

ORDINANCE NO. 2021-01AN ORDINANCE TO REPEAL AND RE-CREATE SECTIONS 745-13 B. (6),  
745-14, 745-15, 745-16 B. (6) AND 745-17 B. (6) OF THE VILLAGE OF FOX  
POINT ZONING CODE CONCERNING RESIDENCE DISTRICTS

WHEREAS, the Village of Fox Point Village Board has initiated this zoning amendment pursuant to Section 745-35 of the Village of Fox Point Zoning Ordinance and Wisconsin Statutes Sections 61.35 and 62.23(7), upon the recommendation of the Village Building Inspector, and has referred the matter to the Village Plan Commission for report and recommendation; and

WHEREAS, the Village Building Inspector, in consultation with the Village Attorney, has recommended revisions be made to the residential zoning district regulations of the Village Code, to make the provisions more user friendly, and less susceptible to misinterpretation, by eliminating certain internal code references and instead directly describing the regulations that apply in each residential district; and

WHEREAS, the changes contemplated herein do not modify the substance of the regulations applicable to each zoning district, these changes only make the provisions more clear; and

WHEREAS, the Plan Commission of the Village of Fox Point has recommended to the Village Board of the Village of Fox Point that said amendments to the Zoning Code be made; and

WHEREAS, a public hearing was conducted by the Village Board of the Village of Fox Point on February 9, 2021, after due notice was provided pursuant to Section 745-35 of the Village of Fox Point Village Code and Wisconsin Statutes Section 61.35 and 62.23; and

WHEREAS, the Village Board finds that this change to the Village Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, the Village Board of the Village of Fox Point having carefully reviewed the recommendation of the Plan Commission of the Village of Fox Point, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration and having based its determination on the effect of the granting of such a zoning amendment on the health, safety and welfare of the community and having given due consideration to the municipal problems involved as well as the impact on the affected properties hereby determines that the public necessity, convenience, general welfare and good zoning practice requires that the zoning amendment be granted.

NOW, THEREFORE, the Village Board of the Village of Fox Point, Milwaukee County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 745 of the Village of Fox Point Village Code entitled "Zoning," Section 745-13 entitled "A-1 Residence District," Subsection B entitled, "Areas and Yards," Subsection (6), the introductory paragraph only, and not the subsections that follow is hereby repealed and recreated as follows:

- (6) No single-family residence built or existing in this district shall have a height greater than ~~35 feet above the lowest point of the lot grade abutting the structure, except if located in the A-1, A-2, A-3, or B District. Any single family residence located in the A-1, A-2, A-3, or B District shall not have a height greater than 40 feet from the grade abutting the structure on the front side of the structure, with the exception in the A-1 District that, upon application to the Board of Appeals, the Board of Appeals may grant a special exception under the conditions as further set forth in this subsection. Any single family residence located in the A-1 District and constructed on a lot of not less than 80,000 square feet in total area may apply to the Board of Appeals for a special exception from any height limitation upon the following criteria:~~

SECTION 2: Chapter 745 of the Village of Fox Point Village Code entitled "Zoning," Section 745-14 entitled "A-2 Residence District," is hereby repealed and recreated as follows:

§ 745-14 A-2 Residence District.

- A. ~~The provisions of this chapter in respect to an A-1 Residence District above set forth shall apply to an A-2 Residence District, except that the open area required by § 745-13B(1) above shall be 30,000 square feet; the side yard required by § 745-13B(3) above shall be 15 feet, and the width required by § 745-13B(5) above shall be 100 feet.~~
- B. ~~The height limitations of single family residence structures shall be governed by § 745-13B(6).~~
- A. Uses. In an A-2 Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use, provided always accessory use does not constitute or become a public or private nuisance.
- B. Areas and yards. In an A-2 Residence District, no building may be erected, enlarged or altered except in conformity with the following:
- (1) The open area of a lot on which a dwelling is erected or proposed to be erected, together with the area of abutting land reserved for highway purposes, whether private or public, to the center line thereof, shall not be reduced to less than 30,000 square feet for each family. No building not erected for a dwelling shall occupy more than 10% of the gross area of the lot or exceed a height of 25 feet.
  - (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the

Official Zoning Map, except that the following reductions may be made for corner lots from the setbacks specified on the Official Zoning Map: five feet when width of lot is more than 80 feet but less than 90 feet; 10 feet when width of lot is more than 70 feet but less than 80 feet; and 15 feet when the width of lot is 70 feet or less; provided, however, that no setback will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.

- (3) A side yard of not less than 15 feet shall be provided for on each side of every building.
- (4) A rear yard of not less than 20 feet shall be provided for every building.
- (5) Every lot on which a building is erected shall have an average a minimum width of 100 feet.
- (6) No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including but not limited to attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.

**SECTION 3: Chapter 745 of the Village of Fox Point Village Code entitled "Zoning,"**

Section 745-15 entitled "A-3 Residence District," is hereby repealed and recreated as follows:

**§ 745-15 A-3 Residence District.**

- A. ~~The provisions of this chapter in respect to an A-1 Residence District above set forth shall apply to an A-3 Residence District, except that the open area required by § 745-13B(1) above shall be 20,000 square feet; the side yard required by § 745-13B(3) above shall be 12 feet, and the width required by § 745-13B(5) above shall be 90 feet.~~
- B. ~~The height limitations of single-family residence structures shall be governed by § 745-13B(6).~~
- A. Uses. In an A-3 Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use, provided always accessory use does not constitute or become a public or private nuisance.
- B. Areas and yards. In an A-3 Residence District, no building may be erected, enlarged or altered except in conformity with the following:
  - (1) The open area of a lot on which a dwelling is erected or proposed to be erected, together with the area of abutting land reserved for highway purposes, whether private or public, to the center line thereof, shall not be reduced to less than 20,000 square feet for each family. No building not erected for a dwelling shall occupy more than 10% of the gross area of the

lot or exceed a height of 25 feet.

- (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map, except that the following reductions may be made for corner lots from the setbacks specified on the Official Zoning Map: five feet when width of lot is more than 80 feet but less than 90 feet; 10 feet when width of lot is more than 70 feet but less than 80 feet; and 15 feet when the width of lot is 70 feet or less; provided, however, that no setback will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.
- (3) A side yard of not less than 12 feet shall be provided for on each side of every building.
- (4) A rear yard of not less than 20 feet shall be provided for every building.
- (5) Every lot on which a building is erected shall have an average a minimum width of 90 feet.
- (6) No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including but not limited to attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.

**SECTION 4:** Chapter 745 of the Village of Fox Point Village Code entitled "Zoning,"

Section 745-16 entitled "B Residence District," Subsection B entitled, "Areas and Yards,"

Subsection (6) is hereby repealed and recreated as follows:

- (6) ~~The height limitations of single-family residence structures shall be governed by § 745-13B(6).~~ No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including but not limited to attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.

**SECTION 5:** Chapter 745 of the Village of Fox Point Village Code entitled "Zoning,"

Section 745-17 entitled "C Residence District," Subsection B entitled, "Areas and Yards,"

Subsection (6) is hereby repealed and recreated as follows:

- (6) ~~The height limitations of single-family residence structures shall be governed by § 745-13B(6).~~ No single-family residence built or existing in this district shall have

a height greater than 35 feet above the lowest point of the lot grade abutting the structure. from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including but not limited to attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.

**SECTION 6: CONTINUATION OF EXISTING PROVISIONS.**

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

**SECTION 7: SEVERABILITY.**

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

**SECTION 8: EFFECTIVE DATE.**

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 9<sup>th</sup> day of February, 2021.

VILLAGE OF FOX POINT



\_\_\_\_\_  
Douglas H. Frazer, Village President

ATTEST:

  
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Kelly Meyer, Village Clerk

Published and/or posted this \_\_\_\_ day of February, 2021.