

TITLE 16 ZONING

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16.1 ARTICLE 1 - GENERAL PROVISIONS

16.1.1 Title.

This chapter shall be known, cited, and referred to as the "Village of Fall Creek Zoning Ordinance."

16.1.2 Intent and Purpose.

This chapter is adopted for the following reasons:

- A. To provide for the citizens of Fall Creek adequate light, pure air and safety from fire and other dangers; to conserve the value of land and buildings; to lessen or avoid congestion of traffic in the public streets; and to promote the public health, safety, comfort, convenience, morals, and general welfare.
- B. To promote the character and stability of residential, business and manufacturing areas within the Village of Fall Creek and to promote the orderly and beneficial development of such areas.
- C. To preserve the aesthetic quality of the village and also historic and cultural areas.
- D. To establish restrictions in order to attain these objectives by adopting a zoning ordinance which will create districts into which the village is divided and provide for the requirements upon the intensity of the use of land and buildings, off-street parking facilities, the provision for administration and enforcement, the penalties for violation of the ordinance and the procedure, powers and duties of the Zoning Administrator, Zoning Board of Appeals, Plan Commission and Board.

16.1.3 Word Usage and Definitions.

- A. Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory and not directory. The word "persons" includes an individual, all partnerships, associations, and bodies political and corporate. The word "lot" includes the word "plot" or "parcel" or "tract." The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- B. Definitions. For purposes of this chapter, certain terms are defined as follows:
 - (1) ABUTTING – Having a common property line or district line.
 - (2) ACCESSORY BUILDING -- A subordinate building, the use of which is purely incidental to the main building. Common examples are garages or yard sheds.
 - (3) ADULT DAY CARE – An entity that provides services for part of a day in a group setting to adults who need an enriched health-supportive or social experience and who may need assistance with activities of daily living, supervision, or protection.
 - (4) ADULT-ORIENTED ESTABLISHMENT – This definition shall be the same as the definition of “Adult-oriented Establishment” at §186-2.A. of the Fall Creek Village

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Code, which definition is incorporated herein by reference.

- (5) **ADVERTISING SIGN** -- An advertising sign, billboard or poster panel which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such advertising sign is located or to which it is affixed, but does not include those business signs which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.
- (6) **ALLEY** -- A way which affords only a secondary means of access to abutting property.
- (7) **ANIMAL UNIT** -- A unit of measure used to determine the total number of single animal types or combination of animal types, as specified in Wis. Admin. Code NR §243.11, table 2, which are fed, confined, maintained, or stabled in an animal feeding operation. For the purpose of this title, one animal unit is equivalent to one head of beef or slaughter cattle weighing more than 1,000 pounds.
- (8) **APARTMENT** -- A portion of a multiple dwelling used as a separate housing unit and having cooking facilities and a private bath.
- (9) **AUTOMOBILE WRECKING YARD** -- Any premises on which two or more self-propelled vehicles not in running order or operating condition are stored in the open.
- (10) **BASEMENT** -- A portion of a building with the floor located below the mean grade level. For the purpose of this chapter, any such basement with more than four feet above grade level shall be counted as a story. No dwelling unit shall be situated in a basement having less than four feet above grade level.
- (11) **BOARDINGHOUSE** -- A building, other than a hotel, where meals or lodging and meals are provided for compensation for not more than six persons.
- (12) **BUSINESS** -- A commercial establishment engaged in the purchase and sale of goods and services for a profit.
- (13) **BUILDING** -- A structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or chattels.
- (14) **BUILDING, ALTERATION OF** -- Any change or rearrangement of the supporting members (such as bearing walls, beams, columns, or girders) of a building, an addition to a building or movement of a building from one location to another.
- (15) **BUILDING, HEIGHT OF** -- The vertical distance from the average elevation of the finished grade at the building line to the highest point of a flat roof or the deck line of a mansard roof or the average height of the highest gable of a gambrel, hip, or pitch roof.
- (16) **BUILDING LINE, FRONT** -- A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.
- (17) **BUILDING, PRINCIPAL** -- A building in which is conducted the main use of the lot on which said building is located.

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- (18) BUSINESS SIGN -- A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises on which such sign is located or to which it is affixed.
- (19) CLINIC -- An establishment of physicians or dentists, or both, for the examination and treatment of patients, but without provisions for keeping such patients overnight on the premises.
- (20) CLUB -- A building owned, leased, or hired by a nonprofit association of persons, the use of which is generally restricted to dues-paying members and their guests. Such club may periodically be rented or leased to nonmembers for gatherings, such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.
- (21) COMMERCIAL VEHICLE -- A vehicle used primarily to earn income or make a profit.
- (22) CORNER LOT -- A lot at the intersection of two streets with two adjacent sides of the lot abutting a street.
- (23) CONFORMING USE -- Any lawful use of a building or lot which complies with the provisions of this title.
- (24) DWELLING, MULTIPLE -- A building or portion thereof used or designated as a residence for three or more families as separate housekeeping units, including apartments, apartment hotels and townhouses.
- (25) DWELLING, SINGLE-UNIT -- A detached building designed for and occupied exclusively by one family.
- (26) DWELLING, TWO-UNIT -- A detached building designed for and occupied exclusively by two families living independently of each other.
- (27) DWELLING UNIT -- Any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for living, sleeping, cooking, and eating.
- (28) FAMILY -- Any number of individuals living and cooking together on the premises as a single housekeeping unit.
- (29) FARM -- A tract of land used for agriculture and from which livestock or agricultural products which are customarily marketed on an annual or more frequent basis.
- (30) FARM-LIMITED -- A tract of land and accessory buildings which support agricultural activity which may not constitute the principal occupation and means of income for the owner or operator of such agricultural activity. A farm under this section does not include any feed lot or any other confined feeding of any animals, other than the occasional feeding of animals in a farm building or temporary feeding pen. No barn or other structure housing farm animals shall be placed closer than 100 feet to the boundary of any R zoning district. Where horses are present, there shall be a minimum of one acre of pasture per horse with additional one-half acre for each colt. Where cows are present, there shall be a minimum of one acre of pasture per

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cow with additional one-half acre for each calf. Any other farm animals shall need approval by the Village Board. No artificial application of manure on lands lying within 50 feet of a property line of any parcel in any other zoning district. No surface drainage carrying manure or soil from the farm shall be permitted onto any adjacent property, onto any public street or into any public storm water facility. No barbed wire fencing shall be permitted on the property line of any parcel adjacent to any Residential zoning district. No aerial spraying of farm chemicals is permitted in the A-2 District.

- (31) FARMING -- All those activities, processes and equipment which are necessary and customary to operate a farm.
- (32) FEEDLOT -- An open lot or enclosed building in which poultry or livestock are closely confined in excess of 45 days per year for the purpose of feeding or holding and where such confinement does not or is not intended to provide natural pasture for animals.
- (33) GARAGE, PUBLIC -- A building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This term may include premises commonly known as "gasoline stations" or "service stations."
- (34) GASOLINE STATION -- Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil or other lubrication substances and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning such vehicles.
- (35) HOME OCCUPATION -- Any occupation for gain or support conducted entirely within a building by resident occupants, which is customarily incidental to the principal use of the premises, does not exceed 500 square feet of floor area, unless a conditional use permit is issued, and no article is sold or offered for sale except such as is produced by such home occupation. A household occupation includes such uses as daycare, millinery, dressmaking, canning, laundering and crafts, but does not include the display of any goods nor such occupations as barbering, beauty shops, dance schools, real estate brokerage or photographic studios.
- (36) HOSPITAL -- An institution devoted primarily to the operation of facilities for the diagnosis, treatment and cure of disease, illness, injury, or other abnormal physical conditions, with provisions for keeping patients overnight.
- (37) HOTEL -- An establishment for transient guests having sleeping rooms without individual cooking facilities for more than six persons for compensation and which may or may not provide meals.
- (38) IMPERVIOUS SURFACE -- An area that releases as runoff all or a large portion of the precipitation that falls on it, other than frozen soil. Examples of surfaces that typically are impervious are any paved, covered, compacted or structural surface

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- that limits or impedes infiltration or otherwise causes additional runoff of surface water, including roofs of buildings, the surfaces of solid decks and patios, and gravel, paved and crushed stone driveways, parking areas and walkways.
- (39) INTEGRATED SHOPPING CENTER – More than one business located in one structure.
 - (40) INTERCHANGE -- A grade-separated intersection with one or more direct connections for vehicular travel between the intersecting streets or highways.
 - (41) JUNKYARD -- An open space where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junkyard also includes an auto wrecking yard but does not include uses established entirely within closed buildings.
 - (42) LICENSED -- The proper display of the registration which includes the necessary plates, tags or decals issued by the authority having jurisdiction over such vehicle or equipment licenses.
 - (43) LOADING AREA -- A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
 - (44) LOT -- A division of land occupied or designed to be occupied by one building and its accessory buildings or uses, including open spaces required by this chapter. A lot may be a parcel of land designated in a plat laid out prior to the effective date of this chapter, whether or not such division abuts a public street or other officially approved place recorded in the office of the Register of Deeds, or any part of a larger division when such parts comply with the requirements of this chapter as to width and area for the district in which they are located. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.
 - (45) LOT AREA -- The total area in a horizontal plane within the peripheral boundaries of a lot.
 - (46) LOT COVERAGE -- The percent of the area of a lot occupied by buildings or structures, including accessory buildings or structures.
 - (47) LOT LINES -- The peripheral boundaries of a lot as defined in this section.
 - (48) LOT WIDTH -- For the purposes of this title, the width of a lot shall be the shortest distance between the side lines at the setback line.
 - (49) MOBILE HOME -- A detached single or double dwelling unit designed for long-term occupancy and containing sleeping accommodations, with a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems, and which is or was designed to be transported on its own wheels and is not specifically designed to be mounted on its own foundation.²
 - (50) MOBILE HOME PARK -- Any lot on which two or more mobile homes are parked for

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- the purpose of permanent habitation, and including any associated service, storage, recreation, and other community service facilities designed for the exclusive use of park occupants.
- (51) MODULAR UNIT -- A detached single or double dwelling unit designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems, which is or was designed to be mounted on a permanent foundation.³
 - (52) MOTEL -- A building or group of buildings containing rooms which are offered for compensation for the temporary accommodation of transients.
 - (53) MOTOR VEHICLE – Any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles, trucks, buses, motorized campers, motorcycles, motor scooters, and tractors.
 - (54) MOTOR VEHICLE ACCESSORIES - Any part or parts of any motor vehicle.
 - (55) NONCONFORMING LOT -- A lot of record existing on the date of passage of this chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.
 - (56) NONCONFORMING STRUCTURE -- A lawful structure which exists on the date of passage of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yard setbacks or other characteristics of the structure.
 - (57) NONCONFORMING USE -- A lawful use of land which exists on the date of passage of this chapter that would not be lawful in the district in which it is situated under the terms of this chapter.
 - (58) NURSING HOME, REST HOME or CONVALESCENT HOME -- A place which undertakes, through its ownership or management, to provide maintenance, personal or nursing care for three or more persons who, by reason of illness, physical deformity, or old age, are unable to care for themselves.
 - (59) OPEN SALES AREA -- Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including but not limited to passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments. No repair work is done in such area, except for incidental repair of items to be displayed and sold on the premises.
 - (60) OUTDOOR STORAGE AREA -- Any open land or area used for the purpose of storage of any product or part of a product either before, during or after manufacture, servicing, or repair and not for display of any product for retail sale. This term does not include open sales areas.
 - (61) PARK, PUBLIC – An area owned and operated by the state, county, or Village of Fall

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Creek, operated for the convenience and recreation of the public and containing such facilities as the owning government may see fit.

- (62) PARKING LOT -- A lot where automobiles are parked or stored temporarily for public use whether free, for compensation or as an accommodation for clients or customers.
- (63) PARKING SPACE -- An off-street space available for the parking of a motor vehicle and which is held to be an area the dimensions of which are 10 feet by 20 feet, or which covers 200 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto.
- (64) PLACE OF ASSEMBLY -- A place where people gather or congregate for amusement, worship, learning, etc. This term includes schools, churches, theaters, playgrounds, etc.
- (65) PLAN COMMISSION -- The Plan Commission of the Village of Fall Creek. The Plan Commission is appointed by the Village President and confirmed by the Village Board pursuant to W.S.A. s. 62.23. The duties of the Commission in regard to this chapter are delineated in §16.8.5 and §16.8.6 of this chapter.
- (66) PERMANENT HABITATION – More than 14 days of occupancy within a calendar year.
- (67) PLANNED UNIT DEVELOPMENT -- A tract of land of at least five acres which contains or will contain two or more principal buildings, developed under single ownership or control; the development of which is unique and of substantially different character than that of surrounding areas.
- (68) PROFESSIONAL HOME OFFICE -- See "home occupation."
- (69) PROPERTY LINES -- The lines bounding a tract of land in single ownership.
- (70) PUBLIC WAY -- Sidewalk, street, alley, highway or other public thoroughfare.
- (71) RAILROAD RIGHT-OF-WAY – A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops or car yards.
- (72) RESTAURANT -- A business establishment consisting of a kitchen and dining room whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.
- (73) RESTAURANT, DRIVE-IN -- A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to be eaten either off the premises or within automobiles parked on the premises.
- (74) REST HOME -- See "nursing home."
- (75) ROADSIDE STAND -- A structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.

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- (76) ROOMING HOUSE -- A building, other than a hotel, where rooming units, but not meals, are provided for compensation for not more than six persons.
- (77) SCHOOL -- A building or group of buildings maintained by the public or by a private organization for the purpose of education and which is accredited by the State of Wisconsin. Schools include grades kindergarten through 12 but not trade schools that do not teach the state-required courses for high school graduation in addition to the vocational instruction.
- (78) SCHOOL, COMMERCIAL -- A school limited to special instructions, such as business, art, music, trades, handicraft, dancing, or riding.
- (79) SETBACK -- The minimum horizontal distance from the front line of the lot, the right-of-way line of the highway or the centerline of the highway, as designated, to the front wall of the building, exclusive of permitted projections. The setback shall be measured at right angles to such front lot line, right-of-way line or centerline of the highway.
- (80) SETBACK LINES -- Lines established parallel to right-of-way lines, lot lines or water bodies for the purpose of defining limits within which structures, buildings or uses must be constructed, maintained, or confined.
- (81) SIGN -- Anything erected, hung, suspended, painted, or attached to any other structure carrying words, letters, figures, phrases, sentences, names, designs, trade names or trademarks or any other devices placed so as to be visible from a street or highway and calling attention to a business, trade, profession, commodity, project, persons, firm or corporation.
- (82) SIGN, CANOPY -- A sign printed on or attached to permanent, stationary canopies or marquees.
- (83) SIGN, FREE STANDING -- A permanent sign not directly attached to a structure.
PROJECTED SIGN: suspended from and extending away from a structure. WALL SIGN: flat signs painted on or attached directly to the structure.
- (84) SIGN, PORTABLE -- Not permanent, and moveable.
- (85) SIGN, PROJECTED -- Suspended from and extending away from a structure.
- (86) SIGN, WALL -- Flat signs painted on or attached directly to the structure.
- (87) SPECIAL EXCEPTION -- A use, either public or private, which, because of its unique characteristics, cannot be properly classified as an approved use in any particular district or districts. In each case, after due consideration by the Zoning Board of Appeals of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such special exception may or may not be granted.
- (88) STREET -- A right-of-way established by a recorded plat to provide the primary means of access to abutting property.

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- (89) STREET, ARTERIAL -- A public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as major thoroughfares, highways, and parkways.
- (90) STRUCTURAL ALTERATION -- Any change in the supporting members of a structure, such as bearing walls, columns, beams or girders, foundations, and poles.
- (91) STRUCTURE -- Anything constructed or erected, the use of which requires location on the ground or that it be attached to something having a location on the ground, but not including utility lines and their normal accessory equipment.
- (92) TRAFFIC VISIBILITY TRIANGLE -- An unoccupied, triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets with railroads. Such traffic visibility triangle shall be bounded by the intersecting highway, street, or railroad right-of-way lines by measurements from their intersection as specified in this chapter.6
- (93) TRAVEL TRAILER or MOTOR HOME -- A vehicular portable structure designed as a temporary dwelling for travel, recreation and vacation use which does not fall within the definition of "mobile home" or "modular unit."
- (94) TWIN HOME -- A two-household dwelling with two individual owners who have rights and responsibilities for their own side and for their own lot.
- (95) USE -- The use of property is the purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained and shall include any manner of standards of this title.
- (96) USE, ACCESSORY -- A use subordinate in nature, extent, or purpose to the principal use of a building or lot.
- (97) USE, CONDITIONAL -- The use of property, including the size, use and location of buildings, the size of lots and the dimensions of required yards, otherwise not allowable under the terms of this title, which is permissible by reasons of special provisions of the title, or for which a special permit may be issued by the Village Board, under conditions specified in this title.
- (98) USE, PERMITTED -- A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.
- (99) USE, PRINCIPAL -- The main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be an approved use or a conditional use.
- (100) VARIANCE -- A relaxation of the terms of this chapter by the Zoning Board of Appeals where the literal enforcement of this chapter would deny to the property owner a use of his property enjoyed as a right by other property owners within the same zoning district. Variances shall be limited to height, bulk and yard requirements, residential basement, and garage requirements.

- (101) YARD -- An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation, as permitted, and except for permitted accessory buildings in rear yards.
- (102) YARD, FRONT -- A yard extending across the full width of a lot, between the road right-of-way and the nearest point of a building or structure, excluding such projections as are permitted in this title. A lot abutting on two intercepting or intersecting streets, shall have two front yards, one side yard and one rear yard. The rear yard shall be directly behind the front yard in which the address is assigned.
- (103) YARD, REAR -- A yard, unoccupied except by accessory buildings, extending from the rear line of the main building to the rear lot line for the entire width of the lot, excluding such projections as are permitted herein.
- (104) YARD, SIDE -- A yard on each side of the building or structure extending from the side lot line to the side wall of the building or structure, such projections as are permitted in this title.
- (105) ZONING ADMINISTRATOR -- An official of the Village of Fall Creek appointed by the Village President and confirmed by the Village Board and charged with the responsibility of administering this chapter. The powers and duties of the Zoning Administrator are outlined in §16.8.2 of this chapter.
- (106) ZONING BOARD OF APPEALS – The Zoning Board of Appeals is appointed by the Village President and confirmed by the Village Board pursuant to W.S.A. s. 62.23. The jurisdiction and authority of the Zoning Board of Appeals is listed in §16.8.3 and §16.8.4 of this chapter.
- (107) ZONING DISTRICT -- An area or areas for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.
- (108) ZONING PERMIT -- A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this title for the zone in which it is located.

16.1.4 Minimum Requirements.

The provisions of this chapter shall be held to be minimum requirements for the promotion of public health, safety, morals, welfare, and aesthetic quality in the Village of Fall Creek.

16.1.5 More Restrictive Provisions to Prevail.

Where the conditions imposed by any part of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or any other laws, ordinances, resolutions, rules or regulations of any kind, the regulations which are more restrictive (or impose higher standards or requirements) shall be enforced.

16.1.6 Existing Easements, Covenants, and Agreements.

This chapter does not abrogate existing easements, covenants, or any other private

agreements, provided that where the regulations of this chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements, the requirements of this chapter shall prevail.

16.1.7 Applicability.

Except as may otherwise be provided in §16.1.9, Nonconforming buildings, structures and uses, of this article, all buildings erected hereafter, all structural alterations or relocations, all uses of land or buildings established and all enlargements of or additions to existing uses occurring after the adoption of this chapter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such buildings, uses or land shall be located.

16.1.8 Existing Building Permits.

Where a building permit for a building or structure has been legally issued prior to the effective date of this chapter and permitted construction is begun within 90 days of such effective date and diligently pursued to completion, said building or structure may be completed in accordance with the plans on the basis of which the building permit has been issued.

16.1.9 Nonconforming Buildings, Structures and Uses.

- A. General provisions. Any lawful building, structure or use existing on the effective date of this chapter may be continued even though it does not conform to the provisions of this chapter for the district in which it is located. Likewise, whenever a district is changed thereafter, the lawful buildings, structures and uses existing on the effective date of the change may be continued.
- B. Special conditions. Structural repairs and alterations of nonconforming buildings, structures and their premises shall not exceed 50% of their equalized value on the date they became nonconforming. Normal maintenance of a structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations, provided that such repairs and alterations do not extend or intensify the nonconforming use.
- C. Rebuilding structures. In the case of a residential or commercial structure or a garage appurtenant to the use of a residential structure situated on a nonconforming lot which is destroyed by fire or other casualty, such structure may be rebuilt to no greater than the exact previous building dimensions.
- D. Discontinuance. A nonconforming use shall be permanently discontinued when:
 - (1) It is discontinued for 12 consecutive months or where there is clear evidence that the owner has abandoned the use. This provision applies to both residential and nonresidential uses.
 - (2) Restoration or repair of a less damaged structure in accord with Subsection C must be started within 180 days from the date of damage and diligently pursued to completion or else the use shall be permanently discontinued, and the structure razed.

16.1.10 Dimensional Requirements.

After the adoption of this chapter, no lot area shall be so reduced that the dimensions and yard requirements imposed by this chapter cannot be met.

16.1.11 Accessory Building.

- A. Accessory buildings shall be less than 75% of the area of the largest floor of the principal building or 75% of the area of the living space of the first and second floors of a multiple-story house.
- B. Pole sheds in agriculture or municipal properties shall not be limited by the provisions of Section A.
- C. Accessory buildings shall be detached from the principal building by at least ten (10) feet OR shall have a fire wall per Wisconsin Administrative Code §321.08.
- D. Accessory buildings must be located in the side or rear yard.
- E. Accessory buildings shall not occupy more than 30% of the area of the rear yard.
- F. The maximum height of accessory buildings shall be twenty (20) feet with a maximum of fourteen (14) feet to the eaves.
- G. The appearance of the structure shall blend with the external appearance of the principal structure on the property.
- H. Setbacks for accessory buildings are defined within specific zoning district regulations.

16.1.12 Open Space; Permitted Obstructions.

Every part of the required area of a yard shall be open to the sky unobstructed, except for accessory buildings and the ordinary projections of sills, cornices, and ornamental features.

- A. In addition, the following obstructions are also permitted:
 - (1) Open fire escapes which do not project more than five feet into a required yard.
 - (2) An open landing or deck, whose height above grade does not exceed two (2) feet.
 - (a) An open landing or deck extending into the front yard shall not extend farther than ten (10) feet into the required yard from the front of the building to which it is attached, affixed or adjacent. Such a landing or deck may be surrounded by a guard rail of no greater than four (4) feet in height above the grade upon which the landing or deck is situated, which shall also be in compliance with Village fence requirements. No open landing or deck of this type shall be so located if the front yard setback for the principal building on the lot in question is less than twenty-five (25) feet.
 - (b) An open landing or deck extending into the side yard shall not extend farther than five (5) feet into the required side yard from the side of the building to which it is attached, affixed or adjacent. Such a landing or deck may be surrounded by a guard rail of no greater than four (4) feet in height above grade upon which the landing or deck is situated, which shall also be in compliance

with Village fence requirements. No open landing or deck of this type shall be so located if the front yard setback for the principal building on the lot in question is less than twenty-five (25) feet and the side yard setback is less than ten (10) feet.

- (c) It is the intent of the Village that if under zoning or subdivision regulations, a lot is not required to have at least a twenty-five (25) foot front yard setback and is not required to have at least a ten (10) foot side yard setback or if the principal structure to which a landing or deck is proposed to be attached, affixed or adjacent is non-conforming with the minimum twenty-five (25) foot front yard setback and ten (10) foot side yard setback requirement, no landing or deck may be placed on said lot.
 - (3) Open terraces not over four feet above the average level adjoining ground, but not including permanently roofed-over terraces or porches.
 - (4) Awnings and canopies.
 - (5) Steps four feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley.
 - (6) Chimneys, provided that they do not project more than 18 inches into a required yard.
 - (7) Children's play equipment.
 - (8) Laundry-drying equipment.
 - (9) Arbors, trellises, landscaping, and trees.
 - (10) Flagpoles.
 - (11) Television and/or radio antennas, provided that the base unit is within 30 inches of the eaves of the principal structure and the entire antenna does not project more than eight feet into any required side or rear yard. In no case may an antenna project into the required front yard.
 - (12) Overhanging eaves and gutters projecting into the yard for a distance not exceeding 40% of the required yard width or three feet.
 - (13) Handicapped ramps, subject to approval on a ramp-by-ramp basis issued by the Zoning Administrator.
- B. Fences, walls, and continuous linear shrubbery, such as hedges, are allowed in all yards, provided that they meet the following height limitations, above average ground level unless otherwise stated:
- (1) Residential, agricultural, and urban transitional districts.
 - (a) Height limitations shall be as follows:
 - i) In front yards or yards adjacent to streets: not to exceed four feet, except in traffic visibility triangles, as illustrated, not to exceed two feet six

inches.

- ii) In side and rear yards: not to exceed six feet, except corner lots, where they may not extend toward any adjacent street further than the principal building setbacks.
 - (b) It will be the responsibility of the property owner wishing to construct a fence, wall, or continuous linear shrubbery between an adjacent property to locate the existing property stakes. If the property stakes are missing, it will be the responsibility of the property owner constructing the barrier to have the property stakes installed by a registered surveyor. All costs shall be borne by the property owner installing the barrier.
 - (c) The finished side of the fence, as deemed by the Zoning Administrator, shall face the adjacent property, and the posts should be placed in the interior of the fence.
 - (d) Permit required. No barrier shall be constructed without a permit having been issued by the Zoning Administrator. Application for the permit shall be made at the Village Clerk-Treasurer's office. The fee for said permit shall be as established by the Village Board.
- (2) Commercial and industrial districts.
- (a) It will be the responsibility of the property owner wishing to construct a fence, wall or continuous linear shrubbery between an adjacent property to locate the existing property stakes. If the property stakes are missing, it will be the responsibility of the property owner constructing the barrier to have the property stakes installed by a registered surveyor. All costs shall be borne by the property owner installing the barrier.
 - (b) The finished side of the fence, as deemed by the Zoning Administrator, shall face the adjacent property, and the posts shall be placed in the interior side of the fence.
 - (c) Permit required. No barrier shall be constructed without a permit having been issued by the Zoning Administrator. Application for the permit shall be made at the Village Clerk-Treasurer's office. The fee for said permit shall be as established by the Village Board.

16.1.13 Traffic Visibility Triangle.

- A. No obstructions, such as structures, parking, or vegetation, shall be permitted between the heights of 2½ feet and 10 feet above the average curb grades, or the street or highway grades at the center line where there is no curb, within the triangular space formed by any two existing or proposed intersecting street, highway or alley right-of-way lines and a line joining points on such lines located 15 feet from their intersection. In the case of arterial highways intersecting with other arterial highways or railways, the distances establishing the traffic visibility triangle shall be increased to 50 feet.

- B. This section shall not apply to electric, gas and communication lines installed and maintained under regulation of a government agency, but a permit shall be required if more than one pole is erected within the fifteen-foot traffic visibility triangle at the intersection of two public roads or if more than three poles are erected within the fifty-foot traffic visibility triangle at the intersection of two arterial highways or an arterial highway and a railway.

16.1.14 Home Occupations.

- A. Purpose. The purpose of this section is to regulate the conditions under which occupations may be carried on in homes, in order that such home occupations may not undermine the general intent and purpose of this chapter and the specific purposes of the residential districts.
- B. Limitations. Home occupations shall be subject to the following limitations:
 - (1) No person shall be employed other than residents of said dwelling.
 - (2) No commodity shall be sold on the premises other than those produced on the premises.
 - (3) The occupation shall be conducted wholly within the dwelling or an accessory building.
 - (4) Floor area devoted to the occupation shall not exceed 15% of the total ground area occupied by buildings on the lot.
 - (5) The occupation shall not be objectionable due to noise, hours of operation, traffic, electrical interference, etc.
 - (6) There shall be no signs other than those allowed by this chapter in residential districts.
 - (7) There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling.

16.1.15 Permitted and Conditionally Permitted Land Uses; Meaning.

In Title 16 zoning districts are utilized to define areas within which specified land uses may be undertaken. To the extent that Title 16 delineates specific uses within each such district which are described as permitted or conditionally permitted uses of property therein, a particular use of property which is not designated as a permitted or conditional use of property for a given zoning district is strictly prohibited in that zoning district.

16.1.16 Classification of Unlisted Uses.

- A. Purpose. In order to ensure that the provisions of this chapter will permit all similar uses in each district, the Zoning Board of Appeals, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted use or a conditional use in commercial, residential or industrial districts shall be deemed a permitted use or a conditional use in one or more districts on the basis of similarity to uses specifically listed.

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- B. Application. Application for determination that a specific use should be included as a permitted use or a conditional use in commercial, residential, or industrial districts shall be made, in writing, to the Zoning Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Zoning Board of Appeals to facilitate the determination.
- C. Investigation. The Zoning Board of Appeals shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in this chapter and to determine its classification.
- D. Determination. The determination of the Zoning Board of Appeals shall be rendered, in writing, within 60 days from application and shall include findings supporting the conclusion.
- E. Effective date of determination. Within five days following the date of a decision, the Zoning Board of Appeals shall transmit to the Village Board and petitioner written notice of the decision, at which time the classification of the unlisted use shall become effective.

16.2 ARTICLE 2 - ZONING DISTRICTS

16.2.1 Establishment.

For the purpose and administration of this chapter, the Village of Fall Creek, Wisconsin, is hereby organized into the following districts:

Residential Districts

- R1 Single-Unit Residential District
- R1A Single-Unit Residential Higher Population Density District
- R2 Two-Unit Residential District
- R2-TH Twin Home District
- R3 Multiple-Unit Residential District
- R4 Low Density Residential District
- R5 Residential and Light Commercial Mixed-Use District
- UT Urban Transitional District
- UT Urban Transitional District
- A1 General Agricultural District
- A2 Limited Agricultural District

Commercial Districts

- C1 Central Business District
- C2 Highway Commercial District
- DBD Downtown Business District
- IND Industrial District
- PPD Public Properties District

16.2.2 Zoning Maps.

The boundaries of the aforesaid zoning districts are hereby established as shown on the maps entitled "Zoning Map of Fall Creek, Wisconsin," dated August 1976, and subsequent revisions. These official maps and all explanatory matter thereon and attached thereto are adopted by reference and declared to be part of this chapter. The Zoning Map of Fall Creek, Wisconsin, and all official explanatory matter attached thereto shall bear the signature of the Village Clerk-Treasurer of Fall Creek, Wisconsin, and shall be on file in the office of the Zoning Administrator.

16.2.3 District Boundaries.

When uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Maps, the following rules shall apply:

- A. District boundary lines are either the center lines of railroads, highways, streets, alleys or easements or the boundary lines of sections, quarter sections, divisions of sections, tracts or lots or such lines extended, unless otherwise indicated.
- B. In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in

accordance with the dimensions shown on the maps measured at right angles from the center line of the street or highway, and the length of frontage shall be in accordance with dimensions shown on the map from section, quarter section or division lines or center lines of streets, highways or railroad rights-of-way, unless otherwise indicated.

16.2.4 Lots of Record.

A lot of record at the time of adoption of this chapter which does not meet the minimum lot area and width requirements of this chapter shall be considered a buildable lot, provided that front, rear and side setbacks are met.

16.2.5 Exception for Established Front Yards.

Where 40% or more of the frontage on the same side of a street between two intersecting streets is developed with buildings which have a front yard greater or lesser in depth than otherwise required by this chapter, new buildings shall be erected no closer than the average front yard so established by the existing buildings but may be erected using the front yard so established.

16.2.6 Uses Permitted in All Districts.

- A. The following uses shall be treated as permitted uses in all zoning districts:
- (1) Temporary buildings for construction purposes for a period not to exceed the completion date of such construction.
 - (2) Uses which are customarily attendant or incidental to any permitted or conditional use in a particular district, provided that such uses do not endanger or diminish the health, comfort and welfare of the neighborhood, do not generate more traffic and do not constitute public or private nuisances.
 - (3) Accessory uses, including off-street parking and loading, as provided by this chapter.
 - (4) Signs. However, the types of signs permitted in particular districts shall be regulated by §16.5.3 and §16.5.4 of this chapter.
- B. Certain municipal facilities excluded from particular districts may be permitted in those districts under appropriate conditions by the Zoning Board of Appeals in accordance with §16.8.3.E.(4) of this chapter.

16.2.7 Residential Districts.

- A. The general purpose of this section is as follows:
- (1) To provide sufficient space in appropriate locations to meet the probable future need for single-unit, two-unit and multiple-unit dwellings at a reasonable range of densities.
 - (2) To protect the value of land and improvements and so enhance the economic base of the Village of Fall Creek.
 - (3) To protect residential areas against fire, explosion, heat, glare, noxious fumes, smoke, dust, odors, noise, and vibrations.

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- (4) To minimize traffic congestion and avoid overloading utilities by regulating the bulk of buildings and hence the density of population.
- (5) To promote public health, comfort, and welfare by providing for adequate light, air, privacy and open space for each dwelling.

B. R1 District.

- (1) Purpose. The R1 District is intended to provide a quiet, spacious living neighborhood in which residents are protected from hazards, such as fires; nuisances, such as noise, odors, vibration, congestion, and environmental and aesthetic degradation; and uses which are incompatible with the provisions of this chapter for this district.
- (2) Uses and requirements. See §16.2.9.

C. R1A District.

- (1) Purpose. The R1A District is intended to provide a living environment similar in all respects to the R1 District, although with a higher population density.
- (2) Uses and requirements. See §16.2.9.

D. R2 District.

- (1) Purpose. The R2 District is intended to provide a living environment similar in all respects to the R1 District, although with a higher population density.
- (2) Uses and requirements. See §16.2.9.

E. R2-TH District.

- (1) Purpose. The R2-TH District is intended to provide a living environment similar in all respects to the R2 District, but to allow for Twin Homes.
- (2) Uses and dimensional requirements. See §16.2.9.

F. R3 District.

- (1) Purpose. The R3 District is intended to provide a living environment similar in all respects to the R1 District, although with a higher population density and greater diversity of housing types.
- (2) Uses and dimensional requirements. See §16.2.9.

G. R4 District. Low Density Residential District.

- (1) Purpose. The R4 district is intended to provide a living environment with the same purposes of the R1 district but with a low-density neighborhood environment where the living environment can include more natural landscape and open space.
- (2) Uses and dimensional requirements. See §16.2.9.

H. R5 District. Residential & Light Commercial Mixed-Use District

- (1) Purpose. The R5 District is intended to provide a living environment similar in all respects to the R3 District with the inclusion of light commercial uses.

(2) Uses and dimensional requirements. See §16.2.9.

I. Urban Transitional District.

(1) Purpose. The UT District is intended to prevent premature development at urban densities on otherwise suitable land which is not served by streets, utilities, and community facilities at the time of designation. The district also permits limited agricultural activity on land within the village limits.

(2) Uses and dimensional requirements. See §16.2.9.

16.2.8 Commercial Districts.

A. C1 District.

(1) Purpose. The C1 District is established to maintain certain elements of the traditional purpose and appearance of the downtown area by permitting higher densities and limited on-street parking near the established commercial core of the village.

(2) Uses and dimensional requirements. See §16.2.9.

(3) Parking and loading requirements shall be as per Article IV of this chapter.

(4) Screening. All outdoor storage facilities shall be screened by a site-obscuring fence or vegetation when the storage area is adjacent to a residential district.

B. C2 District.

(1) Purpose. The C2 District is established to provide for low-density business and limited wholesale and other compatible noncommercial uses.

(2) Uses and dimensional requirements. See §16.2.9.

(3) Parking and loading requirements shall be as per Article IV of this chapter.

(4) Screening. All outdoor storage areas shall be screened by a site-obscuring fence or vegetation when the storage area is adjacent to a residential district.

C. Downtown Business District.

(1) Purpose. The DBD district is established to maintain additional regulations for the downtown area to promote compatibility and blending of facades, to ensure a harmonious ambiance down the main corridor of the village, to promote economic development and provide assurance to business owners that any investment made to improve their property would be protected because the District Guidelines would require all future improvements to continue on with a complimentary theme.

(2) Uses and dimensional requirements. See §16.2.9.

D. Industrial District.

(1) Purpose. The IND District provides a place for all industrial activities, as well as wholesale and research establishments, where interference between industrial activities on the one hand and commercial and residential activities on the other is

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minimized. Any industrial use may be permitted, except one which would endanger the health or safety of residents or would create a public or private nuisance by generating excessive noise, smoke, traffic or air or water pollution.

- (2) Uses and dimensional requirements. See §16.2.9.

E. A-1 General Agricultural District.

- (1) Purpose The A-1 General Agricultural District is established to:
 - (a) Preserve those areas best suited for farming or agricultural use.
 - (b) Protect historic farms and farm activity in the village.
- (2) Uses and dimensional requirements. See §16.2.9.
- (3) Permitted principal structures. The following principal structures are permitted in the A-1 District:
 - (a) Structure for the housing of an individual or a family.
 - (b) Farm structures utilized in the business of agriculture.
- (4) Permitted accessory uses. The following accessory uses are permitted in the A-1 District:
 - (a) Home occupations.
 - (b) Temporary seasonal roadside sales of agricultural products primarily produced upon the premises.
- (5) Permitted accessory structures. The following accessory structures are permitted in the A-1 District:
 - (a) Private garages.
 - (b) Private recreational structures.
 - (c) Private greenhouses and storage sheds.
 - (d) Temporary seasonal roadside stands.
- (6) No accessory structures shall be located within the required front yard except for portable, seasonal fruit and vegetable stands.
- (7) Structures allowed under conditional use permits. In the A-1 District, the following structures may be allowed under conditional use permits: housing for parents or children of the farmer or persons earning a substantial part of their livelihood on the farm, where housing is maintained in structures separate and distinct from that of the housing of Subsection C(2).
- (8) Standards for approval of conditional uses. When reviewing conditional use permit requests for the A-1 District, in addition to the standards set forth in §16.8.5.F., the following factors shall be considered:
 - (a) The statements of purpose of the Zoning Code and this chapter.

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- (b) The compatibility with adjacent land uses and potential for conflict with agricultural use.
 - (c) The need for the proposed use in the A-1 District and the availability of alternate locations.
 - (d) The productivity of the land involved and efforts to minimize the amount of productive land converted to nonfarm use.
 - (e) The need for public services created by the proposed use.
 - (f) The availability of local units of government to provide services without unreasonable burden.
 - (g) The effect of the proposed use on water and air pollution, soil erosion, sedimentation, and other possible environmental damage.
- (9) Notification of conditional uses. The State Department of Agriculture, Trade and Consumer Protection shall be notified.
- (10) Standards for rezoning. Rezoning from the A-1 District shall be based on findings which consider the following factors:
- (a) The suitability of the land for the proposed use by review of soils and drainage and the nature of adjacent land uses.
 - (b) The potential for conflict with remaining agricultural uses in the area.
 - (c) The availability of alternate locations.
 - (d) The productivity of the land involved.
 - (e) Whether adequate public facilities to serve the development are present or are planned to be present without placing an unreasonable burden on local government.
 - (f) Whether the proposed development will cause unreasonable air and water pollution, soil erosion and sedimentation, or other adverse effects or irreplaceable natural resources.
 - (g) Compliance with the Village Comprehensive Plan or Land Use Plan
- F. A-2 Limited Agricultural District
- (1) Purpose. The A-2 Limited Agricultural District is established to:
- (a) Accommodate non-intensive farming operations.
 - (b) Include undeveloped lands within the village intended for future development.
 - (c) Provide areas for low-intensity farming which could be a means of supplementing the primary livelihood of the occupation or the owner of the farm.
- (2) Uses and dimensional requirements. See §16.2.9.

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- (3) Permitted principal structures. The following principal structures are permitted in the A-2 District:
 - (a) Structures for the housing of an individual or family.
 - (b) Farm structures utilized in the business of agriculture.
- (4) Permitted accessory uses. The following accessory uses are permitted in the A-2 District
 - (a) The on-premise production and sale of hand-made craft items.
 - (b) Temporary seasonal roadside sales of agricultural products primarily produced upon the premises.
- (5) Permitted accessory structures. The following accessory structures are permitted in the A-2 District:
 - (a) Private garages.
 - (b) Private recreational structures.
 - (c) Private greenhouses and storage sheds.
 - (d) Temporary seasonal roadside stands.
- (6) No accessory structures shall be located within the required front yard except for portable, seasonal fruit and vegetable stands.
- (7) Structures allowed under conditional use permits. In the A-2 District, the following structures may be allowed under conditional use permits: Housing for parents or children of the farmer or persons earning a substantial part of their livelihood on the farm, where such housing is maintained in structures separate and distinct from that of the housing of Subsection C(2).
- (8) Standards for approval of conditional uses. When reviewing conditional use permit requests for the A-2 District, the conditional use standards of §16.8.5.F. and the A-1 District shall be used.
- (9) Additional requirements shall include those standards specified in the A-1 District.
- (10) Standards for rezoning. Rezoning from the A-2 District shall be based on the findings Which consider the following factors:
 - (a) The suitability of the land for the proposed use by review of soils and drainage and the nature of adjacent land uses.
 - (b) The potential for conflict between the proposed use of the property proposed for rezoning with adjoining agricultural uses.
 - (c) The availability within the Village of alternative locations for the proposed use of the property subject to rezoning.
 - (d) Whether adequate public facilities to serve the development are present or are planned to be present without placing an unreasonable burden on local

government.

(e) Whether the proposed development will cause unreasonable air and water pollution, soil erosion and sedimentation or other adverse environmental effects or damage or destroy irreplaceable natural resources.

(f) Compliance with the Village Comprehensive Plan or Land Use Plan.

G. Public Properties District.

(1) Purpose. The PPD District is established to allow for public use of certain areas, such as parks, playgrounds, schools, governmental uses, or other public areas. Development shall be limited to those projects which meet the regulations of this district.

(2) Uses and dimensional requirements. See §16.2.9.

(3) Dimensional requirements. Dimensional requirements for the PPD District will be determined by Village Board on recommendation of Plan Commission.

(4) Additional requirements; Conditional Use Decision Necessity for Certain Lots.

(a) Before any lot in the Public Properties District which is located immediately adjacent to a lot or lots not zoned Public Properties uses may be developed, plan of the proposed development shall be submitted to the Plan Commission for consideration of whether approval of said development shall be conditioned upon the planting of a landscape buffer strip, four (4) feet in width, situated immediately adjacent to the lot line adjoining non-Public Properties zoned property. The procedure under §16.8.5. shall control as to submission and action upon such a conditional use. The Village Board shall act upon such a request upon recommendation of the Plan Commission.

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16.2.9 Schedules of Zoning Uses and Requirements.

H. Schedule of Zoning Uses for Residential Districts

SCHEDULE OF ZONING USES FOR RESIDENTIAL DISTRICTS								
KEY: P-Permitted C-Conditional – Subject to Provisions in§16.8.5 X-Prohibited	R1	R1A	R2	R2-TH	R3	R4	R5	UT
Accessory building - detached	P	P	P	P	P	P	P	
Adult day care facilities	C	C	C	C	C	C	C	
Agriculture, horticulture, and forestry activities								P
Boarding schools	C	C	C	C	C		C	
Cemeteries and mausoleums.	C	C	C	C	C		C	
Childcare facilities.	C	C	C	C	C	C	C	
Churches and places of public worship.	C	C	C	C	P		P	
Dwellings: Single-unit detached dwellings, except mobile homes	P	P	P	P	P	P	P	See Note 1
Dwellings: Two-unit dwellings			P	P	P			See Note 1
Dwellings: Multiple-unit dwellings and apartments					P		P	See Note 1
Elderly: Housing for elderly persons.					C		P	
Funeral homes.	C	C	C	C	C		C	
Golf courses and club houses								C
Government offices, post offices and libraries	P	P	P	P	P		P	
Historical and cultural features and structures	C	C	C	C	C	C	C	
Home occupations	P	P	P	P	P	P	P	
Hospitals, sanatoriums, and clinics.					C		C	C
Mobile home parks designed according to the provisions of §16.3 of this chapter					C		C	
Offices of charitable and nonprofit institutions.	C	C	C	C	C		C	
Parks, forest preserves and recreational areas when publicly owned and operated	P	P	P	P	P		P	P
Personal and business establishments to include such things as food prep and distribution, food services including on-site serving of meals, offices, counseling services, seminars/training, fitness center							C	

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SCHEDULE OF ZONING USES FOR RESIDENTIAL DISTRICTS								
KEY: P-Permitted C-Conditional – Subject to Provisions in§16.8.5 X-Prohibited	R1	R1A	R2	R2-TH	R3	R4	R5	UT
Postsecondary educational institutions or seminaries	C	C	C	C	C		C	
Private, for-profit golf courses and swimming pools	C	C	C	C	C		C	
Private nonprofit clubs and lodges					C		C	C
Privately and publicly regulated utilities, such as phone exchanges or electric substations	C	C	C	C	C		C	
Publicly regulated utility installations, including telephone exchanges, telephone service garages and shops and electric substations and booster stations								C
Railroad rights-of-way and trackage, but not including classification yards, terminal facilities, and maintenance facilities	C	C	C	C	C		C	
Rest homes and nursing homes					C		P	
Retail garden centers, including greenhouses	C		C	C	C		C	
Schools, kindergarten through grade 12, non-boarding	P	P	P	P	P		P	
Temporary real estate offices	C	C	C	C	C		C	

Note 1: New Construction not permitted in Urban Transitional (UT).

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I. Schedule of Zoning Uses for Commercial Districts

SCHEDULE OF ZONING USES FOR COMMERCIAL DISTRICTS							
KEY: P-Permitted C-Conditional – Subject to Provisions in §16.8.5 X-Prohibited	C1	C2	DBD	IND	A1	A2	PPD
Adult-oriented establishments				P			
Agriculture, including dairying, floriculture, forestry, general farming, grazing, horticulture, nurseries, orchards, paddocks, pasturage, stabling, truck farming and viticulture				P	P	P	
Agriculture-related business which is secondary to the use of the premises. See Note 1 below.					C		
Airports				C			
Automotive and equipment service establishments, including gasoline service stations	C	P	C				
Automobile and other vehicle sales	C						
Banks and Financial institutions	P	P	P				
Bus depots	P	P					
Clinics	P	P	P				
Commercial and professional offices	P	P	P				
Conservation and environmental land uses and drainage structures					P	P	
Dwellings: Apartments, if above the first floor See Note 1	P		P				
Dwellings: Single-unit detached dwellings, except mobile homes					P	P	
Dwellings: Single-unit, two-unit and multiple-unit, plus customary accessory buildings	C	C					
Dwellings: A second housing unit for a parent or child of the farmer or persons earning a substantial part of their livelihood on the farm					C		
Feedlots. See Note 2 below.					C		
Kennels-Commercial boarding and breeding	C	C					
Grain, fertilizer, and petroleum products: bulk sale and storage of	X	C	X				
Government offices, post offices and libraries	P	P	P				
Historic and cultural features and buildings	P	P	P				
Home occupations					P	P	
Hospitals and sanitariums.		C					
Hotels and motels.		P					

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SCHEDULE OF ZONING USES FOR COMMERCIAL DISTRICTS							
KEY: P-Permitted C-Conditional – Subject to Provisions in§16.8.5 X-Prohibited	C1	C2	DBD	IND	A1	A2	PPD
Livestock: Sale and storage	X	X	X				
Metals, minerals, stone, scrap, and waste materials: sale and outside storage of, except in small quantities as part of the stock of a permitted or conditional use.	X	X	X				
Municipal uses, village owned and operated;							P
Noncommercial parking							P
Parking lots	P	P					
Parks, forest preserves and recreational areas when publicly owned and operated	P	P					
Penal or correctional institutions	C	C					
Personal and business service establishments	P	P	P				
Private clubs and lodges	P	P					
Private, for-profit outdoor recreation areas, including golf courses, miniature golf courses, swimming pools and campgrounds.		C					
Production, processing, servicing, testing, repair and storage of materials, equipment, and goods				P			
Public parks, playgrounds, schools							P
Public service uses, including filtration plants, pumping stations, water reservoirs, sewage treatment plants, garbage incinerators, garages and shops, storage yards and police and fire stations				P			P
Publicly regulated utility installations, including telephone exchanges, telephone service garages and shops and electric substations and booster stations				P			P
Railroad rights-of-way, trackage and terminals, but not including classification yards and maintenance facilities	C						
Railroad rights-of-way, including trackage, terminals, classification yards and maintenance facilities.				P			
Retail sales establishments	P	P	P				
Research establishments and laboratories				P			
Rest homes and nursing homes	C	C					
Restaurants - cafes, taverns, and bars	P	P	P				
Restaurants - drive-in.	C	C					
Scrap yards, junkyards and automobile salvage yards				C			
Signs for municipal and public utility use.							P

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SCHEDULE OF ZONING USES FOR COMMERCIAL DISTRICTS							
KEY: P-Permitted C-Conditional – Subject to Provisions in §16.8.5 X-Prohibited	C1	C2	DBD	IND	A1	A2	PPD
Stone and gravel pits and quarries, including incidental uses such as crushing and sorting equipment and storage yards.				C			
Telephone exchanges, electric substations and booster stations and similar installations of publicly regulated utilities.	C	C					
Auditoriums, arcades, bowling alleys, community centers, theaters, and other similar places of amusement	C	C	C				
Uses prohibited in the commercial districts, except scrap yards				P			
Veterinary hospitals and clinics	C	P					
Wholesale establishments	C	P		P			
Warehouses and distribution centers – Industrial				P			
Warehouses for local wholesale and retail establishments or for personal property, but not including industrial warehouses and distribution centers	C	P					
All other uses, residential, commercial, public, and semipublic, are prohibited, except that a dwelling may be provided for a caretaker if an industrial activity requires constant supervision.				X			

Note 2: Second-floor dwellings are permitted in C1 Commercial District and DBD Downtown Business District only when they are secondary to commercial use on the first floor and are subject to the following restrictions:

- (a) The first-floor commercial space may not be vacant for a period of greater than 6 months without obtaining a variance from the Village Board.

Note 3: Agriculture-related businesses which are secondary to the use of the premises, provided that they meet the following criteria:

- (a) The use shall be conducted entirely within the residence, or an accessory structure customarily located on a farm or rural homestead.
- (b) Only family members residing upon the premises may be employed by the user.
- (c) There shall be no outside storage or display of materials, equipment, or products.
- (d) There shall be no excessive noise, odor, dust, glare, vibrations, or electrical disturbances noticeable beyond a lot line.
- (e) Signs shall be limited to a nonilluminated, on-site sign, three feet by two feet, listing the name of the owner and nature of the occupation.

Note 4: Feedlots, provided that the following criteria are met:

- (a) Any feedlot of more than 20 animals shall not be closer than 1,000 feet to a residential district.
- (b) An animal-waste handling plan shall be provided.
- (c) Fencing or screening shall be provided.

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- (d) No structure shall be placed within 100 feet of any lot line.
- (e) Sales of agricultural-related products, such as feed, seed, fertilizer, herbicides, and pesticides, by a farmer to supplement farm income and customarily carried on as a part of the farm operation.

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J. Schedule of Zoning Building, Dimensional, and Additional Requirements for Residential Districts

SCHEDULE OF ZONING BUILDING, DIMENSIONAL, AND ADDITIONAL ALLOWANCES AND REQUIREMENTS FOR RESIDENTIAL DISTRICTS								
KEY: SF – Square Feet BR – Bedroom	R1	R1A	R2	R2-TH	R3	R4	R5	UT
<i>Building Minimum Floor Area (excluding basements)</i>								
	1,092 SF	1,092 SF				1,092 SF		
Per dwelling unit								
2-unit dwellings (ea unit)			750 SF	750 SF				
Single unit dwellings			1,092 SF	1,092 SF				
Per dwelling unit for 3-unit or more structures								
1 BR Unit					650 SF		650 SF	
2 BR Unit					750 SF		750 SF	
Add'l for ea BR over 2					120 SF		120 SF	
<i>Building Height - Maximum</i>								
	35 FT	35 FT	35 FT	35 FT		35 FT	35 FT	35 FT
<i>Garage (attached or unattached)/Parking – See Note Below</i>								
Garage for all single unit dwellings – 575 SF minimum.	YES	YES		YES		YES		
Two-stall garage for each dwelling unit. Minimum width 24 FT			YES					
One-stall garage and one off-street parking space for each dwelling unit					YES		YES	
<i>Additional Allowances or Requirements</i>								
Basement requirements – See Note below	NO	NO	NO	NO	NO	NO	NO	

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SCHEDULE OF ZONING BUILDING, DIMENSIONAL, AND ADDITIONAL ALLOWANCES AND REQUIREMENTS FOR RESIDENTIAL DISTRICTS								
KEY: SF – Square Feet BR – Bedroom	R1	R1A	R2	R2-TH	R3	R4	R5	UT
Basement elevation – See Note 5 below.	YES	YES	YES	YES	YES	YES	YES	
Curb requirements – See Note 6 below.	YES	YES	YES	YES	YES	YES	YES	YES
Parks & Playgrounds – See Note 7 below	YES	YES	YES	YES	YES	YES	YES	YES
Twin Homes – See Note 8 below.				YES				
Lot Requirements								
Minimum Lot Area	10,000 SF	8,500 SF	13,000 SF	6,500 SF	13,000 SF or 3,000 SF per dwelling	30,000 SF or .688 Acres	13,000 SF or 3,000 SF per dwelling	217,800 SF or 5 Acres
<u>Maximum Lot Area</u>	30,000 SF or .688 Acres	20,000 SF or .459 Acres	30,000 SF or .688 Acres	30,000 SF or .688 Acres	See Note 9 below	217,800 SF or 5 Acres	See Note 9 below	N/A
Minimum Lot Width	100 FT	70 FT	130 FT	50 FT per Side	130 FT	150 FT	130 FT	300 FT
Front Lot Line - Setback								
Principal Building	25 FT	25 FT	30 FT	30 FT	30 FT	30 FT	30 FT	30 FT
Side Lot Line - Setback								
Principal Building	10 FT	10 FT	10 FT	10 FT	10 FT	20 FT	10 FT	25 FT
Shared Property Line	NA	NA	NA	0 FT	NA	NA	NA	NA
Accessory Building	3 FT	3 FT	3 FT	3 FT	3 FT	8 FT	3 FT	10 FT
Rear Lot Line - Setback								
Principal Building	20 FT	20 FT	20 FT	20 FT	20 FT	20 FT	20 FT	25 FT
Accessory Building	3 FT	3 FT	3 FT	3 FT	3 FT	8 FT	3 FT	10 FT

Note 5: The basement elevation shall be established from the first-floor elevation. The Village Engineer and/or Building Inspector will review and may establish a different first-floor elevation of tri-level homes, commercial buildings, industrial buildings, and any other building that cannot because of drainage, topographic, or other unique lot characteristics meet the above standard. Any incurred charges will be the responsibility of the property owner.

Note 6: The minimum height above the top of curb nearest the front or main entrance of the building for the first-floor or main floor of new buildings shall be 1'4" (one foot, four inches). The maximum height above the top of curb for the first-floor or main floor of new buildings shall be 4'4" (four feet, four inches).

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Note 7: The developer shall dedicate sufficient land area to provide adequate park, playground, recreation, and open space to meet the needs to be created by and to be provided for the land division, subdivision, or comprehensive development. The minimum dedication shall be in accordance with §267-20.

Note 8: The following are allowances or requirements for twin homes.

- (a) A joint or attached driveway serving the attached twin home dwellings is permitted provided covenants addressing the maintenance of such driveway are in a form approved by the Village.
- (b) A minimum fire wall separation complying with SPS 321.08, Wis. Adm. Code, providing a vertical separation of all areas from the lowest level to flush against the underside of the roof, is required between each dwelling unit.
- (c) The plans, specifications and construction shall require the installation and construction of separate septic systems, water, and other utility services to each twin home dwelling.
- (d) Both lots containing the attached twin home dwelling shall be held under the same ownership until the completion of construction of the twin home dwelling.
- (e) A maintenance agreement (party wall agreement) shall be entered into by the owners of the attached twin home dwellings in order to ensure that equal and reasonable maintenance and repairs are performed on the attached twin home dwellings. Alternatively, provisions for maintenance of common walls may be incorporated into applicable covenants to be reviewed and approved by the Village. Such agreements or covenants shall be recorded in the Eau Claire County Register of Deeds.
- (f) Easements necessary for water, sanitary sewer and utility services and the maintenance agreement shall be recorded in the Eau Claire County Register of Deeds.
- (g) The exterior and roof materials on each attached twin home dwelling shall be of the same color, quality, and consistency.
- (h) A statement shall be placed on the face of all twin home plats or certified survey maps creating twin home dwelling lot stating "When two attached, single family dwelling units are created matters of mutual concern to the adjacent property owners, due to construction, catastrophe, and/or maintenance, shall be guarded against by private covenants and deed restrictions and the Village of Fall Creek shall not be responsible for the same."

Note 9: Maximum lot size to be determined upon plat approval by the Village Board at the Plan Commission's recommendation.

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Schedule of Zoning Dimensional Requirements for Commercial Districts

SCHEDULE OF ZONING BUILDING, DIMENSIONAL, AND ADDITIONAL REQUIREMENTS FOR COMMERCIAL DISTRICTS							
	C1	C2	DBD	IND	A1	A2	PPD
<i>Building Height - Maximum</i>							
Buildings	35 ft	35 ft	35 ft	35 ft	35 ft,	35 ft	ALL PPD-Determined by VB on PC recommendation
Barn or Silo					Half distance to nearest lot line	60 ft	
<i>Additional Allowances or Requirements</i>							
Basement required	NO	NO	NO	NO	NO		
Basement elevation – See Note 10 below.	YES	YES	YES	YES	YES		
Curb requirements – See Note 11 below.	YES	YES	YES	YES	YES		
<i>Lot Requirements</i>							
<u>Minimum Lot Area</u>	2,500 FT	10,000 FT	2,500 FT	10,000 FT	20 Acres	5 Acres	
<u>Maximum Lot Area</u>	<u>N/A</u>	N/A	N/A	N/A	N/A	N/A	N/A
<u>Minimum Lot Width</u>	25 FT	100 FT	25 FT See Note 12	100 FT			
<i>Front Lot Line - Setback</i>							
	0 FT	30 FT	0 FT	30 FT	30 FT residence, 150 FT farm structures	30 FT residence, 150 FT farm structures	
<i>Side Lot Line - Setback</i>							
Principal Building	0 ft	10 ft	0 ft	20 ft	25 ft	25 ft	
Accessory Building	0 ft	10 ft	0 ft	10 ft	25 ft	25 ft	
<i>Rear Lot Line - Setback</i>							
Principal Building	0 ft	20 ft	0 ft	20 ft	50 ft	50 ft	
Accessory Building	0 ft	10 ft	0 ft	10 ft	50 ft	50 ft	

Note 10: The basement elevation shall be established from the first-floor elevation. The Village Engineer

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and/or Building Inspector will review and may establish a different first-floor elevation of tri-level homes, commercial buildings, industrial buildings, and any other building that cannot because of drainage, topographic, or other unique lot characteristics meet the above standard. Any incurred charges will be the responsibility of the property owner.

Note 11: The minimum height above the top of curb nearest the front or main entrance of the building for the first-floor or main floor of new buildings shall be 1'4" (one foot, four inches). The maximum height above the top of curb for the first-floor or main floor of new buildings shall be 4'4" (four feet, four inches).

Note 12: Properties in Downtown Business District (DBD) may petition for the Village Board with the Plan Commission recommendation for 20 FT minimum lot width.

16.3 ARTICLE 3 - MOBILE HOME PARKS

16.3.1 Intent and Purpose.

It is the intent and purpose of this article to regulate the placement of mobile homes of all types and varieties in the Village of Fall Creek with regard to providing adequate standards to protect the public health, safety, morals, convenience and general welfare, and to:

- A. Provide regulations and standards for the development of a safe, healthy and well-designed community for permanent mobile home living.
- B. Provide, in appropriately located areas within specific zoning districts, sites for mobile home living developed at reasonable density consistent with sound standards of public health and safety.
- C. Comply as much as possible with the objectives and purposes of each zoning district in which mobile home parks are located.
- D. Ensure adequate light, air, access and open space for each mobile living unit.
- E. Regulate the mobile home park such that it will complement the land use policy of the zoning district.

16.3.2 Mobile Homes to be Located in Permitted Areas Only.

No mobile home, as defined in this chapter, shall be occupied or used for living or sleeping purposes unless it is located in an area that has been granted an appropriate permit by the Zoning Administrator. Temporary mobile homes or travel trailers used on construction projects or in conjunction with carnivals and circuses or like events may be permitted when approved by the Zoning Administrator.

16.3.3 Conditional Use Permit Required; Design and Performance Standards.

The following regulations shall apply to mobile home parks:

- A. Administration.
 - (1) Application conference. Prior to applying for a conditional use permit, the applicant is required to confer with the Plan Commission. A conference shall be scheduled by the Plan Commission within 30 days after receipt of the following basic information and data, accurately displayed on maps:
 - (a) The boundaries of the property.
 - (b) Existing easements and covenants affecting the property.
 - (c) Land characteristics, such as natural drainage, swamp areas and wood areas.
 - (d) Development characteristics, such as surrounding streets, existing buildings and available community sewer, water and other utilities.
 - (e) An overall land use development plan delineating the street system, individual mobile home sites, parking areas, concrete pads, recreational areas, public and private utility installations and any additional on-site improvements.

Accompanying the land use development plan shall be a phasing plan for the development of the project.

- (2) Plan Commission review and recommendation. The Plan Commission shall review the proposed conditional use permit to determine its conformity with land development trends in the community and standards of the Official Comprehensive Plan and recognized principles of design, land use planning and landscape architecture.
 - (a) The Plan Commission shall convey, in writing, to the applicant:
 - i) Approval;
 - ii) Approval with conditions;
 - iii) Approval with modifications; or
 - iv) Rejection of the proposal.
 - (b) This communication must be made within 60 days of receipt of the information and data set forth in Subsection B(1).14
- (3) Conditional use permit filing procedure. After receipt of a written report from the Plan Commission, the applicant may file for a conditional use permit in accordance with the provisions of §16.8.5.
 - (a) Findings of facts. Within 30 days after the close of the public hearing on the proposed conditional use permit, the Village Board shall make a written finding of facts. For the Board to make an affirmative recommendation, it must find in each of the following instances that:
 - i) The establishment of a proposed mobile home park will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - ii) The proposed mobile home park will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood.
 - iii) The proposed mobile home park will not impede the normal or orderly development of the surrounding property for uses permitted in the district.
 - iv) Adequate utilities, access roads, drainage and/or other necessary facilities have been, are being or will be provided.
 - v) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (b) Effect of denial. No application for a conditional use permit which has been denied wholly or in part by the Village Board shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or

proof of changed conditions found to be valid by the Plan Commission.

B. Required conditions.

- (1) A mobile home park may be permitted by a conditional use permit in the Multiple-Unit Residential (R3) District.
- (2) Mobile home parks may be permitted on parcels or lots of record of not less than 200,000 square feet of area.

C. Design and performance standards.

- (1) There shall be a maximum of six mobile homes per gross acre.
- (2) There shall be a minimum of 5,000 square feet of site area per mobile home. In no case may a mobile home occupy more than 25% of any lot.
- (3) A mobile home park shall provide indoor and outdoor community use facilities and recreation open spaces, of which not less than 5,000 square feet in area for each 10 acres or portion thereof shall be developed for use by children. The aggregate community use facilities and open spaces shall not be less than 200 square feet for each mobile home space.
- (4) Not more than one conventional dwelling unit shall be located in any facility granted a conditional use permit under this article.
- (5) No mobile home or dwelling unit shall be located in a required front yard or less than 25 feet from the property line of the mobile home park boundary.
- (6) Individual mobile home sites within the mobile home park shall be designated and staked or otherwise marked so as to be readily identified. Only one mobile home may be located on a mobile home site as designated and subject to the following limitations:
 - (a) The front yard and rear yard shall be a minimum of 10 feet.
 - (b) The side yard shall be a minimum of five feet.
 - (c) There shall be a minimum distance of 20 feet between mobile homes and/or other principal permitted structures.
- (7) The only accessory structure permitted on individual mobile home sites shall be a temporary sun or wind shelter and/or a storage building with a minimum size of 10 feet by 10 feet and garages for the storage of motor vehicles.
- (8) All streets for automobile circulation shall be as follows:
 - (a) Two-way street: if parking on both sides, 32 feet; if parking on one side, 25 feet; if no parking, 18 feet.
 - (b) One-way street: if no parking, 14 feet.
- (9) A minimum of two improved parking spaces shall be provided for each mobile home, one of which shall be on the mobile home site.

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- (10) All utilities, including television service, shall be underground.
- (11) Fencing and landscaping.
 - (a) Adequate landscaping shall be provided, including trees and shrubs, around the perimeter of the mobile home park.
 - (b) Additional fencing and landscaping, including perimeter fencing along interior, side and rear lot lines, may be recommended by the Plan Commission and required by the Village Board as part of the conditional use permit for the mobile home park.
- (12) A designated camp and travel trailer and boat storage area shall be provided with an aggregate area of 50 square feet per mobile home space.

16.4 ARTICLE 4 - PARKING AND LOADING

16.4.1 Purpose.

The purpose of this article is to promote public safety and welfare by reducing the congestion of public streets. Off-street parking and loading space will be provided on individual lots in a quantity related to the use of the property.

16.4.2 Applicability.

The off-street parking and loading provisions of this chapter shall apply as follows:

- A. Off-street parking and loading space shall be provided for all buildings and structures erected after the effective date of this chapter.
- B. Where the intensity of the use of any building, structure or premises is increased, additional parking shall be provided to match the increased intensity of use.
- C. Where an existing building or structure is converted to a new use, parking shall be provided according to the requirements of the new use.
- D. Existing parking and loading serving any type of use shall not be reduced below the requirements of this chapter.
- E. Off-street parking and loading may be established voluntarily, provided that it meets the requirements of this chapter.
- F. Where a conforming or legally nonconforming building is destroyed or damaged by fire, explosion, flood or any other man-made or natural catastrophe, no off-street parking or loading is required during the process of reconstruction.
- G. Any application for a zoning permit shall include therewith a plot plan accurately showing any parking or loading facilities to be provided in compliance with this chapter.
- H. Off-street parking facilities for different buildings, structures, uses or mixed uses may be provided collectively in any nonresidential zoning district, provided that the total number of stalls so located together shall not be less than the sum of the separate requirements of each use.

16.4.3 Size of Stall.

A required off-street parking stall shall be at least 10 feet in width and at least 20 feet in length, exclusive of access drives and aisles, ramps or columns. A stall shall have a vertical clearance of at least seven feet.

16.4.4 Surfacing.

- A. Any off-street parking area or driveway located on a street with a curb and gutter shall be improved with a permanent dust-free surface of concrete or hot-mix asphalt, meeting the Village of Fall Creek standards and specifications. Any other hard surfacing will require village board approval. Property owners of existing unpaved driveways on a street with curb and gutter at the time of chapter amendment adoption shall be notified within 30 days and will have a three-year period in which to improve the driveway to a hard surface.

Property owners of new construction will have one year from the date of the approved building permit in which to install a hard surface driveway. On property without a garage, paving will be required for a length of 25 feet in from the street property line.

- B. Exceptions to this requirement may be granted by Village Board upon specific request of property owner and recommendation of the Director of Public Works.

16.4.5 Permitted Parking Areas.

- A. Motor vehicle parking is allowed in all required yards, except in the first 25 feet of a required front yard. On corner lots, parking shall not be allowed in the side yard within 25 feet of the adjacent street right-of-way. Parking is allowed only on hard-surfaced driveways and hard-surfaced parking lots. Permission may be granted by Village Board to allow parking in required front and side (flankage) setbacks.
- B. Required parking stalls for single- and two-unit dwellings may be located in the driveway of the dwelling. However, no part of a parking stall shall extend into the right-of-way.
- C. No parking is allowed in the traffic visibility triangle described in §16.1.13.
- D. Commercial vehicles licensed or weighing over 12,000 pounds, commercial vehicles with trailers measuring 30 feet or more in length from the front of the vehicle to the rear of the trailer and construction equipment shall not be parked or stored off street on property zoned residential, except for such time as is reasonably necessary to load or unload a vehicle or in connection with rendering service to a building under construction, alteration or repair or in connection with the construction, maintenance or repair of public streets or utilities, unless the vehicle, without trailer, is parked or stored in an accessory building meeting the specifications as required under the definition of “accessory building” in §16.1.3 and §16.1.11, Accessory buildings. This subsection does not apply to school buses on school property.
- E. Campers, travel trailers, motor homes, boats, buses, trucks licensed over 10,000 pounds and other similar recreational vehicles and apparatus shall not be parked or stored for a length of time greater than 24 hours in the first 25 feet of required front yards of residential lots. On corner lots, parking shall not be allowed for a length of time greater than 24 hours in the side yard within 25 feet of the adjacent street right-of-way.
- F. Major repair and alteration of the commercial and recreational vehicles listed in Subsections D and E above shall not be conducted in any residential district except within a completely enclosed building, nor shall such repair and alteration be conducted as an occupation in any residential district.

16.4.6 Truck Loading and Parking Areas.

Off-street areas sufficient for all truck loading and truck storage and parking shall be provided in connection with all buildings and uses delivering and receiving goods, materials, and supplies by truck and those using trucks in their business or operation.

16.4.7 Number of Parking Stalls Required.

- A. Single-unit dwellings and mobile homes: two stalls per dwelling unit.

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- B. Multiple-unit dwellings and duplexes: two stalls per dwelling unit.
- C. Hotels and motels (): one stall per guest room and one stall per three employees.
- D. Clubs, lodges, sororities, fraternities, dormitories, and lodging houses and boardinghouses: one stall per two beds.
- E. Service institutions.
 - (1) Hospitals: one stall per two beds and one stall per three employees.
 - (2) Sanatoriums, institutions, rest homes and nursing homes: one stall per four beds and one stall per three employees.
- F. Medical and dental clinics: six stalls per doctor.
- G. Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly: one stall per six permanent seats or one stall per 200 square feet, whichever is greater.
- H. Schools.
 - (1) Elementary schools: one stall per employee.
 - (2) Colleges and secondary schools: one stall per employee and one stall per five students.
- I. Retail sales and services.
 - (1) Restaurants, bars and lounges: one stall per 100 square feet of gross floor area or one stall per six seats, whichever is greater.
 - (2) Financial institutions, businesses, and governmental and professional offices: one stall per 300 square feet.
 - (3) Funeral homes: one stall per four seats or one stall per 200 square feet, exclusive of embalming facilities, whichever is greater.
 - (4) Bowling alleys (also see Subsections G and I of this section): three stalls per lane.
 - (5) All other retail sales and services, including shopping centers: one stall per 500 square feet gross floor area.
- J. Manufacturing and processing plants, laboratories, warehouses, and wholesale sales: one stall per two employees.
- K. Parking for the Downtown Business District shall be approved on a case-by-case basis, as part of the plan review.

16.5 ARTICLE 5 - SIGNS

16.5.1 Purpose.

- A. The purpose of this article is to promote health, safety, general welfare, and order within the Village of Fall Creek through the establishment of comprehensive, uniform standards and procedures governing the type, number, size, structure, location, height, lighting, use and/or display of devices, signs or symbols serving as a visual communication media to persons situated within or upon public rights-of-way or private properties.

16.5.2 Gross Sign Area; Computation of Number and Square Footage.

- A. The gross sign area shall be the area within the single continuous line enclosing the extreme limits of such sign. It does not include any structural or framing elements lying outside the limits of such sign surface and not forming an integral part of the display.
- B. In computing the number and square footage of signs, all signs other than those allowed in §16.5.3 and signs on windows shall be included.

16.5.3 Signs Allowed Without a Permit - All Zoning Districts.

The following signs are allowed in all zoning districts without a permit but shall comply with all other applicable provisions of this chapter:

- A. Public signs. Signs of a public, noncommercial nature, to include safety signs, danger signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques, and the like, when signs are erected by or on order of a public officer or public employee in the performance of official duty.
- B. Nameplates and identification signs. Nameplates and identification signs not exceeding three square feet in area for each dwelling unit. Content shall be limited to the name and address of the occupant and the name and nature of a permitted home occupation.
- C. Integral signs. Names of buildings, date of construction, commemorative tablets and the like which are of a permanent type of construction, and which are an integral part of the building or structure.
- D. Individual property sale or rental signs. Any on-premise sign announcing the name of the owner, manager, realtor or other person directly involved with the sale or rental of the property or announcing the purpose for which it is being offered, provided that (a) signs must be removed within 10 days after sale or rental of the property, (b) signs may not measure more than six square feet in the R1, R1A, R2TH, R2, R3, R4 and R5 Districts and 20 square feet in the C1, C2, I, UT, A-1 and A-2 Districts, and (c) there shall be only one such sign per property. Corner properties may contain two signs, one per frontage but may not interfere with the vision triangle as listed in §16.1.13.
- E. Occasional yard sale sign. See Chapter 144.
- F. Temporary signs advertising a social or fund-raising event may be two sided, and shall not exceed 16 square feet. The sign shall not encroach upon the street right-of-way or interfere with the vision triangle as listed in §16.1.13. No more than 4 such signs shall be

allowed per event. These signs shall remain in place for no longer than 7 days before and 2 days after the event.

- G. Temporary signs for advertising may be two sided and shall not exceed 16 square feet. The sign shall not impede public sidewalks, encroach upon the street, or interfere with the vision triangle as listed in §16.1.13. If these signs are located on the sidewalk, they must be removed each evening.
- H. Political campaign signs. Signs or posters announcing the candidates seeking political office and/or political issues and a date pertinent thereto, provided that all such signs are located on private property and do not violate the State election laws. Such signs shall not exceed four square feet in area. These signs shall remain in place for no longer than 45 days before and five days after the election for which they are intended.
- I. Trespassing signs. Signs which indicate the allowed use of private property, such as no trespassing, no hunting, or hunting by permission only per terms of state law as to frequency and size.
- J. Subdivision development sign. One sign not larger than 32 square feet pertaining to the development or sale of the land on which the sign is located. No such sign shall be located closer than 20 feet to a property line or right-of-way. Such sign shall be removed when all lots in the development have been purchased.
- K. Construction signs. One sign not larger than 32 square feet naming the architects, engineers, contractors, and other individuals or firms involved with the construction, alteration, or repair of a structure and the future use of the site. Such signs shall be confined to the construction site and shall be removed when the project is completed.
- L. Direction signs (on site). On-site directional signs, not exceeding two square feet in area, intended to facilitate the movement of pedestrians and vehicles within the site upon which such signs are located.

16.5.4 Signs Requiring a Permit - All Zoning Districts.

The following signs are allowable, regardless of which zoning district they fall in, provided that a permit is acquired. A permit fee as listed in the Village of Fall Creek Schedule of Fees shall be paid prior to the issuance of a sign permit.

- A. Direction signs (off-site). Off-site directional signs are allowable only with the express permission of the property owner to which the sign would be placed. Such signs may not exceed two square feet in area and shall name only the business, distance, and direction to the business. Off-site signs are limited to one sign in either direction of the business.
- B. Bulletin boards and identification signs including digital sign boards (on or off-site). Bulletin boards and identification signs for churches, schools and other permitted institutions and nonprofit organizations, not exceeding 50 square feet, one per zoning lot on which such use is located. Such sign shall be located entirely within the property line of the use.
- C. Electronic sign. All electronic signs shall require a permit and a) must have a refresh rate

of two seconds and the change or transition from one display or message to the next shall occur as quickly as possible and b) between dusk and dawn, the brightness of such sign shall be set at no more than 50% of the sign's maximum brightness, and the village reserves the right to require that the brightness of the sign be adjusted if it is deemed to be a public nuisance or a distraction to motorists. If such signs become a hazard or nuisance, the sign permit may be revoked.

16.5.5 Signs Requiring a Permit - Specific Zoning District Regulations.

The following signs are allowable, per district regulations listed below, provided that a permit is acquired. These signs, unless otherwise noted, are on-premises signs. A permit fee as listed in the Village of Fall Creek Schedule of Fees shall be paid prior to the issuance of a sign permit.

- A. Downtown business area. Properties within the designated downtown business area must go through the downtown business review process, in addition to their zoning district regulations.
- B. C1 Commercial District and C2 Commercial District and R5 Residential and Light Commercial Mixed-Use District.
 - (1) The gross area in square feet of ALL signs shall not exceed two times the lineal front footage of the lot, however, the maximum of all gross area shall not exceed 132 square feet, based on all items below. Maximum of three signs are allowed per lot.
 - (2) Freestanding sign. One freestanding sign is allowed and shall not exceed 32 square feet. The sign supports shall be located not closer than 10 feet to any property line, and no part of a sign shall project into the public right-of-way. No part of any freestanding sign shall be higher than 30 feet above grade level. If a freestanding sign or sign structure is constructed so that the faces are not parallel, the preferred angle shall not exceed 30°. If the angle is greater than 30°, the area of both sides added together shall be the calculated area. If the angle is less than 30°, the sign shall be considered as one sign for calculating square footage. Exemptions may be granted upon petition to and approval by the village board.
 - (3) Projecting signs. No sign shall project more than 48 inches from the building, nor shall any sign be lower than 10 feet from grade level or higher than the height of the building.
 - (4) Wall signs (flat signs painted on or attached directly to the building) shall not exceed 132 square feet nor extend above the roof wall.
 - (5) Canopy signs. Signs printed on or attached to permanent, stationary canopies or marquees shall not be lower than 10 feet from grade level.
 - (6) Portable signs. Use of portable signs shall be limited to a maximum of 2 occasions within any 12-month period, for up to 14 days duration each. The sign shall not exceed 32 square feet. The sign shall not encroach upon the street right-of-way or interfere with the vision triangle as listed in §16.1.13.
 - (7) Illumination. All externally illuminated signs shall direct the source of light away

from adjacent properties.

C. IND Industrial District.

- (1) The gross area in square feet of ALL signs shall not exceed two times the lineal front footage of the lot, however, the maximum of all gross area shall not exceed 200 square feet, based on all items below. Maximum of four signs are allowed per lot.
- (2) Freestanding sign. One freestanding sign is allowed and shall not exceed 120 square feet. The sign supports shall be located not closer than 10 feet to any property line, and no part of a sign shall project into the public right-of-way. No part of any freestanding sign shall be higher than 30 feet above grade level. If a freestanding sign or sign structure is constructed so that the faces are not parallel, the preferred angle shall not exceed 30°. If the angle is greater than 30°, the area of both sides added together shall be the calculated area. If the angle is less than 30°, the sign shall be considered as one sign for calculating square footage. Exemptions may be granted upon petition to and approval by the village board.
- (3) Projecting signs. No sign shall project more than 48 inches from the building, nor shall any sign be lower than 10 feet from grade level or higher than the height of the building.
- (4) Wall signs (flat signs painted on or attached directly to the building) shall not exceed 300 square feet nor extend above the roof wall.
- (5) Canopy signs. Signs printed on or attached to permanent, stationary canopies or marquees shall not be lower than 10 feet from grade level.
- (6) Portable signs. Use of portable signs shall be limited to a maximum of 2 occasions within any 12-month period, for up to 14 days duration each. The sign shall not exceed 32 square feet. The sign shall not encroach upon the street right-of-way or interfere with the vision triangle as listed in §16.1.13.
- (7) Illumination. All externally illuminated signs shall direct the source of light away from adjacent properties.

D. Integrated shopping centers.

- (1) Shopping centers with several separate businesses are allowed one wall sign per business, as per regulations for its zoning district.
- (2) One freestanding area identification sign shall be permitted with a maximum of 64 square feet. The content of the sign shall be limited to the name of the shopping center and the businesses contained therein. The sign may be located in the front yard but not within 10 feet of a side property line. The sign shall not extend above 30 feet from grade level. If a freestanding sign or sign structure is constructed so that the faces are not parallel, the preferred angle shall not exceed 30°. If the angle is greater than 30°, the area of both sides added together shall be the calculated area. If the angle is less than 30°, the sign shall be considered as one sign for calculating square footage. Exemptions may be granted upon petition to and

approval by the village board.

16.5.6 Prohibited Signs.

The following signs are specifically prohibited by this chapter:

- A. Signs which obstruct the vision of drivers or pedestrians whether located on public or private properties or right of ways, or detract from the visibility of any official traffic control device.
- B. Signs which hinder access to a property for emergency needs (ambulance, fire-fighting equipment, or police department enforcement) or signs that impede safety ingress or egress of any portion of a building. No sign or sign structure shall be erected so as to prevent or deter free movement from any door, window or fire escape, nor shall it be attached to a standpipe or fire escape.
- C. Signs which are not appropriate to the activity of the property that they are located on. Exemption granted for direction signs as listed in §16.5.3.K. and advertising signs per §16.5.8. Other exemptions, including those for vacant lots, may be granted upon petition to and approval by the village board.
- D. Signs which make use of flashing, revolving, animated, or intermittent lights or are animated. Exemptions are time and temperature information, public information, or price of fuel. Other exemptions may be granted as deemed suitable by the zoning administrator.
- E. Signs which consist of banners, pennants, ribbons, streamers, strings of light bulbs, spinners, or similar devices for private or commercial purposes. Exemptions may be granted as deemed suitable by the zoning administrator.
- F. Signs or posters which are tacked on trees, fences, utility poles or other such permanent supports within the public right-of-way.
- G. Signs that are deemed by the Zoning Administrator to conflict on an aesthetic basis with the properties surrounding that upon which the sign is situated, or when taking into consideration community wide aesthetic standards.

16.5.7 Maintenance and Removal.

- A. All signs and sign structures shall be kept in good repair. Responsibility for the maintenance and removal of signs and structures rests first with the sign owner and secondly with the property owner.
- B. Obsolete signs. An obsolete sign or a sign which advertises an activity, product or service which is no longer produced or conducted shall be removed within 90 days from the last date upon which the activity or service was produced or conducted. Responsibility for the removal shall be vested in the owner of the real property.

16.5.8 Advertising (Off-Premises) Signs - Permit Required.

Off-premises advertising signs are permitted provided that a permit is acquired. A permit fee as listed in the Village of Fall Creek Schedule of Fees shall be paid prior to the issuance of a sign

permit. Such signs are subject to regulations of the zoning district it lies in, with the exception that any freestanding sign shall not be any closer than 50 feet to any property line. Exemptions may be granted upon petition to and approval by the village board.

16.5.9 Nonconforming Signs.

- A. Legal nonconforming signs, those that were in place prior to the adoption of this ordinance, may not be structurally altered or enlarged or reestablished after being brought into compliance.
- B. Nothing in this chapter shall be construed as relieving the owner of a legal nonconforming sign from the provisions of this chapter regarding safety, ordinary maintenance, and repair of signs. No other or further improvements or restoration to a nonconforming sign shall be allowed.
- C. When a nonconforming sign is destroyed by more than 50% of its face area, the sign shall be abandoned and removed from the property or reconstructed meeting the requirements of this chapter and any other applicable laws.

16.5.10 Inspection and Enforcement.

All signs for which a permit is required shall be subject to inspection by the zoning administrator. The zoning administrator may enter any property during normal business hours to ascertain whether the provisions of this chapter are being obeyed. If any sign is in violation of this chapter or becomes damaged or dilapidated, the zoning administrator shall give written notice to the owner of the sign or the owner of the property on which the sign is located, in person or by mail, addressed to the last known post office address of such owner, to repair or remove the sign. The owner will have 10 days to comply, after which time a fine as listed in the Village of Fall Creek Schedule of Fees will be assessed. If the order is not complied with within 60 days of serving the notice, the zoning administrator shall cause the sign and structure to be razed and the cost thereof assessed as a special charge against the property on which the sign was located.

16.6 ARTICLE 6 - MOBILE TOWER SITING REGULATIONS

16.6.1 Definitions.

The following terms shall have the meanings given below, consistent with Wis. Stat. §66.0404(1).

ANTENNA - means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

APPLICATION - means an application for a permit under this section to engage in either:

- A. The siting and construction of a new mobile service support structure and facilities or
- B. With regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities or a class 2 collocation.

CLASS 1 COLLOCATION - means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility but does need to engage in substantial modification.

CLASS 2 COLLOCATION - means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free-standing support structure for the facility or engage in substantial modification.

DISTRIBUTED ANTENNA SYSTEM - means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

EQUIPMENT COMPOUND - means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

EXISTING STRUCTURE - means a support structure that exists at the time an application for a permit to place mobile service facilities on a support structure is filed with the Village of Fall Creek.

FALL ZONE - means the area over which a mobile service support structure is designed to collapse.

MOBILE SERVICE - means a radio communication service carried on between mobile stations or receivers and land stations and by mobile stations communicating among themselves, and includes:

- A. Both one-way and two-way radio communications services,
- B. A mobile service that provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one- way or two-way land mobile radio communications by eligible users over designated areas of operation, and
- C. Any service for which a license is required in a personal communications service established pursuant to the proceeding entitled “Amendment to the Commission’s Rules to Establish New Personal Communications Services” (GEN Docket No. 90–314; ET Docket

No. 92–100), or any successor proceeding.

MOBILE SERVICE FACILITY - means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

MOBILE SERVICE PROVIDER - means a person who provides mobile service.

MOBILE SERVICE SUPPORT STRUCTURE - Mobile service support structure” means a freestanding structure that is designed to support a mobile service facility.

PERMIT - means a written approval issued by the Village, which authorizes any of the following activities by an applicant:

- A. A class 1 collocation.
- B. A class 2 collocation.
- C. The construction of a mobile service support structure.

PUBLIC UTILITY - has the meaning given in Wis. Stat. §196.05(1).

SEARCH RING - means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

SUBSTANTIAL MODIFICATION - means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

- A. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- B. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
- C. 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.
- D. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

SUPPORT STRUCTURE - means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

UTILITY POLE - means a structure owned or operated by an alternative telecommunications utility, as defined in Wis. Stat. §196.01(1d); a public utility; a telecommunications utility, as defined in Wis. Stat. §196.01(10); a political subdivision; or a cooperative association organized under Wis. Stat. Ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Wis. Stat. §185.017(lg)(cq); for video

service, as defined in Wis. Stat. §66.0420(2)(y); for electricity; or to provide light.

16.6.2 New Construction and Substantial Modification of Facilities and Support Structures (i.e. Class 1 Collocation).

- A. An application for a permit to engage in the siting or construction of a new mobile service support structure and facilities or to engage in a class 1 collocation shall be submitted in writing to the Clerk-Treasurer before any construction may commence and shall contain the following:
- (1) The name and business address of, and the contact individual for, the applicant.
 - (2) The location of the proposed or affected support structure.
 - (3) The location of the proposed mobile service facility.
 - (4) If the application is to substantially modify an existing 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.
 - (5) If the application is to construct a new mobile service support structure,
 - (a) A construction plan that describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new structure; and
 - (b) An explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.

16.6.3 Application Review Procedure.

The Clerk-Treasurer or designee shall review the application and determine whether the application is complete. The Clerk-Treasurer or designee shall notify the applicant in writing within ten (10) days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants may resubmit their applications as often as necessary until they are complete.

16.6.4 Review Procedure.

An application under this subsection (B) shall be subject to the following review procedures:

- A. If the application is complete as determined by the Clerk-Treasurer or designee, the matter shall be referred to the Plan Commission for its review.
- B. Within ninety (90) days of its receipt of a complete application ("90-day review period"), the Plan Commission or the Village Board, as the case may be, shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Plan Commission or the Village Board may agree in writing to an

extension of the 90-day review period (“extended review period”):

- (1) The Plan Commission shall review the application to determine whether it complies with all applicable aspects of the Village’s building code and, subject to the limitations in this section, zoning ordinances.
 - (2) Before the expiration of the 90-day review period or extended review period, if any, the Plan Commission shall make a recommendation to the Village Board with written findings supporting the approval or denial of the application such that the Village Board may review the recommendation and findings and issue a final decision. If the Village Board fails to issue a decision within the application review period, the Plan Commission’s recommendation shall become the final decision.
 - (3) The Village Clerk-Treasurer shall notify the applicant in writing of the final decision.
 - (4) If the decision is to deny the application, the Village Clerk-Treasurer shall include with the written notification substantial evidence that supports the decision.
- C. An application may be denied if an applicant refuses to evaluate the feasibility of collocation within the applicant’s search ring and provide the sworn statement described under subsection (b)(1)e.(ii).
- D. If an applicant provides an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in under the Zoning Code, the Zoning Code does not apply to such a structure unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
- E. The permit fee shall comply with Wis. Stat. §66.0404(4)(d).

16.6.5 Final Decision.

The decision of the Village Board or, in the event the Village Board does not act within the application review period, the recommendation of the Plan Commission is a final decision, appealable to circuit court.

16.6.6 Abandonment.

If a mobile service support structure ceases to be used for a period exceeding one year and a day, the owner or operator of that structure shall remove the structure upon the written request of the Village Clerk-Treasurer at no cost to the Village within ninety (90) days of such request. Prior to the issuance of any building or zoning permits, a performance bond shall be provided to guarantee that a support mobile service support structure that has ceased to be used to support mobile service facilities purposes is removed. The bond amount shall be the lesser of twenty thousand dollars (\$20,000) or an amount based on a written estimate of a person qualified to remove such structures.

16.6.7 Structural Requirements.

Every mobile service support structure and mobile service facility shall be designed and constructed so as to comply with the requirements of the International Building Code (“IBC”)

3108, as amended from time to time. If an inspection of the structure or facility reveals that the structure or facility fails to comply with the IBC in effect at the time of construction and that there is a danger to persons or property due to such noncompliance, then upon written notice to the owner of the structure or facility, the owner shall bring the structure or facility into compliance within thirty (30) days of such notice or within such time as determined by the Village Clerk- Treasurer or designee.

16.6.8 Basic Support Structure and Building Design.

All new mobile service support structures and facilities shall be designed as follows:

- A. Mobile service facilities and mobile service support structures shall be constructed out of metal or other nonflammable material.
- B. Mobile service facilities and mobile service support structures shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.
- C. Emergency back-up generators shall be completely enclosed. Other efforts to mitigate noise from such generators may be required.

16.6.9 Design for Co-Location.

All new mobile service support structures shall be structurally and electrically designed to accommodate at least three (3) separate antenna arrays, unless credible evidence is presented that such construction is economically and technologically unfeasible.

Multi-user mobile service support structures shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights. Parking areas, access roads, and utility easements shall be shared by site users.

16.6.10 Location.

A good faith effort in achieving co-location shall be required of the applicant and host entity, subject to existing co-location contracts, and all of the following measures shall be implemented for new mobile service support structures and class 1 collocations:

- A. No mobile service support structure shall be installed closer than one quarter (1/4) mile from another mobile service support structure, measured from the base of the existing structure to the base of the proposed structure, unless the applicant provides 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:
 - (1) Would not result in the same mobile service functionality, coverage, and capacity;
 - (2) Is technically infeasible, or
 - (3) Is economically burdensome to the mobile service provider.
- B. No mobile service support structure shall be located on a lot in a residential district, unless the lot is greater than two (2) acres in area and the principal use is other than residential.

- C. Mobile service support structures towers, guy wires, appurtenant equipment and buildings shall comply with the yard and set back requirements of the zoning district in which they are located.

16.6.11 Co-Located and Multi-User Facilities (Class 2 Collocations).

- A. An application for a permit to engage in a class 2 collocation shall be submitted in writing to the Clerk-Treasurer and before construction commences and shall contain the following:
 - (1) The name and business address of, and the contact individual for, the applicant.
 - (2) The location of the proposed or affected support structure.
 - (3) The location of the proposed mobile service facility.
- B. The Clerk-Treasurer shall inform the applicant within five (5) days of receiving the application if the application is not complete. Notification shall be in writing and shall specify in detail the information that was incomplete.
- C. Within forty-five (45) days of receipt of a completed application, the Clerk-Treasurer or designee shall issue a written decision to approve or deny the application, except that the Clerk-Treasurer or designee and the applicant may agree in writing to an extension.
- D. Any decision to deny an application shall be supported by substantial evidence. Such evidence shall be included in the written decision.
- E. The permit fee for the permit shall comply with Wis. Stat. §66.0404(4)(d).
- F. The decision of the Clerk-Treasurer or designee is a final decision appealable to circuit court.

16.6.12 Changes or Additions to Plans

Subsequent changes or additions to the approved plans or use shall first be submitted for approval to the Village Clerk-Treasurer or designee, if, in the opinion of the Village Clerk-Treasurer or designee such proposed changes or additions constitute a substantial alteration; the matter shall be referred to the Plan Commission for its review.

16.6.13 Conditions.

Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yard, or parking requirements, among other issues as deemed appropriate may be required by the Plan Commission, Zoning Administrator, or Clerk-Treasurer upon a finding that such conditions are necessary to fulfill the purpose and intent of this Chapter.

16.6.14 Limitations Upon Authority.

The Village's review and action in the matter shall be subject to the limitations imposed by Wis. Stat. §66.0404(4). In the event the applicant believes the Village has exceeded its authority in

this regard, the applicant shall notify the Village Board in writing and the Village Board reserves the right to reconsider the matter to ensure that applicable laws are followed.

16.6.15 Height Restrictions.

The height restrictions which may be stated elsewhere in the Village's Zoning code do not apply to structures permitted under this section.

16.6.16 Applicability.

This section shall apply to all property and all zoning districts within the Village, except that it shall not apply to any property which is located in a Village right-of-way."

16.7 ARTICLE 7 - WELLHEAD PROTECTION

16.7.1 Purpose, Intent and Authority.

- A. Village residents rely on groundwater for a safe supply of drinking water. The Village recognizes that certain land-use practices and activities may impair or injure the quality of the Village's groundwater supply. The Village Board adopts this ordinance to regulate and restrict certain land-use practices and activities to protect the quality of the Village's groundwater supply, to protect the Village's well fields, and to promote the health, safety, and general welfare of the Village's residents.
- B. The Village Board adopts this ordinance pursuant to the authority granted by §62.23(7)(c), Wis. Stats., and pursuant to the requirements of Wis. Admin. Code §811.16(5).

16.7.2 Application of Regulations.

The regulations adopted pursuant to this ordinance shall apply to people and land-use practices and activities within Zone A and within Zone B.

16.7.3 Definitions.

AQUIFER - is a saturated, permeable geologic formation which contains and will yield significant quantities of water.

VILLAGE - is the Village of Fall Creek, a Wisconsin municipal corporation, located in Eau Claire County, State of Wisconsin.

CROSS CONNECTIONS - is any connection between two (2) otherwise separate systems, one of which contains potable water from a public water system and the other water from a private source, water of unknown or questionable safety, or steam, gases, or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

DISTRIBUTION SYSTEM - is all pipes or conduits by which water is delivered to consumers except piping inside buildings served and service pipes from a building to a distribution main or pipe.

EFFECTIVE DATE – is the day after the day on which this Ordinance is published in accordance with Wisconsin law.

PUBLIC WATER SYSTEM - is the Village's system for providing piped water for human consumption to the public, and includes:

- A. Any supply, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with a system; and
- B. Any distribution facilities not under such control of the operator of a public water system which are used primarily in connection with a system.

RECHARGE AREA - is the area in which water reaches the well by surface infiltration and includes all areas or features that supply groundwater recharge to a well.

WATER SYSTEM - is all structures, conduits, and appurtenances by means of which water is

delivered to consumers, except piping and fixtures inside buildings served, and service pipes from building to street mains.

WELL FIELD – is a parcel of land used primarily for the purpose of locating wells to supply a municipal water system.

WELL #1 – is the Village's well which is located on the far west side of the Village at 400 Lincoln Ave W, Eau Claire County, Wisconsin.

WELL #3 – is the Village's well which is located in Section 6, Township 26 North, Range 7 West, Eau Claire County, Wisconsin.

WELL #4 – is the Village's well which is located in Section 6, Township 26 North, Range 7 West, Eau Claire County, Wisconsin.

ZONE A - is the 30-Day Zone of Contribution within the surface level and subterranean portion of the spherical area, having the center of a Fall Creek municipal well as its center and having the following radii:

Well #1 200 ft. Well #3 150 ft. Well #4 150 ft.

This is the point where the groundwater level would contribute water with 30 days continuous pumping of one well. A normalized boundary for the zones is created by selecting a physical feature or political boundary that could be readily identified. Roads and section lines were chosen as easily identified boundaries for the normalized zone. The normalized zone is larger than the theoretical, modeled capture zone.

ZONE B - is the 5-Year Zone of Contribution within the surface level and subterranean portion of the spherical area, having the center of a Fall Creek municipal well as its center and having the following radii:

Well #1 1,200 ft. Well #3 1,200 ft. Well #4 1,200 ft.

This constitutes the recharge area where it is estimated that it will take groundwater and potential contaminants five (5) years to reach a well. The calculated radii are greater than the minimum 1,200 ft. required. A normalized boundary for the zones is created by selecting a physical feature or political boundary that could be readily identified. Roads and section lines were chosen as easily identified boundaries for the normalized zone. The normalized zone is larger than the theoretical, modeled capture zone.

16.7.4 Zone A Regulations and Restrictions.

- A. Intent. The area within Zone A shall be subject to the most stringent land-use and development restrictions contained in this Ordinance because of the area's proximity to Well #1, Well #3 or Well #4 and because of the greater potential for contaminants in Zone A reaching the water in Well #1, Well #3 or Well #4.
- B. General Prohibition. Land-use practices and activities not listed in Subsection IV.C. or in Subsection IV.D. are prohibited in Zone A.
- C. Authorized Uses in Zone A. The following land-use practices and activities are authorized within Zone A:

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- (1) Parks, playgrounds, athletic fields, and golf courses, provided, however, that no such use shall include an on-site waste disposal or fuel storage facility.
 - (2) Areas which serve as habitats for undomesticated animals and insects.
 - (3) Museums and public buildings which are connected to and served by a municipal sanitary sewer system.
 - (4) Trails, pathways or walkways which are used for aerobic exercises, including biking, skiing, walking, jogging, running, skating and rollerblading.
 - (5) Residential dwellings, if connected to and served by a municipal sanitary sewer system, subject to the conditions set forth in Section V.C.3.
 - (6) Single-family residential dwellings which are located on recorded parcels of property on the effective date of this Ordinance, which have an on-site sewage disposal system located at least 400 feet from Well #1.
- D. Conditional Uses in Zone A. Except as prohibited by Subsection IV.E., commercial buildings which are connected to and served by a municipal sanitary sewer system are conditional uses in Zone A and are allowed only in accordance with and subject to the terms of a conditional use permit issued by Village.
- E. Prohibited Uses in Zone A. Without limiting the general prohibition in Subsection IV.B., the following land-use practices and activities are specifically prohibited in Zone A:
- (1) Underground storage tanks of any size.
 - (2) Storage tanks used to store fuel to heat the building in which the tank is located if the tank is located within the basement of the building.
 - (3) Spreading sewage, septage or sludge.
 - (4) Facilities used to store, handle or treat animal waste or carcasses.
 - (5) Facilities used to confine animals.
 - (6) Gas stations, service stations, automobile repair shops and convenience stores.
 - (7) Printing and duplicating businesses.
 - (8) Bus or truck terminals.
 - (9) Landfills or waste disposal facilities.
 - (10) Wastewater treatment facilities.
 - (11) Wastewater land application sites, except industrial pretreatment facilities.
 - (12) Auto salvage yards or other salvage yards.
 - (13) Facilities used to manufacture, store, and treat fertilizers or pesticides in bulk quantities.
 - (14) Facilities used to manufacture asphalt.
 - (15) Dry cleaning businesses.

- (16) Facilities used to store salt.
 - (17) Facilities used for electroplating.
 - (18) Exterminating businesses.
 - (19) Facilities used to produce paint or other finishing or coating materials.
 - (20) Facilities used for producing, storing, handling, or treating hazardous materials or waste, toxic materials or waste, or radioactive materials or waste.
 - (21) Facilities used for recycling post-consumer or industrial waste.
 - (22) Cemeteries or crematoriums.
 - (23) Quarries or gravel pits.
 - (24) Stormwater seepage ponds.
- F. Subject to applicable Federal, Wisconsin and Village laws, rules, regulations, and ordinances, if any person owns property which is in Zone A and on the Effective Date the property is used for any of the land-use practices or activities listed in Subsection IV.E., the property shall be considered a nonconforming use subject to §62.23(7)(h), Wis. Stats., as amended from time-to-time hereafter. Subject to §62.23(7)(h), Wis. Stats., the property owner shall not make any improvements to the property or modify the property until after the property owner obtains a permit from Village's building inspector. The permit shall require the property owner to modify the facilities or land-use practices or activities to improve or enhance groundwater protection and to comply with this Ordinance.

16.7.5 Zone B Regulations and Restrictions.

- A. General Prohibition. Land-use practices and activities not listed in Subsection V.B. or in Subsection V.C. are prohibited in Zone B.
- B. Permitted Uses in Zone B. Subject to the standards set forth in Subsection V.C., the following land-use practices and activities are permitted within that portion of Zone B which is not within Zone A:
- (1) All land-use practices and activities listed in Subsection IV.C.
 - (2) Residential dwellings which are connected to and served by a municipal sanitary sewer system.
 - (3) Above-ground tanks which store petroleum, and which have a volume of not more than 660 gallons.
 - (4) Storage tanks used to store fuel to heat the building in which the tank is located if the tank is located in the basement of the building.
 - (5) Except as prohibited in Subsection V.E., commercial and industrial uses located in buildings which are connected to and served by a municipal sanitary sewer system.
 - (6) Single-family residential dwellings which are not connected to or served by a

municipal sanitary sewer system.

- (7) Retail sales of fertilizers or pesticides and the storage of fertilizers or pesticides for such retail sales; provided, however, that the fertilizers and pesticides shall be delivered in containers which are suitable for retail sale and that no packaging, mixing, handling, or other processing of the fertilizers or pesticides shall occur at the business location.
- C. Design Standards within Zone B. The following standards and minimum requirements apply to the uses set forth in Subsection V.B.:
- (1) Parcels of property used for residential dwellings or like-residential retail businesses which are not connected to or served by a municipal sanitary sewer system shall be a minimum of two (2) acres, except:
 - (a) Parcels of property for which a conveyance has been recorded in the Eau Claire County Register of Deeds' office before the Effective Date; or
 - (b) Parcels of property which are part of a development project approved by the Village Planning Commission and which will be connected to and served by a municipal sanitary sewer system within five (5) years of the development project being approved by the Village Planning Commission.
 - (2) Parcels of property devoted to commercial or industrial uses shall have no more than one-half of the surface area thereof maintained as a manicured lawn or grass.
 - (3) Parcels of property shall have a natural vegetative cover, to the extent consistent with a use authorized or permitted by this Ordinance; provided, however, that fertilizers and pesticides shall not be used to maintain the natural vegetative cover.
 - (4) All tanks used to store petroleum products shall be enclosed within a secondary container the volume of which shall be not less than 125% of the volume of the tank; provided, however, this standard shall not apply to tanks used to store fuel which is used to heat the building in which the tank is located if the tank is located in the basement of the building.
- D. Conditional Uses within Zone B. The following conditional uses regarding land-use practices and activities within Zone B may be authorized, subject to such conditions as the Plan Commission or Village Board may impose, per the process listed in §16.8.5:
- (1) Nurseries for ornamental plants, green houses, and associated retail sales outlets, and the storage and use of fertilizers and pesticides associated with such practices and activities.
 - (2) Vehicle repair shops, except auto body repair shops.
 - (3) Facilities which are used to recycle post-consumer or industrial waste.
 - (4) Retail businesses with plumbing design and uses that are deemed like-residential, which are not connected to or served by a municipal sanitary sewer system.
- E. Prohibited Uses in Zone B. Without limiting the general prohibition in Subsection V. A., the

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following land-use practices and activities are prohibited in Zone B:

- (1) Underground storage tanks.
- (2) Commercial or industrial development which is not connected to and served by a municipal sanitary sewer system or allowed under §16.7.5.D.(4).
- (3) Except as provided in Section V.B.7, storing pesticides or fertilizers.
- (4) Spreading sewage, septage or sludge.
- (5) Facilities used to store, handle, or treat animal waste or carcasses.
- (6) Facilities used to confine animals, except veterinary hospitals and clinics.
- (7) Gas stations, service stations, or convenience stores.
- (8) Auto body repair shops.
- (9) Printing and duplicating businesses which use hazardous chemicals.
- (10) Bus terminals and truck terminals.
- (11) Landfills and waste disposal facilities.
- (12) Facilities used to handle, store, convey or treat wastewater.
- (13) Sites to which wastewater is applied.
- (14) Auto salvage yards.
- (15) Facilities used to handle, process or store fertilizers or pesticides in bulk quantities.
- (16) Facilities used to manufacture asphalt or asphalt products.
- (17) Dry cleaning businesses.
- (18) Facilities used to store salt.
- (19) Facilities used for electroplating.
- (20) Exterminating businesses.
- (21) Facilities used to produce paint and other coating or finishing materials.
- (22) Facilities used to handle, store, process, or treat hazardous waste or materials, toxic waste or materials, or radioactive waste or materials.
- (23) Cemeteries.
- (24) Quarries or gravel pits.
- (25) Regional stormwater seepage ponds.

F. Subject to applicable Federal, Wisconsin and Village laws, rules, regulations and ordinances, if any person owns property which is in Zone B but not in Zone A and on the Effective Date the property is used for any of the land-use practices or activities listed in Subsection V.E., the property shall be considered a nonconforming use subject to §62.23(7)(h), Wis. Stats., as amended from time to time hereafter. Subject to

§62.23(7)(h), Wis. Stats., the property owner shall not make any improvements to the property or modify the property until after the property owner obtains a permit from Village's building inspector. The permit shall require the property owner to modify the facilities or land-use practices or activities to improve or enhance groundwater protection and to comply with this Ordinance.

16.7.6 Minimum Separation From Contamination Sources.

In accordance with Wis. Admin. Code §NR 811.12(5)(d) and notwithstanding anything contained in this Ordinance to the contrary, the Wells shall be separated from potential sources of contamination. with minimum separation distances as follows:

- A. Ten feet (10') between a Well and an emergency or standby power system to operate the Well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring.
- B. Fifty feet (50') between a Well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Prior to first use, gravity sanitary sewers shall be successfully air pressure tested in place. Prior to first use, force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements.
- C. Two hundred feet (200') between a Well and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or 2 family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.
- D. Three hundred feet (300') between a Well and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- E. Three hundred feet (300') between a Well and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- F. Four hundred feet (400') between a Well and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.
- G. Six hundred feet (600') between a Well and any farm underground storage tank system or

other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

- H. One thousand feet (1,000') between a Well and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under Ch. NR 718 while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.
- I. Twelve hundred feet (1,200') between a Well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds Ch. NR 140 enforcement standards; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank. These requirements apply to tanks containing gasoline, diesel, biodiesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances, and bulk pesticide or fertilizer handling or storage facilities.
- J. Subject to applicable Federal, Wisconsin and City laws, rules, regulations, and ordinances, if any person owns property which is a source of contamination and on the Effective Date the property is within the defined minimum separation distance of a Well the property shall be considered a nonconforming use subject to Wis. Stat. §62.23(7)(h), as amended from time-to-time hereafter. Subject to Wis. Stat. §62.23(7)(h), the property owner shall not make any improvements to the property or modify the property until after the property owner obtains a permit from City's building inspector. The permit shall require the property owner to modify the facilities or land-use practices or activities to improve or enhance groundwater protection and to comply with this Ordinance. In addition, the uses described within the separation distances above shall be prohibited uses within these separation distances if not considered a nonconforming use protected by Wis. Stat. §62.23(7)(h).

16.8 ARTICLE 8 - ADMINISTRATION

16.8.1 Purpose.

The purpose of this article is to outline specific rules and procedures whereby the provisions of this chapter shall be administered and enforced.

16.8.2 Zoning Administrator.

The Zoning Administrator is an official of the Village of Fall Creek appointed by the Village President and confirmed by the Village Board. The Zoning Administrator shall have the responsibility of administering and enforcing the provisions of this chapter by means of the following duties and powers. The Zoning Administrator shall:

- A. Examine and approve any application pertaining to the use of land, buildings, or structures to determine if the application conforms to the provisions of this chapter.
- B. Issue all zoning permits and certificates and keep permanent records thereof.
- C. Conduct inspections of buildings, structures, and uses of land to determine their compliance with this chapter.
- D. Receive, file and forward for action all applications for appeals, variations, conditional uses, and amendments to this chapter.
- E. Initiate, direct and review, from time to time, a study of the provisions of this chapter and make reports of his recommendations to the Plan Commission and the Village Board not less frequently than once a year.
- F. Maintain permanent and current records of this chapter, including all maps, amendments, conditional uses, and variances.
- G. Provide and maintain public information relative to all matters arising out of this chapter.

16.8.3 Zoning Board of Appeals.

- A. Creation and membership. A Zoning Board of Appeals shall be appointed pursuant to W.S.A. s. 62.23. The Zoning Board of Appeals shall consist of five members appointed by the President, subject to confirmation by the Village Board. The members of the Board shall serve at such compensation as is fixed by the Village Board and shall be removable by the President for cause, upon written charges, only after public hearing. The President shall designate one of the members Chairman. The Board may appoint a secretary and other employees.
- B. Meetings and rules. All meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All hearings conducted by the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or indicating the fact of absence or failure to vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt its own rules of procedure not in conflict with this chapter or with the applicable Wisconsin statutes.

- C. Offices. The Village Board shall provide suitable offices for holding hearings and presenting records, documents, and accounts.
- D. Appropriations. The Village Board shall appropriate funds to carry out the duties of the Board, and the Board shall have the authority to spend, under regular procedure, all sums appropriated to it for the purpose and activities authorized herein.
- E. Jurisdiction and authority. The Zoning Board of Appeals shall have the following jurisdiction and authority:
 - (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
 - (2) To hear and decide special exceptions to the terms of this chapter upon which the Board is required to pass under the provisions of this chapter or Chapter 266, Floodplain and Shoreland-Wetland Zoning.
 - (3) To authorize upon appeal in specific cases variances from the terms of this chapter where, owing to special conditions, a literal enforcement of this chapter will result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.
 - (4) To permit in appropriate cases, subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, a building, or premises to be erected or used for public utility purposes in any location which is reasonable and necessary for the public convenience and welfare.
- F. Decisions of the Board. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass under the provisions of this chapter or to approve a variance from this chapter. The grounds of every such determination shall be stated in writing.
- G. Appeals.
 - (1) Scope of appeals. Appeals to the Board may be made by any person aggrieved or by any officer, department, board, or bureau of the village affected by any decision made by an administrative official in the enforcement of this chapter. Such appeal shall be made within 30 days of the alleged grievance or judgment in question.
 - (2) Hearings of appeals. The Board shall fix a time for the hearing of an appeal and shall give due notice thereof to all the parties involved. The Board or any of its officers it may designate shall cause such hearings to be published in a newspaper of general circulation in the village.

16.8.4 Variances.

- A. Purpose. The Zoning Board of Appeals may vary the regulations of this chapter in harmony with its general purpose and intent, but only in specific instances where the Board makes a finding of fact based on the standards prescribed in Subsection E. The Board may upon

appeal in specific cases grant such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship and so that the spirit and intent of this chapter shall be observed, and substantial justice done. The Board may impose conditions when granting variances to ensure that the variance is the minimum necessary to avoid undue hardship, ensure compliance with the limitations of the variance granted and to protect adjacent properties. For purposes of this section, "unnecessary hardship" shall be defined to mean an unusual or extreme decrease in the adaptability of the property to the uses permitted in the zoning district which is caused by conditions unique to the particular property as distinguished from those applicable to most or all property in the same zoning district.

- (1) Use Variance: Under no circumstances shall the Board have the power to grant a variance for any use that is not permitted under the zoning district.
 - (2) Area Variance: Variances permitted under this section shall be limited to the following so-called area variances: which are limited to height, bulk, setbacks, area, yard, parking, and basement requirements only.
- B. Application for variance. The application for a variance shall be filed with the Zoning Administrator.
- (1) The application shall contain the following information:
 - (a) Name and address of the applicant.
 - (b) Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - (c) Address and description of the property.
 - (d) An accurate drawing of the site and surrounding area for a distance of at least 300 feet from each boundary.
 - (e) Names and addresses of adjacent property owners.
 - (2) The application shall be accompanied by a filing fee as listed in the Village of Fall Creek Schedule of Fees.
- C. Hearing of application. The Zoning Board of Appeals shall conduct at least one public hearing on the proposed variance. Notice of such hearing shall be given not more than 30 days and not less than 15 days before the hearing in a newspaper of general circulation in the village.
- D. Disposition by Zoning Board of Appeals. The Board shall make an affirmative or negative decision within 30 days after the public hearing. The concurring vote of four members of the Board is necessary to authorize any variance in this chapter. A copy of the variance shall be supplied to the Zoning Administrator within 10 days of passage, and it shall be accompanied by a written finding of fact and reasons for granting the variance, in accordance with Subsection E below.

- E. Standards. For the Zoning Board of Appeals to grant a variance, it must find that:
- (1) In the absence of the granting a variance, if the strict letter of a zoning regulation is enforced an unnecessary hardship will result to the owner as distinguished from a mere inconvenience;
 - (2) Unique circumstances or conditions applying to the land or building which do not apply generally to land or buildings in the same zoning district;
 - (3) The purpose of the variance is not based exclusively upon a desire to increase the value or the income potential of the parcel of land;
 - (4) Granting of the variance is necessary for the preservation and employment of substantial property rights of the petitioner and the alleged hardship is caused by this chapter and has not been created by any person having an interest in the parcel of land;
 - (5) Granting of such variance will not, under the circumstances of this particular case, materially affect and adversely affect the health, welfare, and safety of persons residing or working in close proximity of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to the property or improvements in such neighborhood or zoning district.
- F. Any unused variance shall become void one year after the date of issue or upon the sale of the property. A variance may be renewed for an additional period of up to two years by application to and approval of the Village Board.

16.8.5 Conditional Uses.

- A. Purpose. The formulation and enactment of a comprehensive zoning ordinance is based on the division of the entire village into districts, in each of which there are permitted specified uses that are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district but which, because of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this chapter as conditional uses and fall into two categories:
- (1) Uses which are either municipally operated or operated by publicly regulated utilities.
 - (2) Uses entirely private in character which, because of their particular locational need, the nature of the service they offer to the public or their possible damaging influence on the neighborhood, may have to be established in a district or districts in which they cannot reasonably be allowed as an unrestricted permitted use under the zoning regulations.
- B. Application for conditional use permit. An application for a conditional use permit shall be filed with the Zoning Administrator.

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- (1) The application shall contain the following information:
 - (a) Name and address of the applicant.
 - (b) Statement that the applicant is the owner or authorized agent of the owner of the property.
 - (c) Address and description of the property.
 - (d) An accurate drawing of the site and surrounding area for a distance of at least 300 feet from each boundary.
 - (e) Names and addresses of adjacent property owners.
 - (2) The application shall be accompanied by a filing fee as listed in the Village of Fall Creek Schedule of Fees.
- C. Referral to Plan Commission. The Zoning Administrator shall refer the application for a conditional use permit to the Plan Commission. The Plan Commission shall hold at least one public hearing on the proposed conditional use. The public hearing shall be recorded and filed in the Zoning Office. Notice of the hearing shall be published not more than 30 days and not less than 15 days before the public hearing in a newspaper of general circulation in the village. Owners of adjacent properties shall also be notified, in writing. Their failure to get the notice or attend the hearing shall not invalidate the proceedings.
- D. Action by the Plan Commission. Within 30 days of the public hearing, the Plan Commission shall act on the application for a conditional use permit. The Plan Commission shall transmit, in writing, to the Village Board its recommendation for the disposition of the application. The Commission shall make one of the following recommendations:
- (1) Approval of the conditional use permit as presented by the applicant, provided that the standards of Subsection F of this section are met.
 - (2) Approval with conditions, as per Subsection G of this section.
 - (3) Denial of the conditional use permit.
- E. Disposition by the Village Board. Within 30 days of the receipt of the Plan Commission recommendation, the Village Board shall place the conditional use application on its agenda. The Village Board shall act on the conditional use permit application by:
- (1) Approval of the issuance of a conditional use permit as presented by the applicant, provided that the standards of Subsection F of this section are met;
 - (2) Approval of the issuance of a conditional use permit with conditions, as per Subsection G of this section, as deemed necessary by the Board; or
 - (3) Denial of the conditional use permit.
 - (a) Any proposed conditional use permit which fails to receive the approval of the Plan Commission or has received a filed objection duly signed and acknowledged by the owners of 20% or more of the area of land immediately adjacent to the property extending 100 feet therefrom or by the owners of or more of the land

directly across the street and extending 100 feet in either direction shall not be approved by the Village Board except by a three-fourths vote of the Board members voting.

(b) A copy of the conditional use permit shall be supplied to the Zoning Administrator within 10 days of passage.

- F. Standards. Prior to the Plan Commission recommending approval of or the Village Board approving the issuance of a conditional use permit, each body shall determine that the proposed conditional use will meet the following standards:
- (1) It will in no way endanger public health, safety, morals, comfort, and general welfare.
 - (2) It will not be injurious to the enjoyment of other property in the immediate vicinity.
 - (3) The establishment of the conditional use will not impede the orderly development and improvement of other nearby property for the uses permitted in the district.
 - (4) Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - (5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and traffic hazards on public streets.
 - (6) It will conform to the applicable regulations of the district in which it is to be located.
- G. Conditions. The Plan Commission may recommend, and the Village Board may attach certain conditions to the conditional use. The applicant must then agree to the conditions prior to the issuance of a conditional use permit. These conditions may include, but are not limited to, lot sizes in excess of district minimums, screening and fencing, lighting, hours of operation and increased parking requirements.
- H. Lapse of conditional use permit. A conditional use permit shall lapse and become void one year after passage by the Village Board unless the conditional use is fully established, or a building permit has been issued and construction has commenced and is being pursued diligently according to the requirements of the permit. A conditional use permit may be renewed for an additional period of up to two years by application to and approval of the Village Board.20

16.8.6 Zoning Amendments.

- A. Purpose. The purpose of this section is to provide a procedure for changing district boundaries, district regulations and other textual and map provisions of this chapter. Amendments may be initiated by the Plan Commission, Village Board or by owners of property proposed to be changed.
- B. Petition for amendment. A petition for an amendment shall be filed with the Zoning Administrator.
- (1) The petition shall contain the following information if the amendment will affect

only a particular property or properties:

- (a) Name and address of the petitioner.
 - (b) Statement that the petitioner is the owner or authorized agent of the owner of the property for which the change in district boundary or use is proposed.
 - (c) Address and description of the property.
 - (d) Legal description and map showing the exact property included in the rezoning request.
 - (e) An accurate drawing of the site and surrounding area for a distance of at least 300 feet from each boundary.
 - (f) Name and address of adjacent property owners.
- (2) The application shall be accompanied by a filing fee as listed in the Village of Fall Creek Schedule of Fees.
- C. Referral to Plan Commission. The Zoning Administrator shall refer the application for amendment to the Plan Commission. The Plan Commission shall hold at least one public hearing on the proposed amendment. The public hearing shall be recorded and filed in the Zoning Office. Notice of the hearing shall be published not more than 30 days and not less than 15 days before the public hearing in a newspaper of general circulation in the village. Owners of adjacent properties shall also be notified, in writing. Their failure to get the notice or attend the public hearing shall not invalidate the proceedings.
- D. Action by the Plan Commission. Within 30 days of the public hearing, the Plan Commission shall act on the proposed amendment. The Plan Commission shall transmit, in writing, to the Village Board its recommendation for the disposition of the application. The Commission shall make one of the following recommendations:
- (1) Approval of the amendment as presented by the applicant.
 - (2) Approval of the amendment with modifications.
 - (3) Denial of the amendment.
- E. Disposition by the Village Board. Within 30 days of the receipt of the Plan Commission recommendation, the Village Board shall place the petition for amendment on its agenda.
- (1) The Village Board shall act on the amendment by:
 - (a) Approval of the amendment, provided that the standards of Subsection F of this section are met;
 - (b) Approval of the amendment with modifications, provided the standards of Subsection F of this section are met; or
 - (c) Denial of the amendment.
 - (2) Any proposed amendment which fails to receive the approval of the Plan Commission or has received a filed objection duly signed and acknowledged by the

owners of 20% or more of the area to be rezoned, by the owners of 20% or more of the land immediately adjacent to the property extending 100 feet therefrom or by the owners of 20% or more of the land directly across the street and extending 100 feet in either direction shall not be approved by the Village Board except by a three-fourths vote of the Board members voting.

- (3) An amendment to this chapter becomes effective upon passage by the Village Board.
- F. Standards. Prior to the Plan Commission recommending approval or the Village Board approving an amendment, each body shall determine that the proposed amendment will meet the following standards:
- (1) It will in no way endanger public health, safety, morals, comfort, and general welfare.
 - (2) It will not be injurious to the enjoyment of other property in the immediate vicinity.
 - (3) It will not impede the orderly development and improvement of property in the village.

16.8.7 Zoning Permit.

- A. This section establishes procedures under which any construction or alteration of a building or other structure and any new use of land or a building shall be cleared with the Zoning Administrator to make certain that it is in compliance with this chapter. The purpose of this requirement is to assure effective enforcement of zoning and also to protect owners and users of property by providing for a determination of compliance in advance of development. In order to lessen the burden upon property owners and to avoid unnecessary administrative duplication, the procedures under this section may be, whenever possible, combined with existing procedures.
- B. Definition. A zoning permit is a statement issued by the Zoning Administrator stating the existing zoning provisions which apply to a given parcel of property. The following shall be specifically stated in the zoning permit:
- (1) Zoning district(s) within which the property is located.
 - (2) The specific use or uses of the proposed development.
 - (3) District regulations, such as minimum lot area, yard requirements, etc.
 - (4) Any additional regulations which apply to the subject property, such as those specified by a conditional use permit, variance or other action by the Zoning Board of Appeals, Village Board or the courts.
 - (5) The required number of off-street parking and loading spaces, the maximum number of signs and any other information related to the specific development proposed.
 - (6) Status of any nonconformities which exist on the property.
 - (7) Statement that the proposed use conforms to the requirements of this chapter.

- C. Application for a zoning permit. No building or addition thereto or use of land or change of buildings or land from one use to another shall proceed until a zoning permit has been obtained from the Zoning Administrator. Application for zoning permits shall be made on forms prescribed by the Zoning Administration and shall be accompanied by plans and additional information as necessary in the opinion of the Zoning Administrator to determine conformity with this chapter.
- D. Notice of noncompliance. In the event that a proposed development does not comply with the provisions of this chapter, a zoning permit shall not be issued; however, the aspects of the proposed development or use which do not comply shall be specified, in writing, to the applicant.
- E. Issuance of building permit. No building permit, as required by the Village of Fall Creek, or other permit pertaining to the construction of buildings or use of land or buildings shall be issued by any officer, department, or employee of the village unless the application for such permit has been examined by the Zoning Administrator and a zoning permit for the proposed development has been granted.

16.8.8 Violations and Penalties.

Failure to comply with the provisions of this chapter shall be regarded as a violation. Any person who commits such a violation shall be liable to a forfeiture as listed in the Village of Fall Creek Schedule of Fees. Each day a violation is continued shall be considered a separate offense.