

TOWN OF PORT WASHINGTON

ORDINANCE NO. 2011- 06

**ORDINANCE TO AMEND CHAPTER 340 OF THE TOWN OF PORT WASHINGTON
MUNICIPAL CODE, KNOWN AS THE ZONING AND
SUBDIVISION CODE, TO CREATE THE R-3 RESIDENTIAL DISTRICT**

WHEREAS, the Town of Port Washington has enacted a Zoning and Subdivision Code, which is codified as Chapter 340 of the Town of Port Washington Municipal Code and known as the Zoning and Subdivision Code; and

WHEREAS, the Town Board of Supervisors of the Town of Port Washington, with assistance from the Town Plan Commission, periodically reviews Chapter 340 to ensure that the requirements are fair and equitable to allow Town property owners adequate use of property while protecting the health, safety and welfare of the general public; and

WHEREAS, as part of the ongoing implementation of the Comprehensive Plan 2035, it is the desire of the Town of Port Washington to accommodate residential development within the City Growth Area that is compatible with City of Port Washington zoning ordinances; and

WHEREAS, after careful consideration at regular and publicly posted meetings, standards were prepared by the Plan Commission to create the R-3 Residential District to be more compatible with the neighboring RS-1 zoning district in the City of Port Washington; and

WHEREAS, at the publicly posted meeting of Oct. 12, 2011, the Plan Commission recommended approval to the Town Board to amend Chapter 340 to create a R-3 Residential District; and

WHEREAS, after due public notice, the Town Board held a public hearing on Nov. 7, 2011, soliciting public comment regarding the Plan Commission recommendation; and

WHEREAS, the Town Board of the Town of Port Washington having carefully reviewed the recommendation of the Plan Commission, 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 rezoning and 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 surrounding properties as to noise, smoke and odor, and others hereby determines that the public necessity, convenience, general welfare and good zoning practice requires that the zoning amendment be granted, as the zoning amendment will not violate the spirit or intent of the Zoning and Subdivision Code for the Town of Port Washington, will not be contrary to the public health, safety or general welfare of the Town of Port Washington, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a

substantial adverse effect on the property values and general desirability of the neighborhood and is consistent with the recommendations found in the Comprehensive Plan 2035 for the Town of Port Washington.

NOW THEREFORE, the Board of Supervisors of the Town of Port Washington, do hereby ordain as follows:

SECTION I. Section 340-17.A. of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code is hereby amended to read as follows:

§340-17. Districts established; boundaries.

A. For the purpose of this chapter, the Town of Port Washington is hereby divided into the following zoning districts: [Amended 8-16-2006 by Ord. No. 2006-3; 6-4-2007 by Ord. No. 2007-1-B]

- A-1 Exclusive Agricultural District
- A-2 General Agricultural District
- A-3 Agricultural Transition District Editor's Note: The A-3 Agricultural Transition District and its regulations were added to the Code 12-7-2009 by Ord. No. 2009-08. In order to ensure a complete list of districts, the district name was included in this §340-17A.
- ACS-1 Agricultural/Conservation Subdivision District Editor's Note: The ACS-1 Agricultural/Conservation Subdivision District and its regulations were added to the Code 12-7-2009 by Ord. No. 2009-09. In order to ensure a complete list of districts, the district name was included in this § 340-17A.
- R-1 Residential District
- R-2 Residential District
- R-3 Residential District
- B-1 Business District
- B-2 Neighborhood Business District
- TSD Town Square District
- BP-1 Business Park District
- BP-2 Transitional Business Park District
- M-1 Industrial District
- I-1 Institutional District
- P-1 Park and Recreation District
- PRD Planned Residential District Overlay
- PUD Planned Unit Development Overlay District
- KOD Knellsville Overlay Development Standards District

SECTION II. Section 340-21.1 of the Zoning and Subdivision Code of the Town of Port Washington Municipal Code is hereby created to read as follows:

§340-21.1. R-3 Residential District.

The R-3 Residential District is intended to provide for single-family development within the City Growth Area (as defined by the Settlement Agreement Between the City of Port Washington and the Town of Port Washington, Ozaukee County, Wisconsin, to Provide for Orderly Land Development, Boundary Agreements and Shared Services, dated November 23, 2004), at densities not to exceed 1.33 dwelling unit per net acre, served by on-site soil absorption sanitary sewerage systems or other appropriate means and private wells.

- A. Permitted uses.
 - (1) Single-family dwellings.
 - (2) Essential services.
 - (3) Community living arrangements [§ 62.23(7)(i)2 to 10, Wis. Stats.].
- B. Permitted accessory uses.
 - (1) Private garages and carports.
 - (2) Gardening, tool and storage sheds incidental to the residential use.
 - (3) Home occupations.
- C. Conditional uses. See Article IV.
- D. Lot area and width. Lots shall have a minimum area of 3/4 acre and shall not be less than 110 feet in width.
- E. Dwelling standards.
 - (1) Single-family dwellings within the R-3 District shall have a minimum living area measured in square feet from the outside of exterior walls, excluding cellars, basements, open porches, breezeways, garages, and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, in accordance with the following:
 - (a) First floor: 800 square feet minimum.
 - (b) Total living area: 1,200 square feet minimum.
 - (2) Each single-family dwelling shall have a garage that is a minimum of 400 square feet in area.
- F. Building height. No buildings or parts of buildings shall exceed 42 feet in height.
[Amended 8-4-2008 by Ord. No. 2008-01]

G. Yards.

- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.
- (2) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (3) There shall be a side yard on each side of the parcel not less than 15 feet in width.
- (4) When a new R-3 residential lot (or use) is created adjacent to a B-1 or M-1 lot (or use) there shall be a buffer on that lot that conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.
[Added 8-5-1999 by Ord. No. 99-6]

H. Accessory structures. [Added 8-4-2008 by Ord. No. 2008-01]

- (1) General standards for accessory structures.
 - (a) Any accessory structure shall be located on a lot only with a principal structure.
 - (b) An accessory structure shall not be located closer than 10 feet to any principal structure, or another accessory structure.
 - (c) The combination of all accessory structure(s) on a lot shall not exceed 20% of the rear yard area.
 - (d) The combination of all accessory structure(s) on a lot shall not exceed 20% of the side yard area.
 - (e) An accessory structure shall only be located in a rear or side yard. Where site conditions do not allow an accessory structure to be placed in a rear or side yard area, the Plan Commission may grant approval of an accessory structure in the street yard, where the applicant shows no other alternatives are available. If allowed in a street yard, the accessory structure shall conform to the street yard setback of the R-3 District. However, where lots abut Lake Michigan, one accessory structure shall be allowed in the street yard without Plan Commission approval, subject to compliance with all other accessory structure standards.
 - (f) Only one accessory structure less than 151 square feet shall be located, erected or moved on a lot; and only one accessory structure over 151 square feet shall be located, erected or moved on a lot. The Plan Commission may permit more than one structure where more than one accessory structure is needed for the orderly development of the lot. If the

Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, architectural design requirements and parking requirements or require additional minimum separation between structures.

- (g) The use of an accessory structure shall be clearly customary and incidental to the principal use of the lot. No living quarters shall be permitted in an accessory structure.
- (2) Standards for an accessory structure 150 square feet and smaller in size. These structures:
 - (a) Shall not be located closer than 20 feet from any rear or side lot line.
 - (b) Shall comply with the minimum shore yard of 75 feet.
 - (c) Shall not exceed 15 feet in height.
 - (3) Standards for an accessory structure between 150 square feet and 800 square feet in size. These structures:
 - (a) Shall comply with the setbacks of the R-3 District.
 - (b) Shall not exceed 25 feet in height.
 - (4) Standards for an accessory structure 800 square feet and larger in size. These structures:
 - (a) Shall require Plan Commission approval as a conditional use, pursuant to the procedures of Article IV.
 - (b) Shall comply with the setbacks of the R-3 District.
 - (c) Shall not exceed 25 feet in height.

SECTION III. Severability. The several sections and portions 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 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 IV. This ordinance shall take effect immediately upon passage and publication or posting as provided by law.

ADOPTED THIS 7th day of November, 2011.

BY THE TOWN BOARD OF SUPERVISORS

TOWN OF PORT WASHINGTON

OZAUKEE COUNTY, WI

James P Melichar
James Melichar, Town Chair

Michael Didier
Michael Didier, Town Supervisor

James M. Rychtik
James Rychtik, Town Supervisor

Attest:

Jennifer Schlenvogt
Jennifer Schlenvogt, Town Clerk