don Houston, Village President

ATTEST:

_____   VOTE: Ayes _____ Noes _____
Rachel Ladewig, Village Clerk