

## CHAPTER 16 ZONING ORDINANCE

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### 16.01 - INTRODUCTION

- (1) Authority and Purpose. In accordance with the authority granted by Sections 61.35 and 62.23 of the Wis. Stats. and for the purpose listed in Section 62.23 of the Wis. Stats., the Village of Cassville, Wisconsin, ordains these zoning regulations.
- (2) Interpretation. The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health safety, comfort, prosperity and general welfare of the Village of Cassville.
- (3) Abrogation and Greater Restriction. This ordinance shall not repeal, impair, or modify private covenants or public ordinances, except that it shall apply whenever it imposes more severe restrictions on land use.

### 16.02 GENERAL PROVISIONS

- (1) Setback, lot size, and other dimensional requirements applicable to the various zoning districts are indicated in Section 3 of this ordinance.
- (2) After adoption of this ordinance, no lot area shall be so reduced that the dimensions and yard requirements imposed by this ordinance cannot be met. However, where existing lots do not satisfy such requirements, the Board of Appeals (as provided in a succeeding section of this ordinance) may grant a variance.
- (3) All lots shall abut upon a public street, and each lot shall have a minimum frontage of at least 50 feet.

- (4) In case of a corner lot, the standards specified for "Front Yard Setback", for that zoning district shall apply to those sides of the lot, which about both streets forming the corner.
- (5) No lot shall have more than one principal building.
- (6) Every part of the required yard area shall be open to the sky unobstructed, except for accessory buildings and the ordinary projections of sills, cornices, and ornamental features. Fire escapes may project into a required yard area not more than five feet.
- (7) In each quadrant of every street intersection there shall be designated a vision clearance triangle bounded by the inner street lines and a line connecting them at a specified distance from their intersection. The distance specified shall be determined by the type of street or road, the kind of traffic controls in effect, and other factors affecting public safety. Within this triangle no object shall be allowed above a height of two and one-half feet above the streets if it obstructs the view across the triangle. In situations where trees of large diameter, large numbers of trees, or some combination of these are present, this provision shall be construed to mean that a sufficient number of trees shall be removed so as to render an object such as a motor vehicle clearly visible across the vision clearance triangle from one street or road to another, the intent being to provide for the public safety; but it shall not necessarily be construed to mean that every tree in the vision clearance triangle must be removed. In a like manner, this restriction shall not apply to the posts and wires of wire fences provided that they do not obstruct visibility across the vision clearance triangle.
- (8) Maximum building height standards specified in this ordinance shall not apply to church spires or church belfries, nor to water towers.
- (9) Manufactured home is hereby defined as a structure, certified and labeled as a manufactured home under 42. U.S.C. sections 5401 to 5426, as the same may be amended from time to time, with a valid legal title, which, when placed on the site, is properly connected to the required utilities.
- (10) **Mobile home is hereby defined as any vehicle or structure transportable in one or more sections, which is over 400 square feet in size intended for or capable of human dwelling or designed primarily for safety purposes with or without a permanent foundation and containing required utilities which does not meet the definition or standards for manufactured homes.**

### **16.03 - ZONING DISTRICTS AND ZONING MAP**

- (1) Introductory. The Official Zoning District Map is an integral part of this Ordinance. The single official copy of this map entitled "Village of Cassville, Grant County, Wisconsin, Zoning District Map", together with a copy of this ordinance, shall be available for public inspection during office hours. The Map shall be certified by the Village President and attested by the Village Clerk of the Village of Cassville. Any changes in zoning district boundaries shall be recorded on the map. No such change shall be effective until so recorded and until a duly certified and attested certificate describing the change is filed with the map.

Nine zoning districts are provided as follows:

- |                                     |       |
|-------------------------------------|-------|
| 1. Single- and Two-Family Residence | (R-1) |
| 2. Multiple-Family Residence        | (R-2) |
| 3. General Commercial               | (C-1) |
| 4. Highway Commercial               | (C-2) |
| 5. Light Industrial                 | (I-1) |
| 6. General Industrial               | (I-2) |
| 7. Planned Unit Development         | (PUD) |
| 8. Agriculture                      | (A)   |
| 9. Conservancy                      | (CON) |

The district boundaries are either streets or alleys unless otherwise shown, and where the designation on the map indicates that the various districts are approximately bounded by a street or alley line, such street or alley line shall be construed to be the district boundary line.

Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.

In un-subdivided property, the district boundary shown on the map shall be determined by use of the scale shown on such map.

All uses in Commercial and Industrial districts (C-1, C-2, I-1, and I-2) shall be described and classified using Standard Industrial Classification (SIC) Codes as they appear in the Standard Industrial Classification Manual, 1987, Executive Office of the President, Office of Management and Budget.

The following land uses and minimum standards apply to the districts delineated on the Zoning district Map:

- (2) Single- and Two-family Residence District (R-1). The R-1 District is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of incompatible land uses.

The following uses of land are permitted in this district:

1. Single-family dwellings, **including manufactured homes**, (specifically excluding mobile homes).
2. Two-family dwellings, **(including manufactured homes)** (specifically excluding mobile homes unless in a mobile home park).
3. Private garage space for each residential unit.

4. Accessory uses and buildings are permitted but not until their principle structure is present or under construction. Residential accessory used shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; private swimming pools; and private emergency shelters.
5. Public parks, playgrounds, recreational and community center buildings and grounds.

The following are permitted as conditional uses within this district:

1. Customary home occupations.
2. Funeral homes.
3. Elementary and secondary schools.
4. Churches and their affiliated uses.
5. Public buildings, except sewage plants, garbage incinerators, warehouses, garages, shops, and storage yards.

Within the R-1 District the following standards shall apply:

Maximum Building Height 35 feet

Maximum Accessory Building Height 15 feet

Minimum Width of Principal Building 24 feet

Principal Building Shall Have Pitched Roof

Principal building must be owned by the same person or persons as own the real estate on which the building is located.

Minimum Front Yard Setback 25 feet

**\*NOTE:** More restrictive standards may be imposed by state regulations in certain circumstances, for example, on lots fronting on certain classes of state highways.

Minimum Rear Yard Setback  
 Principal Buildings 25 feet  
 Accessory Buildings 3 feet

Minimum Side Yard Setback  
 Principal Buildings 8 feet each side;(20 feet total)  
 Accessory Buildings 3 feet; each side

Minimum Average Lot Width 50 feet

Minimum Average Lot Width in  
 Kleinpell Addition, Eckstein Addition,  
 Mulberry Subdivision, Forest Bluff Addition &  
 Jack Oak Addition, (including along Jack Oak Rd) 75 feet

Minimum Lot Area per Family 6000 sq. feet

Minimum Lot Area Per Family in Kleinpell Addition, Eckstein Addition, Mulberry Subdivision, Forest Bluff Addition & Jack Oak Addition, (including along Jack Oak Rd)	8500 sq. feet
Minimum Floor Area per family	
Residential Structure	900 sq. feet
Mobile Home	720 sq. feet
Off-Street Parking, Residential	1 space per family
Off-Street Parking, Place of Public Gathering	1 space per 5 seats
Satellite Dishes	Permitted in rear yard & side yard only. No portion of the dish may extend closer than 3 ft. from the property line.

Dwelling Foundation: Enclosed foundations installed in accordance with subSubchapters III (excavations) IV (footings) V (foundations) of chapter ILHR 21, Wisconsin Administrative Code are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception obtained in section 21.16(2), subchapter IV, chapter ILHR 21, of the Wisconsin Administrative Code Applies.

(3) Multiple-Family Residence District (R-2). The R-2 District is intended to provide a living area that is pleasant but not so spacious as the R-1 district.

The following uses of land are permitted in this district:

1. Those uses permitted in the R-1 District.
2. Multiple-family residential buildings.
3. Rooming and boarding houses.
4. Charitable institutions, rest homes, convalescent homes, nursing homes, homes for the care of children, homes for the care of the aged, homes for the care of the indigent, and similar institutions.
5. Accessory uses and buildings are permitted but not until their principle structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; private swimming pools; and private emergency shelters
6. Garages or parking spaces **incident** to the above uses; provided that garages **incident** to multiple-family residences must be at least 75 feet away from the front lot line and 30 feet away from the side lot lines; and provided that there must be at least 2,000 square feet of lot area for each vehicle space.

The following are permitted as conditional uses within this district:

1. Customary home occupations.
2. Churches and their affiliated uses, elementary and secondary schools, and libraries.
3. Public parks, playgrounds, recreational and community center buildings and grounds.
4. Public buildings, except sewage plants, garbage incinerators, warehouses, garages, shops and storage yards.
5. Mobile home parks, as defined in Section 8 of this ordinance. This use shall be subject to the condition that it shall conform to all ordinances of the Village of Cassville regulating mobile homes and mobile home parks; to the Wis. Adm. Code, Chapter H 77, "Mobile Home Parks"; to any Flood Plain Zoning Ordinance enacted pursuant to Section 87.30 of the Wis. Stats., "Flood Plain Zoning"; and to any Shoreland Protection Ordinance enacted pursuant to Section 59.971 of the Wis. Stats., "Zoning of Shorelands on Navigable Waters".

Within the R-2 District the following standards shall apply, except within mobile home parks. Within mobile home parks, the standards set forth in ordinances of the Village of Cassville and provisions of the Wis. Adm. Code regulating mobile homes and mobile home parks shall apply.

Maximum Building Height 45 feet

Maximum Accessory Building Height 15 feet

Minimum Width of Principal Building 24 feet

Principal Building Shall Have Pitched Roof

Principal building must be owned by the same person or persons as own the real estate on which the building is located.

Minimum Front Yard Setback 25 feet

**\*NOTE:** More restrictive standards may be imposed by state regulations in certain circumstances, for example, on lots fronting on certain classes of state highways.

Minimum Rear Yard Setback  
Principal Buildings 25 feet  
Accessory Buildings 3 feet

Minimum Side Yard Setback  
Principal Buildings 15 feet; each side  
Accessory Buildings 3 feet; each side

Minimum Average Lot Width 75 feet

Minimum Lot Area per Family 3300 sq. feet

Minimum Floor Area per family 720 sq. feet

Off-Street Parking, Residential	1 space per family
Off-Street Parking, Place of Public Gathering	1 space per 5 seats
Satellite Dishes	Permitted in rear yard & side yard only. No portion of the dish may extend closer than 3 ft. from the property line.

**Dwelling Foundation:** Enclosed foundations installed in accordance with Subchapters III (excavations) IV (footings) V (foundations) of chapter ILHR 21, Wisconsin Administrative Code are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception obtained in section 21.16(2), subchapter IV, chapter ILHR 21, of the Wisconsin Administrative Code Applies.

- (4) General Commercial District (C-1). The C-1 District is intended to provide an area for the business and commercial needs of the community, especially those which can be most suitably located in a compact and centrally located business district.

The following uses of land are permitted in this district:

1. Hardware Stores (Group 523).
2. Paint, Glass, and Wallpaper Stores (Group 525).
3. Food Stores (Major Group 54).
4. General Merchandise Stores (Major Group 53).
5. Apparel and Accessory Shops (Major Group 56).
6. Veterinary Services (Major Group 74).
7. Home Furniture, Furnishings, and Equipment Stores (Major Group 57).
8. Eating and Drinking Places (Major Group 58).
9. Miscellaneous Retail, Except Fuel Dealers (Major Group 59).
10. Finance, Insurance, and Real Estate Services (Major Groups 60-67).
11. Personal Services (Major Group 72), Except Escort Services, Massage Parlors, and Turkish Baths.
12. Business Services (Major Group 73), Except Miscellaneous Equipment Rental and Leasing Services.
13. Miscellaneous Repair Services (Major Group 76), Except for repair of automobile equipment, agricultural equipment, or other large pieces of equipment which require truck delivery.
14. Motion Pictures (Major Group 78), except drive-in theaters.
15. Health Services (Major Group 80).
16. Legal Services (Major Group 81).
17. Social Services (Major Group 83).
18. Museums and Art Galleries (Group 841).
19. Membership Organizations (Major Group 86).
20. Accounting, Auditing, and Bookkeeping Services (Group 872).
21. Engineering, Architectural, and Surveying Services (Group 871).
22. Miscellaneous Services (Major Group 89).
23. Public Administration (Major Groups 91-97).
24. Residential Use above a first floor permitted business use.

The following are conditional uses in the district:

1. Automobile Dealers and Gasoline Service Stations (Major Group 55).
2. Automotive Repair Services and Parking (Major Group 75).
3. Lumber and Building Materials (Group 521).
4. Retail, Nurseries, Lawn and Garden Supply Stores (Group 526).
5. Building Construction Contractors (Major Group 15).
6. Special Trade Construction Contractors (Major Group 17).
7. Hotels and Motels (Group 701).
8. Rooming and Boarding Houses (Group 702).
9. Amusement and Recreation Services (Major Group 79)
10. Accessory Buildings which shall comply with the requirements set forth in the R-1 District as well as the general requirements for accessory buildings in this chapter.

Within the C-1 District the following standards shall apply:

Maximum Building Height	45 feet
Maximum Building Area	14,000 sq. feet
Minimum Front Yard Setback	None
Minimum Rear Yard Setback	25 feet
Minimum Side Yard	
Fireproof Construction	None
Non-Fireproof Construction	11 feet
Minimum Lot Width	
Fireproof Construction	25 feet
Non-Fireproof Construction	45 feet
Off-Street Parking*	1 space for every 325 sq. feet of floor area
Off-Street Parking, Places of Public Gathering	1 space per 5 seats
Truck Unloading Area	Sufficient space so that no streets or alleys need be blocked

\*Off-street parking may be provided on site. All off-street parking areas shall be graded and surfaced with seal coat, bituminous or concrete surface so as to be dust free and properly drained. The size of each parking space, as required above, shall be not less than 180 sq. feet, exclusive of the space required for ingress and egress. The minimum dimension for parking stalls shall be 10 feet by 18 feet.

(5) Highway Commercial District (C-2). The C-2 District is intended to provide an area for those business and commercial activities which especially have to do with motor vehicles or highway transportation, or which provides goods or services primarily to travelers on a highway, or for which location adjacent to a major thoroughfare or highway is a compelling practical consideration, or which require significantly large areas for parking and outdoor storage.



The following are conditional uses within the district:

1. Automobile Dealers and Gasoline Service Stations (Major Group 55).
2. Automotive Repair Services and Parking (Major Group 75).
3. Hotels, Rooming Houses, Camps, and Lodging Places (Major Group 70).
4. Eating Places (Group 5812).
5. Gift, Novelty and Souvenir Shops (Group 5947).

The following are conditional uses within the district:

All uses specified as permitted uses or conditional uses in the C-1 District, except those uses designated as permitted uses in the C-2 District, above.

Within the C-2 District the following standards shall apply:

Maximum Building Height	35 feet
Maximum Building Area	25,000 sq. feet
Minimum Front Yard Setback	50 feet (75 ft. if parking is permitted in the front yard)
Minimum Rear Yard Setback	50 feet
Minimum Side Yard:	
Principal Buildings	10 ft. on each side
Accessory Buildings	3 ft. on each side
Minimum Lot Width (Measured at rear of front yard)	75 feet
Off-street Parking	1 space for every 325 sq. ft. of floor area
Off-street Parking, Places of Public Gathering	1 space per 5 seats
Truck Unloading Area	Sufficient space so that no streets or alleys need be blocked

- (6) Light Industrial District (I-1). This district is intended to provide an area for manufacturing and industrial activities other than those which require large installations, facilities or land areas; together with warehousing and commercial activities requiring outside storage of equipment or vehicles.

The following uses are permitted as a matter of right within this district:

1. Those uses specified as conditional uses in the C-1 District, except Hotels and Motels, Rooming and Boarding Houses and Amusement and Recreation Services.
2. General Warehousing and Storage (Group 4225).
3. Wholesale Trade (Major Groups 50-51).

The following are conditional uses within this district:

1. Manufacturing (Major Groups 20-39) under 50,000 square feet.
2. Transportation, Communication, Electric, Gas, and Sanitary Services (Major Groups 40-49), Except General Warehousing and Storage.
3. Heavy Construction (Major Group 16).
4. Mining (Major Groups 10-14).

Within the I-1 District the following standards shall apply:

Maximum Building Height	35 feet
Minimum Front Yard Setback	25 feet
Minimum Rear Yard Setback	40 feet
Minimum Side Yard:	
Principal Buildings	20 feet
Accessory Buildings	5 feet
Minimum Lot Width (Measured at rear of front yard)	100 feet
Off-street Parking	1 space per 2 employees
Truck Unloading Area	Sufficient space so that no streets/alleys need be blocked

- (7) General Industrial District (I-2). This district is intended to provide an area for manufacturing and industrial activities and similar land uses which require relatively large installations, facilities or land area; or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions; or which for these or other reasons may require special safeguards, equipment processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.

No uses are permitted as a matter of right within this district.

The following are conditional uses within this district:

1. Manufacturing (Major Groups 20-39).
2. Transportation, Communication, Electric, Gas, and Sanitary Services (Major Groups 40-49).
3. Heavy Construction (Major Group 16).
4. Mining (Major Groups 10-14).

Within the I-2 District the following standards shall apply:

Maximum Building Height	45 feet
Minimum Front Yard Setback	25 feet
Minimum Rear Yard Setback	40 feet

Minimum Side Yard:	
Principal Buildings	20 feet
Accessory Buildings	5 feet
Minimum Lot Width	100 feet
(Measured at rear of front yard)	
Off-street Parking	1 space per 2 employees
Truck Unloading Area	Sufficient space so that no streets/alleys need be blocked

(8) Planned Unit Development District (PUD). The PUD District is intended to provide for large-scale combined use development. It is especially applicable to a development in which a number of district land uses, for example, residential, commercial, open space, etc., are combined in a design which provides for desirable and convenient living conditions and which minimizes conflicts between the various land uses involved.

This zoning district shall have no definite and measurable boundaries until a specific planned unit development shall be approved by the Village Board on the recommendation of the Plan Commission in accordance with the procedures prescribed for zoning amendments in Wisconsin Statutes, Section 62.23. Plans for the proposed development shall be submitted to the Plan Commission in the manner specified in the Subdivision Ordinance of the Village, and shall show the location, size and proposed use of all structures and land included in the area involved. The plans may provide for a combination of single-family and multiple-family residential development as well as other compatible uses.

Each separate planned unit development shall consist of an area of not less than five acres.

All land uses in the Planned Unit Development District shall be conditional uses.

Every planned unit development shall be subject to review and consideration by the Village Plan Commission with regard to its acceptability under this section. The following criteria shall be applied to every proposed planned unit development as a basis for determining its consistency with the letter and spirit of this ordinance.

1. Its compatibility with the site, with particular emphasis on the preservation of natural features and the use of open space.
2. Its overall compatibility with existing land uses in the vicinity and with probable future lands in the vicinity.
3. The internal compatibility of the various land uses proposed to be included within the development.
4. Its compatibility with existing and probable future transportation facilities in the vicinity, and its tendency to increase the demand upon those facilities.
5. The provision of adequate internal circulation facilities, including streets and sidewalks, and parking facilities within the development.

6. Its compatibility with existing and probable future provision of public utility services such as sewer and water facilities, and its tendency to increase the demand upon those facilities.
  7. Its compatibility with existing and probable other public services, such as schools, police protection, street maintenance, etc., and its tendency to increase the demand upon these services.
  8. The provision of adequate open space, the provision of public access to streams and bodies of water, the preservation of environmental and aesthetic values, and the provision of adequate and appropriate arrangements for the continuing preservation of the aforesaid features, including legal restrictions and other legal devices, and the provision of adequate and appropriate institutional arrangements for continued maintenance.
  9. The long-term economic stability of the proposed development, and its economic impact on other properties in the vicinity.
  10. The presentation of an adequate and practicable implementation schedule for completion of the development, whether by stages or all in one period, in order to insure that the adverse results of failure to complete the development may be effectively avoided.
- (9) Agricultural District (A). The A District provides exclusively for agricultural uses, and uses compatible with agriculture. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development which results in excessive costs to the community for premature provision of essential public improvements and services (such as sewer and water lines).

The following uses are permitted in this district:

1. Farming and dairying provided that buildings in which farm animals are kept shall be at least 100 feet from the nearest residential or commercial district.
2. Forestry, grazing, hatcheries, nurseries, orchards, paddocks, poultry raising, stables and truck farming.
3. In-season roadside stands for the sale of farm products produced on the premises, and up to two unlighted signs not larger than eight square feet each advertising such sale.
4. Farm dwellings for those resident owners and workers actually engaged in the principal permitted uses.
5. Uses customarily incident to any of the above uses, including residential use incident to any of the above uses.

The following are conditional uses within this district:

1. Churches, schools, cemeteries, community parks and recreation areas.
2. Public and semi-public buildings.
3. Water storage facilities and power stations (provided they are enclosed by an eight-foot or more protective fence).
4. Single-family residences provided they are located on tracts of five acres or more and that soil analysis indicates suitability for private sewer and water systems.
5. Fur farms, kennels, insect-breeding facilities, greenhouses and other agricultural uses that may cause noxious odors or noise, or create health or sanitation hazards.
6. Trap or skeet shooting facilities, target ranges, gun clubs, shooting preserves.

7. Riding stables, riding schools.

Within the A District the following standards shall apply:

Maximum Building Height	35 ft. residential structures; no maximum on other structures
Minimum Front Yard Setback	50 feet
Minimum Rear Yard Setback	50 feet
Minimum Side Yard	
Principal Buildings	20 ft each side
Accessory Buildings	5 ft each side
Minimum Lot Area Per Family (residential)	5 acres

(10)Conservancy District (CON). This district is intended to preserve the natural state of scenic areas in the village and to prevent the uncontrolled, uneconomical spread of residential or other development, and to help discourage intensive development of marginal lands so as to prevent hazards to public and private property.

The following uses of land are permitted in this district:

1. Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds.
2. Forestry and the management of forests.
3. Wildlife preserves.
4. The management of wildlife, including waterfowl, fish, and other similar lowland animals, and non-residential buildings used solely in conjunction with such activities.
5. Hunting, fishing, and trapping.
6. Public and private parks, picnic areas and similar uses.
7. Hiking trails and bridle paths.
8. Preservation of areas of scenic, historic, or scientific value.
9. Uses similar and customarily incident to any of the above uses.

The following are permitted as conditional uses in the CON District:

1. Dams, flowages, ponds, and water storage and water pumping facilities.
2. Power plants deriving their power from the flow of water and transmission lines and other facilities accessory thereto.
3. Utilities such as, but not restricted to telephone, telegraph, power, or other transmission lines.
4. Piers, docks, and boathouses.
5. Relocation of any watercourse.
6. Filling, drainage or dredging of wetlands, provided that this shall conform to any Shorelands Zoning Ordinance enacted pursuant to Section 59.971 of the Wis. Stats.
7. Removal of topsoil or peat.
8. Cranberry bogs.
9. Camping grounds open to the public.
10. Golf courses open to the public.

There are no setback, lot size, or other dimensional standards applicable in the CON District.

### 16.035 - ACCESSORY BUILDINGS

In addition to those setback requirements for Accessory Buildings established in Section 16.03 hereof, the following standards shall apply to all Accessory Buildings:

1. Accessory buildings are permitted in rear and side yards only.
2. Accessory buildings shall not exceed 15 feet in building height.
3. Accessory buildings shall not occupy more than 30% of the rear yard. Any accessory building projected forward of the rear building line of the principal building shall satisfy the same yard requirements as the principal building.

### 16.036 - DRIVEWAYS

- (1) Driveways shall have a minimum side yard set back of three feet, except those driveways upon corner lots shall have a minimum set back of fifteen feet from the lot corner abutting the intersection of two or more streets.
- (2) In constructing any driveway, the grade of the subject property shall not be altered so as to cause any additional drainage onto an adjacent landowner's property nor shall the grade of any driveway be altered so as to change the grade of any gutter or to create any gutter obstruction.

### 16.037 - FENCES

In all zoning districts, fences which are set back at least one (1) foot away from all lot lines and which do not exceed six feet in height shall be permitted. A property owner may seek a conditional use permit for fences, which are proposed to be more than six (6) feet in height under section 16.04. All fences shall be of wood, stone or chain link construction and are deemed to be structures under this chapter.

### 16.04 - CONDITIONAL USES

- (1) Application for conditional use permits shall be submitted to the Building Inspector on forms provided by the Inspector and shall be accompanied by a plan showing the location, size, and shape of the lot(s) involved and of any proposed structures, and the existing and proposed use of each structure and lot. The cost of conditional use permits shall be established by the Village Board.
- (2) In all cases of proposed establishment of a conditional use specified in this ordinance, the Plan Commission shall review the site existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access traffic generation and circulation drainage sewerage and water systems and other aspects of the proposed use.
- (3) Standards. No permit for a conditional use shall be granted unless the Plan Commission shall find that the following conditions are present:
  - (a) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
  - (b) That the uses, values and enjoyment of other property in the neighborhood used for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment,

maintenance or operation of the conditional use.

- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - (d) That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided.
  - (e) That adequate measures have been or will be taken to provide ingress or egress so designated as to minimize traffic congestion and traffic hazards in the public street.
- (4) Conditions and Guarantees. Prior to granting a permit for a conditional use, the Plan Commission may stipulate such conditions and restrictions upon the establishment, maintenance and operation of the conditional use as it may find necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards specified in item 2 above.

Establishment, maintenance, and operation shall be construed to include, but shall not be limited to, such factors as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, yard and parking requirements, insofar as the Plan Commission shall find that conditions applying to these factors are necessary to fulfill the purpose and intent of this ordinance. In all cases in which a permit for conditional use is granted, the Plan Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

- (5) Conditional uses shall comply with all other provisions of this ordinance such as lot width and area, yards, height, parking and loading.
- (6) The Plan Commission may authorize the Building Inspector (as referred to in the enforcement and penalties section of the ordinance) to issue a conditional use permit for conditional uses specified in this ordinance after review and a public hearing provided such uses are in accordance with the purpose and intent of this ordinance.
- (7) No application for a conditional use which has been denied wholly or in part by the Plan Commission shall be resubmitted for a period of one year from the date of said denial, except on the grounds that substantial new evidence or proof of change to compliance with the applicable conditions is included in the resubmitted application.

## **16.05 - SIGNS**

- (1) No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a land use permit, except those signs excepted below, without being in conformity with the provisions of this ordinance. The sign shall also meet all the structural requirements of the building code.
- (2) All signs are prohibited in the Residence, Agricultural and Conservancy districts except the following:

- (a) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.
  - (b) Real estate signs not to exceed six (6) square feet located on the premises.
  - (c) Name, occupation, and warning signs not to exceed two (2) square feet located on the premises.
  - (d) Bulletin boards for public, charitable, or religious institutions not to exceed eight (8) square feet in area located on the premises.
  - (e) Memorial signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
  - (f) Official signs, such as traffic control, parking restrictions, information and notices.
  - (g) Temporary signs or banners when authorized by the Plan Commission.
- (3) Signs are permitted in the Commercial and Industrial districts subject to the following restrictions:
- (a) Wall signs placed against the exterior walls of buildings shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed two hundred (200) square feet in area for any one premises, and shall not exceed twenty (20) feet in height above the mean centerline street grade.
  - (b) Projecting signs fastened to, suspended from or supported by structures shall not exceed one hundred (100) square feet in area for any one premises, shall not extend more than six (6) feet into any required yard, shall not extend more than three (3) feet into any public right-of-way, shall not be less than ten (10) feet from all side lot lines, shall not exceed a height of twenty (20) feet above the mean centerline street grade, and shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
  - (c) Ground signs shall not exceed twenty (20) feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed one hundred (100) square feet on one side nor two hundred (200) square feet on all sides for any one premises.
  - (d) Roof signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located, and shall not exceed two hundred (200) square feet on all sides of any one premises.
  - (e) Window signs shall be placed only on the inside of commercial buildings and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed.
  - (f) Combinations of any of the above signs shall meet all the requirements of the individual sign.
- (4) Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be placed so as to obstruct or interfere with traffic visibility.



- (5) Signs lawfully existing at the time of the adoption or amendment of this ordinance may be continued although the use, size or location does not conform with the provisions of this ordinance. However it shall be deemed a nonconforming use or structure, and the provisions of Section 16.06 shall apply.

## **16.055 - PROHIBITED SIGNS**

### **(1) Prohibited Signs**

The following signs are hereby prohibited within the Village of Cassville:

- (a) **Abandoned Signs.** A sign which no longer correctly advertises a bonafide business, lessor, owner, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.
- (b) **Flashing or moving signs** are prohibited in all zoning districts with the exception of financial or similar institutions, time, temperature and/or message signs.
- (c) **Swinging Signs.** A sign installed on an arm, mast, or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
- (d) **Floodlighted Signs.** Reflecting illuminated signs where light source is positioned so that 25% or more of its light intensity is visible from a public right-of-way by vehicular traffic.
- (e) **Unclassified Signs.** The following signs are prohibited, which:
  - 1. Bear or contain statements, words or pictures of obscene, pornographic or immoral subjects.
  - 2. Signs which are an imitation of, or resemble in shape, size, copy or color an official traffic sign or signal.

### **(2) Maintenance and Repair of Signs**

Every sign, including permit exempt signs, shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts, painting, repainting, cleaning, or other required maintenance. The Chief of Police shall cause to be removed any deteriorated or dilapidated signs.

### **(3) Abandoned Signs**

All signs or sign messages shall be removed by the owner or lessee of the premises upon which an on-premise sign is located when the business it advertises is no longer conducted or, for an off-premise sign, when lease payment and rental income are no longer provided. If the owner or lessee fails to remove the sign the Chief of Police shall give the owner 60 days written notice to remove such sign. Upon failure to comply with this notice, the Chief of Police shall cause the removal of the sign.

## 16.06 - NON-CONFORMING USES

Present uses of buildings, signs and premises may be continued even though they do not conform to the restrictions of this ordinance. However, structural repairs or alterations of such buildings, signs or premises shall not during its life exceed 50 percent of their assessed value at the time they become nonconforming unless a building, sign or premises conforming to this ordinance results. Any nonconforming use that is abandoned for one year shall be discontinued permanently.

## 16.07 - BOARD OF APPEALS

A Board of Appeals shall be appointed as specified in Section 62.23 Wis. Stats. The members shall serve without compensation and shall be removable by the Village President for cause upon written charges and after public hearing. The Board of Appeals shall make and file in the office of the Village of Cassville its own rules of procedure consistent with the statutes. It shall have the following powers:

- (1) To hear and decide appeals where it is alleged that the Building Inspector has made an erroneous finding or order.
- (2) To grant specific variances from the terms of this ordinance where it is shown that unique physical circumstances applying to a lot cause hardship to the owner under the ordinance, and that the variance still will be in fundamental harmony with surrounding uses. The Board may reverse or affirm wholly or in part or may modify and order, requirements, decision, or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end shall have all the powers of the Building Inspector. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant or any matter on which it is required to pass or to effect a variance. The grounds for every such determination shall be stated and recorded.
- (3) No action of the Board of Appeals shall have the effect of permitting in any district uses prohibited in such district by this ordinance.
- (4) The minutes of proceedings and hearings before the Board and all variances and special exceptions granted by it shall be filed promptly at the office of the Village Clerk and shall be open for public inspection during office hours.
- (5) Notwithstanding the provisions of subsection (3) of this section or any other provision of Chapter 16, where a petition for a variance has been filed by a property in order to obtain a variance from any term of this ordinance for purposes of complying with the Americans with Disabilities Act (ADA) and the applicant shows to the satisfaction of the Board that such variance is necessary to comply with the terms of the ADA or to make a reasonable accommodation under the ADA the Board may vary any term of this ordinance for such purpose provided the property owner has presented sufficient evidence to the Board to show that the variance is a reasonable and/or necessary accommodation and further provided that the property owner presents sufficient evidence to the Board to show that the structure or use or property which would be permitted by the variance will comply with any applicable specifications promulgated by the state or federal government or agencies thereunder.

## 16.08 - DEFINITIONS

- (1) Accessory Building. Any building except the principal building on a lot. In the case of a house and detached garage on a lot, the accessory building is the garage.
- (2) Alley. A street or thoroughfare less than 21 feet wide and affording only secondary access to abutting properties.
- (3) Arterial Street. 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 arterial streets, highways and parkways.
- (4) Basement. A story partly underground.
- (5) Boarding and/or Rooming House. Establishment primarily engaged in renting rooms, with or without board on a fee basis.
- (6) Building. Any structure used, designed, or intended for the protection, shelter, enclosure or support of persons, animals or property.
- (7) Building Area. Total ground coverage in square feet of all buildings and structures including garages carports, and other attached or accessory structures.
- (8) Building Height. The vertical distance from the top of the building roof to the average elevation at the front property line.
- (9) Conditional Use. A use of land which, while appropriate for inclusion within a given district, possesses a high likelihood of creating problems with regard to nearby parcels of land or the occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created.
- (10) Density. The number of living units per acre allowable under a schedule of district regulations.
- (11) Drive-in establishment. A place of business in which patrons can be served while remaining in their automobiles.
- (12) Dwelling, Single-Family. A detached building designated for, or occupied exclusively by, one family.
- (13) Dwelling, Two-Family. A detached or semi-detached building designed for, and occupied by, two families.
- (14) Dwelling, Multiple-Family. A building or portion thereof designed for, and occupied by, three or more families.
- (15) Emergency Shelter. Public or private enclosures designed to protect people from flood, windstorm, fire, riots, or invasions; and from aerial, radiological, biological or chemical warfare.
- (16) Essential Services. Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers,

- pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but does not include buildings.
- (17) Expressway. A divided arterial street or highway, either with full or partial control of access, and with or without grade separated intersections.
  - (18) Family. A group of persons related by blood or marriage and living together as a single housekeeping entity.
  - (19) Flood Plain. The land adjacent to a body of water which is subject to periodic overflow therefrom.
  - (20) Floodway. The channel of a stream and such adjacent portions of the floodplain as are required to accommodate flood flows.
  - (21) Floor Area. The area within the exterior walls of a building which is usable as living quarters.
  - (22) Freeway. An expressway with full control of access and with fully grade separated intersections.
  - (23) Frontage. The smallest dimension of a lot abutting a public street measured along the street line.
  - (24) Garage, Private. Any accessory building or space for the storage of not more than two (2) motor vehicles per dwelling unit.
  - (25) Garage, Public. Any building or premises, other than a private or storage garage, where motor vehicles are equipped, repaired, serviced, hired, sold or stored.
  - (26) Garage, Storage. Any building or premises used for storage only of motor vehicles.
  - (27) Home Occupation. A gainful occupation conducted by members of a family only, within their place of residence; provided that no article is offered for sale on the premises except such as is produced by such occupation, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes. (A home occupation includes, for example such activities as baby-sitting, millinery, dressmaking, canning, laundering, and crafts, but does not include, for example, such occupations as **barbering**, beauty shops and hairdressing, dancing schools, or **photographic studios**.)
  - (28) Household Unit. The body of persons who live together in one dwelling unit as a single housekeeping unit.
  - (29) Interchange. A grade-separated highway intersection with one or more turning lanes for travel between intersecting roads or highways.
  - (30) Loading Area. A completely off-street space or berth on a lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
  - (31) Lot. A parcel of land described in a recorded plat or deed.
  - (32) Lot, Corner. A lot abutting on two or more streets at their intersection.
  - (33) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
  - (34) Lot Depth. The mean horizontal distance between the front and area lot lines.

- (35) Lot Width. The width of a parcel of land measured at the rear of the specified street yard.
- (36) Minor Structure. Any small, movable accessory structure or construction such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four (4) feet in height.
- (37) Mobile Home. A structure which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and is designed, equipped and used primarily for sleeping eating and living quarters, or is intended to be so used; and includes any additions attachments, annexes, foundations and appurtenances.
- (38) Mobile Home Park. A parcel of land under single ownership designed, maintained, intended or used for the purpose of providing a location and accommodations for four or more mobile homes, including all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home park or its facilities; except that a mobile home subdivision shall not be deemed a mobile home park.
- (39) Nonconforming Structure. A building or premises lawfully used, occupied, or erected at the time of the passage of this ordinance or amendments thereto, which does not conform to the regulations of this ordinance with respect to frontage, width, height, area, yard, parking, loading, or distance requirements.
- (40) Nonconforming Use. The use or occupancy of a building or premises, which is lawful at the time of the enactment of this ordinance or amendments thereto, but which use or occupancy does not conform to the provisions of this ordinance.
- (41) Principal Building. The building of primary importance on a parcel of land, in contrast to those which are accessory or of secondary importance.
- (42) Service Building. A structure housing toilet, washing, and bathing facilities and such other facilities as may be required by this ordinance.
- (43) Setback. The minimum horizontal distance between the lot line and the nearest point of a building or any projection thereof, excluding uncovered steps.
- (44) Sign. A structure or device on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.
- (45) Story. That portion of a building included between the surface of the floor next above it or the space between the floor and the ceiling next above it, if there be no floor above it. A basement or cellar having one-half or more of its height above a grade is a story for purposes of height regulation.
- (46) Story, Half. The space under any roof except a flat roof, the wall plats of which on at least two opposite exterior walls are not more than four feet above the floor of such story.
- (47) Street. All property dedicated or intended for public or private street purposes or subject to public easements 21 feet or more in width.
- (48) Street Right-Of-Way Line. The dividing line between a lot, tract or parcel of land and an abutting street.

- (49) Structure. Anything constructed or erected having location on the ground.
- (50) Structural Alteration. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.
- (51) Temporary Structure. A removable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.
- (52) Turning Lanes. An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade-separated interchange ramps.
- (53) Variance. A departure from the terms of the zoning ordinance where it is shown that unique physical circumstances applying to a land parcel cause a hardship to the owner, and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.
- (54) Vision Clearance Triangle. An unoccupied triangular space at the corner of a corner lot which is bounded by the street lines and a setback line connecting points determined by measurement from the corner of each street line.
- (55) Waterline. The shortest straight line at the waterfront end of a stream lot that lies wholly within the lot, provided that not less than 75 percent of the length of such water line shall be on, or on the landward side of, the normal high water mark of such stream.
- (56) Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.
- (57) Yard, Front. A yard extending the full width of the lot between the front lot line and the nearest part of the principal building excluding uncovered steps.
- (58) Yard, Rear. A yard extending the full width of the lot between the rear lot line and the nearest part of the principal building, excluding only such projections as are permitted herein.
- (59) Yard, Side. A yard extending from the front yard, or from lot line, where no front yard is required, to the rear yard between side lot line and the nearest part of the principal building.

#### **16.09 - ENFORCEMENT AND PENALTIES**

- (1) The Village Board of the Village of Cassville shall designate that the Village Building Inspector to enforce this ordinance by means of land use permits, the cost of which shall be established by the Village Board.
- (2) The Inspector shall not issue a permit for a structure or a use that is not allowed by this ordinance. No structures shall be built, moved, or altered, and no land use shall be substantially altered, until a land use permit has been issued, except that no permit shall be required for farm structures that are not intended to shelter humans.

- (3) Application for any land use permit shall be accompanied by a map showing the location, size and shape of the lot(s) involved, and of any proposed structures, and the existing and proposed use of each structure and lot, and in the case of residential development, the number of families expected to be accommodated.
- (4) In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site sewage disposal system designed in accordance with Section H65 of the Wis. Adm. Code and the Grant County Sanitary Code.
- (5) Under the rules established by the Village Board of the Village of Cassville, the Inspector may use temporary permits of up to one year's duration.
- (6) Any person who violates this ordinance shall be subject to a fine of not less than \$10 or more than \$200, plus the cost of prosecution, or by imprisonment in the county jail for a term of not more than 30 days, or until such judgment is paid. Every day of violation shall constitute a separate offense.

#### **16.10 - AMENDMENTS**

The Village Board of the Village of Cassville may amend this ordinance following the procedures prescribed by Section 62.23, Wis. Stats.

#### **16.11 - SEPARABILITY**

Invalidation of any part of this ordinance by a court shall not invalidate the rest of this ordinance.

#### **16.12 - ANNEXATION**

All territory annexed by the Village of Cassville shall become part of the A District until definite boundaries and regulations are recommended by the Plan Commission and adopted by the Village Board of the Village of Cassville, such adoption to be completed within 90 days of the annexation.

#### **16.13 - CONFLICTING PROVISIONS REPEALED**

All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

#### **16.14 - FEES**

- (1) Building Permits. Pursuant to section 14.02(g) of the Municipal Code, fees for building permits are hereby established as follows:
  - (a) Construction or remodeling of the interior of existing building or structure where construction or remodeling estimate (including material and labor) is greater than \$5,000. **Fee - \$25**
  - (b) Construction of new building or structure or remodeling of the exterior of existing building or structure where construction estimate (including material and labor) is less than \$10,000. **Fee - \$25**
  - (c) Construction of new building or structure or remodeling of the exterior of existing building or structure where construction estimate (including material and

labor) is \$10,000 or more. **Fee - \$25 plus .3% (.003) of estimated construction cost. The fee shall not, however, exceed \$10,000.**

- (2) Fees for Conditional Use Permit Applications and Appeals to the Board of Zoning Appeals. There shall be a nonrefundable fee of **\$150.00** for each appeal to the Board of Zoning Appeal and said amount shall be paid to the Village Clerk/Treasurer at the time of filing the appeal. There shall be a nonrefundable fee of **\$150.00** for each application for a conditional use permit and said amount shall be paid to the Village Clerk/Treasurer at the time of filing the application. Fees for such applications and/or appeals are to be paid in addition to building permit fees.
- (3) Any person who files an application for a building permit who deliberately understates the estimated cost of construction or who fails to reasonable ascertain the cost of construction prior to filing the application shall be subject to revocation of the building permit and penalties as provided in section 16.09(6) if the actual cost of construction exceeds the estimate provided by more than five percent (5%). No person who would otherwise be in violation of this section shall be subject to the penalties provided in this section if such person, within 10 days of the substantial completion of construction, amends his or her application to show the actual cost of construction and pays all additional fees.

## **16.51 – CABLE TELEVISION FRANCHISE**

- I. There is hereby granted Village of Cassville and assigned a non-exclusive Franchise to Charter Communications VI, LLC: Hereinafter referred to as the "Franchisee," to operate and maintain a cable system for a period of fifteen (15) years with option to renew for an additional fifteen (15) years upon renegotiation and acceptance by both parties.

### **II. Definitions**

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. The word "shall" is always mandatory and not merely directory.

1. "Village" shall mean Cassville.
2. "Board" shall mean the governing body of Village of Cassville.
3. "Franchise" shall mean the authorization to operate a cable television system, including all mutual rights, duties and obligations of the Franchisee and the Village as contained in this Ordinance.
4. "Franchisee" shall mean Charter Communication VI, LLC, its successor or any affiliated company in accordance with the provisions of this Ordinance.
5. "Gross Revenue" shall mean any revenue received by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that such phrase shall not include: (1) any taxes, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC User Fee; (2) unrecovered bad debt; (3) any PEG or 1-Net amounts recovered from Subscribers; and (4) revenue from high-speed internet service.



6. "System" shall mean those antennas, cables, wires, lines towers, waveguides, or other conductors, converters, equipment or facilities, designed and constructed within the Village for the purpose of producing, providing, receiving, transmitting, amplifying and distributing, audio, video and other forms of electronics or directional duplex signals.

### **III. Grant of Authority**

Franchisee shall be given the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over, and under the streets, alleys, public ways now laid out or dedicated and in compatible easements, and all extensions, thereof, and additions thereto, in the Village, poles, wires, cables, underground conduits, manholes, and other equipment and fixtures necessary for the maintenance and operation of a cable system.

Franchisee shall raise or lower wires or equipment upon the reasonable request of any third person, including any person holding a building permit. Expenses associated with raising and lowering the wires or equipment shall be paid by the person requesting the same (except in cases where Franchisee is required to bear the costs under other provisions of this Franchise) and the Franchisee may require advance payment. Franchisee shall be entitled to require that it be given up to ten (10) days advance notice by the person requesting the movement.

### **IV. Compliance with Applicable Laws.**

Franchisee, shall, at all times during the life of this Franchise, be subject, when not inconsistent with this Franchise, to all lawful exercise of the police power by the Village and to such reasonable regulation as the Village shall hereafter provide.

### **V. Compliance with FCC Regulation.**

Franchisee shall comply with all applicable rules and regulations of the Federal Communications Commission.

Copies of all petitions, applications and communications submitted by the Franchisee to the Federal Communications Commission, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect of any matters directly affecting Cable System operations authorized pursuant to the Franchise, shall be submitted to the Board upon request.

### **VI. Compliance with Electrical Standards.**

Construction and maintenance of the transmission and distribution system including house connections, shall be in accordance with the provisions of the National Electrical Safety Code of the National Board of Fire Underwriters, and such safety codes as now exist or which may be established in the future. In the event of a conflict among safety codes, the strictest standard shall apply.

## **VII. Franchise Requirements for Other Franchise Holders.**

In the event that Village grants one (1) or more Franchise(s) or similar authorization(s), for the construction, operation and maintenance of any communication facility which shall offer services substantially equivalent to services offered by the Franchisee it shall not make the grant on more favorable or less burdensome terms. If Franchisee finds that the agreement(s) granting said other Franchise(s) contain provisions imposing lesser obligations on the Company(s) thereof than are imposed by the provisions of this Franchise, Franchisee may petition Village for a modification of this Franchise. The Franchisee shall be entitled, with respect to said lesser obligations to such modification(s) of this Franchise as may be determined to be necessary to insure fair and equal treatment by this Franchise and said other agreements.

In the event that a non-Franchise multi-channel video-programming distributor provides service to the residents of the Village, the Franchisee shall have a right to request Franchise amendments that relieve the Franchisee of regulatory burdens that create a competitive disadvantage to the Franchisee. In requesting amendments, the Franchisee shall file a petition seeking to amend the Franchise. Such petitions shall:

1. Indicate the presence of a non-Franchised competitor(s);
2. Identify the basis for Franchisee's belief that certain provisions of the Franchise place Franchisee at a competitive disadvantage;
3. Identify the regulatory burdens to be remanded or repealed in order to eliminate the competitive disadvantage.

The Village shall not unreasonably withhold granting the Franchisee's petition and so amending the Franchise.

## **VIII. Cable System Franchise Required**

No cable system shall be allowed to occupy or use the streets or public right-of-way of the Village or be allowed to operate without a cable system Franchise.

## **IX. Service Territory.**

Franchisee's distribution system shall be capable of providing service to all potential subscribers requesting service within the incorporated limits of the Village and shall extend its distribution system to serve additional subscribers in any unserved areas of the Village as of the effective date of this Ordinance whenever the number of unserved homes passed by such extension would exceed thirty (30) homes per mile; provided that such extensions are technically and economically feasible to the Franchisee.

Where the length of a drop cable required to serve an individual resident would exceed 150 feet, the subscriber served by such a drop cable shall pay the cost of installing a feeder cable to a point where the subscriber will receive a signal without degradation of picture quality or reliability.

## **X. Customer Service.**

Franchisee shall comply with applicable Federal, State and local laws for the protection of privacy of cable subscribers.

Franchisee shall render efficient repair service, and interrupt service only for good cause and for the shortest time possible. A toll-free telephone number shall be maintained so that complaints and repair requests may be received by Franchisee at any time. All non-emergency service requests and complaints shall be responded to within five (5) days of receipt. All emergencies and/or system outages will be responded to within twenty-four (24) hours.

Franchisee shall give Village thirty (30) days prior notice of any rate increases, channel lineup or other substantive service changes.

The Franchisee shall by appropriate means, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and toll-free telephone number of the Franchisee.

The equipment installed by the Franchisee in the subscriber's home shall remain the property of the Franchisee and shall be subject to reasonable inspection and service by the Franchisee at reasonable hours, and removal upon non-payment or termination of the service.

## **XI. Community Programming.**

Franchisee shall reserve one local access/PEG (Public, Education, Government) Channel.

## **XII. Service to Village.**

Franchisee shall provide and maintain one free connection of basic cable service to municipal buildings, and to all public and parochial primary and secondary schools located in the Village that pass by the cable system and a cable drop from the plant shall not exceed 150 feet to the building. The cost of any internal wiring and additional costs to add drops or equipment beyond 150 feet for cable drops shall be borne by the Village,

## **XIII. Fee to Village.**

Franchisee shall pay to the Village for the privilege of operating a cable system under this Franchise (three) percent (3%) of its gross revenue, in accordance with the Cable Act, Such percentage shall be payable to the Village on an annual basis due no later than ninety (90) days following the end of the period.

Village shall have the right to inspect for up to three (3) previous years the Franchisee's records showing its gross receipts for all services from which its contracted payouts are computed. No acceptance of any payout by the Village shall be construed as a release of or an accord or satisfaction of any claim the Village might have for further or additional sums payable under the terms of this Franchise.

#### **XIV. Conditions on Street Use.**

Franchisee shall endeavor to obtain rights to use facilities belonging to other Franchise holders within the Village. Approval of the assignment of such rights to the Franchisee by such other Franchise holders is hereby expressly given by the Village, it being the intention of the Village that the Franchisee will utilize public utility facilities where feasible.

All transmission and distribution structures, lines, and equipment erected by the Franchisee within the Village shall be located so as not to interfere with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places, and not to interfere with existing public utility installation.

If the Franchisee disturbs any pavements, sidewalks, driveways or other surfacing, it shall, at its own expense, and in the manner provided by the Village, replace and restore all such pavings, sidewalks, driveways or other surfaces of any streets or alleys thus disturbed.

If at any time during the period of this Franchise, the Village shall lawfully elect to alter, or change the grade or alley, or other public ways, the Franchisee shall upon reasonable notice by the Village, remove and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense, and in each instance comply with the requirements of the Village.

#### **XV. Indemnification and Insurance.**

<u>Workers' Compensation</u>	<u>Statutory Limits</u>
Commercial General Liability	\$1,000,000 per occurrence, Combined Single Liability (C.S.L.) \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned and hired autos	\$1,000,000 per occurrence C.S.L.
Umbrella Liability	\$1,000,000 per occurrence C.S.L.

The Village shall be added as an Additional Insured to the above Commercial General Liability and Auto Liability Insurance Coverage.

The Franchisee shall furnish the Village with current Certificates of Insurance evidencing such coverage.

## **XVI. Notice.**

Any notices to be sent to the parties hereto shall be sent to the following addresses; unless either party notifies the other in writing of another address:

Village of Cassville  
Attn: Keevin Williams  
100 W. Amelia St.  
Cassville, WI 53806

Charter Communications  
Attn: James Bonneville  
Government Relations  
Manager 5618 Odana  
Road, Suite 150 Madison,

## **XVII. Duration and Renewal of Franchise.**

This Franchise and the rights, privileges and authority hereby granted shall take effect and be in force thirty (30) days from and after the final passage hereof and upon filing of acceptance by the Franchisee, and shall continue in force and effect for a term of fifteen (15) years.

This Franchise may be renewed for an additional fifteen (15) years if the Franchisee has substantially complied with the material terms of the Franchise and with applicable law.

## **XVIII. Emergency Use of Facilities.**

In the case of any emergency or disaster, the Franchisee shall upon request of the Village, make available its facilities for emergency use during the emergency or disaster.

## **XIX. Public Records.**

The Village shall have access to records and other like materials of the Franchisee upon reasonable prior notice as mutually agreed upon by the Village and Franchisee.

## **XX. Forfeiture of Franchise.**

(a) In addition to all other rights and powers pertaining to the Village by virtue of this Franchise or otherwise, the Village reserves the right to terminate and cancel this Franchise and all rights and privileges of the Franchisee hereunder in the event that the Franchisee:

- (1) Violates any provision of this Franchise.
- (2) Becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt;
- (3) Practices any fraud or deceit upon the Village.

(b) Such termination and cancellation shall be by Ordinance duly adopted after thirty (30) days written notice to the Franchisee and shall in no way affect any of the Village's rights under this Franchise or any provisions of law. In the event that such termination and cancellation depends upon a finding of fact, such finding of fact shall be made by the Board or its representative. Before this Franchise may be terminated and canceled under this Section, the

Franchisee must be provided with an opportunity to be heard before the Board and an opportunity to cure any condition leading to termination or cancellation. If the Franchisee has corrected the condition leading to termination or cancellation within the thirty (30) days written notice of termination or cancellation, or, if such correction requires more than thirty (30) days, has begun to correct any such condition, this Franchise shall remain in effect.

- (c) Prevention or delay of any performance under the Franchise due to circumstances beyond the control of Franchisee or Village including, but not limited to, natural disaster, employee strikes or war shall not be deemed noncompliance with or a violation of this Franchise.

#### **XXI. Equal Employment Opportunity Compliance.**

Franchisee shall comply at all times with applicable Federal, State and local laws and all executive and administrative orders relating to nondiscrimination, equal employment and affirmative action.

#### **XXII. Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this Agreement is for any reason held invalid, unconstitutional or unenforceable, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions hereof.

#### **XXIII. Integration.**

This Agreement sets forth the entire Agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations and warranties, express or implied, oral or written, have been made by any party to another with respect to the matter of this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and superseded hereby and thereby. This is an integrated Agreement.

#### **XXIV. Rate Regulation.**

To the extent that Federal or State Law or regulation may now, or as the same may hereafter be amended to, authorize the Village to regulate the rates for any particular service tiers, service packages, equipment, or any other services provided by the Franchisee, the Village shall have the right to exercise rate regulation to the full extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Village. If and when exercising rate regulation, the Village shall abide by the terms and conditions set forth by the FCC.