

**VILLAGE OF WESTON
ORDINANCE 22-014**

**AN ORDINANCE TO AMEND SECTION 94.4.08(1) OF THE ZONING CODE
RELATING TO LIGHT INDUSTRIAL LAND USE TYPES.**

NOW THEREFORE, be it ordained by the Board of Trustees of the Village of Weston, in the State of Wisconsin, as follows:

SECTION 1: AMENDMENT “Sec 94.4.08 Industrial Land Use Types” of the Weston Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 94.4.08 Industrial Land Use Types

1. Light Industrial.

Industrial facilities, manufacturing operations, and contractor shops at which all operations are conducted entirely within an enclosed building, with the exception of fully screened outdoor storage and loading operations. Light industrial facilities are those which are not associated with nuisances such as odor, noise, heat, vibration, and radiation detectable at the property line and which do not pose a significant safety hazard such as danger of explosion. A “Light Industrial” land use may conduct retail sales activity as an accessory use in accordance with the requirements of Section 94.4.09(13). Landscape contractors and indoor aquaculture uses, which include the farming of aquatic organisms (plants and animals) under controlled conditions that are located entirely within an enclosed building and utilize recirculating (closed) system technology (including aquaponics), are considered “Light Industrial” uses. Primary food processing activities involving the processing of cabbage, fish and fish products, and meat products shall be considered and regulated as “Heavy Industrial” land uses. Breweries, distilleries, wineries, and coffee roasters that exceed one or more limitations of the “Micro-beverage Production Facility” land use are considered “Light Industrial” uses. Crematoriums shall be considered “Heavy Industrial” uses, except where accessory to a funeral home and where serving only customers of the funeral home.

Performance Standards:

- a. All activities shall be conducted entirely within the confines of a building, except for parking, circulation, loading and unloading, and fully screened outdoor storage.
- b. All outdoor storage areas shall be completely enclosed by any permitted combination of buildings, structures, walls, natural vegetation or earthen berm and/or fencing. Such walls, vegetation, berms or fencing shall be designed to completely screen all stored materials from view from ~~all adjacent properties~~

~~and~~ rights-of-way, up to the maximum fence heights allowed under Section 94.12.03. Violations will be enforced under the procedures outlined in Sec. 94.16.19.

- c. No loading, unloading, or storage shall be permitted in the minimum required front yard.
- d. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property.
- e. The use shall comply with all of the performance standards in Article 12.
- f. For indoor aquaculture uses, the following additional performance standards shall apply:
 - i. Indoor aquaculture operations shall be connected to the municipal water and sanitary sewer system and all wastewater shall be discharged to the municipal sanitary sewer system.
 - ii. Applicants wishing to establish indoor aquaculture operations shall prepare and submit a report outlining the estimated average daily water usage and quantity of wastewater discharge.
 - iii. On-site processing of seafood is permitted, provided the activity is conducted entirely within an enclosed building and no odors are detectable from the property line.
 - iv. The on-site retail sale of seafood or vegetables shall be considered an “Indoor Sales Incidental to Storage or Light Industrial Land Use” subject to the provisions of Section 94.4.09(13).
 - v. On-site composting shall be permitted, provided compost areas are fully screened on all four sides and comply with all county, state, and federal rules, regulations, and permitting requirements.
- g. New Light Industrial development within the AR and RM zoning districts shall be served by public sanitary sewer and water services.
- h. Minimum Required Off-Street Parking: One space per each employee on the largest work shift.

Heavy Industrial.

Industrial facilities at which operations have one or more of the following characteristics: conducted partially or wholly outside of an enclosed building (not including loading/unloading operations); associated with nuisances such as odor, noise, heat, vibration, and radiation detectable at the property line; and/or involving materials that pose a significant safety hazard (such as danger of explosion). Examples of “Heavy Industrial” land uses include slaughter houses; tanneries; primary meat processing and fish processing; cabbage processing; alcoholic beverage producers other than breweries and wineries; paper, pulp, or paperboard producers; chemical and allied product producers (except drug producers); petroleum and coal product producers; asphalt, concrete, or cement producers; stone, clay, or glass product producers; power production facilities (power plants); primary metal producers; heavy machinery producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.

Performance Standards:

- a. A bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property.
- b. All indoor activity areas and outdoor storage areas shall be located a minimum of 100 feet from residentially zoned property, “Institutional Residential” uses, or “Indoor Institutional” uses.
- c. Minimum Required Off-Street Parking: one space per each employee on the largest work shift.

2. Communications Tower.

Includes all free-standing broadcasting, receiving, or relay structures, and similar principal land uses; and any office, studio, or other land uses directly related to the function of the tower. See land use descriptions and regulations associated with “Exterior Communication Devices” regulated as accessory uses later in this Section, where, unlike Communications Towers, the communications use is clearly incidental to the principal use on the site. It is the policy of the Village to encourage the placement of communications devices on pre-existing towers and other support structures (e.g., water towers) over the erection of new Communications Towers.

Performance Standards:

- a. Each application for conditional use permit, site plan approval, and/or building permit under this subsection shall include the following information:
 - i. The name and business address of, and the contact individual for, the applicant.
 - ii. The location of the proposed or affected Communications Tower or other support structure.
 - iii. The location of the proposed equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment.
 - iv. If the application is for a “substantial modification” to an existing Communications Tower or other support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications. For purposes of this subsection (3), “substantial modification” means the modification of a Communications Tower, including the mounting of an antenna on such a structure, that does any of the following:
 - (1) For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
 - (2) For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
 - (3) Measured at the level of the appurtenance added to the

structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.

- (4) Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
 - v. If the application is to construct a new Communications Tower, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - vi. If an application is to construct a new Communications Tower, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 - vii. Evidence and information to indicate compliance or intent to obtain compliance with other applicable provisions of this subsection and Chapter.
- b. Each Communications Tower and modification thereto shall be erected and installed in accordance with the state electrical code adopted by reference in the National Electrical Code, Federal Communications Commission and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern.
 - c. If an application is to construct a new Communications Tower, the Village may consult with a third party to verify that collocation on an existing Communication Tower or other support structure within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider. All costs and expenses associated with such consultation shall be borne by the applicant, except for travel expenses. Failure to pay such costs and expenses or provide related information to the third-party consultant shall be grounds for denial of the conditional use permit.
 - d. Each Communications Tower shall be placed or constructed so it can be utilized for the collocation of additional antenna arrays to the extent technologically and economically feasible. The Village shall, unless it is shown to be unreasonable, condition the granting of each conditional use permit upon the applicant placing or constructing the Communications Tower to accommodate, at a minimum height of 150 feet, the collocation of two additional antenna arrays similar in size and function to that placed on the Tower by the applicant. Collocation sites need not be available on the Tower as initially placed or constructed, provided that the Tower will support the later

addition of the required number of collocation sites at the specified minimum height. The holder of each conditional use permit under this subsection (3) and the predecessor Chapter shall make the collocation sites required hereunder available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates allowing the permit holder to recoup the cost of providing the collocation sites and a fair return on investment.

- e. Each Communications Tower and associated equipment shall, to the extent determined possible by the Zoning Administrator, match the color of existing facilities and be installed in a fashion to lessen the visual impacts of such installation. Accessory buildings, if required, shall be constructed to be compatible with the surrounding or adjacent buildings by virtue of their design, materials, textures, and colors.
- f. For Communications Towers erected after March 18, 2015, and in conjunction with the installation of new ground mounted buildings or equipment totaling 300 square feet or greater, the applicant shall provide a bufferyard meeting the requirements of Section 94.11.02(3)(d) along all property borders abutting residentially zoned property. Other landscaping requirements of Article 11 shall also apply.
- g. A new or amended conditional use permit and site plan shall be required for a “substantial modification” to an existing Communication Tower. Neither a conditional use permit nor site plan approval shall be required for any modification including collocation that is not defined as a “substantial modification,” but a building permit shall be required.
- h. Prior to the issuance of a building permit for a Communications Tower erected after March 18, 2015, the applicant shall provide a written agreement stating that if the Communications Tower, antennas, or transmitters are unused for a period exceeding 12 months, the applicant shall remove the tower, antennas, or transmitters upon written request from the Zoning Administrator at no cost to the Village within 60 days of such request. If such listed items are not removed within 60 days of such notification, the Village may remove the items at the expense of the holder of the conditional use permit. Within 30 days of the date on which the tower use ceases, the permit holder shall provide the Village with written notice of the cessation of use. A performance bond or deposit of \$20,000 shall be required to ensure compliance with all applicable requirements for removal of the Communications Tower and equipment.
- i. The owner of any Communications Tower shall maintain insurance against liability for personal injury, death, or property damage caused by the maintenance and/or operation of the Communications Tower and accessory structures with a single combined limit of not less than \$1,000,000.00 per occurrence. The policy shall contain a provision that it may not be canceled or materially modified without the approval of the Village. The owner shall provide the Village with a certificate of such insurance before issuance of a building permit and upon each policy renewal thereafter.
- j. Upon written inquiry from the Village, the recipient of a conditional use permit under this subsection (3) shall have the burden of presenting credible

evidence establishing the continued compliance with the approved plans and all conditions placed upon the conditional use permit. Failure to establish compliance with the approved plans and all conditions placed upon the conditional use permit shall be grounds for revocation of the permit. If the Village determines that it is necessary to consult with a third party to ascertain compliance with conditions on a conditional use permit, all costs and expenses associated with such consultation shall be borne by the holder of subject conditional use permit, except for travel expenses. Failure to pay such costs and expenses or provide information requested by the Village shall be grounds for revocation of the conditional use permit.

- k. Upon written inquiry from the Village, any owner or operator of a Communications Tower shall provide information on the Tower, including but not limited to available sites on the Tower for potential co-locators; evidence that such collocation sites are in fact available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates allowing the Tower owner to recoup the cost of providing the collocation sites and a fair return on investment; contact information for future co-location inquiries that the Village may receive; and number and placement of antenna arrays and ground mounted equipment, type of service provided (e.g., 4G LTE, etc.), contact information, and expiration dates of user agreements or leases associated all current users of the Tower.
- l. In its evaluation of any permit or plan approval for a Communications Tower, the limitations under Wis. Stat. §§ 66.0404(4) and 66.0406(2) shall apply.
- m. In the FP zoning district, the following additional standards shall also be met:
 - i. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - ii. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - iii. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - iv. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - v. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
- n. Minimum Required Off-Street Parking: one space per each employee vehicle needed for ongoing maintenance.

3. Non-Metallic Mineral Extraction.

Any land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, or other material in excess of that required for approved on-site development or agricultural activities. Wisconsin Statutes may limit Village regulation of non-metallic mineral extraction operations associated with projects completed by the Wisconsin

Department of Transportation.

Performance Standards:

- a. In addition to the information normally required for conditional use permit applications, each application for approval of a new or expanded Non-Metallic Mineral Extraction Operation shall include the following information:
 - i. A written description of the proposed operation, including the types and quantities of the materials that would be extracted; proposed dates to begin extraction, end extraction, and complete reclamation; geologic composition and depth and thickness of the mineral deposit; existing use of the land and proposed use after reclamation; existing natural and archaeological features on and adjacent to the site; where extracted materials would be hauled and over what roads; types, quantities, and frequency of use of equipment to extract, process, and haul; types of materials and equipment used or stored on site; whether and how frequently blasting, drilling, mining, crushing, screening, washing, refueling, fuel storage, asphalt batching, or concrete mixing would be performed on site; if washing is to be performed, estimated daily quantity of water required, its source and its disposition; whether excavation will occur below the water table and, if so, how ground water quality will be protected; description and elevations of all temporary or permanent structures; proposed hours and days of operation; any special measures that will be used for spill prevention and control, dust control, or environmental protection; if within the FP district, justification that the use meets all standards associated with such district; and assurances that the site will be developed, operated, and reclaimed in accordance with all approved plans and all county, state, and federal regulations, including a listing of all applicable regulations.
 - ii. A site or operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing contour lines; existing roads, driveways, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; all dwellings and private and municipal wells within 1,000 feet; location of the proposed extraction, staging areas, fueling, fuel storage, and equipment storage areas; proposed location and surfacing of roads, driveways, and site access points; proposed phasing plan, if any; proposed fencing of property and gating of access points; proposed locations of stockpiles; proposed location and types of screening berms, fencing, and/or landscaping; and proposed temporary and permanent structures, including scales and offices.
 - iii. An erosion control plan, drawn to scale by a professional engineer, meeting all applicable Village, state, and county requirements.
 - iv. A reclamation plan prepared in accordance with the Wisconsin Administrative Code and the Marathon County non-metallic mining reclamation ordinance, and clearly depicting proposed stages of

restoration, proposed contours following restoration, depth of topsoil and vegetative cover, and proposed land use.

- b. Each Non-Metallic Mineral Extraction Operation, regardless of when established, shall have on file with the Zoning Administrator current operational, erosion control, and reclamation plans covering the subject matter in subsection 1. above. Operations established before March 18, 2015 shall operate and restore the site in compliance with previously approved plans and conditions; with the provisions of this chapter; and to assure public safety, minimization of nuisances, and proper restoration of the site, provided that such requirements shall not be economically and technically unreasonable with respect to existing conditions.
- c. The applicant shall obtain all required Federal, State, County permits and licenses, as well as any other Village permits and/or licenses, necessary to operate the Non-Metallic Mineral Extraction operation. The applicant shall maintain requirements set forth by these permits and licenses, and abide any standards set therein, as well as any other ordinances and statutes applicable to the operation. The applicant shall provide copies of all required permits and licenses, and inspections and reports thereunder, to the Village Zoning Administrator immediately upon applicant receipt or in another timeframe specified by the conditional use permit.
- d. For new and expanded operations, a bufferyard meeting the requirements of Section 94.11.02(3)(d) shall be provided along all property borders abutting residentially zoned property and public rights-of-way.
- e. The conditional use permit may include limits on the amount of time the non-metallic mineral extraction use shall remain in operation and/or hours and days of operation.
- f. The conditional use permit may include restrictions and/or hours for blasting, drilling, screening, asphalt batching, washing, and other processing.
- g. All mineral extraction activities and washing, crushing and similar processing shall be at least 200 feet from any right-of-way or property line. All ancillary operations, such as offices, parking areas, and stockpiles, shall be at least 100 feet from any right-of-way or property line. This provision shall apply to all Non-Metallic Mineral Extraction operations, including pre-existing ones, except to the extent that buildings, structures, and surface activity areas were closer than specified as of March 18, 2015.
- h. To prevent tracking of mud onto public roads, access driveways for all new and expanded Non-Metallic Mineral Extraction operations shall be hard surfaced within one 100 feet of public roads, unless the adjacent road is not hard surfaced.
- i. All public roads to all Non-Metallic Mineral Extraction operations, including operations established prior to March 18, 2015, shall be kept free of all mud, debris, and dust by sweeping or other means.
- j. Access to all Non-Metallic Mineral Extraction sites shall only be through points designated as entrances on the site or operations plan map or as otherwise legally established. The operator shall secure such access points when the site is not in operation.

- k. For all Non-Metallic Mineral Extraction operations, the site and driveway shall be sprayed to control dust, except when the temperature is below freezing. Spraying may also be required in and around the excavation pit to further reduce dust. All operations and sites, regardless of when established, shall also meet the air pollution standards in Section 94.12.14.
- l. The conditional use permit may include provisions for the upgrade, repair, and maintenance of public roads serving the use, which shall depend on the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may be required as part of the conditional use permit provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance.
- m. If any public road is damaged or destroyed as a result of any Non-Metallic Mineral Extraction operation, including operations established prior to March 18, 2015, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operation.
- n. On-site bulk fuel storage areas and areas for fueling of equipment shall be located in accordance with the Wisconsin Administrative Code and State Statutes. A conditional use permit granted for a new or expanded operation may also require that such areas, facilities, and equipment be located above the water table to minimize the potential for groundwater contamination.
- o. If blasting, drilling, or other processing is requested and approved as part of the conditional use permit, additional standards or conditions may be applied to the conditional use permit with relation to frequency, dust, noise and vibration levels, notice to neighbors, pre-inspection of neighboring basements and wells, and claims procedures in accordance with the Wisconsin Administrative Code.
- p. All approved blasting shall be conducted in accordance with the provisions of Wis. Admin. Code Chapter SPS 307. The owner shall notify the Village Zoning Administrator, and any others as specified by law or under the conditional use permit, of blasting days and times at least three (3) days in advance of such blasting. The owner may be required to verify, such as through hiring a professional engineering firm, that vibrations and other impacts associated with actual blasting activities are within the limits prescribed by Wis. Admin. Code and the conditional use permit.
- q. For all Non-Metallic Mineral Extraction operations, including operations established prior to March 18, 2015, noise levels shall be kept at or below allowable limits under Section 94.12.13. The owner may be required to verify, through use of appropriate equipment and an analysis technique approved by the Zoning Administrator, that such limits are met. If the Zoning Administrator determines that noise requirements under Section 94.12.13 are not met, he or she may enforce such requirements per Section 94.16.19 and/or refer the matter to the Plan Commission or Extraterritorial Zoning Committee. The

Commission or Committee may require additional conditions or mechanisms to control noise in a manner that meets ordinance requirements, or may enact proceedings under subsection 20 below.

- r. For Non-Metallic Mineral Extraction operations established or expanded after March 18, 2015, the area of extraction shall be completely enclosed by a security fence meeting applicable requirements of Section 94.12.03, or maintained at a slope not to exceed 3:1.
- s. The owner of each Non-Metallic Mineral Extraction operation, regardless of when established, shall maintain insurance against liability for personal injury, death, or property damage caused by the maintenance and/or operation of the Non-Metallic Mineral Extraction operation and accessory structures. Such insurance policy shall have with a single combined limit of not less than \$1,000,000.00 per occurrence and contain a provision that it may not be canceled or materially modified without the approval of the Village. The owner shall provide the Zoning Administrator with a certificate of such insurance before issuance of a building permit, upon each policy renewal thereafter, and otherwise upon written request.
- t. Upon written inquiry from the Village, each Non-Metallic Mineral Extraction operation, regardless of when established, shall have the burden of presenting credible evidence establishing the continued compliance with applicable provisions of this subsection (4), and approved plans and conditions placed upon the conditional use permit or any other prior or subsequent Village approval. Failure to establish compliance with applicable provision, the approved plans, and all conditions placed upon the conditional use permit or other Village approval shall be grounds for revocation of the permit. If the Village determines that it is necessary to consult with a third party to ascertain compliance, all costs and expenses associated with such consultation shall be borne by the owner of the Non-Metallic Mineral Extraction operation. Failure to pay such costs and expenses or provide information requested by the Village shall be grounds for revocation of the conditional use permit or other Village approval, and/or enforcement under the provisions of this chapter.
- u. Any conditional use permit issued for a Non-Metallic Mineral Extraction operation shall not be transferable to a new owner of the property, except via a new or amended conditional use permit. In other words, the conditional use permit shall not run with the land.
- v. Within the FP district, such use shall also be subject to the following additional limitations:
 - i. The operation complies with subch. I of Wis. Stat. § 295 and rules promulgated under that subchapter, with applicable provisions of the local ordinance under §§ 295.13 or 295.14, and with any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mining sites.
 - ii. The operation and its location in the FP district are consistent with the purposes of that district.
 - iii. The operation and its location in the FP district are reasonable and appropriate, considering alternative locations outside the FP district, or

- are specifically approved under state or federal law.
- iv. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - v. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- w. Minimum Required Off-Street Parking: one space per each employee on the largest work shift.

SECTION 2: REPEALER CLAUSE The amendments effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY CLAUSE If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances 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 be in full force and effect upon approval and publication.

PASSED AND ADOPTED BY THE VILLAGE OF WESTON BOARD OF TRUSTEES
AUGUST 18, 2022.

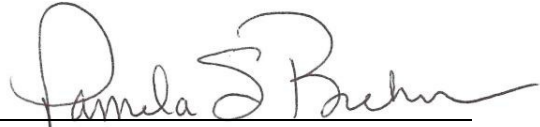
	AYE	NAY	ABSENT	ABSTAIN
Mark Maloney	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Barbara Ermeling	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Nathan Fiene	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Hooshang Zeyghami	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Steve Cronin	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Jamie Weiland	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Jasper Hartinger	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest



Mark Maloney, Village President,
Village of Weston



Pamela Brehm, Village Clerk Village
of Weston

