

**Code  
of the  
Town of  
Port Washington**

COUNTY OF OZAUKEE

STATE OF WISCONSIN

**SERIAL NO. ....**

GENERAL CODE  
[www.generalcode.com](http://www.generalcode.com)

2007



**C E R T I F I C A T I O N**  
**TOWN OF PORT WASHINGTON**

**Office of the Town Clerk**

I, **SUSAN L. WESTERBEKE**, Town Clerk of the Town of Port Washington, Wisconsin, hereby certify that the chapters contained in this volume are based upon the original ordinances of a general and permanent nature of the Town Board of the Town of Port Washington and that said ordinances, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Town of Port Washington, County of Ozaukee, State of Wisconsin, as adopted by ordinance of the Town Board on June 4, 2007.

Given under my hand and the Seal of the Town of Port Washington, County of Ozaukee, State of Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, at the municipal offices of the Town of Port Washington.

s/**SUSAN L. WESTERBEKE**

\_\_\_\_\_  
Town Clerk



## **PREFACE**

The Town of Port Washington has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Town, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Town. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Town Board ordered the following codification of the Town's legislation.

### **Contents of Code**

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Town Board of the Town of Port Washington, including revisions or amendments to existing legislation deemed necessary by the Town Board in the course of the codification.

### **Division of Code**

The Code is divided into parts. Part I, Administrative Legislation, contains all Town legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Town legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

### **Table of Contents and Grouping of Legislation**

The Table of Contents details the arrangement of material alphabetically by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, the use of article designations has preserved the identity of the individual enactments, and the titles of the articles are listed beneath the chapter title in order to facilitate location of the individual enactments.

### **Reserved Chapters**

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

## PORT WASHINGTON CODE

### **Pagination**

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

### **Numbering of Sections**

A chapter-related section-numbering system is employed in which the section number indicates the number of the chapter and the location of the section within that chapter. Thus, the first section of Chapter 30 would be § 30-1, while the sixth section of Chapter 57 would be § 57-6.

### **Scheme**

The scheme is the list of section titles that precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the scheme titles are repeated as section headings in the text.

### **Histories**

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

### **General References; Editor's Notes**

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

### **Appendix**

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this publication is reserved for such legislation and for any other material that the community may wish to include.

## PREFACE

### **Disposition List**

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

### **Index**

The Index is a guide to information. Since it is likely that this publication will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added.

### **Instructions for Amending the Code**

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

**Adding new sections.** Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

**Adding new chapters.** New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

**Adding new articles.** New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

### **Supplementation**

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

## PART I PORT WASHINGTON CODE

### **Acknowledgment**

The assistance of the Town officials is gratefully acknowledged by the editor. The codification of the legislation of the Town of Port Washington reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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# PART I

# ADMINISTRATIVE LEGISLATION



# Chapter 1

## GENERAL PROVISIONS

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§ 1-1. Adoption of Code.	§ 1-9. Altering or tampering with Code; penalties for violation.
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[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]

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### ARTICLE I Adoption of Code [Adopted 6-4-2007 by Ord. No. 2007-1-B]

#### § 1-1. Adoption of Code.

Pursuant to § 66.0103, Wis. Stats., the ordinances of the Town of Port Washington of a general and permanent nature adopted by the Town Board of the Town of Port Washington, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 340, are hereby approved, adopted, ordained and enacted as the "Code of the Town of Port Washington," hereinafter referred to as the "Code."

#### § 1-2. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

#### § 1-3. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by 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.

**§ 1-4. Copy of Code on file.**

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk and shall remain there for use and examination by the public for at least two weeks, in accordance with § 66.0103, Wis. Stats., and until final action is taken on this ordinance, and if this ordinance shall be adopted, such copy shall be certified to by the Town Clerk, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

**§ 1-5. Amendments to Code.**

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Town Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Town of Port Washington" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

**§ 1-6. Publication; filing.**

The Clerk of the Town of Port Washington, pursuant to law, shall cause to be published, in the manner required by law, a copy of this Adoption Ordinance. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-7. Code book to be kept up-to-date.**

It shall be the duty of the Town Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

**§ 1-8. Sale of Code book.**

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

**§ 1-9. Altering or tampering with Code; penalties for violation.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Port Washington to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a forfeiture of not more than \$500, in the discretion of the Judge imposing the same.

**§ 1-10. Severability of Code provisions.**

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

**§ 1-11. Severability of ordinance provisions.**

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

**§ 1-12. Repeater.**

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

**§ 1-13. Ordinances saved from repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to April 2, 2007.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.

- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Town's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending a Zoning Map or otherwise rezoning property.
- O. Any charter ordinances.
- P. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.

**§ 1-14. New ordinances; changes in previously adopted ordinances.**

The adoption of the Code provided in § 1-1 includes the adoption of the following, as set forth in the Code on file in the office of the Clerk pursuant to § 1-4:

- A. New ordinances: Chapter 250, Nuisances.
- B. Revisions to existing ordinances deemed necessary and authorized by the Town Board to bring the ordinances of the Town into compliance with current procedures and statutory requirements.

**§ 1-15. When effective.**

This ordinance shall take effect upon passage and publication as required by law.

## Chapter 2

### BROADBAND NETWORK PROJECT APPLICATIONS

#### **§ 2-1. General provisions.**

#### **§ 2-2. Electronic submission of applications.**

#### **§ 2-3. Review of applications.**

#### **§ 2-4. Fees.**

#### **§ 2-5. Initial applicability.**

#### **§ 2-6. Effective date.**

**[HISTORY: Adopted by the Town Board of the Town of Port Washington 2-7-2022 by Ord. No. 2022-01. Amendments noted where applicable.]**

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#### **§ 2-1. General provisions.**

A. Purpose and policy. The purpose of this chapter is to encourage the development of broadband access in the Town of Port Washington by reducing administrative obstacles to broadband service providers and coordinating the review of applications to ensure such applications are timely processed. This chapter shall at all times be construed consistent with the aforesigned purpose.

B. Definitions. In this chapter:

**APPLICANT** — Means a person applying for a permit for a broadband network project.

**BROADBAND NETWORK PROJECT** — Means the construction or deployment of wireline or wireless communications facilities to provide broadband communications services in the Town of Port Washington.

**PERMIT** — Means any local permit, license, certificate, approval, registration, or similar form of approval required by policy, administrative rule, regulation, ordinance, or resolution with respect to a broadband network project.

**WRITTEN OR IN WRITING** — Means information that is inscribed on a tangible medium or that is stored in an electronic or other intangible medium and is retrievable in perceivable form.

C. Point of contact. The Town of Port Washington shall appoint a single point of contact for all matters related to a broadband network project. The Town of Port Washington shall provide on its public website the contact information, including the e-mail address, for the point of contact authorized to receive a broadband network project application.

#### **§ 2-2. Electronic submission of applications.**

An applicant may sign and file all forms, applications and documentation related to a broadband network project electronically.

**§ 2-3. Review of applications.**

Notwithstanding any other provision in the Town of Port Washington's ordinances, resolutions, regulations, policies or practices to the contrary, the following process shall apply exclusively upon receiving a broadband network project application:

A. Completeness review. Upon receiving a broadband network project application, the Town of Port Washington shall:

- (1) Determine whether an application is complete and notify the applicant of the determination by the Town of Port Washington in writing within 10 calendar days of receiving an application. If the Town of Port Washington does not notify the applicant in writing of its completeness determination within 10 calendar days of receiving the application, the application shall be considered complete.
- (2) If the Town of Port Washington determines that an application is not complete, the written notification to the applicant shall specify in detail the required information that is not complete. The applicant may resubmit an application as often as necessary until the application is complete.

B. Approval or denial of complete applications.

- (1) Within 60 calendar days of receiving an application that is complete, or considered complete under Subsection A, the Town of Port Washington shall approve or deny the application and provide the applicant written notification of the approval or denial. If the Town of Port Washington does not notify the applicant of its approval or denial within 60 calendar days of receiving a complete application, the application shall be considered approved, and any required permit shall be considered issued.
- (2) If the Town of Port Washington denies an application, the written notification of the denial under Subsection A shall include evidence that the denial is not arbitrary and capricious.

**§ 2-4. Fees.**

A \$100 fee shall be imposed by the Town of Port Washington to review a broadband network project application, issue a permit, or perform any other activity related to a broadband network project.

**§ 2-5. Initial applicability.**

The treatment of this chapter first applies to applications received by the Town of Port Washington on or after the effective date of this chapter.

**§ 2-6. Effective date.**

This ordinance takes effect on the day after publication.

## Chapter 12

### BOARDS, COMMISSIONS AND COMMITTEES

#### ARTICLE I

##### Plan Commission

- § 12-1. Membership; presiding officer.
- § 12-2. Terms of office; appointment of citizen members.
- § 12-3. Powers and duties.

#### ARTICLE II

##### Economic Development Commission

- § 12-4. Membership.
- § 12-5. Appointments.
- § 12-6. Chairperson.
- § 12-7. Rules and records.
- § 12-8. Powers and duties.

#### ARTICLE III

##### Comprehensive Plan Advisory Committee

- § 12-9. Membership.
- § 12-10. Appointments.
- § 12-11. Chairperson.
- § 12-12. Rules and records.
- § 12-13. Powers and duties.
- § 12-14. Ex officio members.

#### ARTICLE IV

##### Board of Review

- § 12-15. Appointment of alternate members.

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I

##### Plan Commission

**[Adopted 10-10-2000 by Ord. No. 2000-3; amended in its entirety 4-2-2007 by Ord. No. 2007-1]**

##### **§ 12-1. Membership; presiding officer.**

The Town Plan Commission shall consist at all times of seven members. Four members shall be citizens appointed by the Town Board Chairperson. All appointments to the Town Plan Commission shall be subject to review and approval of the Town Board. In addition, three members shall be Town Board members. Citizen members shall be of recognized experience and qualifications. The presiding officer of the Town Plan Commission shall be chosen by a majority vote of the members of the Town Plan Commission.

##### **§ 12-2. Terms of office; appointment of citizen members.**

- A. The terms of office for Town Board members of the Town Plan Commission shall commence in May of odd-numbered years.
- B. The Town Board Chairperson shall appoint four citizens to the Town Plan Commission in April, whose terms of office appointments shall be for terms of three years; two

appointments shall commence on May 1 of odd-numbered years and two appointments shall commence on May 1 of even-numbered years. Upon the expiration of such terms, and subject to review by the Town Board, such member(s) may be reappointed to the Town Plan Commission. Should a vacancy occur in the office of a citizen member of the Town Plan Commission, the Town Board Chairperson shall fill such position by appointment as soon as practicable. Notwithstanding the foregoing, any member of the Town Plan Commission may be removed at any time upon a showing of good cause, or as otherwise provided by law.

**§ 12-3. Powers and duties.**

The Town Plan Commission shall have those functions, powers and duties as provided in § 62.23, Wis. Stats., and Chapter 340, Zoning and Subdivision, of the Code of the Town of Port Washington, and as otherwise provided by law

**ARTICLE II**  
**Economic Development Commission**  
**[Adopted 11-6-2000 by Ord. No. 2000-4]**

**§ 12-4. Membership.**

The Economic Development Commission shall consist of seven members appointed by the Town Board. One of the members shall be a member of the Town Board, and one shall be a member of the Town Plan Commission. The remaining five members shall be persons of recognized experience and qualifications having a professional interest in the area of economic development or possessing knowledge of the Town economy by virtue of involvement in a local business or residency in the Town.

**§ 12-5. Appointments.**

A Board member and the Plan Commission member shall be appointed for an initial term expiring April 1, 2002, and thereafter for a one-year term commencing on April 1, 2002. Three of the five at-large members shall be appointed for an initial term which term shall expire on October 1, 2002, and thereafter for a two-year term commencing on October 1, 2002. The remaining two at-large members shall be appointed for an initial term expiring on April 1, 2002, and thereafter for a two-year term commencing on April 1, 2002.

**§ 12-6. Chairperson.**

The Economic Development Commission shall at its first regular meeting of each year select a Chairperson. The Chairperson shall be a member of the Town Board.

**§ 12-7. Rules and records.**

The Economic Development Commission may adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations which record shall be a public record.

**§ 12-8. Powers and duties.**

- A. In promoting economic development in the Town, the Economic Development Commission shall, among other things, encourage the creation and retention of jobs and act as liaison in the promotion of public and private capital investment in the community.
- B. The Economic Development Commission may consider and investigate any matters affecting economic development in the Town; solicit and receive citizen or professional input as it deems necessary; issue such reports and studies as it deems appropriate; and make recommendations which shall be forwarded to and placed on the agenda of the next regular meeting of the Town Board, the Town Plan Commission, or any other Town committee or commission, as the case may be.

**ARTICLE III**  
**Comprehensive Plan Advisory Committee**  
**[Adopted 8-10-2005 by Ord. No. 2005-3]**

**§ 12-9. Membership.**

The Comprehensive Plan Advisory Committee shall consist of seven members appointed by the Town Board. One of the members shall be a member of the Town Board, and one shall be a member of the Town Plan Commission. The remaining five members shall be persons of recognized experience and qualifications having a professional interest in economic development and land use or possessing knowledge of Town planning by virtue of involvement in a local business or residency in the Town.

**§ 12-10. Appointments.**

A Board member and the Plan Commission member shall be appointed for an initial term expiring April 15, 2006, and thereafter for a one-year term commencing on April 15, 2006. Three of the five at-large members shall be appointed for an initial term which term shall expire on April 15, 2007, and thereafter for a two-year term commencing on April 15, 2007. The remaining two at-large members shall be appointed for an initial term expiring on April 15, 2006, and thereafter for a two-year term commencing on April 15, 2006.

**§ 12-11. Chairperson.**

The Comprehensive Plan Advisory Committee shall at its first regular meeting of each year select a Chairperson.

**§ 12-12. Rules and records.**

The Comprehensive Plan Advisory Committee may adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations which record shall be a public record.

**§ 12-13. Powers and duties.**

The Comprehensive Plan Advisory Committee may consider and investigate any matters affecting comprehensive planning in the Town; solicit and receive citizen or professional input as it deems necessary; issue such reports and studies as it deems appropriate; and make recommendations which shall be forwarded to and placed on the agenda of the next regular meeting of the Town Board, the Town Plan Commission, or any other Town committee or commission, as the case may be.

**§ 12-14. Ex officio members.**

The Town Building Inspector, Town Planner and Town Engineer shall be ex officio nonvoting members of the Comprehensive Plan Advisory Committee.

**ARTICLE IV**  
**Board of Review**  
**[Adopted 7-6-2015 by Ord. No. 2015-02]**

**§ 12-15. Appointment of alternate members.**

- A. Title and purpose. This article is entitled the "Town of Port Washington Ordinance to Appoint Alternate Members for Board of Review." The purpose of this article is to provide, upon lawful removal of named members, alternate persons to serve as replacements to the Board of Review for the Town of Port Washington.
- B. Authority. The Town Board of the Town of Port Washington, Ozaukee County, Wisconsin, has the specific authority under § 70.47(1) and (6m)(c), Wis. Stats., to remove members from and to appoint alternate members to the Board of Review.
- C. Adoption of an ordinance. This article, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the removal of members of the Board of Review for the Town of Port Washington and the appointment of alternate members.
- D. Manner of appointment. The Town Board of the Town of Port Washington, Ozaukee County, Wisconsin, by this article, establishes and shall maintain a public list of names of persons eligible and appointed by the Town Board to serve as alternate members of the Board of Review. The list shall be arranged and maintained by the Town Clerk in a priority order of probable and likely service as an alternate. The Town Clerk shall notify any named member who has been lawfully removed under § 70.47(6m)(a) or (b), Wis. Stats., and shall then notify the alternate member of his or her appointment to replace a named member of the Board of Review. The alternate, once notified, if he or she approves the appointment, and if the appointment would not violate § 19.59, Wis.

Stats., shall then take the oath of office and act as a member of the Board of Review under § 70.47(6m)(c), Wis. Stats.

E. Appointments. The following electors of the Town of Port Washington are named as alternate members of the Board of Review, to serve in the order indicated:

- (1) Alternate 1: Joe Kaja.
- (2) Alternate 2: Mark Didier.
- (3) Alternate 3: Brian Karrels.



## **Chapter 16**

### **COMPREHENSIVE PLAN**

**§ 16-1. Statutory authority.**

**§ 16-2. Public participation.**

**§ 16-3. Plan Commission  
recommendation.**

**§ 16-4. Public hearing.**

**§ 16-5. Adoption.**

**[HISTORY: Adopted by the Town Board of the Town of Port Washington 2-2-2009 by Ord. No. 2009-01. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Comprehensive Plan Advisory Committee — See Ch. 12,  
Art. III.**

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**§ 16-1. Statutory authority.**

Pursuant to §§ 62.23(2) and (3), 61.35, and 60.22(3) of the Wisconsin Statutes, the Town of Port Washington is authorized to prepare and adopt a comprehensive plan as defined in §§ 66.1001(1)(a) and 66.1001(2) of the Wisconsin Statutes.

**§ 16-2. Public participation.**

The Town Board of the Town of Port Washington, Wisconsin, has adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan, as required by § 66.1001(4)(a) of the Wisconsin Statutes.

**§ 16-3. Plan Commission recommendation.**

The Plan Commission of the Town of Port Washington, by a majority vote of the entire Commission recorded in its official minutes, has adopted a resolution recommending to the Town Board the adoption of the document entitled "A Comprehensive Plan for the Town of Port Washington" containing all of the elements specified in § 66.1001(2) of the Wisconsin Statutes.

**§ 16-4. Public hearing.**

The Town has duly noticed and held at least one public hearing on the Comprehensive Plan, in compliance with the requirements of § 66.1001(4)(d) of the Wisconsin Statutes.

**§ 16-5. Adoption.**

The Town Board of the Town of Port Washington, Wisconsin, does, by the enactment of this chapter, formally adopt the document entitled "A Comprehensive Plan for the Town of Port Washington" pursuant to § 66.1001(4)(c) of the Wisconsin Statutes, as recommended by the Plan Commission, and adoption incorporates the plan for the Knellsville Planning Area.

## Chapter 25

# ELECTIONS

### ARTICLE I Polling Hours

#### § 25-1. Hours established.

### ARTICLE II Reporting Election Results

#### § 25-2. Wards combined.

### ARTICLE III Wards

#### § 25-3. Population.

#### § 25-4. Ward 1.

#### § 25-5. Ward 2.

#### § 25-6. Polling place; Election Board.

### ARTICLE IV Election Registration Inspectors

#### § 25-7. Appointment.

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

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### ARTICLE I Polling Hours [Adopted 3-6-1989 by Ord. No. 89-2]

#### § 25-1. Hours established.

Election polling hours shall commence at 7:00 a.m. and continue until 8:00 p.m.

### ARTICLE II Reporting Election Results [Adopted 7-6-1992 by Ord. No. 92-2]

#### § 25-2. Wards combined.

Wards 1 and 2 are combined for the purpose of reporting election results for the September 1992 primary and the November 1992 general election and for all future elections held, unless there would be a need to report the election results separately.

### ARTICLE III Wards [Adopted 11-5-2001 by Res. No. 2001-4]

#### § 25-3. Population.

The Town of Port Washington, County of Ozaukee, shall consist of two wards as follows:

- A. Ward 1: population 806.
- B. Ward 2: population 871.
- C. Total population: 1,677.

**§ 25-4. Ward 1.**

The Town of Port Washington County of Ozaukee Ward 1 shall consist of an area in the Town of Port Washington from Northwoods Road east, just south of I-43, to a point east of Norport Drive at the City of Port Washington and the Town of Port Washington bordering Lake Michigan, following the lakeshore north to Dixie Road and then west to meet County Highway KK. Ward 1 census blocks shall include 2001, 3000 to 3005, 3007 to 3009, 3011 to 3012, 3014 to 3015, 3017 to 3024, 3026 to 3028, 3031 to 3032, 3042 to 3044, and 3047 to 3048.

**§ 25-5. Ward 2.**

The Town of Port Washington County of Ozaukee Ward 2 shall consist of an area in the Town of Port Washington from Northwoods Road east, just south of I-43 and north of Hillcrest Road, south to East Sauk Road, east to just east of State Highway 32, and north along the boundary of the City of Port Washington to County Highway LL. Ward 2 census blocks shall include 4003 to 4005, 4022, 4024, 2000 to 2004, 2009, 2021 to 2022, 2026, 2032, 2034, and 2047 to 2051.

**§ 25-6. Polling place; Election Board.**

Ward 1 and Ward 2 shall vote at the Town of Port Washington Town Hall, 3715 Highland Drive, Port Washington, and shall be served by one Election Board.

**ARTICLE IV**  
**Election Registration Inspectors**  
**[Adopted 4-3-2006 by Res. No. 2006-2]**

**§ 25-7. Appointment.**

Pursuant to § 6.55(6), Wis. Stats., the Town Board of the Town of Port Washington does hereby provide that any of the registration duties of inspectors under § 6.55(2), Wis. Stats., shall be carried out in the Town of Port Washington by special registration deputies appointed by the Town Clerk at any polling place or other registration location whenever the Town Clerk determines the process for registration provided in § 6.55(2), Wis. Stats., will be facilitated thereby. The deputies so appointed shall be specially appointed by the Town Clerk for one election only to conduct elector registration only.

# Chapter 31

## EMERGENCY GOVERNMENT

### ARTICLE I

#### Joint Action

### ARTICLE II

#### Emergency Operations Plan

<b>§ 31-1. Acceptance of county ordinance.</b>	<b>§ 31-3. Adoption of state plan.</b>
<b>§ 31-2. Director of Emergency Government.</b>	<b>§ 31-4. Filing.</b>

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

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### ARTICLE I

#### Joint Action

**[Adopted 2-2-1981]**

**§ 31-1. Acceptance of county ordinance.**

- A. A joint action ordinance of the Board of Supervisors of Ozaukee County providing for a county/municipal joint emergency government plan of organization was adopted by said County Board on the second day of August 1972. A copy of said county ordinance is attached hereto and made a part hereof by reference and is hereby ratified and accepted by the Town of Port Washington, County of Ozaukee.
- B. This ratification and acceptance of the joint action ordinance shall constitute a mutual agreement between the Town of Port Washington and the County of Ozaukee as provided in said joint action ordinance.

**§ 31-2. Director of Emergency Government.<sup>1</sup>**

The County/Municipal Director of Emergency Government appointed and employed by the Ozaukee County Board as provided in the referred to ordinance is hereby designated and appointed Director of Emergency Government for the Town of Port Washington, subject to the conditions and provisions as set forth in the Wisconsin Statutes and the Ozaukee County joint action ordinance.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**ARTICLE II**  
**Emergency Operations Plan**  
**[Adopted 2-2-1981]**

**§ 31-3. Adoption of state plan.**

The State of Wisconsin Emergency Operations Plan, as amended by General Change Order No. 4, is hereby adopted as the official program of the Town of Port Washington for emergency government.

**§ 31-4. Filing.**

Copies of this article shall, upon adoption, be sent to the Ozaukee County Director of Emergency Government and the Area Director and Administrator of the State Division of Emergency Government.<sup>2</sup>

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2. Editor's Note: Now the Division of Emergency Management.

# **Chapter 33**

## **EMERGENCY MANAGEMENT**

### **ARTICLE I**

#### **National Incident Management System**

### **ARTICLE II**

#### **All Hazards Mitigation Plan**

##### **§ 33-1. Adoption of standards.**

##### **§ 33-2. Adoption of plan.**

##### **§ 33-3. Submission for final review.**

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

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### **ARTICLE I**

#### **National Incident Management System**

**[Adopted 11-5-2007 by Res. No. 2007-1]**

##### **§ 33-1. Adoption of standards.**

The Town of Port Washington, Board of Supervisors, by the virtue of the authority vested the Town of Port Washington Board of Supervisors by the Constitution and Laws of the State of Wisconsin, and specifically by § 166.03 of the Wisconsin Statutes, do hereby direct the Town agencies to adopt the national Incident Management System (NIMS) as the Town standards for incident management and recommend that all local agencies also adopt NIMS as their standard for incident management.

### **ARTICLE II**

#### **All Hazards Mitigation Plan**

**[Adopted 8-4-2008 by Res. No. 2008-01-B]**

##### **§ 33-2. Adoption of plan.**

The Town Board of the Town of Port Washington, hereby adopts the Ozaukee County All Hazards Mitigation Plan as an official plan.

##### **§ 33-3. Submission for final review.**

The Ozaukee County Emergency Management Department will submit, on behalf of the Town, the adopted All Hazards Mitigation Plan to Wisconsin Emergency Management and Federal Management Agency officials for final review and approval. Minor changes been made upon advice from Wisconsin Emergency Management and the Federal Emergency Management Agency will not require readopting this resolution.



## Chapter 82

### OFFICERS AND EMPLOYEES

<p style="text-align: center;"><b>ARTICLE I</b> <b>Deputy Clerk and Deputy Treasurer</b></p> <p>§ 82-1. Positions created; compensation. § 82-2. Appointment; oath and bond.</p>	<p style="text-align: center;"><b>ARTICLE III</b> <b>Town Clerk</b></p> <p>§ 82-7. Appointment. § 82-8. Term; reappointment; removal. § 82-9. Approval. § 82-10. Compensation. § 82-11. When effective.</p>
<p style="text-align: center;"><b>ARTICLE II</b> <b>Highway Superintendent</b></p> <p>§ 82-3. Highway Committee dissolved. § 82-4. Responsibility of Town Board. § 82-5. Appointment; term of office; compensation; bond. § 82-6. Duties.</p>	<p style="text-align: center;"><b>ARTICLE IV</b> <b>Town Treasurer</b></p> <p>§ 82-12. Appointment. § 82-13. Term; reappointment; removal. § 82-14. Approval. § 82-15. Compensation. § 82-16. When effective.</p>

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Boards, commissions and committees — See Ch. 12.

Town Board — See Ch. 114.

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#### ARTICLE I

**Deputy Clerk and Deputy Treasurer**  
[Adopted 7-10-1995 by Res. No. 95-2]

##### **§ 82-1. Positions created; compensation.**

Pursuant to §§ 60.331 and 60.341, Wis. Stats., the Town Board of the Town of Port Washington, Wisconsin, hereby creates the positions of Deputy Town Clerk and Deputy Town Treasurer. Such persons as may be serving as Deputy Town Clerk and Deputy Town Treasurer shall be compensated in such amount as the Town Board may from time to time determine to be fair and reasonable.

**§ 82-2. Appointment; oath and bond. [Amended 12-7-2009 by Ord. No. 2009-05]**

- A. The Town Clerk and the Town Treasurer of the Town of Port Washington, Wisconsin, shall appoint their respective deputies to act during their absence, sickness or other disability of the Town Clerk and Town Treasurer. Such deputies as may be acting shall take and file the official oath and bond in accordance with § 60.31, Wis. Stats.
- B. Pursuant to § 70.67, Wis. Stats., the Town of Port Washington hereby creates this subsection, in lieu of the annual purchase of a treasurer's bond, and in doing so, obligates the Town to pay, in case the Treasurer fails to do so, all taxes of any kind required by law to be paid by such Treasurer to the County Treasurer.

**ARTICLE II****Highway Superintendent**

**[Adopted 11-12-2001 by Ord. No. 2001-3(A)]**

**§ 82-3. Highway Committee dissolved.**

The Town Highway Committee, as created in Ordinance No. 97-4, shall be dissolved upon the effective date of this article.

**§ 82-4. Responsibility of Town Board.**

The Town Board shall assume all responsibility pertaining to Town highways as required by Ch. 82, Wis. Stats., and deems it in the best interest of the Town to appoint a Highway Superintendent to advise the Board on issues pertaining to Town roads, highways, and bridges. The Town Board shall make all decisions with regard to the construction, maintenance, repair, improvement, lighting, laying out, widening, extending, replacing, removing, altering or discontinuing of Town highways and bridges as required or permitted by law and shall do so with the advisement of the Highway Superintendent.

**§ 82-5. Appointment; term of office; compensation; bond.**

The Town Board, through majority vote, shall appoint, in writing, a Highway Superintendent as authorized by § 82.03(1), Wis. Stats., for a term of one year, and said appointee shall be compensated by regular salary or per diem allowance. Before entering upon duties as Superintendent, the appointee shall execute a bond in an amount determined by the Town Board, and said appointee shall file the bond with the Town Clerk.

**§ 82-6. Duties.**

The Highway Superintendent shall supervise the construction and maintenance of all Town highways and shall fulfill those duties enumerated in § 82.05, Wis. Stats., including but not limited to keeping highways passable at all times, performing such other highway-related services as may be directed by the Town Board, and keeping a full account of highway expenditures and disbursements, and shall provide a complete and full report to each annual Town Board meeting and as directed by the Town Board.

**ARTICLE III**  
**Town Clerk**  
**[Adopted 1-8-2014 by Ord. No. 2014-01<sup>1</sup>]**

**§ 82-7. Appointment.**

Pursuant to § 60.30(1e)(a), Wis. Stats., the office of the Town Clerk shall be filled by appointment of a majority of the members-elect of the Town Board.

**§ 82-8. Term; reappointment; removal.**

The term of office for the appointed position shall be set by the Town Board, but may not exceed three years per § 60.30(1e)(c), Wis. Stats. The Town Board may reappoint the officer for additional terms. However, removal by the Town Board during a given term of office may only be for cause as defined under § 17.001, Wis. Stats., and required by § 60.30(1e)(f), Wis. Stats.

**§ 82-9. Approval.**

This article is subject to approval by the Town electors in a referendum, which is hereby called by the Town Board to be held on April 1, 2014. The referendum question(s) shall be: "Shall the person holding the office of Town Clerk in the Town of Port Washington be appointed by the Town Board?"

**§ 82-10. Compensation.**

The salary of the appointed position(s) shall be set by the Town Board and may not be reduced during the term of office.

**§ 82-11. When effective.**

This article shall be in full force and effect from and after the date of its Town Board passage, notice after passage per § 60.80, Wis. Stats., and also its referendum approval by the Town electors as required by § 60.30(1e)(b), Wis. Stats.

**ARTICLE IV**  
**Town Treasurer**  
**[Adopted 11-4-2019 by Ord. No. 2019-03<sup>2</sup>]**

**§ 82-12. Appointment.**

Pursuant to § 60.30(1e)(a), Wis. Stats., the office of the Town Treasurer shall be filled by appointment of a majority of the members-elect of the Town Board.

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1. Editor's Note: This ordinance was approved by voters on 4-1-2014.

2. Editor's Note: This ordinance was approved by voters on 4-7-2020 and has an effective date of 4-20-2021.

**§ 82-13. Term; reappointment; removal.**

The term of office for the appointed position shall be set by the Town Board, but may not exceed three years per § 60.30(1e) (c). The Town Board may reappoint the officer for additional terms. However, removal by the Town Board during a given term of office may only be for cause as defined under § 17.001 and required by § 60.30(1e)(f).

**§ 82-14. Approval.**

This article is subject to approval by the Town electors in a referendum, which is hereby called by the Town Board to be held on April 7, 2020. The referendum question(s) shall be: "Shall the person holding the office of Town Treasurer in the Town of Port Washington be appointed by the Town Board?"

**§ 82-15. Compensation.**

The salary of the appointed position(s) shall be set by the Town Board and may not be reduced during the term of office.

**§ 82-16. When effective.**

This article shall be in full force and effect from and after the date of its Town Board passage, notice after passage per § 60.80 and also its referendum approval by the Town electors as required by § 60.30(1e)(b).

## Chapter 95

### RECORDS

#### § 95-1. Definitions.

#### § 95-2. Legal custodians.

#### § 95-3. Public access to records.

#### § 95-4. Access procedures.

#### § 95-5. Limitations on right to access.

#### § 95-6. Destruction of records.

**[HISTORY: Adopted by the Town Board of the Town of Port Washington 7-10-1995 by Ord. No. 95-1. Amendments noted where applicable.]**

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#### § 95-1. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

**LEGAL CUSTODIAN** — That officer, committee head, or employee of the Town designated under § 95-2 or otherwise responsible by law to keep and preserve any Town records or file records in his or her office or who is lawfully in possession or entitled to possession of such public records and who is required by this chapter to respond to requests for access to such records.

**RECORD** — Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

**[Amended 6-4-2007 by Ord. No. 2007-1-B]**

#### § 95-2. Legal custodians.

- A. Unless otherwise prohibited by law, the Town Clerk shall act as the legal custodian for the Town Board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Town Board.
- B. The chief administrative officer of every Town department or operational unit, whether elected or appointed, and including but not limited to the Building Inspector, is the legal custodian of his or her records and the records of his or her office.
- C. The Deputy Town Clerk will act as the legal custodian in the absence, illness or disability of the Town Clerk.

**§ 95-3. Public access to records.**

- A. Except as provided in § 95-5, any person has a right to inspect a record and to make or receive a copy of any record as provided by § 19.35(1), Wis. Stats.
- B. Records will be available for inspection and copying upon at least 48 hours' advance notice of intent to inspect or copy.
- C. A requester shall be permitted to use facilities comparable to those available to Town employees to inspect, copy or abstract a record.
- D. The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to records.
- E. A requester shall be charged a fee to defray the cost of copying records as follows:
  - (1) The cost of photocopying shall be set by the Town Board. Such cost shall be calculated not to exceed the actual, necessary and direct cost of reproduction.  
**[Amended 6-4-2007 by Ord. No. 2007-1-B]**
  - (2) If the form of a written record does not permit photocopying, the actual and necessary cost of photographing and photographic processing, or of copying computer printouts or audiotapes, shall be charged.
  - (3) If mailing or shipping is necessary, the actual cost of shipping shall be charged.
  - (4) There shall be no charge for locating records unless the actual cost thereof exceeds \$50, in which case the cost shall be estimated by the legal custodian and collected in advance from the requester.
  - (5) The legal custodian shall have discretion to construe a series, scheme or pattern of requests for records made in the form of individual requests as only one request for the purposes of calculating locating costs. Multiple requests for records may be treated as a singular request provided that the legal custodian can reasonably demonstrate a substantial degree of similarity among the requests with respect to subject matter, timing of the requests, continuity of the requests, source of the request, and focus of the requests.
  - (6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.
  - (7) Elected and appointed officials of the Town shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- F. Pursuant to § 19.34, Wis. Stats., there shall be posted in the Town Hall and in the offices of all other departments or operational units a notice which shall list the following:
  - (1) The name of the legal custodian and the deputy legal custodian.
  - (2) A listing of inspection hours:

- (a) If the office maintains regular business hours, a listing of those hours.
- (b) If the office does not maintain regular business hours, notice that access to records will be permitted upon at least 48 hours' written notice or oral notice of intent to inspect or copy a record.
- (3) A fee schedule for copies of records.

**§ 95-4. Access procedures.**

- A. A request to inspect or copy a record shall be made to the legal custodian or deputy legal custodian. A request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request.
- B. A requester may be required to show acceptable identification whenever security reasons or federal law or regulations so require.
- C. A request for a record may be denied as provided in § 95-5. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons for denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request.
- D. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under § 19.37(1), Wis. Stats., or upon application to the Attorney General or a district attorney.

**§ 95-5. Limitations on right to access.**

- A. As provided by § 19.36, Wis. Stats., the following records are exempt from inspection under this chapter:
  - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law.
  - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.
  - (3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.
  - (4) A record or any portion of a record containing information qualifying as a common law trade secret.
- B. In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after consultation with legal counsel, may deny the request, in whole or in part, only if he or she determines that the harm to the

public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

- (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
- (2) Records of current deliberations after a quasi-judicial hearing.
- (3) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any Town officer or employee, or the investigation of charges against a Town officer or employee, unless such officer or employee consents to such disclosure.
- (4) Records concerning current strategy for crime detection or prevention.
- (5) Records of current deliberations or negotiations on the purchase of Town property, investing of Town funds or other Town business whenever competitive or bargaining reasons require nondisclosure.
- (6) Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history.
- (7) Communications between legal counsel for the Town and any officer, agent or employee of the Town when advice is being rendered concerning strategy with respect to current litigation in which the Town or any of its officers, agents or employees is, or is likely to become, involved or communications which are privileged under § 905.03, Wis. Stats.

C. If a record contains information that may be made public and information which may not be made public, the custodian of the record shall provide the information that may be made public, deleting that information which may not be made public from the record. If in the judgment of the legal custodian there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

D. Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to § 70.47(7)(af), Wis. Stats., or any successor statute thereto, then such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis; except, however, that the information may be revealed to and used by persons in the discharge of duties imposed by law; in the discharge of duties imposed by office (including but not limited to use by the Assessor in performance of official duties of the Assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the Assessor under § 70.47(7)(af), Wis. Stats., unless a court determines that it is inaccurate, is, per § 70.47(7)(af), not subject to the right of inspection and copying under § 19.35(1), Wis. Stats. **[Added 6-4-2007 by Ord. No. 2007-1-B]**

**§ 95-6. Destruction of records. [Added 7-1-2013 by Ord. No. 2013-01]**

- A. Town officers may destroy the following financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Department of Revenue or an auditor licensed under Ch. 442, Wis. Stats., but not less than seven years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such shorter period:
  - (1) Bank statements, deposit books, slips and stubs.
  - (2) Bonds and coupons after maturity.
  - (3) Canceled checks, duplicates and check stubs.
  - (4) License and permit applications, stubs and duplicates.
  - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
  - (6) Receipt forms.
  - (7) Special assessment records.
  - (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- B. Town officers may destroy the following public works records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the Department of Revenue or an auditor licensed under Ch. 442, Wis. Stats., subject to State Public Service Commission regulations, but not less than seven years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such a shorter period:
  - (1) All public works documents not specified for permanent retention in this section.
- C. Town officers shall retain the following building inspection records for the life of any structure:
  - (1) Applications and permits.
  - (2) Inspection reports.
- D. Town officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to § 16.61(3)(e), Wis. Stats., and then after such a shorter period:
  - (1) Contracts and papers relating thereto.
  - (2) Correspondence and communications.

- (3) Financial reports other than annual financial reports.
- (4) Oaths of office.
- (5) Reports of boards, commissions, committees and officials duplicated in the Town Board proceedings.
- (6) Election notices and proofs of publication.
- (7) Canceled voter registration cards.
- (8) Official bonds.
- (9) Police records other than investigative records.
- (10) Resolutions and petitions.
- (11) Liquor license applications.

E. Town officers shall permanently retain the following records of which they are the legal custodian:

- (1) Final assessment rolls.
- (2) Audit reports.
- (3) Final budgets.
- (4) Records of the Board of Appeals.
- (5) Records of the Plan Commission.
- (6) Town Board minutes.
- (7) Ordinances and resolutions.
- (8) Legal opinions.
- (9) Deeds and other real property records.
- (10) Annual highway reports and other Town road and highway information.
- (11) Tax records.
- (12) Insurance policies.
- (13) Liquor license quota information.

F. Unless notice is waived by the State Historical Society, at least 60 days' notice shall be given the State Historical Society prior to the destruction of any record as provided by § 19.21(4)(a), Wis. Stats.

G. Any tape recordings of a governmental meeting of the Town may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

## Chapter 114

### TOWN BOARD

#### ARTICLE I Exercise of Village Powers

#### ARTICLE II Meeting Agendas

##### § 114-1. Authorization.

##### § 114-2. Procedural rules.

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

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#### ARTICLE I Exercise of Village Powers [Adopted 4-3-1962 by Town Meeting]

##### § 114-1. Authorization.

The Town Board of the Town of Port Washington, Ozaukee County, Wisconsin, be and the same is hereby authorized to exercise all powers relating to villages and conferred on village boards by Ch. 61, Wis. Stats., except such powers the exercise of which would conflict with the statutes relating to towns and town boards.

#### ARTICLE II Meeting Agendas [Adopted 7-10-1995 by Res. No. 95-4]

##### § 114-2. Procedural rules.

The following procedural rules shall govern the submission and consideration of agenda items at meetings of the Town Board of the Town of Port Washington, Wisconsin:

- A. Except in the event of an emergency where prior notice is impossible or impractical or as otherwise required by law, all agenda items shall be submitted to the Town Clerk, in writing, not later seven days prior to the date of the Town Board meeting at which the person submitting such items requests the same to be considered.
- B. The Town Clerk shall submit such requested agenda item to the Town Board Chairperson, who shall ensure that the wording of such agenda item is sufficient to adequately apprise the public and the media of the subject of the Town Board meeting.
- C. The Town Board shall have the authority and responsibility to limit or exclude agenda items, in its discretion, in order to conduct the business and affairs of the Town Board in an efficient, orderly and open manner.



PART II

GENERAL LEGISLATION



## Chapter 150

### BUILDING CONSTRUCTION

#### **§ 150-1. Permit required.**

#### **§ 150-2. Adoption of State Codes.**

#### **§ 150-3. Certified Municipality Status.**

#### **§ 150-4. Building-HVAC-Electrical- Plumbing Inspector.**

#### **§ 150-5. Violations and penalties.**

**[HISTORY: Adopted by the Town Board of the Town of Port Washington 7-1-2024 by Ord. No. 2024-04.<sup>1</sup> Amendments noted where applicable.]**

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#### **§ 150-1. Permit required.**

- A. No owner or contractor may commence construction of any building or mechanical system prior to obtaining a valid permit from the Town Building Inspector.
- B. The construction which shall require a permit includes, but is not limited to:
  - (1) New one- and two-family and commercial building including agricultural buildings, detached structures (decks), residential accessory buildings, and detached garages.
  - (2) Additions increase the physical dimensions of a building including decks.
  - (3) Alterations to the building structure, cost shall include market labor value, or alterations to the building's heating, electrical, or plumbing systems.
  - (4) Replacement of major building equipment including furnaces and central air conditioners, water heaters, and any other major piece of equipment shall require a permit.
  - (5) Any electrical wiring for new construction or remodeling excluding new wiring for existing industrial and manufacturing facilities that do not require State-mandated building plan review.
  - (6) Any HVAC for new construction or remodeling.
  - (7) Any plumbing for new construction or remodeling.
  - (8) Any new or re-wired electrical service, including services for agricultural buildings.

#### **§ 150-2. Adoption of State Codes.**

The following chapters of the Wisconsin Administrative Code, as well as all subsequent revisions, are adopted by the Town and shall be enforced by the Building Inspector.

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1. Editor's Note: This ordinance also repealed former Ch. 150, Building Construction, which consisted of Art. I, Uniform Dwelling Code, adopted 6-3-1991 by Ord. No. 91-2, as amended; and Art. II, Commercial Building Code, adopted 8-5-2002 by Ord. No. 2002-1, as amended.

Ch. SPS 302.31	Plan Review Fee Schedule
Ch. SPS 305	Credentials
Ch. SPS 316	Electrical Code
Chs. SPS 320 through 325	Uniform Dwelling Code
Ch. SPS 327	Campgrounds
Chs. SPS 361 through 366	Commercial Building Code
Chs. SPS 375 through 379	Buildings Constructed Prior to 1914
Chs. SPS 381 through 387	Uniform Plumbing Code

### § 150-3. Certified Municipality Status.

The Town has adopted the Certified Municipality Status as described in SPS 361.60 of the Wisconsin Administrative Code.

- A. Responsibilities. The Town shall assume the following responsibilities for the Department of Safety and Professional Services:
  - (1) Provide inspection of commercial buildings with certified commercial building inspectors.
  - (2) Provide plan examination of commercial buildings with certified commercial building inspectors.
- B. Plan examination. Drawings, specifications, and calculations for all the types of buildings and structures, except state-owned buildings and structures, to be constructed within the limits of the municipality shall be submitted, if the plans are for any of the following:
  - (1) Provide inspection of commercial buildings with certified commercial building inspectors.
  - (2) A new building or structure containing less than 50,000 cubic feet of total volume.
  - (3) An addition to a building or structure where the area of the addition results in the entire building or structure containing less than 50,000 cubic feet of total volume.
  - (4) An addition containing no more than 2,500 square feet of total floor area and no more than one floor level, provided the largest roof span does not exceed 18 feet and the exterior wall height does not exceed 12 feet.
  - (5) An alteration of a space involving less than 100,000 cubic feet of total volume.
  - (6) The Town may waive its jurisdiction for the plan review of a specific project or types of projects, or components thereof, in which case plans and specifications shall be submitted to the Department for review and approval.

(7) The Department may waive its jurisdiction for the plan review of a specific project, where agreed to by the Town, in which case plans and specifications shall be submitted to the Town for review and approval.

C. Plan submission procedures. All commercial buildings, structures, and alterations, including new buildings and additions less than 25,000 cubic feet, require plan submission as follows:

- (1) Building permit application on forms supplied by the Town Building Inspector.
- (2) Payment of permit fees. Building permit fees shall be established by the Town Board by resolution. The Town Clerk and Town Building Inspector shall maintain and provide copies of the schedule of building permit fees to any person upon request.
- (3) Four sets of plans.
  - (a) Signed and sealed per SPS 361.31.
  - (b) One set of specifications.
  - (c) Component and system plans.
  - (d) Calculations showing code compliance.

#### **§ 150-4. Building-HVAC-Electrical-Plumbing Inspector.**

A. Creation and appointment. There is hereby created the office of Building Inspector. The Building Inspector shall be appointed by the Town. The Building Inspector shall be certified for inspection purposes by the Department in the required categories specific under SPS 305, Wisconsin Administrative Code.

B. Assistants. The Building Inspector may employ, assign, or appoint, as necessary, assistant inspectors. Any assistant hired to inspect buildings shall be certified as defined in SPS 305, Wisconsin Administrative Code by the Department.

C. Duties. The Building Inspector shall administer and enforce all provisions of this chapter.

D. Powers. The Building Inspector or an authorized certified agent of the Building Inspector may, at all reasonable hours, enter upon any public or private premises for inspection purposes. The Building Inspector may require the production of the permit for any building, plumbing, electrical, or heat work. No person shall interfere with or refuse to permit access to any such premises to the Inspector or his/her agent while in the performance of his/her duties. In the event that the Inspector is refused access to any such premises, then the Inspector is authorized to apply for a special inspection warrant pursuant to Wis. Stats., § 66.0119.

#### **§ 150-5. Violations and penalties.**

A. Prohibition. No person, entity, or firm may construct, remodel, demolish, or repair any building in a manner which violates any provision or provisions of this chapter.

- B. Every person, firm, or entity which violates this code shall, upon conviction, forfeit not less than \$25 nor more than \$2,000 for each day of non-compliance, together with the costs of prosecution.
- C. Violations discovered by the Building Inspector shall be corrected within 30 days, or more if allowed by the Inspector, after written notice is given. Violations involving life safety issues shall be corrected in a reasonable time frame established by the Building Inspector.
- D. Compliance with the requirements of this chapter is necessary to promote the safety, health, and well-being of the community and the owners, occupants, and frequenters of buildings. Therefore, violations of this chapter shall constitute a public nuisance that may be enjoined in a civil action.

# Chapter 165

## CULVERTS AND DRIVEWAYS

### **§ 165-1. Definitions.**

**§ 165-2. Culvert and driveway required.**

**§ 165-3. Permits required.**

**§ 165-4. Specifications.**

### **§ 165-5. Temporary culverts and driveways.**

### **§ 165-6. Violations and penalties; enforcement.**

**[HISTORY: Adopted by the Town Board of the Town of Port Washington 12-1-1997 by Ord. No. 97-8. Amendments noted where applicable.]**

#### GENERAL REFERENCES

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**Building construction — See Ch. 150.**

**Zoning and subdivision — See Ch. 340.**

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### **§ 165-1. Definitions.**

When used in this chapter the following words and phrases shall have the specific meaning as hereinafter set forth:

**CULVERT** — A conduit or drain of a pipe-like construction, typically metal, brick, stone or concrete, that passes under a highway, road, driveway, railroad track or footpath, or through an embankment.

**DRIVEWAY** — That portion of a parcel or property intended to be used or actually used for delineated access, paved or unpaved, from the adjoining access highway, street, or road to a building or structure.

**HIGHWAY** — A public or private right-of-way used or intended to be used to provide primary access to an adjoining parcel or property; includes streets or roads.

**PERSON** — An individual, firm, association, partnership, trust, corporation, limited liability company and/or a limited liability partnership.

### **§ 165-2. Culvert and driveway required.**

No person shall, by means of any vehicle, enter or exit, or cause any other person to enter or exit, any adjoining parcel or property from or onto any highway in the Town unless a culvert and gravel driveway have been provided for said parcel or property and except where a culvert or driveway has been determined to be unnecessary by the Town Building Inspector or Town Engineer.

### **§ 165-3. Permits required.**

No person shall construct, install, repair, maintain, or reconstruct any culvert or driveway without first obtaining permits for such culvert or driveway from the Town Building

Inspector, the fees for which shall be established by the Town Board. Such permit shall be issued in a timely manner using a form provided by the Town.

#### **§ 165-4. Specifications.**

All culverts shall be a minimum of 15 inches in diameter round or 17 inches by 13 inches metal pipe arch, unless a larger culvert is required by the Town Building Inspector or Town Engineer. Culverts shall be a minimum of 20 feet in length. Culverts must meet AASHTO M36-87 or AASHTO M190-80 specifications. All banding and joining methods must meet AASHTO specifications or be AASHTO approved. All culverts shall have metal apron end walls or tapered sloped end walls having a slope not greater than four to one. Lateral dimensions and elevations of culvert installations shall be as established by the Town Building Inspector or Town Engineer. Driveway pavement materials within the right-of-way shall be limited to crushed gravel, crushed rock, or bituminous products. Concrete pavement shall end a minimum of 10 feet from the highway pavement. Oil or petroleum shall not be used in right-of-way areas where it can be tracked onto and affect the highway pavement. The bottom course of any driveway in the right-of-way shall be constructed of large-sized crushed stone or rock, as determined necessary by the Town Building Inspector or Town Engineer, except along that portion of the driveway immediately adjacent to the culvert pipe. The upper course of any driveway shall consist of medium-sized, well-graded crushed gravel or fine- to medium-sized well-graded crushed rock, as determined necessary by the Town Building Inspector or Town Engineer. In no event shall the granular material or subsequent permanent surface of any driveway be constructed higher than the adjacent highway pavement. At no time shall slag, foundry sand, or other corrosive materials be used on or in the highway right-of-way area.

#### **§ 165-5. Temporary culverts and driveways.**

Temporary culverts and temporary driveways are permissible for construction purposes; provided, however, that permits shall be obtained from the Town Building Inspector prior to commencement of such construction. Any such temporary culvert or temporary driveway must be removed and replaced with a permanent culvert or driveway constructed in accordance with this chapter prior to the issuance of an occupancy, zoning, or use permit for the building or structure located upon the parcel or property served by such culvert or driveway.

#### **§ 165-6. Violations and penalties; enforcement.**

Any person who violates this chapter shall pay a forfeiture in an amount equal to twice the fee required for the culvert or driveway permit and, further, shall remove, alter, reconstruct or correct the culvert or driveway as ordered by the Town. If the person does not remedy such violation as and within the time ordered by the Town, the Town may, in addition to any other methods of enforcement, including injunctive relief and revocation of any permits, engage qualified contractors to remedy such violation, and the expense thereof shall be charged to such person as a special assessment after notice and hearing, or otherwise collect such forfeiture as provided by law. Any permits issued in conflict with the provisions of this chapter shall be null and void.

## Chapter 183

### FEES AND CHARGES

#### ARTICLE I **Town Planning and Related Services**

- § 183-1. Definitions.**
- § 183-2. Charges for planning and related services.**
- § 183-3. Schedule of charges.**

#### ARTICLE II **Escrow Payments**

- § 183-4. Fee schedule.**

- § 183-5. Amounts subject to change.**
- § 183-6. Payment required prior to grant of permit.**
- § 183-7. Use of funds.**
- § 183-8. Bank account.**
- § 183-9. Removal of funds.**
- § 183-10. Invoices and documentation.**
- § 183-11. Refunds.**

#### GENERAL REFERENCES

**Zoning and subdivision — See Ch. 340.**

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#### ARTICLE I **Town Planning and Related Services** [Adopted 4-5-1993 by Ord. No. 93-2]

##### **§ 183-1. Definitions.**

As used in this article, the following terms shall have the meaning indicated:

**DEVELOP** — To zone, rezone, plat, replat, detach, annex, build or construct upon, modify, occupy or otherwise develop lands, structures, and waters located within the Town of Port Washington.

**PERSON** — Any individual, group of individuals, partnership, association, corporation, government, governmental agency, firm, or other entity or combination of entities.

**PRIVATE LANDS** — All lands which are not public lands.

**PUBLIC LANDS** — All lands and all interests in lands owned by the state, County of Ozaukee or the Town of Port Washington, either as proprietor or as trustee, and which are dedicated in whole or in part to public use or for public benefit.

**§ 183-2. Charges for planning and related services.**

All persons proposing to develop lands, structures and waters located within the Town of Port Washington, which development requires approval by the Town, its boards, commissions, officers, agents, employees or representatives, shall pay such reasonable and necessary charges for professional planning, engineering, legal and related services associated with the review, administration, investigation and processing of such proposed development, at such hourly rates as may be from time to time established by the persons providing such services. Such charges shall be in addition to any other filing, permit, publication or meeting fees, charges or costs otherwise payable by said person in connection with such development.

**§ 183-3. Schedule of charges.**

The Town Clerk and Town Building Inspector shall maintain and provide copies of the above-referenced schedule of charges for planning and related services to any person upon request.

**ARTICLE II**  
**Escrow Payments**  
**[Adopted 10-4-2000 by Ord. No. 2000-5]**

**§ 183-4. Fee schedule.**

The Town shall keep a current schedule of fees required for escrow in the Town Fee Schedule kept by the Town Clerk.

**§ 183-5. Amounts subject to change.**

The Town does not guarantee that said escrow amounts will cover all costs associated with the specific applications for permits, land divisions, rezoning petitions, and other development-related applications and the escrow amounts are subject to change.

**§ 183-6. Payment required prior to grant of permit.**

Any costs associated with applications for permits, land divisions, rezoning petitions, and other development-related applications rising above any escrowed moneys shall be paid before any permit or application is granted or accepted by the Town.

**§ 183-7. Use of funds.**

The Town reserves the right to use all escrowed funds for the expenses associated with the administrative, investigation, advertising, and processing costs associated with permits, land divisions, rezoning petitions, and other development-related applications submitted by the applicant.

**§ 183-8. Bank account.**

The Town shall hold said escrowed moneys in a bank account designated for payments associated with this article, and said account shall be at a bank existing under Ch. 221, Wis. Stats., or a national bank authorized to do business in the State of Wisconsin.

**§ 183-9. Removal of funds.**

The Town of Port Washington shall have the authority and discretion to remove funds from the account, at periodic intervals, to be applied toward the costs associated with the specific applications for permits, land divisions, rezoning petitions, and other development-related applications.

**§ 183-10. Invoices and documentation.**

The Town will make available to persons and entities depositing escrowed moneys all invoices and documentation of costs associated with the person's or entity's application or permit.

**§ 183-11. Refunds.<sup>1</sup>**

In the event that the costs associated with the person's or entity's application or permit are less than the escrowed funds, the Town shall refund said moneys to an address specified in the person's or entity's application materials.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



# Chapter 190

## FIRE PREVENTION

### ARTICLE I

#### Fire Prevention Code

##### **§ 190-1. Adoption of state codes.**

### ARTICLE II

#### Fire Protection and Ambulance Service Costs

##### **§ 190-2. Cost included in budget.**

##### **§ 190-3. Fire protection services.**

##### **§ 190-4. Vehicle fires on county trunk highways or fire calls on state or interstate highways.**

##### **§ 190-5. Ambulance services.**

### ARTICLE III

#### Open Burning

##### **§ 190-6. Notification of County Sheriff's Department.**

##### **§ 190-7. Permitted materials; precautions.**

##### **§ 190-8. Prohibited materials.**

##### **§ 190-9. Hours of burning; conditions; location.**

##### **§ 190-10. Violations and penalties.**

##### **§ 190-11. Fire Department charges.**

##### **§ 190-12. Exception to notice requirement.**

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Building construction — See Ch. 150.

Nuisances — See Ch. 250.

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### ARTICLE I

#### Fire Prevention Code

**[Adopted 2-6-1984 by Res. No. 43]**

##### **§ 190-1. Adoption of state codes.**

A. The Town Board of the Town of Port Washington adopts, by reference, the following orders and codes of the Wisconsin Administrative Code, rules of the Department of Commerce and the National Fire Protection Association (NFPA):

- (1) Chapter Comm 7, Explosive Materials.
- (2) Chapter Comm 10, Flammable and Combustive Liquids.
- (3) Chapter Comm 14, Fire Prevention.
- (4) Chapter Comm 32, Public Employee Safety and Health.
- (5) Chapter Comm 40, Gas Systems.

- (6) Chapters Comm 61 to 65, Commercial Building Code.
- (7) Volumes I through XVI, inclusive, National Fire Protection Association Codes.

B. Whenever the provisions of the aforementioned codes conflict, the stricter interpretations shall apply.

**ARTICLE II**  
**Fire Protection and Ambulance Service Costs**  
**[Adopted 2-5-2001 by Ord. No. 2001-1]**

**§ 190-2. Cost included in budget.**

The annual cost of fire protection and ambulance services provided to the Town of Port Washington pursuant to its contract with the City of Port Washington shall be included in the Town's annual budget and, as such, shall be part of the Town's annual property tax levy.

**§ 190-3. Fire protection services.**

The actual itemized cost of fire protection services billed to the Town pursuant to its contract with the City of Port Washington for fires within the Township shall be charged by the Town Clerk to the property owner(s) to whom such services were provided. In the event such charges are not paid prior to the close of the tax year in which such fire protection services were provided, the Town Board may, in its discretion, levy and assess taxes, as a special charge, pursuant to § 66.0627, Wis. Stats., against the property in the amount of such unpaid charges and enforce and collect the same in the same manner as provided by law for other property taxes and assessments. Failure to pay any outstanding charges prior to the end of the tax year in which such fire protection services were provided will result in interest accruing at the rate of 1 1/2% per month. Nothing herein shall limit, or be construed as limiting, the Town Board from directing the commencement of a separate legal action to recover the cost of such fire protection services from the person(s) responsible for the same.

**§ 190-4. Vehicle fires on county trunk highways or fire calls on state or interstate highways.**

The actual itemized cost of fire calls billed to the Town pursuant to its contract with the City of Port Washington for vehicle fires on county trunk highways or for fire calls on state or interstate highways within the Township shall be charged by the Town Clerk to the person(s) to whom the fire call was provided. In the event such charges are not paid, the Town Board may, in its discretion, direct the commencement of a separate legal action to collect the cost of such fire call charges from the person(s) responsible for the same. In the event such collection efforts are not successful, the Town Clerk shall submit written proof of such collection efforts to, and apply for reimbursement from, the county or Department of Transportation maintaining that portion of the highway where such fire occurred. If the Town collects the cost from such person after the county or Department reimburses the Town, the Town shall return the amount collected to the county or Department.

**§ 190-5. Ambulance services.**

The actual itemized cost of ambulance services billed to the Town pursuant to its contract with the City of Port Washington for ambulance calls within the Township shall be charged by the Town Clerk to the person(s) to whom such services were provided. In the event such charges are not paid, the Town Board may, in its discretion, direct the commencement of a separate legal action to collect the cost of such ambulance services from the person(s) responsible for the same.<sup>1</sup>

**ARTICLE III**  
**Open Burning**  
[Adopted 8-5-2013 by Ord. No. 2013-02<sup>2</sup> ]

**§ 190-6. Notification of County Sheriff's Department.**

Any person desiring to burn clean wood, dry grass, leaves, or brush within the Town of Port Washington, including but not limited to beach fires, bonfires, or open pit or other recreational fires, shall notify the Ozaukee County Sheriff's Department prior to commencing such burning, or prior to allowing the same to be commenced, and shall advise the Sheriff's Department of the person's name, address, time, date and place of burning, materials to be burned, and anticipated length of such burning activity.

**§ 190-7. Permitted materials; precautions.**

Burning shall be limited to those types and quantities of dry grass, dry brush, dry leaves, and dry weeds which can reasonably be disposed of without undue risk or hazard to human life, property and the environment. The person burning said materials shall observe reasonable firesafety precautions and take all necessary action to have adequate manpower, water, shovels and other equipment present to control and contain such fire throughout the duration of the same.

**§ 190-8. Prohibited materials.**

Notwithstanding any other provisions of this article, no person shall burn, or allow to be burned, any liquid or other materials which are prohibited from being burned by state or federal law or environmental regulations adopted pursuant thereto. Without limitation, these include tires, shingles, furniture, plastic or rubber products, oily substances, rubbish, garbage, asphalt, and hazardous, toxic, noxious and/or flammable liquids or materials.

**§ 190-9. Hours of burning; conditions; location.**

Except in the case of beach fires, bonfires, open pit fires or other recreational fires, no person shall commence or continue burning, or allow such burning to be commenced or continued,

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1. Editor's Note: Original § 6, Fire/burning regulations, which immediately followed this section, was deleted 6-4-2007 by Ord. No. 2007-1-B. See now Art. II of this chapter.

2. Editor's Note: This ordinance also repealed Ord. No. 2001-2, adopted 6-12-2001, as amended.

after sunset or before sunrise. Notwithstanding the foregoing, no burning of any kind shall occur when the wind velocity exceeds 15 miles per hour. All fires shall be located at a reasonable and safe distance from buildings or other structures, in view of the size and intensity of such fire, wind and other weather conditions, and the construction, use, occupancy and contents of such buildings. All persons commencing or continuing beach fires, bonfires, open pit fires or other recreational fires after sunset or before sunrise shall notify the Ozaukee County Sheriff's Department prior to commencing such burning, or prior to allowing the same to be commenced, and shall advise the Sheriff's Department of the person's name, address, time, date and place of burning, materials to be burned, and anticipated length of such burning activity.

**§ 190-10. Violations and penalties.**

Failure to provide prior notice to the Sheriff's Department of a fire to be commenced, or allowed to be commenced; or failure to maintain, control or extinguish any fire so as to result in injury or damage to persons, property or the environment; or the burning of improper or prohibited materials; or allowing a fire to escape so as to endanger persons, property or the environment and requiring the attendance of any fire department to extinguish such fire or prevent such damage or injury, shall cause such person, or the property owner upon whose premises such fire is commenced or allowed to be commenced, to be charged the actual costs of such fire protection or suppression services provided, and imposition of such forfeitures, penalties and liability for damages as may be permitted by law.

**§ 190-11. Fire Department charges.**

Upon receipt by the Town Clerk of a bill from any fire department called to or present at any such fire, the Town Clerk shall immediately forward said bill to the person and/or property owner responsible for the same. In the event said bill is not paid by said person and/or property owner prior to the close of the tax year, the amount so due may be charged and assessed against the particular property involved, and collected as other special assessments are collected. In the alternative, the Town may initiate an action to recover said fees, costs or charges, as against the person or persons responsible for the same.

**§ 190-12. Exception to notice requirement.**

No prior notice to the Sheriff's Department need be given for the burning of small amounts of dry residential grass, leaves, or brush in a heavy wire screen-covered barrel. However, all other provisions of this article shall apply to such burning activity.

## **Chapter 195**

### **FLOOD MITIGATION PLAN**

**§ 195-1. County plan adopted.**

**§ 195-4. Annual reports.**

**§ 195-2. Updates.**

**§ 195-5. Commendation.**

**§ 195-3. Grant applications.**

**[HISTORY: Adopted by the Town Board of the Town of Port Washington 10-4-2004 by Res. No. 2004-1. Amendments noted where applicable.]**

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**§ 195-1. County plan adopted.**

The Final Flood Mitigation Plan is hereby adopted as an official plan for the Town of Port Washington.

**§ 195-2. Updates.**

The Ozaukee County Emergency Management Department shall coordinate the annual plan update process to ensure the plan remains current.

**§ 195-3. Grant applications.**

The Ozaukee County Emergency Management Department shall serve as the liaison for project grant applications prepared by municipalities in Ozaukee County and submitted in accordance with this plan.

**§ 195-4. Annual reports.**

The Ozaukee County Emergency Management Department will provide annual status reports on the implementation of the plan to the Ozaukee County Emergency Management Committee.

**§ 195-5. Commendation.**

The Ozaukee County Emergency Management Department is hereby commended for all the hard work in completing this Final Flood Mitigation Plan, which will benefit all communities.



# Chapter 216

## INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

### ARTICLE I Underage Persons on Licensed Premises

- § 216-1. Authorization.
- § 216-2. Conduct of events.
- § 216-3. Violations and penalties.
- § 216-4. Definitions.

### ARTICLE II License Fees

- § 216-5. Definitions.
- § 216-6. Fees.
- § 216-7. Violations and penalties.

### ARTICLE III Operator's License

- § 216-8. Application fee.

### ARTICLE IV Provisional Operator's License

- § 216-9. Authority to issue; term; fee.
- § 216-10. Qualifications; revocation.

### ARTICLE V Cancellation of Liquor Licenses for Non-Use

- § 216-11. Grounds for cancellation; exception.
- § 216-12. Notice of hearing.

**[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]**

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### ARTICLE I Underage Persons on Licensed Premises [Adopted 5-1-1989 by Ord. No. 89-1]

#### § 216-1. Authorization.

Underage persons may enter and remain on Class "B" or "Class B" licensed premises within the Town of Port Washington on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away.

#### § 216-2. Conduct of events.

During such times, the licensee, the agent named in the license if the licensee is a corporation, or a person who has an operator's license shall be on the premises. During such times, all alcohol beverages shall be stored in a locked portion of the premises. The licensee shall notify the local law enforcement agency, in advance, of the times underage persons will be allowed on the premises under this article. Further, during such times, the licensee, or the agent named in the license if the licensee is a corporation, shall make reasonable efforts to inspect the

premises, including the parking areas adjacent thereto, to monitor the conduct of such underage persons and to maintain order and the nonalcoholic character of such event.

### **§ 216-3. Violations and penalties.**

A licensee, permittee or underage person who violates this article is subject to those penalties and forfeitures, including but not limited to license suspension, revocation or nonrenewal, as prescribed by §§ 125.07 and 125.12, Wis. Stats., or the amendments thereto.

### **§ 216-4. Definitions.**

The meaning of all words and phrases used in this article shall be as defined in § 125.02, Wis. Stats., or the amendments thereto.

## **ARTICLE II**

### **License Fees**

**[Adopted 9-10-1998 by Ord. No. 98-1]**

### **§ 216-5. Definitions.**

Except as otherwise provided, the words and phrases used in this article shall be defined in accordance with the definitions of said words and phrases as contained in Ch. 125, Wis. Stats., as amended from time to time.

### **§ 216-6. Fees. [Amended 6-4-2007 by Ord. No. 2007-1-B]**

- A. Annual license fees. Pursuant to § 125.51(3)(e)1, Wis. Stats., the annual license fee for a "Class B" liquor license issued after December 1, 1997, shall be as set by the Town Board, payable on or before the 30th day of June each year.
- B. Initial issuance fee for reserve "Class B" license. Pursuant to § 125.51(3)(e)2, Wis. Stats., the initial issuance fee for a reserve "Class B" liquor license issued after December 1, 1997, shall be the sum as set by the Town Board, payable upon issuance of said license. The initial issuance fee for a reserve "Class B" liquor license issued after December 1, 1997, to a bona fide club or lodge situated and incorporated in the state for at least six years shall be in the same amount and shall be payable at the same time as the annual license fee set forth in Subsection A hereinabove.

### **§ 216-7. Violations and penalties.**

Any person, corporation or other entity violating the provisions of this article shall be subject to revocation, suspension, nonissuance or nonrenewal of his, her or its liquor license as provided in § 125.12, Wis. Stats., as amended from time to time, and, in addition, shall be subject to a forfeiture in the sum of \$1,000 per day for each day during which he, she or it sells, or possesses with intent to sell, intoxicating liquor without an appropriate license,

together with such other fines and/or imprisonment as provided in Ch. 125, Wis. Stats., as amended from time to time.

**ARTICLE III**  
**Operator's License**  
**[Adopted 5-7-2001 by Res. No. 2001-3]**

**§ 216-8. Application fee. [Amended 6-4-2007 by Ord. No. 2007-1-B]**

The application fee for an operator's license for those persons serving alcoholic beverages in the Town of Port Washington shall be as set by the Town Board.

**ARTICLE IV**  
**Provisional Operator's License**  
**[Adopted 6-4-2007 by Ord. No. 2007-2]**

**§ 216-9. Authority to issue; term; fee.**

The Town Board has determined that, under § 125.17(5), Wis. Stats., the Town Clerk may issue a provisional operator's license to an individual for a period not to exceed 60 days or until a regular license is issued. Each provisional operator's license fee shall be \$15, payable to the Town of Port Washington upon submission of the application for a provisional operator's license.

**§ 216-10. Qualifications; revocation.**

The applicant for a provisional operator's license must be currently enrolled in the responsible beverage server training course and successfully pass the background records check. The Town of Port Washington will revoke a provisional license if the applicant fails to successfully complete the training course and may revoke a license if it is discovered that the holder made a false statement on his or her application.

**ARTICLE V**  
**Cancellation of Liquor Licenses for Non-Use**  
**[Adopted 7-2-2007 by Ord. No. 2007-3]**

**§ 216-11. Grounds for cancellation; exception.**

- A. Any Class A or Class B fermented malt and/or intoxicating liquor licenses granted under this chapter may be canceled by the Town Board for the following reasons:
  - (1) The subject premises is not open for business within 120 days of the granting of such license; or
  - (2) The subject premises is not opened for business for a period of 120 consecutive days or more; or

(3) The subject premises is not open for business at least 50% of the days within any twelve-month period either within a licensing year or overlapping two licensing years.

B. Licenses issued by the Town may be canceled in accordance with this section unless after notice of hearing as provided in § 216-2 hereof, the Town Board may determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimum set forth herein. If such cause is found to exist, the Town Board may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operating for a time frame within which the subject premises must be open for business to avoid cancellation of the subject license. The provisions of this section will not apply for not-for-profit organizations.

**§ 216-12. Notice of hearing.**

Prior to the cancellation of any license, the Town Clerk shall notify the licensee in writing of the Town's intention to cancel the license for non-use and provide the licensee an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing which shall not be less than 15 days after the date of the notice. Such hearing shall be conducted as provided in § 125.12(2)(b), Wis. Stats., or any amendments thereto. Judicial review shall be provided as in § 125.12(2)(d), Wis. Stats., or any amendments thereto.

## Chapter 232

### LAND USE PLAN

#### § 232-1. Adoption of plan.

[**HISTORY:** Adopted by the Town Board of the Town of Port Washington 1-3-1995 by Res. No. 95-1. Amendments noted where applicable.]

#### GENERAL REFERENCES

Flood Mitigation Plan — See Ch. 195.  
Official Map — See Ch. 256.

Zoning and subdivision — See Ch. 340.

#### § 232-1. Adoption of plan.

The Town Board of the Town of Port Washington, on the third day of January 1995, hereby adopts the Town of Port Washington, Wisconsin, Land Use Plan 2010.<sup>1</sup>

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1. Editor's Note: A copy of the Land Use Plan 2010 and any amendments is on file at the Town Clerk's office. The paragraph which immediately followed this section and required review of the Land Use Plan by the Plan Commission at least every five years was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



## Chapter 250

### NUISANCES

§ 250-1. Public nuisances prohibited.	§ 250-7. Junked vehicles and appliances; abandoned vehicles.
§ 250-2. Public nuisance defined.	§ 250-7.1. Sex offender residency restrictions and child safety zones.
§ 250-3. Public nuisances affecting health.	§ 250-8. Abatement.
§ 250-4. Public nuisances affecting peace and safety.	§ 250-9. Recovery of costs.
§ 250-5. Litter, rubbish and trash.	§ 250-10. Violations and penalties.
§ 250-6. Occupancy of tent or camper.	

[HISTORY: Adopted by the Town Board of the Town of Port Washington at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

#### GENERAL REFERENCES

Open burning — See Ch. 190, Art. III.  
Intoxicating liquor and fermented malt beverages — See Ch. 216.

Sexually oriented businesses — See Ch. 285.  
Solid waste — See Ch. 296.

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#### § 250-1. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Town of Port Washington, Ozaukee County, Wisconsin.

#### § 250-2. Public nuisance defined.

A public nuisance is an object, act, occupation, condition or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- B. In any way render the public insecure in life or in the use of property.
- C. Greatly offend public morals or decency.
- D. Unlawfully and substantially interfere with, or obstruct or tend to obstruct, or render dangerous for passage, any street, alley, highway, navigable body of water or other public way or the use of public property.

**§ 250-3. Public nuisances affecting health.**

The following acts, omissions, places, conditions and objects are hereby specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other health nuisances or hazards coming within the definition of § 250-2:

- A. Adulterated food. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied carcasses. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in an appropriate sanitary manner within 24 hours after the death of such animal, bird or fowl.
- C. Breeding places for insects or vermin. Accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- D. Privy vaults and garbage cans. Privy vaults and garbage cans which are not flytight.
- E. Noxious weeds. All noxious weeds identified in § 66.0407(1)(b), Wis. Stats., and other rank growth of vegetation. The Town may cause rank growth and noxious weeds to be cut and removed. Failure to comply could result in the Town removing the noxious weeds, and the expense of the removal shall be charged to the real estate where removed pursuant to § 66.0627, Wis. Stats.
- F. Animals at large. All domestic animals running at large or not confined within the owner's property.
- G. Abandoned wells. All abandoned wells not securely covered or secured from public use.
- H. Nauseous or unwholesome liquid. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, right-of-way, or public place within the Town of Port Washington.
- I. Stagnant water. All stagnant water in which mosquitoes, flies or other insects can multiply.

**§ 250-4. Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions, and objects are hereby declared to be public nuisances affecting peace and safety; however, such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of § 250-2:

- A. Dangerous signs, billboards, etc. All signs and billboards, awnings and other structures over or near streets, sidewalks, public grounds, or places frequented by the public so situated or constructed as to endanger the public safety.
- B. Unauthorized traffic signs. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to

be or may be mistaken as an official traffic control device, railroad sign or signal or which because of their color, location, brilliance or manner of operation interfere with the effectiveness of any such device, sign or signal.

- C. Obstruction of intersections. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. Any such obstruction which falls within a vision clearance triangle as prescribed by Chapter 340, § 340-50 of this Code shall be presumed to be a violation of this subsection.
- D. Low-hanging tree limbs. All limbs of trees which project over and less than eight feet above the surface of a public sidewalk or 14 feet above the surface of the portion of the street, highway, or alley traveled by vehicles.
- E. Fireworks. The use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.
- F. Dilapidated buildings. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use or occupancy.
- G. Low-hanging wires and cables. All wires over streets, alleys, highway, or public grounds which are strung less than 15 feet above the surface thereof.
- H. Loud, discordant and unnecessary noises or vibration. Any noise or vibration which greatly annoys or disturbs a neighborhood or any considerable number of persons within the Town.
- I. Noisy animal or fowl. The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.
- J. Obstruction of streets; excavations. All obstructions of streets, alleys, highways, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town of Port Washington, or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- K. Unguarded pits, wells, etc. All open and unguarded pits, wells, excavations, or unused basements, freely accessible from any public street, alley, highway, or sidewalk.
- L. Abandoned appliances. All public accessible or abandoned appliances from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- M. Hazardous materials. Repeated or continuous violations of the ordinances of the Town or Wisconsin Statutes relating to the use or storage of flammable liquids and/or hazardous materials.

#### **§ 250-5. Litter, rubbish and trash.**

- A. As used in this section, the following terms shall have the meaning indicated:

**LITTER** — Includes, but is not limited to, trash and wastepaper lying scattered about and an untidy accumulation of objects of any kind.

**RUBBISH** — Includes, but is not limited to, waste materials and refuse of every character and kind, collected and/or accumulated.

**TRASH** — Includes, but is not limited to, things or objects worth little or nothing or a thing or object in a crumbled, broken or inoperable condition.

- B. All owners of property located within a residential zoning district of the Town of Port Washington who fail to keep their premises free of litter, debris, trash or rubbish shall be in violation of this chapter.
- C. All property owners within the Town of Port Washington who allow their property to accumulate trash, litter or rubbish shall be considered to be in violation of this chapter.

**§ 250-6. Occupancy of tent or camper.**

No person shall occupy any camper or tent for more than 30 days.

**§ 250-7. Junked vehicles and appliances; abandoned vehicles.**

- A. Junked automobiles, etc. No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers or appliances shall be stored or allowed to remain in the open upon public or private property within the Town for a period exceeding five days if upon public property or for a period exceeding 30 days if upon private property.
- B. Farm exemption. All farms that produce farm products for sale, defined under § 93.01(5), Wis. Stats., are exempt from this section.
- C. Definitions. As used in this section, the following terms shall have the meaning indicated:

**APPLIANCE** — Any stove, washer, refrigerator or freezer which is no longer operable in the sense for which it was manufactured.

**DISASSEMBLED, INOPERABLE, JUNKED OR WRECKED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS** — Motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways or which are otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

**MOTOR VEHICLE** — Defined in § 340.01(35), Wis. Stats.

**UNLICENSED** — As referring to motor vehicles, truck bodies, tractors, or trailers shall be defined as follows: motor vehicles, truck bodies, semitractors and trailers which do not bear lawful and current license plates.

D. Abandoned vehicles, etc. No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public stretch of highway, or public or private property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any street or highway or on any public or private property within the Town of Port Washington without the permission of the owner for a period of more than 72 hours, the vehicle is deemed abandoned and constitutes a public nuisance.

**§ 250-7.1. Sex offender residency restrictions and child safety zones. [Added 4-11-2016 by Ord. No. 2016-01]**

A. Purpose. This section is a regulatory measure aimed at protecting the health and safety of children and youth in the Town of Port Washington from the risk that convicted sex offenders may reoffend in locations close to their residences and against child victims. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders, and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children and youth where they congregate or play in public places in addition to the protections afforded by state law near schools, day-care centers and other places children and youth frequent. The Town also finds and declares that, in addition to schools and day-care centers, children and youth congregate or play at public parks, pools and other public and private places of enrichment activities, recreation, entertainment and amusement. Therefore, finding that sex offenders are a serious threat to public safety as indicated above, the Town hereby declares the residency or presence of sex offenders in proximity to public and private places where children and youth may congregate or frequent under circumstances proscribed in this section to be a public nuisance.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**CRIME AGAINST CHILDREN** — Any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, and which offense was perpetrated against a victim under the age of majority, respectively:

Wis. Stats. Citation	Type of Offense
§ 940.225(1)	First degree sexual assault
§ 940.225(2)	Second degree sexual assault
§ 940.125(3)	Third degree sexual assault
§ 940.22(2)	Sexual exploitation by therapist
§ 940.30	False imprisonment; victim was minor and not the offender's child
§ 940.31	Kidnapping; victim was minor and not the offender's child

Wis. Stats. Citation	Type of Offense
§ 944.01	Rape (prior statute)
§ 944.06	Incest
§ 944.10	Sexual intercourse with a child (prior statute)
§ 944.11	Indecent behavior with a child (prior statute)
§ 944.12	Enticing child for immoral purposes (prior statute)
§ 948.02(1)	First degree sexual assault of a child
§ 948.02(2)	Second degree sexual assault of a child
§ 948.025	Engaging in repeated acts of sexual assault of the same child
§ 948.05	Sexual exploitation of a child
§ 948.055	Causing a child to view or listen to sexual activity
§ 948.06	Incest with a child
§ 948.07	Child enticement
§ 948.075	Use of a computer to facilitate a child sex crime
§ 948.08	Soliciting a child for prostitution
§ 948.095	Sexual assault of a student by school instructional staff
§ 948.11(2)(a) or (am)	Exposing child to harmful material (felony sections)
§ 948.12	Possession of child pornography
§ 948.13	Convicted child sex offender working with children
§ 948.30	Abduction of another's child
§ 971.17	Not guilty by reason of mental disease (of an included offense)
§ 975.06	Sex crimes law commitment

**PERSON** — A person who has been convicted of or has been found delinquent of or has been found not guilty by reason of mental disease or defect of a sexually violent offense and/or a crime against children.

**RESIDENCE or RESIDE** — The place where a person sleeps or otherwise qualifies as their residence under the law, and which may include more than one location, and may be mobile or transitory.

**SEXUALLY VIOLENT OFFENSE** — Shall have the meaning as set forth in § 980.01(6), Wis. Stats., as amended from time to time.

C. Residency restrictions.

- (1) A person shall not reside within 2,000 feet of the real property comprising any of the following:
  - (a) Any facility for children, which means a public or private school, a group home as defined in § 48.02(7), Wis. Stats., a residential-care center for children and youth as defined in § 48.02(15d), Wis. Stats., a shelter care facility as defined in § 48.02(17), Wis. Stats., a foster home as defined in § 48.02(6), Wis. Stats., a treatment foster home as defined in § 48.02(17q), Wis. Stats., a day-care center licensed under § 48.65, Wis. Stats., a day-care program established under § 120.13(14), Wis. Stats., a day-care provider certified under § 48.651, Wis. Stats., or a youth center as defined in § 961.01(22), Wis. Stats.; and/or
  - (b) Any facility used for:
    - [1] A public park, parkway, parkland, park facility, or nature preserve;
    - [2] A public swimming pool;
    - [3] A public library;
    - [4] A recreational trail, multipurpose trail or bike path;
    - [5] A public playground;
    - [6] A school for children;
    - [7] Athletic fields used by children;
    - [8] A movie theatre;
    - [9] A day-care center;
    - [10] Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, swimming school or music school;
    - [11] A public or private golf course or range; and
    - [12] Aquatic facilities open to the public.
- (2) The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above-enumerated uses. A map depicting the above-enumerated uses and the resulting residency restriction distances, as

amended from time to time, shall be kept on file in the office of the Town Clerk for public inspection.

D. Residency restriction exceptions. A person residing within 2,000 feet of the real property comprising any of the uses enumerated in Subsection C above, does not commit a violation of this section if any of the following apply:

- (1) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility located within 2,000 feet of a use enumerated in Subsection C above.
- (2) The person has established a residence prior to the effective date of this section which is within 2,000 feet of any of the uses enumerated in Subsection C above, or such enumerated use is newly established after such effective date and it is located within such 2,000 feet of a residence of a person which was established prior to the effective date of this chapter.
- (3) The person is a minor residing with a parent or legal guardian who serves as parent or legal guardian to no more than one person or is a ward under guardianship.
- (4) The person is residing in a facility or residence actively supervised by, and operating under contract with, the Department of Corrections.

E. Original domicile restriction. In addition to and notwithstanding the foregoing, but subject to Subsection D above, no person shall be permitted to reside in the Town of Port Washington, unless such person was domiciled in the Town of Port Washington at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.

F. Child safety zones.

- (1) No person shall enter or be present upon any real property upon which there exists any facility used for or which supports a use of:
  - (a) A public park, parkway, parkland, park facility, or nature preserve;
  - (b) A public swimming pool;
  - (c) A public library;
  - (d) A recreational or multipurpose trail or bike path;
  - (e) A public playground;
  - (f) A school for children;
  - (g) Athletic fields used by children;
  - (h) A movie theatre;
  - (i) A day-care center;
  - (j) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, swimming school or music school;

- (k) A public or private golf course or range;
- (l) Aquatic facilities open to the public; and
- (m) Any facility for children, which means a public or private school, a group home as defined in § 48.02(7), Wis. Stats., a residential-care center for children and youth as defined in § 48.02(15d), Wis. Stats., a shelter care facility as defined in § 48.02(17), Wis. Stats., a foster home as defined in § 48.02(6), Wis. Stats., a treatment foster home as defined in § 48.02(17q), Wis. Stats., a day-care center licensed under § 48.65, Wis. Stats., a day-care program established under § 120.13(14), Wis. Stats., a day-care provider certified under § 48.651, Wis. Stats., or a youth center as defined in § 961.01(22), Wis. Stats.

(2) A map depicting the locations of the real property supporting the above enumerated uses, as amended from time to time, shall be kept on file in the office of the Town Clerk for public inspection.

G. Child safety zone exceptions. A person does not commit a violation of Subsection F above, and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

- (1) The property supporting an enumerated use under Subsection F also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:
  - (a) Entrance and presence upon the property occurs only during hours of worship or other religious program/service open to the public;
  - (b) The individual or body in charge of the church permits such attendance or written advance notice is made from the person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and
  - (c) The person shall not participate in any religious education programs which include individuals under the age of 18.
- (2) The property supporting an enumerated use under Subsection F also supports a use lawfully attended by a person's natural or adopted child/children, which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:
  - (a) Entrance and presence upon the property occurs only during hours of activity related to the use open to the public; and
  - (b) Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person.

- (3) The property supporting an enumerated use under Subsection F also supports a polling location in a local, state or federal election, subject to the following conditions:
  - (a) The person is eligible to vote;
  - (b) The designated polling place for the person is an enumerated use; and
  - (c) The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the property immediately after voting.
- (4) The property supporting an enumerated use under subsection (f) also supports an elementary or secondary school lawfully attended by a person as a student under which circumstances the person who is a student may enter upon that property for the purpose of attendance at the school at which the person is enrolled, as is reasonably required for the educational purposes of the school and the person.

H. Violations. If a person violates any provision of this section, by establishing a residence or occupying residential premises within 2,000 feet of those premises as described therein, without any exception(s) as also set forth above, the Town Attorney, upon referral from the Town Board and the written determination by the Town Board that upon all of the facts and circumstances and the purpose of this chapter, such residence or occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the Town in the Ozaukee County Circuit Court to permanently enjoin such residency as a public nuisance. If a person violates any provision of this chapter, in addition to the aforesaid injunctive relief, such person shall be subject to the general penalty provisions set forth under § 250-10 of the Town Code. Each day a violation continues shall constitute a separate offense. In addition, the Town may undertake all other legal and equitable remedies to prevent or remove a violation of this section.

I. The terms and provisions of this section are severable. Should any term or provision of this section be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

#### **§ 250-8. Abatement.**

- A. Inspection of premises. Whenever a complaint is made to any Town Board member or a Town enforcement officer that a public nuisance exists within the Town of Port Washington, the above-mentioned Board member or officer shall promptly and forthwith inspect or cause the inspection of the premises complained of and shall make a written report of his findings to the Town Board. Whenever practicable, the above-mentioned Board member or officer shall photograph the premises and shall file the same in the office of the Town Clerk.
- B. Summary abatement.
  - (1) Notice to owner. If the above-mentioned Board member or officer shall determine that a public nuisance exists within the Town and that there is great and

immediate danger to the public health, safety, peace, morals or decency, any Town Board Supervisor may direct the Town Attorney to serve a notice upon a person causing, permitting, or maintaining such nuisance, whether an owner or occupant of the premises where such nuisance is caused, permitted or maintained. If immediate personal service cannot be made, a copy of such notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant thereof, as well as direct mail notice to the last known owner of said property. Such notice shall direct the person causing, permitting, or maintaining such nuisance, or the owner or occupant to the premises, to abate and remove such nuisance within 24 hours or a mutually agreed upon time between the property owner and Town Board Supervisor and shall state that unless such nuisance is so abated, the Town may cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, permitting or maintaining the nuisance.

- (2) Abatement by Town. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Town Board in the case of health nuisances and other cases shall cause the abatement or removal of such public nuisance.
- C. Abatement by court action. If the above-mentioned Board member or officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he or she shall file a written report of his or her findings with the Town Chairperson, who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Ozaukee County in accordance with the provisions of Ch. 823, Wis. Stats. In the alternative, any Town Board Supervisor may direct the Town enforcement officer to issue one or more citations for each day of violation of said time period and to report back whether compliance has occurred.
- D. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town of Port Washington or its officials in accordance with the laws of the State of Wisconsin.

#### **§ 250-9. Recovery of costs.**

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abatement of any public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting, or maintaining the nuisance. If notice to abate the nuisance has been given to the owner previously, such cost shall be assessed against the real property where such violation occurred as a special charge unless paid earlier.

#### **§ 250-10. Violations and penalties.**

Any person who violates a provision of this chapter shall be required to forfeit not less than \$10 nor more than \$1,000 for each violation.



## Chapter 256

### OFFICIAL MAP

<b>§ 256-1. Introduction.</b>	<b>§ 256-8. Municipal improvements.</b>
<b>§ 256-2. Intent.</b>	<b>§ 256-9. Appeals.</b>
<b>§ 256-3. Authority.</b>	<b>§ 256-10. Certified copy of map.</b>
<b>§ 256-4. Jurisdiction.</b>	<b>§ 256-11. Recording.</b>
<b>§ 256-5. Map established.</b>	<b>§ 256-12. Enforcement.</b>
<b>§ 256-6. Changes and additions.</b>	<b>§ 256-13. Violations and penalties.</b>
<b>§ 256-7. Building permits.</b>	

**[HISTORY: Adopted by the Town Board of the Town of Port Washington 12-13-2006 by Ord. No. 2006-6. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Land Use Plan — See Ch. 232.

Zoning and subdivision — See Ch. 340.

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#### **§ 256-1. Introduction.**

- A. The Town Board of the Town of Port Washington, upon recommendation of the Town Plan Commission, adopted on the 13th day of December 2006 an Arterial Street and Highway System Plan as a part of the Town's Land Use Plan;
- B. The Town Plan Commission has recommended to the Town Board that an Official Map be established for the Town of Port Washington;
- C. A public hearing was held before the Town Board of the Town of Port Washington on the 13th day of December 2006 on the question of the adoption of an Official Map; and
- D. The Town Board of the Town of Port Washington has determined that it is necessary for the proper physical development of the Town to establish an Official Map for the Town of Port Washington.

#### **§ 256-2. Intent.**

It is the intent of the Town Board to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness, and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to ensure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds, and stormwater drainage; and to facilitate the further subdivision of larger tracts into smaller parcels of land.

**§ 256-3. Authority.**

This chapter is enacted under the authority granted by § 62.23(6), Wis. Stats.

**§ 256-4. Jurisdiction.**

The jurisdictional area of this chapter shall include all lands within the corporate limits of the Town of Port Washington.

**§ 256-5. Map established.**

There is hereby established, as the Official Map of the Town of Port Washington, the map which accompanies and is made a part of this chapter bearing the date of December 13, 2006. This map is hereby designated as the "Official Map of the Town of Port Washington," and all notations, references, and other information shown thereon shall be as much a part of this chapter as though the matters and information thereon were fully described herein. The Official Map shall show the location and extent of all platted, existing, proposed, or planned streets and highways and the Knellsville District within the corporate limits of the Town of Port Washington as heretofore laid out, adopted and established by law.

**§ 256-6. Changes and additions.**

- A. The Town Board may change or add to the Official Map so as to establish the exterior lines of, widen, narrow, extend or close any platted, existing, proposed, or planned streets, highways, parkways, and parks or playgrounds.
- B. The Town Board shall refer any change or addition to the Official Map to the Town Plan Commission for review and report thereon prior to adoption. The Town Plan Commission shall report its recommendation to the Town Board within 60 days.
- C. A public hearing of parties in interest and citizens before the Town Board shall be required before any changes or additions to the Official Map are effective. Notice of the public hearing shall be published as a Class 2 notice pursuant to Ch. 985, Wis. Stats.
- D. Changes and additions made by duly approved subdivision plats shall not require a public hearing if the changes or additions do not affect any land outside the area being platted.

**§ 256-7. Building permits.**

- A. For the purpose of preserving the integrity of the Official Map, a building permit shall be required for any structure or part thereof that shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered. No permit shall hereafter be issued for any building in the bed of any existing or proposed street, highway, drainageway, or parkway shown on the Official Map. No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the map.

B. The Building Inspector may require each applicant for a building permit to submit a plan, prepared and certified by a registered land surveyor, showing accurately the location of any proposed building with reference to any street, highway, drainageway, or parkway shown on the Official Map.

**§ 256-8. Municipal improvements.**

No public sewer or other municipal street utility or improvement shall be constructed in any street, highway, or parkway within the jurisdictional area of this chapter until such street, highway, or parkway is duly placed on the Official Map.

**§ 256-9. Appeals.**

The Zoning Board of Appeals shall have the power to review any administrative decision of the Town Building Inspector to deny a permit for the erection of a structure under this chapter and to grant relief from the requirements of this chapter under the provisions of § 62.23(6)(e), (f), and (g), Wis. Stats.

**§ 256-10. Certified copy of map.**

There shall be a certified copy of the Official Map described in § 256-5. The certified copy shall be kept in the office of the Town Clerk and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this chapter and shall show the date of adoption of this chapter and shall be signed by the Town Chairperson and countersigned by the Town Clerk. Thereafter no change or addition to such Official Map shall become effective until it shall have been indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto hearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Town Chairperson and countersigned by the Town Clerk.

**§ 256-11. Recording.**

The Town Clerk shall be responsible, immediately upon adoption of the Official Map or any amendment thereto, for recording a true copy of the Official Map, as adopted or amended, with the Register of Deeds of the County of Ozaukee, Wisconsin.

**§ 256-12. Enforcement.**

It shall be the duty of the Town Building Inspector to enforce the provisions of this chapter.

**§ 256-13. Violations and penalties.**

A. Any person, firm, or corporation who or which fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not more than \$200 and not less than \$50 and cost of prosecution for each violation, and in default of payment of such forfeiture

and costs shall be imprisoned in the county jail until payment thereof but not exceeding 30 days.

B. No damages shall be allowed for the taking by any governmental agency, for street, highway, drainageway, or parkway purposes, of any building erected in violation of this chapter.

## Chapter 285

### SEXUALLY ORIENTED BUSINESSES

§ 285-1. Purpose and findings.	§ 285-13. Administrative review procedure.
§ 285-2. Definitions.	§ 285-14. Transfer of license.
§ 285-3. Classification.	§ 285-15. Physical layout.
§ 285-4. License required.	§ 285-16. Location.
§ 285-5. Application for license.	§ 285-17. Responsibilities of licensee.
§ 285-6. Standards for issuance of license.	§ 285-18. Escort agencies.
§ 285-7. License fee.	§ 285-19. Prohibited acts.
§ 285-8. Display of license.	§ 285-20. Underage persons on premises.
§ 285-9. Renewal of license.	§ 285-21. Hours of operation.
§ 285-10. Inspections.	§ 285-22. Exceptions.
§ 285-11. Suspension of license.	§ 285-23. Right of entry.
§ 285-12. Revocation of license.	§ 285-24. Violations and penalties.

[HISTORY: Adopted by the Town Board of the Town of Port Washington 1-31-2005 by Ord. No. 2005-2. Amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning and subdivision — See Ch. 340.

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#### § 285-1. Purpose and findings.

- A. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of citizens of the Town of Port Washington and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town of Port Washington. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. It is neither the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.
- B. Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Town, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *City*

of Erie v. Pap's A.M., 120 S. Ct. 1382 (2000), East of the River Enterprises II v. City of Hudson, 2000 Wisc. App. Lexis 734 (Ct. App. Aug. 1, 2000); Ben's Bar, Inc. v. Town of Somerset, \_\_ F.3d\_\_\_\_, 2003 WL 132541 (7th Cir. 2003), and on studies in other communities, including but not limited to Phoenix, Arizona; Houston, Texas; Minneapolis, Minnesota; St. Paul, Minnesota; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin, and the Report of the Attorney General's Working Group on Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the United States Department of Health and Human Services, Centers for Disease Control and Prevention, the Town Board finds that:

- (1) Sexually oriented businesses lend themselves to ancillary and unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
- (2) Certain employees of sexually oriented businesses, defined in this chapter as adult theaters and adult cabarets, engage in higher incidences of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows.
- (4) Offering and providing such space encourages such activities, which creates unhealthy conditions.
- (5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purposes of engaging in sex within the premises of such sexually oriented businesses.
- (6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B, amebiasis, salmonella infections and shigella infections.
- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the HIV virus in the United States: 600 in 1982; 2,200 in 1983, 4,600 in 1984; 8,555 in 1985, and 253, 448 through December 31, 1992.
- (8) The State of Wisconsin Division of Health indicated that on July 25, 1986, there were 96 cases of AIDS reported in the state, including 54 cases that resulted in death, and that a ten-fold increase in reported cases was expected between 1986 and 1991.

- (9) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November 1990.
- (10) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over a half million cases being reported in 1990.
- (11) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components and from an infected mother to her newborn.
- (12) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (13) Sanitary conditions in some sexually oriented businesses are unhealthy in part because the activities conducted there are unhealthy and, in part because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (14) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult-oriented films.
- (15) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented business are located.
- (16) Studies of the relationship between sexually oriented business and neighborhood property values have found a negative impact on both residential and commercial property values.
- (17) There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.
- (18) The consumption of alcoholic beverages on the premises of sexually oriented businesses exacerbated the deleterious secondary effects of such businesses on the community. In fact, the Supreme Court has gone so far as to assert that "[c]ommon sense indicates that any form of nudity coupled with alcohol begets undesirable behavior." Ben's Bar, 2003 WL 132541, \*19 (citations omitted).
- (19) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect the substantial government concerns addressed in the above subsections.
- (20) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the Town. It is appropriate to require reasonable assurances that

the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

- (21) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.
- (22) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent, or who are likely to be witnesses to such conduct.
- (23) The general welfare, health, morals and safety of the citizens of the Town of Port Washington will be promoted by the enactment of this chapter.

#### **§ 285-2. Definitions.**

As used in this chapter, the following terms shall have the meaning indicated:

**ADULT ARCADE** — Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled or still- or motion-picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting specified sexual activities or specified anatomical areas.

#### **ADULT BOOKSTORE or ADULT VIDEO STORE —**

- A. A commercial establishment that has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space, for the sale or rental, for any form of consideration, of any one or more of the following:
  - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, slides or other visual representations, which are characterized by their emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas; or
  - (2) Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.
- B. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual

activities or specified anatomical areas. A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

C. This definition shall expressly exclude films, motion pictures, videocassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

**ADULT CABARET —**

A. A nightclub, dance hall, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear seminude;
- (2) Live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas; or
- (3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas.

B. This definition shall expressly exclude films, motion pictures, videocassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

**ADULT MOTEL —** A hotel, motel or similar commercial establishment which:

A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or

C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

**ADULT MOTION-PICTURE THEATER —** A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. This definition shall expressly exclude films, motion pictures, videocassettes, slides or other similar photographic reproductions given an "R" rating by the Motion Picture Association of America.

**ADULT THEATER —** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear nude or seminude, or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

**BOARD** — The Town Board for the Town of Port Washington, Ozaukee County, Wisconsin.

**DIRECTLY** — To require physical contact. For instance, when this chapter prohibits an employee from receiving a gratuity "directly" from a patron, it prohibits the direct touching of skin, other body parts or clothing.

**DISTINGUISHED OR CHARACTERIZED BY** — The dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or display of specified sexual activities or specified anatomical areas.

**EMPLOYEE, EMPLOY and EMPLOYMENT** — Describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**ESCORT** — A person who, for consideration, and for another person, agrees or offers to privately model lingerie or to privately perform a striptease.

**ESCORT AGENCY** — A person or business association who or which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

**ESTABLISH or ESTABLISHMENT** — Any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business; or
- D. The relocation of any sexually oriented business.

**LICENSEE** — A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

**NUDE, NUDITY or STATE OF NUDITY** — The showing of the human male or female genitals, pubic area, vulva or anus with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.

**OPERATE or CAUSE TO BE OPERATED** — To cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who is authorized to exercise operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be

operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

**PERSON** — An individual, proprietorship, partnership, corporation, association, or other legal entity.

**PREMISES** — The real property upon which the sexually oriented business is located, and all appurtenance thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, the private walkways and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the owner or operator of the business.

**REGULARLY FEATURES or REGULARLY SHOWS** — A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.

**SEMINUDE or SEMINUDE CONDITION** — The showing of the human male or female genitals, pubic area, vulva or anus with no more than a complete opaque covering, or the showing of the female breast with no more than a complete opaque covering of any part of the nipple or areola.

**SEXUAL ENCOUNTER CENTER** — A business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities. The definition of "sexual encounter center" or any sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

**SEXUALLY ORIENTED BUSINESS** — An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, or sexual encounter center.

**SPECIFIED ANATOMICAL AREAS** —

- A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- B. Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast(s) below a point immediately above the top of the areola.<sup>1</sup>

**SPECIFIED SEXUAL ACTIVITY** —

- A. The fondling of another person's genitals, pubic region, anus, or female breasts;
- B. Actual sex acts, normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. Excretory functions as part of, or in connection with, any of the activities set forth in Subsections A and B above.

**SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS** — The increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the date this chapter takes effect.

**TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS** — Includes any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### **§ 285-3. Classification.**

Sexually oriented businesses are classified as follows:

- A. Adult arcades.
- B. Adult bookstores or adult video stores.
- C. Adult cabarets.
- D. Adult motels.
- E. Adult motion-picture theaters.
- F. Adult theaters.
- G. Escort agencies.
- H. Sexual encounter centers.

### **§ 285-4. License required.**

- A. Except as provided in Subsection D below, from and after the effective date of this chapter, no sexually oriented business shall be operated or maintained in the Town of Port Washington without first obtaining a license to operate issued by the Town of Port Washington.
- B. A license may be issued only for one sexually oriented business located at one fixed and certain place. Any person, partnership, or corporation who or which desires to operate more than one sexually oriented business must have a license for each.

- C. No licensee may transfer ownership or control of the sexually oriented business to any other person, partnership or corporation.
- D. All sexually oriented businesses existing at the time of the passage of this chapter must submit an application for a license within 60 days of the passage of this chapter.

**§ 285-5. Application for license.**

- A. Any person, partnership or corporation desiring to secure a license shall submit an application to the Town Clerk. The application shall be filed in triplicate and dated by the Town Clerk. A copy of the application shall be distributed promptly by the Town Clerk to the Ozaukee County Sheriff's Department and to the applicant.
- B. If the Ozaukee County Sheriff's Department is aware of any information bearing on the applicant's qualifications, that information shall be filed in writing with the Town Clerk.
- C. An application for a license must be made on a form provided by the Town of Port Washington. All applicants must be qualified according to the provisions of this chapter.
- D. An application shall be considered complete if it includes the information required in this section.
- E. An applicant for a license shall furnish the following information under oath:
  - (1) Name and address.
  - (2) Written proof that the individual is at least 18 years of age. Written proof of age may be in the form of either a copy of a birth certificate and current photo, a current driver's license with picture, or other picture identification document issued by a governmental agency and demonstrating proof of age.
  - (3) The name, business location, business mailing address and phone number of the proposed sexually oriented business.
  - (4) A statement as to whether the licensee of the sexually oriented business intends to serve, sell, use or provide any intoxicating liquor, fermented malt beverage or any type of alcoholic beverage on the premises of the sexually oriented business.<sup>2</sup>
  - (5) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the names, addresses and ages of all shareholders of the corporation owning more than 5% of the stock in said corporation and all officers and directors of the corporation, and the name and address of the registered agents.
  - (6) If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest, the application shall state the names, addresses and ages of all persons having a financial interest in the partnership, joint venture or other type of organization.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(7) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business, shall accompany the application for a sexually oriented business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

F. If the person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If the person who wishes to operate a sexually oriented business is other than an individual (such as a corporation or partnership), each officer, director, general partner, or other person identified in Subsection E(5) and (6) shall sign the application for a license as the applicant. Each applicant must be qualified under this section and each applicant shall be considered as a licensee if the license is granted.

G. Within 21 days of receiving an application for a license, the Town Clerk shall notify the applicant whether the application is granted or denied.

H. Whenever an application is denied, the Town Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter, as hereinafter provided.

I. Failure or refusal of the applicant to give any information relevant to the application or his or her refusal to submit to or cooperate with regard to any information required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Town Board.

**§ 285-6. Standards for issuance of license.**

A. The Town Board shall approve the issuance of a license unless one or more of the following is found to be true:

- (1) An applicant (including all individuals, officers, directors, shareholders, or persons with a financial interest in the organization) is less than 18 years of age.
- (2) An applicant is delinquent in the payment owed to the Town of Port Washington of taxes, fees, fines or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.
- (3) An applicant has failed to provide information as required in § 285-5 for issuance of the license.
- (4) The license application fee required by this chapter has not been paid.
- (5) An applicant has falsely answered a question or request for information on the application form.

- (6) The proposed sexually oriented business is not in compliance with the location restrictions established or physical layout restrictions established for sexually oriented businesses in this chapter.
- (7) The applicant states or the Town Board subsequently discovers that the applicant intends to serve, sell, use or provide any intoxicating liquor, fermented malt beverages, or any type of alcoholic beverages on the premises of the sexually oriented business.<sup>3</sup>

B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the applicant, the expiration date, and the address of the sexually oriented business.

**§ 285-7. License fee.<sup>4</sup>**

A license fee as set by the Town Board shall be submitted with the application for a license. If the application is denied, 1/2 of the fee shall be returned. The remainder shall be applied toward processing and administrative costs.

**§ 285-8. Display of license.**

The license shall be displayed in a conspicuous public place, at or near the entrance of the sexually oriented business, so that it may be easily read at any time.

**§ 285-9. Renewal of license.**

- A. Every license issued pursuant to this chapter will terminate at the expiration of one year from the date of issuance, unless sooner suspended or revoked. A license must be renewed before operation is allowed to continue. A license may be renewed only by making an application as provided for in § 285-5. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be upon a form provided by the Town of Port Washington and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
- B. A license renewal fee as set by the Town Board shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty in the amount as set by the Town Board shall be assessed against any applicant who files for a renewal less than 60 days before the license expires. If the application is denied, 1/2 of the total fees collected shall be returned.<sup>5</sup>
- C. If the Ozaukee County Sheriff's Department is aware of any information bearing on an applicant's qualifications, that information shall be filed in writing with the Town Clerk.

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 285-10. Inspections.**

- A. For the purposes of ensuring compliance with this chapter, an applicant, operator or licensee shall permit law enforcement officers and any other federal, state, county or Town agency, in the performance of any function connected with the enforcement of this chapter normally and regularly conducted by such agencies, to inspect, at any time the business is occupied or open for business, those portions of the premises of a sexually oriented business which patrons or customers are permitted to occupy.
- B. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

**§ 285-11. Suspension of license.**

- A. The Town Board shall issue a written intent to suspend a license for a period not to exceed 30 days if it determines that a licensee, operator or employee of a licensee has:
  - (1) Violated or is not in compliance with any section of this chapter; or
  - (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.
- B. The Town Board shall give the licensee 10 days' written notice of the charges against him and the opportunity for a public hearing before the Board, as hereinafter provided.

**§ 285-12. Revocation of license.**

- A. The Town Board shall revoke by written notice a license for a sexually oriented business if a cause for suspension in § 285-11 occurs and the license has been suspended within the preceding 12 months.
- B. The Town Board shall revoke by written notice a license if it determines that any of the following reasons exist:
  - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from the application.
  - (2) The licensee, operator or any employee of the licensee violates any provisions of this chapter or any rules or regulations adopted by the Board pursuant to this chapter; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days, if the Board shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
  - (3) The licensee becomes ineligible to obtain a license or permit.
  - (4) Any cost or fee required to be paid by this chapter is not paid.

- (5) Any intoxicating liquor, fermented malt beverage or other alcoholic beverage is served or consumed on the premises of the sexually oriented business.<sup>6</sup>
- (6) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises.
- (7) A licensee has knowingly allowed prostitution on the premises.
- (8) A licensee has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.
- (9) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual act to occur in or on the licensed premises. This subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either in exchange for money or in a public place or within public view.

- C. The Town Board, before revoking any license, shall give the licensee at least 10 days' written notice of the charges against him and the opportunity for a public hearing as hereinafter provided.
- D. The transfer of ownership or control of a license shall automatically and immediately revoke the license.
- E. Any licensee whose license is revoked shall not be eligible to receive a license for one year from the date of revocation.

**§ 285-13. Administrative review procedure.**

Chapter 68, Wis. Stats., concerning municipal administrative procedure shall govern the administrative procedure and review concerning the granting, denial, renewal or nonrenewal of a permit or a license. A request for an initial determination shall be made by an aggrieved person pursuant to the provisions contained in § 68.08, Wis. Stats., to the Town Clerk. An administrative appeal pursuant to the provisions contained in § 68.10, Wis. Stats., may be made by an aggrieved person to the Zoning Board of Appeals and a hearing shall be held by the Zoning Board of Appeals pursuant to § 68.11, Wis. Stats. Any party to a proceeding resulting in a final determination may seek judicial review pursuant to the provisions contained in § 68.13, Wis. Stats.

**§ 285-14. Transfer of license.**

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

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6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 285-15. Physical layout.**

Any sexually oriented business having available for customers, patrons or members any booth, room or cubicle for the private viewing of any specified anatomical areas or specified sexual activity must comply with the following requirements:

- A. Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business and shall be unobstructed by any door, lock or other control-type devices.
- B. Construction. Every booth, room or cubicle shall meet the following construction requirements:
  - (1) Each booth, room, or cubicle shall be separated from adjacent booths, rooms or cubicles and any nonpublic areas by a wall.
  - (2) Each booth shall have at least one side totally open to the public lighted aisle which may be secured when the booth is in use by a door which extends from a height of not less than two feet above the floor.
  - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet, and be light colored, nonabsorbent, smooth textured and easily cleanable.
  - (4) The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
  - (5) The lighting level of each booth, room, or cubicle when not in use shall be a minimum of five footcandles at all times, as measured from the floor.
- C. Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

**§ 285-16. Location.**

- A. No sexually oriented business shall be located:
  - (1) Within 1,000 feet of an existing sexually oriented business;
  - (2) Within 1,000 feet of any residential dwelling, included but not limited to houses, apartments, condominiums, or flats;
  - (3) Within 1,000 feet of any preexisting place of worship, including but not limited to any church, synagogue, mosque, temple or building which is primarily used for religious worship and related religious activities;
  - (4) Within 1,000 feet of any public or private educational facility, including but not limited to any child day-care establishments, nursery schools, preschools, kindergartens, elementary schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special

education schools, junior colleges and universities; "school" includes the school grounds but does not include facilities used primarily for another purpose and only incidentally at a school;

- (5) Within 1,000 feet from any public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, a playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Town which is under the control, operation or management of the Town and recreational authorities; or
- (6) Within 1,000 feet of any premises that in any manner sells or disperses alcohol or is licensed pursuant to the alcoholic beverage control regulations of the state.<sup>7</sup>

B. For the purposes of this section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a use listed in Subsection A. The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

**§ 285-17. Responsibilities of licensee.**

- A. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.
- B. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.
- C. No employee of a sexually oriented business shall allow any minor to loiter around or to frequent a sexually oriented business. It shall be the duty of the licensee of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during the regular business hours of such sexually oriented business and to prevent any person under the age of 18 years of age from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:
  - (1) A valid operator's, commercial operator's or chauffeur's driver's license; or
  - (2) A personal identification card issued by the State of Wisconsin reflecting that such person is 18 years of age or older.

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7. Editor's Note: Ch. 125, Wis. Stats.

- D. The licensee shall maintain the premises in a clean and sanitary manner at all times.
- E. The licensee shall maintain at least five footcandles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles is necessary to enable a patron to view any activity in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisle; provided, however, that at no time shall there be less than one footcandle of illumination of said aisles, as measured from the floor.
- F. The licensee shall ensure compliance of the sexually oriented business and its patrons with the provisions of this chapter.
- G. The licensee shall ensure that no alcoholic beverages are sold, used or consumed on the premises of a sexually oriented business.

**§ 285-18. Escort agencies.**

- A. An escort agency shall not employ any person under the age of 18 years.
- B. A person commits an offense if the person acts as an escort, or agrees to act as an escort for any person under the age of 18 years.

**§ 285-19. Prohibited acts.**

- A. It shall be prohibited in a sexually oriented business for a person to appear in a state of nudity or engage in specified sexual activities.
- B. It shall be prohibited in a sexually oriented business to appear in a seminude condition, unless the person is an employee who, while seminude, is at least five feet from any patron or customer and on a stage at least two feet from the floor.
- C. It shall be prohibited for an employee, while seminude in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is seminude in a sexually oriented business.
- D. It shall be prohibited in a sexually oriented business to serve, sell, use, provide or consume any intoxicating liquor, fermented malt beverage or any other alcoholic beverage.<sup>8</sup>

**§ 285-20. Underage persons on premises.**

It shall be prohibited for a person under the age of 18 years to be on the premises of a sexually oriented business.

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8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 285-21. Hours of operation.**

- A. No sexually oriented business shall be open between the hours of 2:00 a.m. and 8:00 a.m. on weekdays or between the hours of 2:00 a.m. and 12:00 noon on Sundays.
- B. All sexually oriented businesses shall be open to inspection at all reasonable times by the Ozaukee County Sheriff's Department and the Building Inspector.<sup>9</sup>

**§ 285-22. Exceptions.**

The provisions of this chapter do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering of entertainment which is intended for sexual interest or titillation of customers and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or seminude performances. While expressive live nudity may occur within these establishments, this chapter seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this section.

**§ 285-23. Right of entry.**

The Ozaukee County Sheriff's Department shall have the authority to enter any sexually oriented business within the Town at all reasonable times to inspect the premises and enforce this chapter.

**§ 285-24. Violations and penalties.**

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this chapter is subject to a suit for injunction as well as municipal prosecution. Such violation shall be punishable by a fine of \$500 plus court costs. Each day a sexually oriented business so operates is a separate offense or violation.

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9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



## Chapter 296

### SOLID WASTE

#### ARTICLE I Recycling

- § 296-1. Title.
- § 296-2. Purpose.
- § 296-3. Statutory authority.
- § 296-4. Abrogation and greater restrictions.
- § 296-5. Interpretation.
- § 296-6. Applicability.
- § 296-7. Administration.
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- § 296-9. Separation of recyclable materials.
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- § 296-11. Care of recyclable materials.
- § 296-12. Lead acid batteries; major appliances; waste oil; yard waste; tires; couches, mattresses and other large furniture items.

- § 296-13. Preparation and collection of materials for single-family and two- to four-unit residences.
- § 296-14. Multiple-family dwellings; responsibilities.
- § 296-15. Nonresidential facilities and properties; responsibilities.
- § 296-16. Prohibitions on disposal.
- § 296-17. Dumping of nonrecyclable materials.
- § 296-18. Nondisposable materials.
- § 296-19. Right to reject materials.
- § 296-20. Hauler licensing.
- § 296-21. Establishment of fees.
- § 296-22. Ownership of recyclables and refuse.
- § 296-23. Placement of solid waste and recyclables for collection.
- § 296-24. Changes to designated recyclables.
- § 296-25. Enforcement; violations and penalties.

[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Nuisances — See Ch. 250.

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**ARTICLE I**  
**Recycling**  
**[Adopted 2-6-2012 by Ord. No. 2012-02<sup>1</sup> ]**

**§ 296-1. Title.**

This article shall be known as the "Recycling Ordinance for the Town of Port Washington, Ozaukee County, Wisconsin."

**§ 296-2. Purpose.**

The purpose of this article is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in § 287.11, Wis. Stats., and Ch. NR 544, Wis. Adm. Code.

**§ 296-3. Statutory authority.**

This article is adopted as authorized under § 287.09, Wis. Stats.

**§ 296-4. Abrogation and greater restrictions.**

It is not intended by this article to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this article imposes greater restrictions, the provisions of this article shall apply.

**§ 296-5. Interpretation.**

In their interpretation and application, the provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by Wisconsin Statutes, or by a standard in Ch. NR 544, Wis. Adm. Code, and where the provision in this article is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Ch. NR 544 standards in effect on the date of the adoption of this article, or in effect on the date of the more recent text amendment to this article.

**§ 296-6. Applicability.**

The requirements of this article apply to all persons within the Town of Port Washington, Ozaukee County, Wisconsin.

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1. Editor's Note: This ordinance also repealed Ord. No. 94-2, adopted 12-20-1994.

**§ 296-7. Administration.**

The provisions of this article shall be administered by the Town Board of the Town of Port Washington or its designated representative.

**§ 296-8. Definitions.**

For the purpose of this article, the following terms shall have the meanings indicated:

**BIMETAL CONTAINER** — A container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

**CONTAINER BOARD** — Corrugated paperboard used in the manufacture of shipping containers and related products.

**FOAM POLYSTYRENE PACKAGING** — Packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- A. It is designed for serving food or beverages.
- B. It consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
- C. It consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

**HDPE** — High-density polyethylene, labeled by the SPI Code No. 2.

**LDPE** — Low-density polyethylene, labeled by the SPI Code No. 4.

**MAGAZINES** — Magazines and other materials printed on similar paper.

**MAJOR APPLIANCES** — A residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater, or stove.

**MULTIPLE-FAMILY DWELLING** — A property containing five or more residential units, including those which are occupied seasonally. This term includes condominiums and housing cooperatives with five or more units in one building.

**NEWSPAPER** — A newspaper and other materials printed on newsprint.

**NONRESIDENTIAL FACILITIES AND PROPERTIES** — Commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

**OFFICE PAPER** — High-grade printing and writing papers, excluding papers containing carbon, from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

**OTHER RESINS or MULTIPLE RESINS** — Plastic resins labeled by the SPI Code No. 7.

**PERSON** — Any individual, corporation, partnership, association, local governmental unit, as defined in § 66.0131(1)(a), Wis. Stats., state agency or authority or federal agency.

**PETE** — Polyethylene terephthalate, labeled by the SPI Code No. 1.

**PLASTIC CONTAINER** — An individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

**POSTCONSUMER WASTE** — Solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in § 291.01(7), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in § 289.01(17), Wis. Stats.

**PP** — Polypropylene, labeled by the SPI Code No. 5.

**PS** — Polystyrene, labeled by the SPI Code No. 6.

**PVC** — Polyvinyl chloride, labeled by the SPI Code No. 3.

**RECYCLABLE MATERIALS** — Includes lead acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; and bimetal containers.

**RESIDENCE** — A place in which a person resides or dwells, including houses, whether occupied seasonally or not. This term includes agricultural properties, mobile homes, single-family dwellings, and condominiums or housing cooperatives containing two to four units in one building.

**SOLID WASTE** — Has the meaning specified in § 289.01(33), Wis. Stats.

**SOLID WASTE FACILITY** — Has the meaning specified in § 289.01(35), Wis. Stats.

**SOLID WASTE TREATMENT** — Any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

**TOWN BOARD** — The Board of Supervisors of the Town of Port Washington, Ozaukee County, Wisconsin.

**TOWN OF PORT WASHINGTON RECYCLING CENTER SITE** — The site, which shall be open on dates and times set by the Town Board, designated by the Town Board for solid waste and recycling drop off.

**WASTE TIRE** — A tire that is no longer suitable for its original purpose because of wear, damage or defect.

**YARD WASTE** — Leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

**§ 296-9. Separation of recyclable materials.**

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from postconsumer waste:

- A. Lead acid batteries.
- B. Major appliances.
- C. Waste oil.
- D. Yard waste.
- E. Aluminum containers.
- F. Bimetal containers.
- G. Corrugated paper or other container board.
- H. Glass containers.
- I. Magazines.
- J. Newspaper.
- K. Office paper.
- L. Rigid plastic containers made of PETE (No. 1), HDPE (No. 2), PVC (No. 3), LDPE (No. 4), PP (No. 5), PS (No. 6) and other resins or multiple resins (No. 7).
- M. Steel containers.
- N. Waste tires.

**§ 296-10. Exceptions.**

The separation requirements of § 296-9 do not apply to the following:

- A. Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties that send their postconsumer waste to a processing facility, other than the Town dropoff site, licensed by the Wisconsin Department of Natural Resources, that recovers the materials specified in § 296-9 from solid waste in as pure a form as is technically feasible.
- B. Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- C. A recyclable material specified in § 296-9E through N for which a variance has been granted by the Department of Natural Resources under § 287.11(2m), Wis. Stats., or § NR 544.14, Wis. Adm. Code.

**§ 296-11. Care of recyclable materials.**

To the greatest extent practicable, recyclable materials shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other nonrecyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

**§ 296-12. Lead acid batteries; major appliances; waste oil; yard waste; tires; couches, mattresses and other large furniture items.**

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

- A. Lead acid batteries shall be taken to a local authorized dealer accepting this product.
- B. Major appliances shall be taken to a local authorized dealer accepting this product.
- C. Waste oil shall be taken to a local authorized dealer accepting this product.
- D. Yard waste shall be spread or composted at the site of its production or disposed of in an acceptable manner at a facility authorized, in writing, by the Town Board. Yard waste shall not be accepted at the Town of Port Washington Recycling Center Site.
- E. Couches, mattresses and other large furniture items shall be taken to a local authorized dealer accepting these products or to the Town Recycling Center Site on periodic dates and times these items may be accepted, as may be designated by the Town from time to time.

**§ 296-13. Preparation and collection of materials for single-family and two- to four-unit residences.**

Except as otherwise directed by the Town Board, or its designated representative, occupants of single-family and two- to four-unit residences shall do the following for the preparation and collection of the materials specified in § 296-9E through N:

- A. Aluminum containers, bimetal containers, corrugated paper (cardboard) or other container board, glass containers, magazines or other materials (e.g., junk mail) printed on similar papers, newspaper or other materials printed on newsprint, office paper, and rigid plastic containers, specifically the following: plastic containers made of PETE (No. 1), HDPE (No. 2), including milk bottles and detergent bottles, PVC (No. 3), LDPE (No. 4), PP (No. 5), and PS (No. 6), and including containers made of other resins or multiple resins (No. 7), rinsed and free of product residue, shall have caps removed and discarded.
- B. Steel containers shall be separated from other waste, delivered to the Town of Port Washington Recycling Center Site and placed in designated containers during the days and hours of operation.

C. Special materials such as couches, mattresses and other furniture items shall be separated from other waste. These items are generally not accepted by the Town Recycling Center Site and may only be delivered to the Town of Port Washington Recycling Center Site on periodic dates and times as may be designated by the Town from time to time, where a fee will be charged for the disposal of each such item.

**§ 296-14. Multiple-family dwellings; responsibilities.**

A. Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in § 296-9E through N:

- (1) Provide adequate, separate containers for the recyclable materials.
- (2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.
- (3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
- (4) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operations, and a contact person or company, including a name, address and telephone number.

B. The requirements specified in Subsection A do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in § 296-9E through N from solid waste in as pure a form as is technically feasible.

**§ 296-15. Nonresidential facilities and properties; responsibilities.**

A. Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in § 296-9E through N:

- (1) Provide adequate containers for the recyclable materials.
- (2) Notify, in writing, at least semiannually, all users, tenants and occupants of the properties about the established recycling program.
- (3) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
- (4) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

B. The requirements specified in Subsection A do not apply to the owners or designated agents of nonresidential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in § 296-9E through N from solid waste in as pure a form as is technically feasible.

**§ 296-16. Prohibitions on disposal.**

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in § 296-9E through N which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

**§ 296-17. Dumping of nonrecyclable materials.**

- A. No person may place, dispose of or dump nonrecyclable materials (refuse) in, upon or along any street, highway, alley or other public place within the Town of Port Washington, or in any receptacles or upon private property, unless it is placed in bags or containers in the manner and at the times specified in this article and with the property owner's consent.
- B. No person shall place for collection, dispose of or dump any nonrecyclable materials (refuse) at the curb of any property which is not owned or occupied by such person.

**§ 296-18. Nondisposable materials.**

No person shall place for disposal any of the following wastes: hazardous and toxic wastes, chemicals, explosives, flammable liquids, paint, trees and stumps, construction debris, carcasses, and medical wastes (except personal needles, which shall be contained in approved, puncture-proof containers to eliminate injury to collection personnel).

**§ 296-19. Right to reject materials.**

The hauler or Town of Port Washington Recycling Center site attendant shall have the right to reject or leave at the curb any recyclable materials that are not prepared according to the specifications of §§ 296-9, 296-11 and 296-13 of this article. Materials may also be rejected or left if not separated from solid waste, placed in the proper container, or not designated recyclable materials for collection. The hauler also has the right to reject or refuse to pick up any solid waste if it contains recyclable containers and materials. In such cases, the hauler or site attendant shall notify the generator of the materials, either in writing or verbally, as to the reasons for rejecting or refusing to pick up such items.

**§ 296-20. Hauler licensing.**

Haulers who collect solid wastes or recyclable materials in the Town of Port Washington for storage, treatment, processing, marketing or disposal shall obtain and maintain all necessary

municipal and state permits, licenses and approvals prior to collecting any such wastes or materials in the Town of Port Washington.

**§ 296-21. Establishment of fees.**

The Town of Port Washington may establish fees for service recipients for the payment of collection services for solid waste and recyclable materials. Fees shall be determined and reviewed from time to time by the Town Board and a schedule of said fees shall be maintained in a schedule available to the public through the Town Clerk.

**§ 296-22. Ownership of recyclables and refuse.**

Unless rejected by the hauler or Town of Port Washington Recycling Center site attendant, recyclable materials and refuse, upon placement at the curb or delivery to the Town of Port Washington Recycling Center site, shall become the property of the hauler. Recyclable materials, upon collection by any authorized collector, shall be deemed abandoned and will become the property of the collector.

**§ 296-23. Placement of solid waste and recyclables for collection.**

- A. Effective April 15, 1995, solid waste shall be placed for collection or delivered to the Town of Port Washington Recycling Center site in plastic garbage bags and contained in a manner to avoid litter.
- B. All solid waste and recyclable materials which are placed for curbside pickup shall be placed as herein required no earlier than 24 hours prior to the regularly scheduled collection time and shall not be allowed to remain at the curb longer than 12 hours after such collection time.
- C. No person shall place any refuse or recyclable materials at the Town of Port Washington Recycling Center site during any times other than the posted hours for which the site is open for use by the public.

**§ 296-24. Changes to designated recyclables.**

The Town Board reserves the right to designate additional solid waste materials as recyclable materials, or delete materials from the list of currently collected materials as no longer recyclable or exempt from recycling in accordance with state law, and to either add or delete such materials from any collection services provided by the Town of Port Washington or its haulers or contractors. The Town of Port Washington shall provide a written notice to its service recipients of such changes.

**§ 296-25. Enforcement; violations and penalties.**

- A. For the purpose of ascertaining compliance with the provisions of this article, any authorized officer, employee or representative of the Town Board may take video surveillance of the Town of Port Washington Recycling Center site, inspect recyclable

materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Town Board who requests access for purposes of inspection and who presents appropriate credentials. Such inspection shall be authorized, in writing, by the Town Board. No person may obstruct, hamper, or interfere with such an inspection.

- B. Any person who violates a provision of this article may be issued a citation by the Town Board, or its designated representative or the Ozaukee County Sheriff's Department to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.
- C. Penalties for violating this article may be assessed as follows:
  - (1) Any person who violates § 296-16 may be required to forfeit \$50 for a first violation, \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation.
  - (2) Any person who violates a provision of this article, except § 296-16, may be required to forfeit not less than \$200 nor more than \$1,000 for each violation.
- D. The Town Board may also seek injunctive relief to terminate violations of this article, when appropriate.

# Chapter 322

## VEHICLES AND TRAFFIC

### ARTICLE I Parking

§ 322-1. Parking during certain hours prohibited.  
§ 322-2. Parking prohibited in certain areas.

### ARTICLE II Speed Limits

§ 322-3. Speed limits established.  
§ 322-4. Signs.  
§ 322-5. Violations and penalties.

### ARTICLE III Through Highways

§ 322-6. Designation of through highways.

### § 322-7. Erection of stop signs.

### ARTICLE IV Stop Intersections

### § 322-8. Intersections designated.

### ARTICLE V ATV/UTV Regulations

§ 322-9. Adoption of state statutes and administrative code provisions by reference.  
§ 322-10. Routes designated.  
§ 322-11. ATV and UTV operation authorized.  
§ 322-12. Restrictions.  
§ 322-13. No Town liability.  
§ 322-14. Enforcement and penalty.

[HISTORY: Adopted by the Town Board of the Town of Port Washington as indicated in article histories. Amendments noted where applicable.]

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### ARTICLE I Parking [Adopted 9-29-1962]

#### § 322-1. Parking during certain hours prohibited. [Amended 6-4-2007 by Ord. No. 2007-1-B]

Lake Drive located between Section 2-11-22 East and Section 11-11-22 East shall be restricted to no parking from 10:00 p.m. to 6:00 a.m. of every day from a point on the eastern extremity of such road, being Lake Michigan, to a point 1/4 mile west of such point.

#### § 322-2. Parking prohibited in certain areas. [Added 3-3-2003 by Ord. No. 2003-1]

A. Parking on Town roads and highways or the shoulders thereof is prohibited in or on the following areas:

- (1) Lake Drive, in the area immediately east of County Trunk LL, specifically the north and south sides of the roadway for 500 feet east of County Trunk LL.

(2) Dixie Road, in the area immediately west of the County Trunk LL, specifically the south side of the roadway for 800 feet immediately west of County Trunk LL.

B. The Town will cause all necessary and appropriate signs to be erected giving notice of the parking restriction described herein.

C. The penalty for violation of any provision in this section shall be a forfeiture of not less than \$5 and no more than \$200 plus court costs and fees, as prescribed by § 814.63(1) and (2) or 814.65(1), Wis. Stats.

**ARTICLE II**  
**Speed Limits**

**[Adopted 9-7-1965; amended 8-6-1979 by Ord. No. 33; 12-2-1996 by Ord. No. 96-4; 5-5-1997 by Ord. No. 97-2; 7-7-1997 by Ord. No. 97-5; 5-12-1999 by Ord. No. 99-4; 1-12-2005 by Ord. No. 2005-1]**

**§ 322-3. Speed limits established. [Amended 8-4-2008 by Ord. No. 2008-02; 11-2-2009 by Ord. No. 2009-03; 9-6-2011 by Ord. No. 2011-04]**

Speed limits are established for the following streets or portions thereof:

Name of Street	Speed Limit (miles per hour)	Location
Applewood Drive	25	Entire length
Bay Hill Road <b>[Added 2-1-2021 by Ord. No. 2021-03]</b>	35	Entire length
Birch Lane	25	Entire length
Birch Road	25	Entire length
Dixie Court <b>[Added 2-1-2021 by Ord. No. 2021-02]</b>	35	Entire length
Dixie Road <b>[Added 10-6-2025 by Ord. No. 2025-01]</b>	45	Between Six Mile Road and County Road KW
East Sauk Drive	35	Beginning at the Town of Port Washington corporate limits, located immediately east of Interstate 43, proceeding east and ending at the City of Port Washington corporate limits
Green Bay Road	30	Between County Trunk Highway KK and County Trunk Highway LL

Name of Street	Speed Limit (miles per hour)	Location
Green Bay Road	35	Those portions north of Highway 33 for a distance of 2,060 feet
Lake Drive [Added 2-1-2021 by Ord. No. 2021-04]	45	Between County Road LL and its eastern terminus
Norport Drive	25	Entire length
Northwoods Drive	30	Entire length
Northwoods Road	35	Those portions from State Trunk Highway 33 south for a distance of 0.30 mile
Northwoods Road	35	Those portions from State Trunk Highway 33, being that portion which lies 1,820 feet north of State Trunk Highway 33
Somers Lane	25	Entire length
Sunset Road	35	Entire length

#### § 322-4. Signs.

The Town will cause all necessary and appropriate signs to be erected giving notice of the speed limit restrictions in the areas described herein.

#### § 322-5. Violations and penalties.

The penalty for violation of any provision of this article shall be as outlined in Ch. 346, Wis. Stats.

### ARTICLE III Through Highways [Adopted 5-2-1988 by Res. No. 88-1]

#### § 322-6. Designation of through highways.

The Town Board of the Town of Port Washington, pursuant to its authority under § 349.07(3), Wis. Stats., hereby declares the following highways or portions thereof which are under the jurisdiction of the Town to be through highways:

- A. Mink Ranch Road at its intersection with Northwoods Road.
- B. Hillcrest Drive at its intersection with Green Bay Road west of CTH LL.
- C. Lake Drive at its intersection with Highland Drive north of I-43 overhead.
- D. Highland Drive and Highland Lane at its intersection with Highland Lane.

- E. Northwoods Road at its intersection with Hillcrest Drive.
- F. Green Bay Road at its intersection with Terry Lane.
- G. Green Bay Road and Northwoods Road at its intersection with Birch Road.
- H. Northwoods Road at its intersection with Northwoods Drive.
- I. Northwoods Road at its intersection with Northwoods Lane.
- J. Noridge Road at its intersection with Norport Drive.

**§ 322-7. Erection of stop signs.**

This article shall take effect upon passage and upon the erection of standard stop signs at the above locations. All other resolutions and orders previously adopted concerning the designation of through highways on Town roads are hereby rescinded.

**ARTICLE IV**  
**Stop Intersections**  
**[Adopted 10-18-2006 by Ord. No. 2006-5]**

**§ 322-8. Intersections designated.**

Traffic shall come to a complete stop pursuant to the stop signs erected at the following intersections:

- A. Greystone Drive and Second Avenue.

**ARTICLE V**  
**ATV/UTV Regulations**  
**[Adopted 5-2-2022 by Ord. No. 2022-02]**

**§ 322-9. Adoption of state statutes and administrative code provisions by reference.**

- A. Wisconsin Statutes, § 23.33, is hereby incorporated by reference as if set forth here in full, including any amendments or renumbering to said statute as may be made by the Legislature in the future.
- B. Those portions of Chapter 346 of the Wisconsin Statutes identified in Wis. Stats., § 346.02, Subdivision (11), are hereby incorporated by reference as if set forth here in full, including any amendments or renumbering to either § 346.02(11) or to the sections identified by reference within § 346.02(11) as may be made by the Legislature in the future.
- C. Wisconsin Administrative Code Ch. NR 64 is hereby incorporated by reference as if set forth here in full, including any amendments or renumbering to said Administrative Code chapter as may be made by the Department of Natural Resources in the future.

**§ 322-10. Routes designated.**

All highways under the maintenance jurisdiction of the Town of Port Washington are hereby designated as all-terrain vehicle routes, except for the following highway(s) which are expressly not designated as all-terrain vehicle routes:

- A. River Lane Road.

**§ 322-11. ATV and UTV operation authorized.**

The operation of all-terrain vehicles or utility terrain vehicles is authorized:

- A. On a highway bridge that is not part of the national system of interstate and defense highways, that is 1,000 feet in length or less, and that is located within the territorial boundaries of the Town of Port Washington, regardless of whether the Town has jurisdiction over the highway, provided that the operator do all of the following:
  - (1) Cross the bridge in the most direct manner practicable and at a place where no obstruction prevents a quick and safe crossing.
  - (2) Stay as far to the right of the roadway or shoulder as practicable.
  - (3) Stop the vehicle prior to the crossing.
  - (4) Yield the right-of-way to other vehicles, pedestrians, electric scooters, and electric personal assistive mobility devices using the roadway or shoulder.
  - (5) Exit the highway as quickly and safely as practicable after crossing the bridge.
- B. On a highway that is not part of the national system of interstate and defense highways, that has a speed limit of 35 miles per hour or less, and that is located within the territorial boundaries of the Town of Port Washington, regardless of whether the Town has jurisdiction over the highway.

**§ 322-12. Restrictions.**

- A. No person shall violate any provision of any state statute or administrative code adopted by reference in § 322-9.
- B. No person shall operate an all-terrain vehicle or utility terrain vehicle between the hours of 11:00 p.m. and 5:00 a.m.
- C. On any route that runs upon the boundary with another municipality, as between the Town and the adjoining municipality, the more restrictive provision shall apply upon the full width of the route that runs upon the boundary.
- D. When multiple all-terrain vehicles or utility terrain vehicles are operating in the same location, the operators shall proceed single-file and may not operate two or more vehicles abreast.

**§ 322-13. No Town liability.**

Operation of an all-terrain vehicle or utility terrain vehicle is a recreational activity as defined by Wis. Stats., § 895.52, Subdivision (1)(g). Pursuant to Wis. Stats., § 895.52, Subdivision (2), the Town is immune from liability to any person who engages in a recreational activity except as provided in Wis. Stats., § 895.52, Subdivision (4).

**§ 322-14. Enforcement and penalty.**

- A. The provisions of this article may be enforced by any officer designated by Wis. Stats., § 23.33, Subdivision (12)(a).
- B. The penalty for any violation of this article shall be as set forth in Wis. Stats., § 23.33, Subdivision (13) with the deposit amount as set forth in the Uniform Deposit and Bail Schedule adopted pursuant to Wis. Stats., § 23.66, Subdivision (4).

# Chapter 340

## ZONING AND SUBDIVISION

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### § 340-24. B-2 Neighborhood Business District.

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### § 340-29. I-1 Institutional District.

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Zoning and Subdivision Derivation Table

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**[HISTORY: Adopted by the Town Board of the Town of Port Washington 10-7-1996 by Ord. No. 96-3. Amendments noted where applicable.]**

## ZONING AND SUBDIVISION

### GENERAL REFERENCES

Plan Commission — See Ch. 12, Art. I.

Comprehensive Plan Advisory Committee — See Ch. 12, Art. III.

Comprehensive Plan — See Ch. 16.

Building construction — See Ch. 150.

Culverts and driveways — See Ch. 165.

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Land Use Plan — See Ch. 232.

Official Map — See Ch. 256.

Sexually oriented businesses — See Ch. 285.



## ARTICLE I

### Introduction

#### **§ 340-1. Authority.**

This chapter is adopted under the authority granted by §§ 60.61, 60.62, 61.35, 62.23(7), 87.30 and 281.31 and Ch. 236, Wis. Stats., and amendments thereto.

#### **§ 340-2. Purpose.**

The purpose of this chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the Town of Port Washington, Wisconsin.

#### **§ 340-3. Intent.**

It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters and to:

- A. Regulate lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage.
- B. Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities.
- C. Regulate parking, loading, and access so as to lessen congestion in, and promote the safety and efficiency of, streets and highways.
- D. Secure safety from fire, pollution, contamination and other dangers.
- E. Stabilize and protect existing and potential property values.
- F. Preserve and protect the beauty of the Town of Port Washington.
- G. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters.
- H. Further the maintenance of safe and healthful water conditions.
- I. Provide for and protect a variety of suitable commercial and industrial sites.
- J. Protect the traffic-carrying capacity of existing and proposed arterial streets and highways.
- K. Implement those Town, county, watershed, and regional land use plans or components of such plans adopted by the Town of Port Washington.
- L. Provide for the administration and enforcement of this chapter and provide penalties for the violation of this chapter.

**§ 340-4. Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

**§ 340-5. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be construed to be a limitation or repeal of any other power now possessed by the Town of Port Washington.

**§ 340-6. Title.**

This chapter shall be known as, referred to, or cited as the "Zoning and Subdivision Ordinance for the Town of Port Washington, Wisconsin."

## ARTICLE II General Provisions

**§ 340-7. Jurisdiction.**

The jurisdiction of this chapter shall apply to all structures, lands, water, and air within the unincorporated limits of the Town of Port Washington, Wisconsin.

**§ 340-8. Compliance required.**

No structure, land, water, or air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specifically authorized by the Town Plan Commission and Town Board. Applicants should be aware that Ozaukee County and the State of Wisconsin have regulations that also cover land use within the Town.

**§ 340-9. Permits and certificates.**

- A. Residential, commercial and industrial building permits. No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after having secured a building permit in conformance with Article XIII, unless otherwise excepted in § 340-10.
- B. Sign permit. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered until after having secured a sign permit in conformance with this chapter, unless otherwise excepted in § 340-64, and without being in conformity with the provisions of this chapter.

- C. Conditional use permit. Conditional uses and their accessory uses are considered special uses that require review, public hearing, and approval by the Town Plan Commission. Conditional use permits shall be done in conformance with Article IV.
- D. Occupancy permit. No vacant land or principal use structure shall be occupied or used until an occupancy permit shall have been issued by the Town of Port Washington Building Inspector. Such permit shall show that the building or premises or part thereof is in compliance with the provisions of this chapter. Such permit shall be applied for to the Building Inspector prior to the time of occupancy of any land and/or building. Occupancy permits shall be done in conformance with § 340-148.
- E. Certificate of compliance. See § 340-147, Certificate of compliance. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

#### **§ 340-10. Work not requiring a permit.**

No zoning permit shall be required for any of the following cases; provided, however, that any work not requiring a permit shall comply with the applicable setback, yard, height and other requirements of this chapter:

- A. For building an accessory building less than 150 square feet in area.
- B. For any improvement or alteration of less than 150 square feet in area which does not effect a change in user utilities (electric, water, gas and/or sanitary sewer) to an existing building.
- C. For repair that does not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.

#### **§ 340-11. Use restrictions; similar use interpretations; outside storage. **[Amended 8-16-2006 by Ord. No. 2006-3; 3-11-2009 by Ord. No. 2009-02; 12-7-2009 by Ord. No. 2009-06; 1-11-2012 by Ord. No. 2012-01; 7-1-2024 by Ord. No. 2024-03]****

- A. Only those uses specified for a district, their essential services, and the following uses shall be permitted in that district:
  - (1) Accessory uses and structures are permitted in any district but not until their principal structure is present and legally permitted. Residential accessory uses shall not involve the conduct of any business, trade or industry except home occupations and professional home offices as defined in this chapter.
  - (2) Gas and electric utility uses which have been issued a certificate of public convenience and necessity pursuant to § 196.491(3), Wis. Stats., are exempt from the requirements of this chapter and shall not be required to obtain a zoning permit.
  - (3) Unspecified or unclassified uses are prohibited.
  - (4) Except for short-term temporary uses defined in § 340-11A(5), temporary uses shall be allowed only after approval by the Plan Commission, in accordance with the following standards:

- (a) Temporary uses shall require a conditional use permit.
- (b) The temporary use approval shall be valid for a maximum period of one year from the date of Plan Commission approval.
- (c) The temporary use shall be for a temporary office. The temporary office, moreover, shall only be used for one or more of the following purposes: sales, marketing, rental or construction of residential, commercial, industrial, or institutional development or for construction purposes of public facilities and/or utilities.
- (d) The temporary use shall comply with all applicable Town codes, and the Plan Commission may place standards or conditions upon the conditional use to mitigate adverse impacts upon neighboring properties.
- (e) The temporary use shall obtain all necessary permits from the Town prior to placement.

(5) Temporary uses of trailers or structures limited to a maximum period of six months shall be known as "short-term temporary uses" and shall be allowed only after approval by the Town Building Inspector, in strict accordance with the following standards:

- (a) Subject to the following provisions, any person shall obtain a building permit for the construction and/or use of a temporary trailer or structure to be used only as a construction shed and toolhouse for contractors, construction workers and materials on the site.
- (b) The applicant requesting approval of a short-term temporary use shall submit to the Town Building Inspector:
  - [1] An affidavit indicating that the temporary use shall be removed within six months;
  - [2] A nonrefundable application fee of \$200;
  - [3] A detailed site plan showing the location of the temporary trailer or structure;
  - [4] Details of the construction and design of the temporary trailer or structure; and
  - [5] Any other information reasonably requested by the Town Building Inspector.
- (c) Short-term temporary uses of temporary trailers or structures shall not be placed or erected on the property prior to the issuance of a building permit for the applicable construction, and shall be immediately removed upon the earlier of completion of the construction project, or six months from the date of issuance by the Town Building Inspector.
- (d) The temporary trailer or structures shall not be used for the purpose of living quarters, and the trailers or structures shall have upon the unit or

attached thereto an identification sign designating the owner or company and the words "Short-Term Temporary Use Only" in full view.

- (e) All trailers or structures utilized as part of the short-term temporary use shall not be placed on any street, alley, right-of-way, or public property without advance written approval of the Town Building Inspector. All short-term temporary use structures must be placed on the lot in which the use is intended.
- (f) All temporary and portable storage units and structures, construction trailers and the like permitted in accordance with this section shall be constructed, altered, repaired, enlarged, placed, moved or demolished in accordance with applicable Town Code and/or provisions of the Wisconsin Building Code as well as all applicable federal, state and local regulations applying to the use and development of land.
- (g) A short-term temporary use may not be renewed. Any applicant seeking to extend the short-term temporary use beyond six months shall be required to obtain a conditional use permit in accordance with the Town Code.
- (h) Any person that fails to cease and desist the short-term temporary use within six months from the date of issuance by the Town Building Inspector shall be deemed in violation of this chapter and shall be subject to a forfeiture of \$200, plus costs. Each day that a violation is permitted to exist shall constitute a separate offense.

B. Similar use interpretations.

- (1) Where a proposed unclassified or unspecified use is similar in character to a permitted or conditional use in a given district the Plan Commission is authorized to make similar use interpretation.
- (2) The following considerations shall be used to determine what category a use is in and whether the activities are to be considered principal or accessory uses:
  - (a) The similarity of the proposed or projected use or activity to already-permitted uses and activities.
  - (b) The relative amount of site area or floor space and equipment devoted to the activity.
  - (c) Relative amounts of sales from each activity.
  - (d) The type of customer for each activity.
  - (e) The relative number of employees in each activity.
  - (f) Hours of operation.
  - (g) Building and site arrangement.
  - (h) Vehicles used in the activity.
  - (i) The relative number of vehicle trips generated by the use or activity.

- (j) Signage.
- (k) How the use or activity advertises itself.
- (l) Whether the use or activity is likely to be found independent of the other uses or activities on the site.
- (3) Additional standards for similar use interpretations.
  - (a) No similar use interpretation shall permit any use in any zoning district unless evidence shall be presented demonstrating that it will comply with all applicable use standards and all other applicable requirements and standards of this chapter.
  - (b) No similar use interpretation shall permit any use in a zoning district unless the use is similar to other uses allowed in the zoning district and is more similar to such uses than to permitted and conditional uses allowed in other zoning districts.
  - (c) If the proposed use is more similar to a use allowed only as a conditional use in the zoning district in which it is proposed to be located, then any similar use interpretation permitting that use shall require a conditional use permit.
- (4) A similar use interpretation finding that a particular use is permitted or conditionally permitted in a specific district shall not automatically authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure. It merely authorizes the preparation, filing, and processing of applications for any permits and approvals that may be required by the Town of Port Washington's codes and ordinances or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, site plan and architectural review, conditional use permits, building permits and certificates of occupancy.

C. Outside storage of junked equipment is prohibited in accordance with § 250-7 of the Code of the Town of Port Washington.

D. Temporary uses.

- (1) Location. A temporary use or uses may be allowed by the Plan Commission within two specific areas of the Town of Port Washington as identified in the Knellsville Neighborhood Land Use Plan approved by the Plan Commission on March 15, 2006, and further controlled by Zoning Districts within this chapter 340, and § 340-33, Knellsville Overlay Development Standards District.
- (2) Purpose. The intent of this § 340-11D is to allow an existing building, or portion thereof, on a property within the Knellsville Neighborhood, defined under § 340-33, to be gainfully utilized until sanitary sewer and/or public water is extended and available to serve properties within the Neighborhood while ensuring continued maintenance and upkeep of the existing Neighborhood buildings and properties.
- (3) Approval process.

- (a) Written request shall be submitted to the Town Clerk requesting Plan Commission approval of a temporary use, no later than 15 days prior to the Plan Commission meeting.
- (b) A full submittal of the written request for placement on the Plan Commission agenda for consideration shall include the following:
  - [1] The name, address and telephone number of the applicant, and the name of the business owner if different than the applicant.
  - [2] The name and address of the property owner, and the property owner's written consent that the applicant has authority to proceed with the request for temporary use, if different than the applicant.
  - [3] A submittal of a written plan of operations, which includes a description of the nature of the business, including hours of operation, anticipated number of employees, anticipated amount of customer visits, the amount and location of the on-site parking spaces available to the business, the type of equipment used in the business, and any building alterations, such as exterior painting. The applicant may submit additional information to explain the business to the Plan Commission, and the Plan Commission may request additional information from the applicant.
- (c) During Plan Commission consideration of the application, the applicant or representative of the applicant shall present how the proposed temporary use conforms to the standards for granting of the temporary use, as described in § 340-11D(5). The Plan Commission may ask questions of the applicant and solicit input from the Town Zoning Administrator or any other resource. The general public shall be allowed to comment. At the same meeting as initially presented, the Plan Commission may approve the request, approve the request with conditions, deny the request, or table a decision regarding the request to a certain date for the purpose of gaining additional information.
- (d) The applicant may request approval for a sign for the temporary use in accordance with Article VI of Chapter 340.

(4) Renewal and termination.

- (a) Temporary uses shall be renewed every two years. Prior to the renewal date, the applicant shall submit all applicable application fees and escrow fees in accordance with § 340-150, and the process of review as stated in § 340-11D(3) shall be followed, except that the applicant may choose not to submit written information if operations of the business remain unchanged.
- (b) If an approved temporary use has a change in the Plan of Operations between renewal dates, the applicant shall request a renewal in accordance with the process of review as stated in § 340-11D(3).

- (c) If an approved temporary use does not request renewal, the temporary use is automatically terminated, and if the use does not cease operation, the Zoning Administrator shall take the appropriate actions to remove the use.
- (d) Temporary uses may be terminated by the Plan Commission, either at the annual review time or any other time for any of the following reasons.
  - [1] Sanitary sewer and/or public water become available to the subject property allowing conformance with the Knellsville Neighborhood zoning and standards.
  - [2] The structure is found to be structurally or aesthetically unsuitable for promoting future growth and development of the Knellsville Neighborhood.
  - [3] The operation and maintenance of the temporary use does not conform to Plan Commission conditions of approval of the temporary use.
  - [4] The operation and maintenance of the temporary use does not conform to other regulations of the Town of Port Washington Municipal Code and this Chapter 340, or to federal, State of Wisconsin and Ozaukee County laws.
  - [5] The Plan Commission finds operation of the temporary use does not conform to the plan of operations and other information provided with the initial written application.
- (5) Standards. Prior to approval or renewal of the temporary use by the Plan Commission, the Plan Commission shall find that the temporary use conforms to the following standards.
  - (a) The principal building housing the temporary use shall have been constructed prior to March 2, 2009.
  - (b) The principal building housing the temporary use conforms to building code requirements for public occupancy and is adequately maintained to protect the health, safety and welfare of employees, customers and the general public, and shall conform to other regulations of the Town of Port Washington Municipal Code and this Chapter 340, or to federal, State of Wisconsin and Ozaukee County laws.
  - (c) The proposed use will not have adverse effects upon adjacent properties, the character of the neighborhood, and the general health, safety and welfare of the general public.
  - (d) The proposed use shall conform to the allowed uses within § 340-28, M-1 Industrial District.
  - (e) The proposed use shall not require any building expansion, parking lot expansion, new or changed street access, adjacent street improvements, or any other off-site improvements.

**§ 340-12. Reduction or joint use.**

No lot, yard, parking area, building area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this chapter. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

**§ 340-13. Subdivision requirements.**

- A. All divisions of land within the Town which result in a subdivision shall be surveyed and have a plat approved and recorded in accordance with Article XI.
- B. A division of land within the Town which creates two to four parcels or building sites shall conform to this chapter and be surveyed and have a certified survey map approved and recorded in accordance with Article XI.

**§ 340-14. Exceptions to subdivision requirements.**

The subdivision provisions of this chapter shall not apply to:

- A. A transfer of interest in land by will or pursuant to court order.
- B. A lease for a term not to exceed 10 years, mortgages or easements.
- C. The sale or exchange of parcels of land between owners of adjoining property if no additional lots are created and lots resulting are not reduced below the minimum sizes required by this chapter or the applicable laws or ordinances.

**§ 340-15. Land suitability.**

No land shall be used or subdivided and no structure shall be erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Town Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which the Plan Commission bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability. Thereafter the Town Plan Commission may affirm, modify, or withdraw the determination of unsuitability.

- A. Private sewer and water. In any district where public sewer service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site soil absorption sewage system or other appropriate means, designed in accordance with the Wisconsin Administrative Code.
- B. Street access required. No parcel shall hereafter be created or any building placed on a parcel which does not abut on a public street unless such parcel is in a residential district, has access by a permanent easement or road reservation to a public street, and does not conflict with plans for the future development of streets in the area. Where two parcels share the easement, the easement shall be 20 feet wide. Where three to five

parcels share the easement, the easement shall be 30 feet wide. Where it is determined that there may be a need for a public street in the future, then a road reservation of 66 feet shall be shown on the certified survey map (CSM) or plat. No more than five parcels may be created with access provided by such easement or road reservation. [Amended 11-13-2013 by Ord. No. 2013-06]

C. Existing unapproved private street. Subject to the approval of the Town Building Inspector, a building may be permitted on a parcel that does not abut on a public street. [Amended 2-3-1999 by Ord. No. 99-2; 3-10-2004 by Ord. No. 2004-2; 11-3-2013 by Ord. No. 2013-06]

(1) In cases where there is, as of the effective date of this subsection, an existing unapproved private street and there are existing separate recorded parcels already created fronting upon said private street and provided further that, in such cases, the private street becomes legal access for those existing separate parcels to be served by said private street by satisfaction of all of the following terms and conditions:

(a) The Town Building Inspector determines that one of the following is true regarding the subject parcel:

- [1] The subject parcel existed as a legal separate recorded parcel with a tax key number or parcel identification number as of the effective date of this subsection; or
- [2] The subject parcel can be combined by certified survey map (CSM) with adjacent land into a larger parcel that conforms to the minimum lot area, lot dimensions, lot width, lot size, building location and building size of the zoning district in which it is located, provided that no smaller parcels are thereby created, and further provided that such CSM is approved and recorded pursuant to the required procedures of this chapter; or
- [3] The subject parcel previously existed as described in Subsection C(1)(a)[1] but was combined by CSM as described in Subsection C(1)(a)[2].

- (b) The Town Building Inspector determines that the subject parcel is in a residential district.
- (c) The Town Building Inspector determines that the subject parcel conforms to the minimum lot area, lot dimensions, lot width, lot sizes, building locations and building sizes of the zoning district in which it is located.
- (d) The Town Building Inspector determines that the subject parcel has access by permanent easement on said private street to a public street.
- (e) The Town Building Inspector determines that the ownership of the private street is clearly established.

D. All structures shall be located on a lot. In residential districts, only one principal structure shall be located, erected, or moved onto a lot. The Plan Commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements or parking requirements or require a minimum separation distance between principal structures.

E. No zoning permit shall be issued for a lot which abuts a street dedicated or reserved to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

F. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards in the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

G. The following criteria apply:

- (1) All lands to be subdivided shall be at least two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, five feet above the elevation of the maximum flood on record.

(2) No building sites shall be created which do not meet the standards as established in Ch. Comm 85, Wis. Adm. Code, and the Ozaukee County Community Health Code.

**§ 340-16. Violations and penalties.**

A. It shall be unlawful to create a land division or construct or use any structure, land, or water in violation of any of the provisions of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the Town Board of Supervisors, the Building Inspector, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceed to enjoin a violation of this chapter. Any person, firm, company, corporation, owner, occupant, or other user of the premises who or which violates, disobeys, omits, neglects, resists, or refuses to comply with the enforcement of any provisions of this chapter shall be subject to a forfeiture of not less than \$5 and no more than \$2,000 and costs. Each day that a violation is permitted to exist shall constitute a separate offense.

B. No person shall build upon, divide, convey, record or place a monument on any land that is in violation of this chapter or the Wisconsin Statutes. Furthermore, no person shall be issued a zoning or building permit authorizing the building upon or improvement of any subdivision or replat within the jurisdiction of this chapter not of record as of the effective date of this chapter until the provisions and requirements of this chapter are fully met.

**ARTICLE III**  
**Zoning Districts**

**§ 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; 12-7-2009 by Ord. No. 2009-08; 12-7-2009 by Ord. No. 2009-09; 11-7-2011 by Ord. No. 2011-06; 8-3-2020 by Ord. No. 2020-03]

- A-1      Exclusive Agricultural District
- A-2      General Agricultural District
- A-3      Agricultural Transition District<sup>3</sup>
- ACS-1    Agricultural/Conservation Subdivision District<sup>4</sup>
- R-1      Residential District
- R-2      Residential District

3. 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.

4. 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-3	Residential District
R-4	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

- B. Boundaries of these districts are hereby established as shown on the map titled "Zoning Map, Town of Port Washington, Ozaukee County, Wisconsin" which accompanies this chapter and is herein made a part of this chapter. Such boundaries shall be construed to follow corporate limits; United States Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended; and boundaries otherwise noted on the Zoning Map.
- C. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- D. See Article XIII, Administration and Enforcement.<sup>5</sup>

### **§ 340-18. Zoning Map.**

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this chapter and shall bear upon its face the attestation of the Town Chairperson and Town Clerk and shall be available to the public in the office of the Town Clerk. Amendments to the Zoning Map shall take effect upon adoption by the Town Board and the filing of proof of posting or publication thereof in the office of the Town Clerk. It shall be the duty of the Town Clerk to enter all Zoning Map amendments upon the certified copy of the Zoning Map and certify the same.

### **§ 340-19. A-1 Exclusive Agricultural District. [Amended 7-6-1999 by Ord. No. 99-5]**

- A. The A-1 Exclusive Agricultural District is intended to maintain, enhance and preserve agricultural lands historically utilized for crop production and the raising of livestock. This district requires a minimum parcel size of 35 acres, except as provided in § 340-38 for agricultural conditional uses. The district is further intent upon:

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5. Editor's Note: Original § 3.01E, F and G, added by Ord. No. 2006-3, which immediately followed this subsection, have been included in § 340-11.

- (1) Prevention of premature conversion of agricultural land to scattered residential, commercial and industrial uses.
- (2) Preservation of workable farm units and prohibition of intrusion of incompatible urban land uses.
- (3) Qualifying farmers for participation in the State of Wisconsin Farmland and Preservation Program.
- (4) The protection and preservation of existing farm operations and prime agricultural lands.

B. Permitted uses.

- (1) All uses commonly classed as agriculture, horticulture, or forestry, including:
  - Apiculture (beekeeping)
  - Dairy farming
  - Floriculture
  - Grazing or pasturing
  - Livestock raising (except commercial feed lots and fur farms)
  - Orchards
  - Paddocks
  - Plant nurseries
  - Poultry raising (except commercial egg production)
  - Raising of grain grass, mints, and seed crops
  - Raising of tree fruits, nuts and berries
  - Sod farming
  - Vegetable raising
  - Viticulture
- (2) General farm buildings, including barns, silos, sheds, and storage bins.
- (3) Services essential and integral to the operation of the farm.

C. Permitted accessory uses.

- (1) Garages or carports.
- (2) Home occupations.
- (3) One temporary roadside stand for selected farm products produced on the premises and not exceeding 150 square feet in floor area according to the following:
  - (a) Off-street parking for a minimum of four vehicles shall be provided.
  - (b) No such stand shall be permitted in a location where it would create a traffic hazard or nuisance.

- (c) No such stand shall be closer than 50 feet to the existing street line or closer than 20 feet to any other lot line.
- (d) One temporary sign, not to exceed 32 square feet in area, is allowed and shall be set back at least 10 feet from the road right-of-way.
- (4) Forest and game management.
- (5) One single-family farm dwelling.
- (6) Value-added agriculture. **[Added 5-4-2015 by Ord. No. 2015-01]**
- (7) On-site retail sales of farm products grown on-site. **[Added 5-4-2015 by Ord. No. 2015-01]**
- (8) Keeping or raising animals for purposes other than commercial agriculture. **[Added 5-4-2015 by Ord. No. 2015-01]**

D. Conditional uses. See Article IV.

E. Lot area and width. Farm dwellings or structures hereafter erected, moved, or structurally altered and related farm activities shall provide a contiguous area of not less than 35 acres, and no A-1 parcel shall be less than 660 feet in width.

F. Farm building standards. **[Amended 8-4-2008 by Ord. No. 2008-01]**

- (1) General farm building height, or parts thereof, shall not exceed 100 feet in height.
- (2) A single-family farm dwelling, or parts thereof, shall not exceed 42 feet in height. The total minimum floor area of a farm dwelling or other residential dwelling shall be 1,200 square feet with a minimum first floor area of 800 square feet.

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 25 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.

H. No on-street parking will be allowed in an agricultural zoning district.

I. Accessory structures (nonfarm). **[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, farm building 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 with the street yard setback of the A-1 District.
- (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.
- (h) Accessory structure standards in the A-1 District shall not apply to farm buildings.

(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 A-1 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 A-1 District.

(c) Shall not exceed 35 feet in height.

**§ 340-20. A-2 General Agricultural District.**

A. The A-2 District is intended to provide for, maintain, preserve, and enhance agricultural lands having marginal or transitional farmland value in order to maintain the rural character of the countryside while at the same time allowing for a large lot residential development on a minimum parcel size of five acres. The purposes of the district are to:

- (1) Protect and encourage the continuation of the existing farm operations.
- (2) Permit nonagricultural uses that require large areas and that will compliment existing agricultural pursuits.
- (3) Minimize conflicts between farm and nonfarm uses.
- (4) Provide a transitional area between suburban development and prime agricultural lands.

B. Permitted uses.

- (1) All uses commonly classed as agriculture, horticulture, or forestry, including crop and tree farming, truck farming, gardening, nursery operation, and forestry operations, together with the operation of any machinery or vehicles incidental to the above uses.
- (2) Single-family detached dwelling subject to the requirements stated in Subsection F.
- (3) Municipal utilities.

C. Permitted accessory uses.

- (1) Temporary roadside stands for display and sale of agricultural products grown or produced on the premises. Such roadside stands shall be subject to Plan Commission approval and the following requirements:
  - (a) Off-street parking for a minimum of four vehicles shall be provided.
  - (b) No stand shall be permitted in a location where it would create a traffic hazard or nuisance. Driveways shall be located to minimize possible interference with normal flow of highway traffic.
  - (c) No such stand shall be closer than 50 feet to the existing street line or closer than 20 feet to any other lot line.
  - (d) One temporary sign, not exceeding 32 square feet in area, is allowed and shall be set back at least 10 feet from the road right-of-way.
- (2) Home occupations and professional offices which are clearly incidental to the principal residential use, subject to the following:

- (a) The home occupation shall be performed wholly within the principal residential building or within a building accessory thereto and only by residents occupying the premises and one additional person who is not a resident occupying the premises.
- (b) No article or service shall be sold or offered for sale on the premises.
- (c) The home occupation shall not normally generate customer or client traffic to the premises.
- (d) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjoining residential properties.
- (e) The home occupation shall not include the conducting of any retail or wholesale business on the premises.
- (f) The home occupation shall not include outside storage of materials or other operational activity resulting in offensive noise, vibration, smoke, dust, odors, heat or glare which may create a nuisance or be otherwise incompatible with the surrounding residential area.

- (3) Value-added agriculture. **[Added 5-4-2015 by Ord. No. 2015-01]**
- (4) On-site retail sales of farm products grown on-site. **[Added 5-4-2015 by Ord. No. 2015-01]**
- (5) Keeping or raising animals for purposes other than commercial agriculture. **[Added 5-4-2015 by Ord. No. 2015-01]**

D. Conditional uses. See Article IV.

E. Lot size and minimum lot width.

- (1) The minimum lot size shall have an area of not less than five acres.
- (2) The minimum lot width shall be no less than 400 feet.

F. Dwelling standards.

- (1) A single-family dwelling within the A-2 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, of 1,600 square feet with a minimum of 800 square feet being located on the first floor.
- (2) Each single-family dwelling shall have a garage that is a minimum of 400 square feet in area.

G. Building height. **Amended 8-4-2008 by Ord. No. 2008-01]**

- (1) The height of any dwelling unit shall not exceed 42 feet.
- (2) The height of any farm buildings shall not exceed 60 feet and shall otherwise conform to accessory structure standards of § 340-20J.

H. Minimum building setback. No building or structure, other than a permitted sign or roadside stand, shall be constructed closer than 50 feet to the ultimate right-of-way line of any public street, road, or highway upon which the subject property abuts.



- I. Minimum building offset. No building or structure hereafter erected shall be placed closer than 25 feet to a side or rear lot line. Buildings or structures housing livestock shall not be erected closer than 50 feet to a side or rear lot line.
- J. 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, farm building 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 with the street yard setback of the A-2 District.
    - (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 A-2 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 A-2 District.
  - (c) Shall not exceed 35 feet in height.

**§ 340-20.1. A-3 Agricultural Transition District. [Added 12-7-2009 by Ord. No. 2009-08]**

- A. Intent. The A-3 Agricultural Transition District is intended to accommodate lots or parcels existing on December 7, 2009, within the A-1 Exclusive Agricultural District that do not conform to the minimum required lot or parcel size of 35 acres applicable to the A-1 Exclusive Agricultural District where rezoning will achieve one or more of the following:
  - (1) Allow a lot or parcel that does not conform to the minimum standards of A-1 Exclusive Agricultural District to be gainfully utilized with a use or uses that conform with the purposes of this A-3 Agricultural Transition District.
  - (2) Promote the continuation of agricultural production conforming to standards applicable to the A-3 Agricultural Transition District on lots or parcels less than 35 acres.
  - (3) Provide the opportunity for lots or parcels less than 35 acres designated as "Mixed Agricultural/Conservation Subdivision" land in the Town of Port Washington Comprehensive Plan to be either:
    - (a) Combined or consolidated with larger parcels that are being used for agricultural production operations; or
    - (b) Further subdivided under the conservation subdivision regulations of this Chapter 340 where the conservation lot created in conjunction with such subdivision retains an agricultural use.
  - (4) Provide a transitional zoning district for agricultural properties less than 35 acres in size that are situated between development and prime agricultural lands and have been designated as "Residential Transition," "Commercial Transition," "Lakeshore" or "Knellsville Environs" land uses in the Town of Port Washington Comprehensive Plan.
- B. Eligible property. The following categories of lots or parcels existing on December 7, 2009 are eligible for inclusion within the A-1 Exclusive Agricultural District:

- (1) Lots or parcels less than five acres in size.
- (2) Developed lots or parcels between five and 35 acres in size with an existing single-family farm dwelling or a single-family detached dwelling, except for parcels five acres in size that were created via the farm consolidation standards of this Chapter 340.
- (3) Undeveloped lots or parcels between five and 35 acres in size without any buildings or structures, with less than 330 feet of frontage along a public right-of-way.

C. Limitations of A-3 zoning. Classification within the A-3 Agricultural Transition District shall be limited by the following:

- (1) No lot or parcel shall be divided to create lots or parcels to create eligibility for A-3 Exclusive Agricultural District zoning.
- (2) A lot or parcel with A-3 Agricultural Transition District zoning shall not be further divided through either a subdivision, certified survey map, or a land transfer between adjoining properties unless the resulting lot or parcel is also rezoned to another zoning district under this Chapter 340 that conforms to the requested land division.

D. Permitted uses.

- (1) Parcels five acres or less.
  - (a) Single-family dwelling.
  - (b) Essential services.
  - (c) Community living arrangements [§ 62.23(7)(i)2 to 10, Wis. Stats.].
- (2) Parcels greater than five acres and less than 35 acres.
  - (a) Single-family dwelling.
  - (b) Farm dwelling.
  - (c) Community living arrangement [§ 62.23(7)(i)2 to 10, Wis. Stats.].
  - (d) All uses commonly classed as agriculture, horticulture, or forestry, including:
    - [1] Apiculture (beekeeping).
    - [2] Dairy farming.
    - [3] Floriculture.
    - [4] Grazing or pasturing.
    - [5] Livestock raising (except commercial feed lots and fur farms).
    - [6] Orchards.

- [7] Paddocks.
- [8] Plant nurseries.
- [9] Poultry raising (except commercial egg production).
- [10] Raising of grain grass, mints, and seed crops.
- [11] Raising of tree fruits, nuts and berries.
- [12] Sod farming.
- [13] Vegetable raising.
- [14] Viticulture.

- (e) General farm buildings, including barns, silos, sheds, and storage bins.
- (f) Services essential and integral to the operation of the farm.

E. Permitted accessory uses.

- (1) Developed lots or parcels five acres or less.
  - (a) Private garages and carports.
  - (b) Gardening, tool and storage sheds incidental to the residential use.
  - (c) Home occupations.
- (2) Developed lots or parcels greater than five acres and less than 35 acres.
  - (a) Garages or carports.
  - (b) All uses commonly classed as agriculture, horticulture, or forestry, including crop and tree farming, truck farming, gardening, nursery operation, and forestry operations, together with the operation of any machinery or vehicles incidental to the above uses.
  - (c) Home occupations and professional offices which are clearly incidental to the principal residential use, subject to the following:
    - [1] The home occupation shall be performed wholly within the principal residential building or within a building accessory thereto and only by residents occupying the premises and one additional person who is not a resident occupying the premises.
    - [2] No article or service shall be sold or offered for sale on the premises.
    - [3] The home occupation shall not normally generate customer or client traffic to the premises.
    - [4] Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjoining residential properties.

- [5] The home occupation shall not include the conducting of any retail or wholesale business on the premises.
- [6] The home occupation shall not include outside storage of materials or other operational activity resulting in offensive noise, vibration, smoke, dust, odors, heat or glare which may create a nuisance or be otherwise incompatible with the surrounding residential area.
- (d) One temporary roadside stand for selected farm products produced on the premises and not exceeding 150 square feet in floor area according to the following:
  - [1] Off-street parking for a minimum of four vehicles shall be provided.
  - [2] No such stand shall be permitted in a location where it would create a traffic hazard or nuisance.
  - [3] No such stand shall be closer than 50 feet to the existing street line or closer than 20 feet to any other lot line.
  - [4] One temporary sign, not to exceed 32 square feet in area, is allowed and shall be set back at least 10 feet from the road right-of-way.
- (e) Forest and game management.
- (f) Horse and accessory private stable or shelter, provided that the lot or parcel is a minimum of five acres in area and provided also that any such stable or shelter is located at least 100 feet from any existing adjoining residences. The Plan Commission may permit a maximum of three large domesticated animals on the first five acres of the lot or parcel and one additional domesticated animal for each additional two acres of lot or parcel area.
- (g) Value-added agriculture. **[Added 5-4-2015 by Ord. No. 2015-01]**
- (h) On-site retail sales of farm products grown on-site. **[Added 5-4-2015 by Ord. No. 2015-01]**
- (i) Keeping or raising animals for purposes other than commercial agriculture. **[Added 5-4-2015 by Ord. No. 2015-01]**

F. Conditional uses. Only the following enumerated conditional uses may be allowed within the A-3 Agriculture Transition District.

- (1) Parcels greater than five acres and less than 35 acres.
  - (a) Housing for farm laborers and for seasonal and migratory farm workers.
  - (b) Commercial raising, propagation, boarding, or butchering of animals, such as mink, rabbits, foxes, goats, and pigs, and the hatching, raising, fattening, or butchering of the same.
  - (c) Veterinary services intended to service farm animals, provided that all principal uses and structures are located not less than 200 feet from a residential district.

- (d) Creameries and condenseries; agricultural warehousing; contract sorting, grading, and packaging of fruits and vegetables; corn shelling, hay baling, and threshing services; grist mill services; horticultural services; and poultry hatching services.
- (e) Boat and recreation vehicle storage when the storage is in a completely enclosed structure which is at least 10 years old.
- (f) Commercial agricultural uses including:
  - [1] Commercial hatcheries.
  - [2] Commercial greenhouses.
  - [3] Animal kennels.
  - [4] Parks, forest preserves, and recreational areas.
  - [5] Horse riding academies and boarding stables.
  - [6] Private utilities.
  - [7] Raising of fur-bearing animals.
  - [8] Stock raising.
  - [9] Commercial dairy.

(2) Parcels greater than one acre. **[Added 5-11-2011 by Ord. No. 2011-03]**

- (a) Home industries, subject to Article IV, § 340-38K.

G. Lot area and width.

- (1) Existing lots of record as of the effective date of this section shall maintain their existing lot area and width unless the following provisions are met:
  - (a) The lot or parcel is combined with an adjacent property through a certified survey map or plat and rezoned to a new zoning district.
  - (b) A zoning district boundary change occurs to a zoning district other than the A-3 Agricultural Transition District conforming to the Town of Port Washington Comprehensive Plan.
- (2) There shall not be any land divisions of existing lots of record with A-3 Agricultural Transition District zoning.

H. Building height and area.

- (1) The height of any dwelling unit shall not exceed 42 feet.
- (2) The total minimum floor area of a farm dwelling or other residential dwelling shall be 1,200 square feet with a minimum first floor area of 800 square feet.
- (3) All single-family dwellings shall have a garage that is a minimum of 400 square feet in area.

(4) The height of farm structures shall not exceed 60 feet.

I. 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 25 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.
- (5) No on-street parking will be allowed in an agricultural zoning district.

J. New single-family dwelling construction.

- (1) A single-family dwelling and garage shall be oriented to allow the single-family dwelling to be incorporated into future land division of the subject property, if further land division is applicable.
- (2) One side yard setback shall be 50 feet to allow conversion to a street yard setback with future land division, if applicable.

**§ 340-20.2. ACS-1 Agricultural/Conservation Subdivision District. [Added 12-7-2009 by Ord. No. 2009-09]**

- A. Location. An Agricultural Conservation Subdivision may be allowed by the Town within the area designated as Mixed Agriculture/Conservation Subdivision in the Comprehensive Plan 2035.
- B. Intent. The intent of the ACS-1 Agricultural/Conservation Subdivision District is to allow a limited amount of residential subdivision lots to be developed while maintaining and preserving significant natural open space areas and prime agricultural lands historically utilized for crop production and the raising of livestock within an area designated as "Mixed Agricultural/Conservation" within the Comprehensive Plan 2035 for the Town of Port Washington. This district is further intended to assist the economic feasibility of existing farming operations by allowing carefully planned condensed residential development to preserve the rural Town character and to:
  - (1) Prohibit residential development of a single-family home on a minimum of 35 acres, effectively removing agriculturally productive farmlands.
  - (2) Preserve environmentally sensitive lands such as primary environmental corridors, secondary environmental corridors, wetlands, woodlands, and steep slopes through permanent preservation of open space and natural resources with housing concentrated on portions of the proposed subdivision site that have lower quality natural features.
  - (3) Preserve productive farmland for continued agricultural operations.
  - (4) Provide design flexibility and efficiency for residential development while preserving continued agriculture and open space.
- C. Definitions. For the purposes of this § 340-20.2, the following definitions apply:

**CONSERVATION LOT** — Undeveloped land within a conservation subdivision, the development of which is prohibited in perpetuity and which is set aside for continued agriculture or open space use and existing farmstead, all via recorded deed restriction(s) approved by the Town of Port Washington.

**ORIGINAL PARCEL** — Total gross site area (in acres) of a conservation subdivision, as determined by an actual on-site boundary survey of the property minus all land that constitutes any existing dedicated public road right-of-way, any land located within the ultimate road right-of-way of existing roads, the right-of-way for any major utility, and any dedicated public park and/or school site area.

**RESIDENTIAL LOT** — A lot within a conservation subdivision allowing development with a single-family dwelling.

D. Design standards. The following standards shall control the design of the conservation subdivision within the original parcel.

(1) Overall conservation subdivision.

- (a) Minimum original parcel size of 24.5 acres; contiguous parcels may be combined to achieve the minimum required original parcel size.
- (b) The number of residential lots shall not exceed one lot for each 3.5 acres of the original parcel. (Example: On an original parcel of 77 acres up to 22 residential lots may be allowed.)
- (c) The conservation lot shall consist of not less than 65% (0.65) of the original parcel. (Example: The conservation lot for an original parcel of 77 acres shall be not less than 50 acres.)
- (d) Each conservation subdivision shall include a minimum of seven residential lots.
- (e) The conservation lot shall include continued use for farming, primary environmental corridors, secondary environmental corridors, wetlands, woodlands, or steep slopes.
- (f) The original parcel shall be contiguous and not separated by a public right-of-way, railroad, Ozaukee Interurban Trail, or other physical barrier.
- (g) Each residential lot created shall abut an internal public right-of-way within the conservation subdivision for vehicular access.

(2) Residential lot.

(a) Lot area and width.

- [1] Each residential lot shall be a minimum of 0.75 acre and maximum of 1.5 acres. The average of all residential lots within any conservation subdivision shall equal one acre or greater.

- [2] Residential lot width shall be a minimum of 100 feet at the building setback line.
- [3] All residential lots shall be of sufficient size to accommodate an on-site sewerage system in accordance with the Ozaukee County Department of Planning, Resources, and Land Management Sanitation Regulations.

- (b) All residential lots created through the conservation subdivision shall abut a public right-of-way of local jurisdiction.
- (c) If an area of the conservation subdivision is designated as "common open space," all residential lots created through a conservation subdivision design shall have physical access to the common open space via abutting residential lot, public right-of-way, or dedicated walking path.
- (d) The final plat and recorded deed restriction(s) of a conservation subdivision approved by the Town of Port Washington shall include a provision that states: "Those who purchase residential lots have been made aware of, and understand, the agricultural conservation area may be used for active agricultural purposes, which may cause dust, noise, lights, and odors typically associated with farming operations."

- (3) Conservation lot.
  - (a) The conservation lot can be utilized in one of the three following scenarios:
    - [1] Conservation lot consisting of a farmstead.
    - [2] Conservation lot with productive agricultural use.
    - [3] Conservation lot consisting of two or more platted lots that:
      - [a] Preserve natural areas by a homeowners' association or under similar fractional ownership where each residential lot owner shall have an equal undivided interest in the conservation lot; or
      - [b] Promote productive agricultural or open space use.
  - (b) Deed restrictions shall be presented to the Town for approval prior to their recording and shall include provisions satisfactory to the Town that they:
    - [1] Restrict all further development, except agricultural buildings essential to farming operations.
    - [2] Allow farm consolidation of existing farmstead on conservation lot pursuant to farm consolidation standards of this Chapter 340.
    - [3] Designate common open space, if identified, which shall be owned and maintained by a homeowner's association or similar fractional ownership where each residential lot owner shall have an equal undivided interest and identified as such in the recorded deed restriction(s).

[4] Identify public and/or private access to common open space.

E. Approval process.

- (1) Preapplication concept review by the Plan Commission. Materials to be submitted no later than 15 days prior to the Plan Commission meeting. At the Plan Commission meeting regarding the preapplication concept review, the Plan Commission will discuss the proposed development in accordance with § 340-144A, and will make a determination regarding whether the conceptual design meets the intent of the Agricultural/Conservation Subdivision District as stated in § 340-20.2B above.
- (2) Zoning district boundary change.
  - (a) Zoning district boundary changes to ACS-1 Agricultural/Conservation Subdivision District shall follow the process outlined in Article XII of the Zoning and Subdivision Code.
  - (b) Any approval by the Town Board of zoning district boundary changes requested under this section shall include a condition that makes all such zoning district boundary changes contingent on approval and recording of the final plat.
- (3) Preliminary plat.
  - (a) A preliminary plat submitted under § 340-117 shall, in addition to complying with all other applicable provisions within this Chapter 340 and Chapter 236 of the Wisconsin Statutes, comply with all conservation design standards applicable to this ACS-1 Agricultural/Conservation Subdivision District.
- (4) Final plat. In addition to fully complying with the requirements of § 34-118, approval of a final plat for an ACS-1 Agricultural Conservation Subdivision shall be conditioned upon:
  - (a) The recording of Town-approved deed restrictions in compliance with § 340-20.2D(3)(b).
  - (b) The subdivider's entry into a developer's agreement with the Town pursuant to § 340-115 of this Code, which shall include details regarding development of conservation lot(s), residential lot(s), common open space.
  - (c) The subdivider's submission of construction plans that are acceptable to the Town in accordance with § 340-115 of this Code.
  - (d) The subdivider's submission of a letter of credit to the Town in accordance with § 340-115 of this Code.

F. Use standards.

## (1) Permitted uses.

## (a) Residential lot.

- [1] Single-family dwellings.

- [2] Essential services.

- [3] Farmstead.

- [4] Community living arrangements [§ 62.23(7)(i)2 to 10, Wis. Stats.].

## (b) Conservation lot.

- [1] Farmstead.

- [2] All uses commonly classed as agriculture, horticulture, or forestry, including:

- [a] Orchards.

- [b] Plant nurseries.

- [c] Raising of grain grass, mints, and seed crops.

- [d] Raising of tree fruits, nuts and berries.

- [e] Sod farming.

- [f] Vegetable raising.

- [g] Viticulture.

- [h] General farm buildings, including barns, silos, sheds, and storage bins.

- [i] Services essential and integral to the operation of the farm.

- [3] Permanent open space.

## (2) Permitted accessory uses.

## (a) Residential lot.

- [1] Private garages and carports.

- [2] Home occupations.

- [3] Gardening, tool and storage sheds incidental to the residential use.

## (b) Conservation lot.

- [1] Private garages and carports associated with existing farmstead.

- [2] Home occupations within existing farmstead.

- [3] One temporary roadside stand for selected farm products produced on the premises and not exceeding 150 square feet in floor area according to the following:
  - [a] Off-street parking for a minimum of four vehicles shall be provided.
  - [b] No such stand shall be permitted in a location where it would create a traffic hazard or nuisance for the residential uses.
  - [c] No such stand shall be closer than 50 feet to the existing street center line or residential use, or closer than 20 feet to any other lot line.
  - [d] One temporary sign, not to exceed 32 square feet in area, is allowed and shall be set back at least 10 feet from the road right-of-way.

(3) Conditional uses.

(a) Residential lot.

- [1] See Article IV.

(b) Conservation lot.

- [1] Dairy farming.

- [2] Grazing or pasturing.

- [3] Livestock raising (except commercial feed lots and fur farms).

- [4] Home industries, subject to Article IV, § 340-38K. **[Added 5-11-2011 by Ord. No. 2011-03]**

(4) Raising of chickens in accordance with the following: **[Added 2-7-2011 by Ord. No. 2011-02]**

(a) All residential lots are permitted to keep up to five chickens.

(b) Residential lots equal to or greater than 32,670 square feet (3/4 acre) are permitted to keep up to 25 chickens with appropriate license from the Town of Port Washington.

- [1] Any person raising more than five chickens shall obtain an annual license prior to January 1 of each year, or within 30 days of acquiring the chickens.

- [2] The yearly license commences January 1 and expires on the following December 1.

- [3] The license application and fee shall be provided to the Town Treasurer.

- [4] The Treasurer or other authorized individual shall collect the fee and shall assess and collect a late fee from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to obtain a license within 30 days of acquiring the chickens. All late fees received or collected shall be paid into the local treasury.
- [5] The applicant for a license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner or operator. Notification is not required for renewal of a license.
- [6] The Zoning Administrator may revoke a license if there are three or more violations within any six-month period of any ordinance regulating the keeping of domestic poultry in the Town of Port Washington.
  - (c) No person shall keep any rooster.
  - (d) Slaughtering/butchering chickens is not permitted.
  - (e) All chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
  - (f) Enclosures (fenced or covered) used for raising chickens shall not be located in the street yard.
  - (g) Enclosures (fenced or covered) shall not be located within the side or rear yard setback.
  - (h) All chicken feed shall be stored in rodent- pest-proof containers.
  - (i) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at any property line.
  - (j) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

G. Building height and area.

- (1) The height of any dwelling unit shall not exceed 42 feet.
- (2) The total minimum floor area of a farm dwelling or other residential dwelling shall be 1,200 square feet with a minimum first floor area of 800 square feet.
- (3) Any single-family dwelling shall have a garage that is a minimum of 400 square feet in area.

H. 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 residential lot not less than 20 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.
- (5) ACS-1 residential lots (or uses) adjacent to a B-1 or M-1 lot (or use) shall include a buffer that conforms to the landscaping and fencing regulations in § 340-59 along any side of a lot abutting a residential district.

I. Accessory structures for residential lots.

- (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 with the street yard setback of the ACS-1 District.
  - (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 ACS-1 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 ACS-1 District.
  - (c) Shall not exceed 35 feet in height.

#### **§ 340-21. R-1 Residential District.**

The R-1 Residential District is intended to provide for lakeshore single-family development, at densities not to exceed 0.75 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.
  - (4) Raising of chickens in accordance with the following: **[Added 2-7-2011 by Ord. No. 2011-02]**
    - (a) All residential lots are permitted to keep up to five chickens.
    - (b) Residential lots equal to or greater than 32,670 square feet (3/4 acre) are permitted to keep up to 25 chickens with appropriate license from the Town of Port Washington.
      - [1] Any person raising more than five chickens shall obtain an annual license prior to January 1 of each year, or within 30 days of acquiring the chickens.

- [2] The yearly license commences January 1 and expires on the following December 1.
- [3] The license application and fee shall be provided to the Town Treasurer.
- [4] The Treasurer or other authorized individual shall collect the fee and shall assess and collect a late fee from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to obtain a license within 30 days of acquiring the chickens. All late fees received or collected shall be paid into the local treasury.
- [5] The applicant for a license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner or operator. Notification is not required for renewal of a license.
- [6] The Zoning Administrator may revoke a license if there are three or more violations within any six-month period of any ordinance regulating the keeping of domestic poultry in the Town of Port Washington.
  - (c) No person shall keep any rooster.
  - (d) Slaughtering/butchering chickens is not permitted.
  - (e) All chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
  - (f) Enclosures (fenced or covered) used for raising chickens shall not be located in the street yard.
  - (g) Enclosures (fenced or covered) shall not be located within the side or rear yard setback.
  - (h) All chicken feed shall be stored in rodent-/pest-proof containers.
  - (i) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at any property line.
  - (j) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

C. Conditional uses. See Article IV.

D. Lot area and width. Lots shall have a minimum area of 1 1/2 acre and shall not be less than 140 feet in width.

E. Dwelling standards.

- (1) Single-family dwellings within the R-1 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: 2,000 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 25 feet in width.
- (4) When a new R-1 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 with the street yard setback of the R-1 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 1,200 square feet in size. These structures: **[Amended 11-9-2020 by Ord. No. 2020-04]**
  - (a) Shall comply with the setbacks of the R-1 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 1,200 square feet and larger in size. These structures: **[Amended 11-9-2020 by Ord. No. 2020-04]**
  - (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-1 District.
  - (c) Shall not exceed 25 feet in height.

#### **§ 340-21.1. R-3 Residential District. [Added 11-7-2011 by Ord. No. 2011-06]**

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 units 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.

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.

H. Accessory structures.

- (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 1,200 square feet in size. These structures: **[Amended 11-9-2020 by Ord. No. 2020-04]**

- (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 1,200 square feet and larger in size. These structures: **[Amended 11-9-2020 by Ord. No. 2020-04]**

- (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.

**§ 340-22. R-2 Residential District.**

The R-2 Residential District is intended to provide for single-family development, at densities not to exceed one dwelling unit per net acre, served by on-site soil absorption sanitary sewerage systems or other appropriate means and private wells. Areas placed in this district by means of rezoning should be adjacent to an R-2 District or not be less than 20 acres.

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 as specified herein.
- (4) Raising of chickens in accordance with the following: **[Added 2-7-2011 by Ord. No. 2011-02]**
  - (a) All residential lots are permitted to keep up to five chickens.
  - (b) Residential lots equal to or greater than 32,670 square feet (3/4 acre) are permitted to keep up to 25 chickens with appropriate license from the Town of Port Washington.
    - [1] Any person raising more than five chickens shall obtain an annual license prior to January 1 of each year, or within 30 days of acquiring the chickens.
    - [2] The yearly license commences January 1 and expires on the following December 1.
    - [3] The license application and fee shall be provided to the Town Treasurer.
    - [4] The Treasurer or other authorized individual shall collect the fee and shall assess and collect a late fee from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to obtain a license within 30 days of acquiring the chickens. All late fees received or collected shall be paid into the local treasury.
    - [5] The applicant for a license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner or operator. Notification is not required for renewal of a license.

[6] The Zoning Administrator may revoke a license if there are three or more violations within any six-month period of any ordinance regulating the keeping of domestic poultry in the Town of Port Washington.

- (c) No person shall keep any rooster.
- (d) Slaughtering/butchering chickens is not permitted.
- (e) All chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
- (f) Enclosures (fenced or covered) used for raising chickens shall not be located in the street yard.
- (g) Enclosures (fenced or covered) shall not be located within the side or rear yard setback.
- (h) All chicken feed shall be stored in rodent- pest-proof containers.
- (i) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at any property line.
- (j) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

C. Conditional uses. See Article IV.

D. Lot area and width. Lots shall have a minimum area of one acre and shall not be less than 120 feet in width.

E. Dwelling standards

(1) A single-family dwelling within the R-2 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 building or parts of a building 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 20 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.
- (5) When a new R-2 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 with the street yard setback of the R-2 District.
  - (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 1,200 square feet in size. These structures: **[Amended 11-9-2020 by Ord. No. 2020-04]**
  - (a) Shall comply with the setbacks of the R-2 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 1,200 square feet and larger in size. These structures: **[Amended 11-9-2020 by Ord. No. 2020-04]**
  - (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-2 District.
  - (c) Shall not exceed 25 feet in height.

#### **§ 340-22.1. R-4 Residential District. [Added 8-3-2020 by Ord. No. 2020-03]**

The R-4 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 4.0 dwelling units per net acre, served by public sanitary sewer and municipal water. Land may not be zoned R-4 unless public sanitary sewer and municipal water have been or will be extended to the property and the property owner provides written confirmation from the City of Port Washington that the property may connect to public sanitary sewer and municipal water without annexation.

- 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 10,000 square feet and shall not be less than 85 feet in width.
- E. Dwelling standards.

- (1) Single-family dwellings within the R-4 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 30 feet in height.

G. Yards.

- (1) A minimum street yard (setback) of 30 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 one side of the parcel not less than six feet in width and on the other side of the parcel a side yard of not less than 10 feet in width.
- (4) When a new R-4 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.

H. Accessory structures.

- (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-4 District.
  - (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 to 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-4 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-4 District.
  - (c) Shall not exceed 25 feet in height.

### **§ 340-23. InserB-1 Business District.**

The B-1 Business District is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer services which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.

#### A. Permitted uses.

- (1) Retail stores and shops which supply convenience and specialized goods and services, including but not limited to groceries, meats, dairy products, baked goods or other convenience goods, dry goods, and notions.
- (2) Business and professional offices.
- (3) Dental and medical clinics.

- (4) Finance insurance, real estate, banks, savings and loan associations and security brokers.
- (5) Bowling alleys.
- (6) Restaurants and taverns.



- (7) Personal and professional service establishments which perform services on premises, including but not limited to repair shop, tailor shop, beauty parlor, barbershop, photographic studio, dry cleaner, and laundry.
- (8) Self-storage business.
- (9) Public or private schools, colleges, and universities.
- (10) Child day-care facilities licensed under § 48.48, Wis. Stats.
- (11) Churches.
- (12) Hospitals, sanitariums, nursing homes, public clinics, libraries, museums, and art galleries.
- (13) Lodges.
- (14) Public administrative offices and public service buildings, including fire and police stations.



- (15) Public utility offices.
- (16) Water storage tanks and towers.
- (17) Wastewater treatment facilities (publicly owned).

B. Permitted accessory uses.

- (1) Garages for the storage of vehicles used in conjunction with the permitted use.
- (2) Off-street parking and loading.
- (3) Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker.
- (4) Rental or custodial apartment on a non-ground floor, provided that there is a minimum floor area of 500 square feet for a one-bedroom apartment and minimum floor area of 750 square feet for a two-bedroom or larger apartment.
- (5) Service building and facilities normally accessory to the permitted use.

C. Conditional uses. See Article IV.

D. Lot area and width. Lots shall have a minimum area of one acre and shall be not less than 120 feet in width.

E. Building height. No building or parts of a building shall exceed 35 feet in height.

F. 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 25 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.
- (5) In a B-1 Zoning District there shall be a buffer that conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.  
**[Amended 8-5-1999 by Ord. No. 99-6]**

**§ 340-24. B-2 Neighborhood Business District. [Added 8-16-2006 by Ord. No. 2006-3]**

The B-2 Neighborhood Business District is intended to provide limited commercial uses focusing on accommodating automobile-oriented sales and service establishments with the high level of visibility from the interstate highway. This district is also intended to preserve visual aesthetics of the Town with sufficient parking, landscaping and architectural character as the rear of the businesses is adjacent to the interstate. If a single business consists of more

than one permitted and/or conditional use, the Town of Port Washington Plan Commission has the authority to determine if, and how, the multiple uses are compatible.

A. Permitted uses.

Bakery  
Beauty salon  
Bookstore  
Cafe  
Delicatessen  
Dry-cleaning establishment  
Exercise/fitness center  
Florist  
Gift store  
Grocery store  
Hardware store  
Paint store  
Professional office  
Restaurant, without drive-through  
Retail, general  
Sporting goods store  
Travel agency

B. Conditional uses.

- (1) Bar, including on-site microbrewery.
- (2) Drive-through, any category.
- (3) Funeral home.
- (4) Medical office.

C. Permitted accessory uses.

- (1) Services essential and integral to the use.
- (2) Garages for storage of vehicles used in conjunction with the permitted use.
- (3) Ground-mounted and building-mounted earth station dish antennas.
- (4) Off-street parking areas.
- (5) Storage, power supply and other uses normally auxiliary to the principal operation or use.

D. Lot area and width.

(1) Lots shall be a minimum of 40,000 square feet in area.

(2) Lots shall not be less than 150 feet in width.

E. Setback and yards.

- (1) A minimum street yard (setback) of 40 feet from an existing or planned public street right-of-way shall be required.
- (2) There shall be a minimum side yard of 20 feet in width.
- (3) There shall be a minimum rear yard of 20 feet.
- (4) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (5) In a B-2 Zoning District there shall be a buffer than conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.

F. Building.

- (1) No building or parts of a building shall exceed 35 feet in height.
- (2) Buildings shall not exceed 40,000 square feet of gross floor area, except that following a public hearing the Plan Commission may approve larger buildings.

**§ 340-25. TSD Town Square District. [Added 8-16-2006 by Ord. No. 2006-3]**

The TSD Town Square District is intended to provide for commercial and retail development while preserving the character of the Town with architectural style, shared parking, trail access, plentiful landscaping, and a central meeting/open space where residents as well as visitors are welcome to congregate. This district is further intended to cluster multi-tenant and single-tenant buildings surrounding the open/outdoor meeting space with pedestrian-friendly walking paths. The TSD Town Square District is also intended to provide a sense of place through architecturally pronounced buildings at key locations. These locations include high-visibility locations as well as corner tenants of multi-tenant buildings. If a single business consists of more than one permitted and/or conditional use, the Town of Port Washington Plan Commission has the authority to determine if, and how, the multiple uses are compatible.

A. Permitted uses.

- Bakery
- Barbershop
- Beauty salon
- Bicycle sales/rental
- Bookstore
- Cafe
- Clothing store

Delicatessen  
Dry-cleaning establishment  
Electronic sales  
Exercise/fitness center  
Florist  
Gift store  
Hardware store  
Insurance office  
Jewelry store  
Music store  
Photographer  
Pottery studio and gallery  
Real estate office  
Restaurant without drive-through  
Retail, general  
Shoe store  
Travel agency

B. Conditional uses.

- (1) Bar, including on-site microbrewery.
- (2) Cocktail lounge.
- (3) Day care.
- (4) Dental office.
- (5) Drive-through, any category.
- (6) Drugstore.
- (7) Fruit and vegetable stand.
- (8) Medical office.
- (9) Professional office.

C. Permitted accessory uses.

- (1) Services essential and integral to the use.
- (2) Garages for storage of vehicles used in conjunction with the permitted use.
- (3) Ground-mounted and building-mounted earth station dish antennas.
- (4) Off-street parking areas.

(5) Storage, power supply and other uses normally auxiliary to the principal operation or use.

D. Lot area and width.

(1) Lots shall be a minimum of three acres in area.

(2) Lots shall not be less than 150 feet in width.

E. Setback and yards.

(1) A minimum street yard (setback) of 40 feet from an existing or planned public street right-of-way shall be required.

(2) There shall be a minimum side yard of five feet on a side, and the combined total side yard shall not be less than 15 feet.

(3) There shall be a minimum rear yard of 20 feet.

(4) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.

(5) In a TSD Zoning District there shall be a buffer than conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.

F. Building.

(1) No building or parts of a building shall exceed 45 feet in height.

(2) Buildings shall not exceed 40,000 square feet of gross floor area, except that following a public hearing the Plan Commission may approve larger buildings.

**§ 340-26. BP-1 Business Park District. [Amended 8-5-1999 by Ord. No. 99-6; 8-16-2006 by Ord. No. 2006-3]**

The BP-1 Business Park District is intended to provide for the development of an attractive and aesthetically pleasing grouping of both office and larger, more regional commercial uses and activities in a unified park-like setting. The district is intended to be used in areas identified for office/business park in the adopted Town of Port Washington Knellsville Land Use Plan. Locations for both office and regional commercial uses must be in accordance with the Knellsville Land Use Plan. If a single business consists of more than one permitted and/or conditional use, the Town of Port Washington Plan Commission has the authority to determine if, and how, the multiple uses are compatible. The district is further intended to promote the provision of sufficient off-street, shared parking and loading areas while integrating open space, landscape planting screens, and pedestrian paths throughout the development.

A. Permitted uses.

Advertising agency

Appliance sales and repair  
Bakery  
Bank/credit union  
Barbershop  
Beauty salon  
Bookstore  
Business and management consulting services  
Clothing store  
Computer/software design  
Contractor's office  
Delicatessen  
Department store  
Drugstore  
Dry-cleaning establishment  
Electronics store  
Exercise/fitness center  
Financial institution  
Furniture store  
Government office  
Grocery store  
Hardware store  
Health or professional office  
Holding and investment services  
Insurance office  
Jewelry store  
Manufacturing representative, agents or corporate headquarters  
Office equipment, sales and service  
Organization headquarters  
Professional offices, including but not limited to engineering, architecture, planning, accounting and legal services  
Real estate office  
Restaurant without drive-through  
Retail, general  
Shoe store  
Sporting goods store  
Travel agency

B. Conditional uses.

- (1) Bar, including on-site microbrewery.
- (2) Cocktail lounge.
- (3) Day care.
- (4) Dental office.
- (5) Drive-through, in any category.
- (6) Hotel.
- (7) Laboratory.
- (8) Medical office.

C. Permitted accessory uses.

- (1) Services essential and integral to the use.
- (2) Garages for storage of vehicles used in conjunction with the permitted use.
- (3) Ground-mounted and building-mounted earth station dish antennas.
- (4) Off-street parking areas.
- (5) Storage, power supply and other uses normally auxiliary to the principal operation or use.

D. Lot area and width.

- (1) Lots shall be a minimum of 1.5 acres in area.
- (2) Lots shall not be less than 150 feet in width.

E. Setback and yards.

- (1) A minimum street yard (setback) of 40 feet from an existing or planned public street right-of-way shall be required.
- (2) There shall be a minimum side yard of not less than 20 feet in width.
- (3) There shall be a minimum rear yard of not less than 20 feet.
- (4) There shall be a shore yard of 75 feet from the high-water elevation of any navigable water.
- (5) In a BP-1 Zoning District there shall be a buffer than conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.

F. Building.

- (1) No building or parts of a building shall exceed 45 feet in height.
- (2) Buildings shall not exceed 40,000 square feet of gross floor area, except that following a public hearing the Plan Commission may approve larger buildings.

**§ 340-27. BP-2 Transitional Business Park District. [Added 8-16-2006 by Ord. No. 2006-3]**

The BP-2 Transitional Business Park District is intended to provide for the development of an attractive and aesthetically pleasing grouping of office uses, limited regional commercial uses, and light industrial uses in a unified park-like setting. The district is intended to be a transition into a business park setting while accommodating the variety of both existing and future uses in locations within the Knellsville area as delineated in the Knellsville Land Use Plan. If a single business consists of more than one permitted and/or conditional use, the Town of Port Washington Plan Commission has the authority to determine if, and how, the multiple uses are compatible. The district is further intended to promote the provision of sufficient off-street, shared parking and loading areas while integrating open space, landscape planting screens, and pedestrian paths throughout the development.

A. Permitted uses.

- Advertising agency
- Appliance sales and repair
- Bakery
- Bank/credit union
- Barbershop
- Beauty salon
- Bedding manufacture
- Beverage bottling and manufacture
- Brewery, brewing and distribution only
- Bookstore
- Building contractors
- Business and management consulting services
- Candle manufacture
- Catalog order store
- Catering, on-site food preparation for off-site distribution
- Cleaning, pressing, and dyeing
- Clothing store
- Computer/software design
- Contractor's office
- Delicatessen
- Department store

Drugstore  
Dry-cleaning establishment  
Electronic appliance manufacture  
Electronics store  
Exercise/fitness center  
Financial institution  
Furniture store  
Glass products manufacture  
Government office  
Grocery store  
Hardware store  
Health or professional office  
Holding and investment services  
Insurance office  
Jewelry store  
Leather products manufacture  
Lumber sales and storage  
Machine manufacture  
Machine shop  
Manufacturing, general  
Manufacturing representative, agents, or corporate headquarters  
Metal fabrication  
Office equipment, sales and service  
Organization headquarters  
Packing and packaging  
Plastic products manufacture  
Plumbing sales and service  
Printing  
Professional offices, including but not limited to engineering, architecture, planning, accounting, legal services  
Publisher  
Radio station and television studios  
Real estate office  
Restaurant without drive-through  
Retail, general  
Shoe store  
Sporting goods store  
Tool making, cabinetry, and repair shops  
Travel agency

Vinyl products manufacture  
Wood products manufacture

B. Conditional uses.

- (1) Automobile repair.
- (2) Bar, including on-site microbrewery.
- (3) Building material sales and storage.
- (4) Cocktail lounge.
- (5) Day care.
- (6) Dental office.
- (7) Drive-through, in any category.
- (8) Gas station.
- (9) General warehousing.
- (10) Hotel.
- (11) Laboratory.
- (12) Medical office.

C. Permitted accessory uses.

- (1) Services essential and integral to the use.
- (2) Garages for storage of vehicles used in conjunction with the permitted use.
- (3) Ground-mounted and building-mounted earth station dish antennas.
- (4) Off-street parking and loading areas.
- (5) Offices, storage, power supply and other uses normally auxiliary to the principal industrial operation.
- (6) Storage, power supply and other uses normally auxiliary to the principal operation or use.

D. Lot area and width.

- (1) Lots shall be a minimum of 1.5 acres in area.
- (2) Lots shall not be less than 150 feet in width.

E. Setback and yards. **[Amended 12-27-2012 by Ord. No. 2012-05]**

- (1) A minimum street yard (setback) of 40 feet from an existing or planned public street right-of-way shall be required.
- (2) There shall be a minimum side yard of not less than 20 feet in width.
- (3) There shall be a minimum rear yard of not less than 20 feet.
- (4) There shall be a shore yard of 75 feet from the high-water elevation of any navigable water.
- (5) In a BP-2 Zoning District, there shall be a buffer that conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.

F. Building.

- (1) No building or parts of a building shall exceed 45 feet in height.
- (2) Buildings shall not exceed 40,000 square feet of gross floor area, except that following a public hearing the Plan Commission may approve larger buildings.

G. Offensive uses. The following uses are considered to be offensive and incompatible with the character of the Town of Port Washington and are thus prohibited from use in the BP-2 District. Any of these uses which existed upon the adoption of this section shall be considered nonconforming uses and be subject to the requirements of Article IX of this chapter. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

- (1) Manufacture of cement, lime, gypsum, plaster of paris, acid, explosives, fertilizer or glue.
- (2) Rendering plant, refineries, or tanneries.
- (3) Stockyards or slaughterhouses.
- (4) Junk or salvage yards.
- (5) Storage of explosives or petroleum and petroleum products in excess of 50,000 gallons.

**§ 340-28. M-1 Industrial District. [Amended 8-5-1999 by Ord. No. 99-6; 8-16-2006 by Ord. No. 2006-3; 10-12-2011 by Ord. No. 2011-05]**

The M-1 Industrial District is intended to provide for manufacturing, industrial, warehousing, and ancillary uses of a limited nature, limited intensity, and limited size in appropriate locations within the Town of Port Washington.

A. Permitted uses.

- Automobile repair and restoration
- Bedding manufacture
- Beverage bottling and manufacture

Brewery, brewing and distribution only  
Building contractors  
Candle manufacture  
Catalog order store  
Catering, on-site food preparation for off-site distribution  
Cleaning, pressing, and dyeing  
Contractor's office  
Electronic appliance manufacture  
Glass products manufacture  
Leather products manufacture  
Light assembly  
Lumber sales and storage  
Machine manufacture  
Machine shop  
Manufacturing, general  
Metal fabrication  
Packing and packaging  
Plastic products manufacture  
Plumbing sales and service  
Printing  
Professional offices, including but not limited to engineering, architecture, planning, accounting and legal services  
Publisher  
Radio station and television studios  
Self storage facilities  
Tool making, cabinetry and repair shops  
Vinyl products manufacture  
Wood products manufacture

B. Conditional uses.

- (1) Building material sales and storage.
- (2) Drive-through, any category.
- (3) Gas station.
- (4) General warehousing.
- (5) Laboratory.
- (6) Medium to heavy assembly.

- (7) Commercial greenhouses.

C. Permitted accessory uses.

- (1) Garages for storage of vehicles used in conjunction with the operation of the permitted use.
- (2) Off-street parking and loading areas.
- (3) Offices, storage, power supply and other uses normally auxiliary to the principle industrial operation.

D. Lot area and width.

- (1) Lots shall have a minimum area of one acre.
- (2) Lots shall not be less than 145 feet in width.

E. Yards.

- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.
- (2) There shall be a side yard on each side of the parcel not less than 20 feet in width.
- (3) There shall be a rear yard of not less than 40 feet.
- (4) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (5) In a M-1 Zoning District there shall be a buffer that conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.

F. Building.

- (1) No building or parts of a building shall exceed 45 feet in height.
- (2) Buildings shall not exceed 40,000 square feet of gross floor area, except that following a public hearing the Plan Commission may approve larger buildings.

G. Offensive uses. The following uses are considered to be offensive and incompatible with the character of the Town of Port Washington and are thus prohibited from use in the M-1 Industrial District. Any of these uses which existed upon the adoption of this chapter shall be considered nonconforming uses and be subject to the requirements of Article IX of this chapter.

- (1) Manufacture of cement, lime, gypsum, plaster of paris, acid, explosives, fertilizer or glue.
- (2) Rendering plants, refineries, or tanneries.
- (3) Stockyards or slaughterhouses.
- (4) Junk or salvage yards.

- (5) Storage of explosives or petroleum and petroleum products in excess of 50,000 gallons.

**§ 340-29. I-1 Institutional District. [Added 8-16-2006 by Ord. No. 2006-3]**

The I Institutional District is intended to protect lands that are or will be occupied by uses that serve the public good.

A. Permitted uses.

- (1) Golf courses.
- (2) Municipal offices.
- (3) Parks.
- (4) Playgrounds.
- (5) Protection of natural resources.
- (6) Government and cultural uses (such as fire and police stations, municipal buildings, community centers, libraries, and public emergency shelters).

B. Conditional uses.

- (1) Airports.
- (2) Colleges, universities, and public and private schools.
- (3) Cemeteries.
- (4) Churches and other places of worship.

C. Permitted accessory uses.

- (1) Services essential and integral to the use.
- (2) Garages for storage of vehicles used in conjunction with the permitted use.
- (3) Ground-mounted and building-mounted earth station dish antennas.
- (4) Off-street parking areas.
- (5) Storage, power supply and other uses normally auxiliary to the principal operation or use.

D. Lot area and width.

- (1) Lots shall be a minimum of 40,000 square feet in area.
- (2) Lots shall not be less than 150 feet in width.

E. Setback and yards.

- (1) A minimum street yard (setback) of 40 feet from an existing or planned public street right-of-way shall be required.
- (2) There shall be a minimum side yard of 20 feet.
- (3) There shall be a minimum rear yard of 20 feet.
- (4) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (5) In the I-1 Institutional Zoning District there shall be a buffer than conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.

F. Building.

- (1) No building or parts of a building shall exceed 35 feet in height.
- (2) Buildings shall not exceed 40,000 square feet of gross floor area, except that following a public hearing the Plan Commission may approve larger buildings.

**§ 340-30. P-1 Park and Recreation District.**

The P-1 Park and Recreation District is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses.

A. Permitted principal uses.

- Boat access sites
- Botanical gardens and arborets
- Forest preserve
- Golf courses without country club/restaurant facilities
- Historic and monument sites
- Sportsmen clubs
- Outdoor ice-skating and hockey rinks
- Parks (leisure and ornamental)
- Picnic areas
- Play fields or athletic fields
- Playgrounds
- Play lots or tot lots
- Skiing and tobogganing slopes
- Swimming beaches
- Tennis courts

B. Permitted accessory uses.

- (1) Any structure necessary for the operation or use of a permitted use.
- (2) Off-street parking areas.

C. Conditional uses. (See also Article IV.)

Amphitheaters  
Archery ranges  
Arenas and field houses  
Bathhouses and swimming pools  
Conservatories  
Exhibition halls  
Fairgrounds  
Golf courses with country club/restaurant facilities  
Golf driving ranges  
Gymnasiums  
Marinas  
Museums  
Music halls  
Polo fields  
Recreation centers  
Riding academies  
Skeet and trap shooting ranges, provided that the firing of rifled arms and shotgun slugs shall not be permitted toward or over any highway, road, or navigable water, or toward any building or occupied structure, or directly toward any occupied land within 600 feet of the site  
Stadiums  
Wildlife preserves  
Zoological facilities

D. Lot area and width.

- (1) Lots in the P-1 District shall provide sufficient area for any principal structure or accessory structures as well as necessary off-street parking and loading areas.
- (2) Lots shall not be less than 80 feet in width at the principal street access.

E. Building height and size.

- (1) No building or parts of a building shall exceed 35 feet in height.
- (2) The sum total of the floor area of all buildings shall not exceed 10% of the total park area.

F. Setback and yards. No building or structure shall be erected, altered, or moved closer than 40 feet to a lot line.

G. Parking and loading space.

- (1) There shall be sufficient off-street parking space provided to accommodate users of the park or recreation area.
- (2) There shall be no on-street parking in the P-1 District.

H. Minimum utility service. Electricity, wastewater treatment and disposal facilities, and water supply system shall be installed as required by the Wisconsin Department of Natural Resources and/or the Ozaukee County Health Department.

I. Special regulations.

- (1) To encourage a park use environment that is compatible with the adjacent use, Town permits for permitted uses in the P-1 District shall not be issued without prior review by and approval of plans for such use by the Town Plan Commission.
- (2) Said review and approval shall be concerned with adjacent uses, general layout, building site and operation plans, building materials, need for public wastewater treatment and water supply facilities, ingress, egress, parking, loading and unloading, and screening and landscape plans.

### **§ 340-31. PRD Planned Residential District Overlay.**

A. The PRD Planned Residential District Overlay is intended to allow flexibility in the planning and development of residential uses in R-1 and R-2 Residential Districts. The use of this overlay district is to benefit the community and be done with the consent of the developer. The district requires a minimum parcel size of 10 acres. The PRD Planned Residential District requirements are laid over the R-1 and R-2 Districts. Application of the developer for rezoning and an execution of an agreement should establish a PRD with the Town. The district is further intended to:

- (1) Allow for an architecturally integrated subdivision.
- (2) Facilitate adequate provisions for transportation, pedestrian walkways, water, sewerage, drainage, public open space, and other public facilities.
- (3) Allow for flexibility in the placement of residential uses on the land to conserve the existing and potential value of the land, water, air and other public improvements.

B. Permitted uses.

- (1) All uses allowed in R-1 and R-2 Districts.
- (2) Two-family dwellings.

- C. Density. The lot area, width, and yard requirements of the underlying R-1 and R-2 Residential District may be modified; however, overall density shall be no greater than that permitted in that residential district.
- D. Conditional uses (see also Article IV). Those uses allowed in the underlying R-1 and R-2 Residential District.
- E. Lot area and width. No lot shall provide for an area less than 1/2 of the area or width required in the underlying R-1 and R-2 Residential District.
- F. Building height and area. Those required in the underlying R-1 and R-2 Residential District.
- G. Setbacks and yards. The setback and yard requirements of the underlying R-1 and R-2 Residential District may be modified as follows:
  - (1) No structure shall be closer than 25 feet to any street right-of-way.
  - (2) No residential structure shall be closer than 15 feet to another residential structure.
  - (3) No residential structure shall have a rear yard of less than 25 feet.

**§ 340-32. PUD Planned Unit Development Overlay District. [Added 12-4-2000 by Ord. No. 2000-7]**

- A. The Planned Unit Development (PUD) Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicular traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The Planned Unit Development (PUD) Overlay District under this chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land-use density and other standards or use requirements as set forth in the underlying base zoning district. The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Town upon specific petition, with such development encompassing one or more principal uses or structures and related accessory uses or structures, when all regulations and standards as set forth in this section have been met. **[Amended 5-4-2020 by Ord. No. 2020-02]**
- B. Designated areas. Areas designated as Planned Unit Development (PUD) Overlay District shall be under single or corporate ownership or control and shall contain a minimum development area as follows:

Principal Uses	Minimum Area of PUD (acres)
Residential PUD	10
Commercial PUD	4
Industrial PUD	10
Mixed compatible use	15

- C. Density requirements. The lot area, width and yard requirements of the underlying base use district may be modified.
- D. Lot area and width.
  - (1) Individual lot sizes required by the underlying base use district may be modified in order to make use of special topographic features of the site, provide common open space or achieve the goals and policies of the Land Use Plan.
  - (2) Individual lot widths required by the underlying base use district may be modified.
- E. Setbacks and yards.
  - (1) Setbacks required by the underlying base use district may be modified in planned unit development districts.
  - (2) No principal structures in planned developments shall be located closer than 20 feet to another structure (subject to approval for emergency access).
  - (3) Structures in planned residential developments shall have a rear yard of not less than 20 feet.
- F. Procedure.
  - (1) Pre-petition conference. Prior to official submittal of the petition for approval of the designation of a Planned Unit Development Overlay District, the owner or his agent making such petition shall meet with the Town Planner to discuss the scope and proposed nature of the contemplated development.
  - (2) The petition. Following the pre-petition conference, the owner or his agent may file a petition with the Town Plan Commission for an amendment to the Town's zoning district map designating and adding a Planned Unit Development Overlay District to the underlying base use zoning district, thereby permitting the application of the provisions of this section to the designated area. Such petition shall be accompanied by the appropriate fee as well as the following information:
    - (a) A statement which sets forth the relationship of the proposed Planned Unit Development Overlay District to the Town's adopted Land Use Plan or any adopted component thereof and the general character of and the uses to be included in the proposed Planned Unit Development Overlay District, including the following information:

- [1] Total area to be included in the Planned Unit Development Overlay District, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
- [2] A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
- [3] A general outline of the organizational structure of a property owners' or management association which may be proposed to be established for the purpose of providing any necessary private services.
- [4] Any proposed departures from the standards of development as set forth in the Town zoning, land division and sign regulations of this chapter, other Town regulations or administrative rules or other universal guidelines.
- [5] The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

(b) A general development plan which shall include, in addition to those site plan and architectural review requirements set forth in Article V of this chapter, the following:

- [1] A preliminary plat illustrating plan of development of the planned unit development. The preliminary plat shall include all additional information as required by § 340-117 of this chapter.
- [2] A legal description of the boundaries of lands included in the proposed Planned Unit Development Overlay District.
- [3] A description of the relationship between the lands included in the proposed Planned Unit Development Overlay District and the surrounding properties
- [4] The location of public and private roads, driveways and parking facilities.
- [5] The size, arrangement and location of any individual building sites and proposed building groups on each individual lot.
- [6] The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
- [7] The type, size and location of all structures.
- [8] General landscaping treatment.

- [9] Architectural plans, elevations and perspective drawings and sketches illustrating the design and character of proposed structures.
- [10] The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
- [11] The existing and proposed location of all private utilities or other easements.
- [12] Characteristics of soils related to contemplated specific uses.
- [13] Existing topography on site with contours at no greater than two-foot intervals.
- [14] Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
- [15] If the development is to be staged, a staging plan.

G. Land divisions. Any proposed division which is part of the proposed Planned Unit Development Overlay District shall be subject to the requirements of Article XI of this chapter.

H. Referral to Plan Commission. The petition for a Planned Unit Development Overlay District shall be referred to the Plan Commission for its review and recommendation. The Plan Commission may add any additional conditions or restrictions which it may deem necessary or appropriate to promote the spirit and intent of this chapter and the purpose of this section.

I. Public hearing. Upon receipt of the Plan Commission's recommendation, the Town Board shall, before determining the disposition of the petition, hold a public hearing pursuant to the provisions of Article XIV of this chapter. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested zoning change.

J. Basis for approval.

(1) The Town Plan Commission in making its recommendations and the Town Board in making its determinations shall consider:

- (a) Whether the petitions for the proposed Planned Unit Development Overlay District have indicated that they intend to begin the physical development of the designated Planned Unit Development Overlay District within 12 months following the approval of the petition for a Planned Unit Development Overlay District and that the development will be carried out according to a reasonable construction schedule satisfactory to the Town.
- (b) Whether the proposed Planned Unit Development Overlay District is consistent in all respects with the purpose of this section and with the spirit and intent of this chapter, is in conformity with the Land Use Plan or component plans thereof for community development and would not be contrary to the general welfare and economic prosperity of the Town or of

the immediate neighborhood and that the benefits and improved design of the resultant development justify the establishment of a Planned Unit Development Overlay District.

(2) The Plan Commission and the Town Board shall not give their respective recommendations or approvals unless it is found that:

- (a) The proposed site shall be provided with adequate drainage facilities for surface and storm waters.
- (b) The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
- (c) No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance and maintenance of public areas, by the proposed development.
- (d) The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances and administrative regulations of the Town.
- (e) Adequate water and sanitary facilities shall be provided.
- (f) Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservations and maintenance or by dedication to the public.

K. Changes or additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Town Plan Commission, and if in the opinion of the Town Plan Commission such change or addition constitutes a substantial alteration of the original plan, a public hearing before the Town Board shall be required and notice thereof be given pursuant to the provisions of Article XIV of this chapter.

L. Termination. If a building permit is not issued within one year of receiving the PUD zoning, the PUD and underlying district zoning for the property shall be automatically discontinued and replaced with the zoning designation that existed prior to the PUD rezoning.

M. Developer agreement and restrictive covenants. The terms and conditions of the planned unit development (PUD) shall be set forth in a developer agreement and restrictive covenants as deemed necessary by the Town.

**§ 340-33. KOD Knellsville Overlay Development Standards District. [Added 8-16-2006 by Ord. No. 2006-3<sup>4</sup>; amended 6-4-2007 by Ord. No. 2007-1-B; 12-27-2012 by Ord. No. 2012-05; 11-13-2013 by Ord. No. 2013-03; 11-4-2019 by Ord. No. 2019-02; 9-5-2023 by Ord. No. 2023-01]**

- A. Location. The development standards within this Knellsville Overlay Development Standards District shall apply to all properties within the two specific areas of the Town of Port Washington as identified in the Knellsville Land Use Plan approved by the Plan Commission on March 15, 2006.
- B. Purpose. The full intent is to provide for quality development within Knellsville, which includes safe, attractive, and aesthetically pleasing grouping of office, light industrial, and commercial uses with open spaces for people to gather, while promoting creative ideas and quality design in a highly landscaped setting free of outside storage or display as described in the Knellsville Land Use Plan. Requirements and standards of the base zoning district shall remain applicable. Where conflicts arise, the more restrictive shall apply.
  - (1) The success of Knellsville will be determined by the quantity and quality of future development. Because Knellsville has a defined boundary, the quantity of development is simply determined by the square footage of future uses. The quality of future development relates to the atmosphere of future Knellsville. The atmosphere refers to the look, feel, and comfort of both the buildings as well as visitors to the area. Businesses are more likely to locate and people are more likely to revisit an area if it is safe, aesthetically pleasing, comfortable, and meets their needs. Examples of quality development that will promote businesses, as well as attract visitors, can be seen in Exhibit A. The Knellsville Overlay Development Standards District is meant to be supplemental to the existing development standards in place for the entire Town.
  - (2) According to the Settlement Agreement Between the City of Port Washington and the Town of Port Washington To Provide for Orderly Land Development, Boundary Agreements and Shared Services, the Town must apply the minimum business park development standards of the City of Port Washington. These standards utilize the city standards as a base of information and enhanced to further implement the Knellsville Land Use Plan.
- C. General development guidelines. Site development plans shall:
  - (1) Enhance the pedestrian experience by providing a visually pleasing, safe, and socially stimulating destination for merchants and businesses, as well as employees and visitors.
  - (2) Facilitate well-planned, coordinated, quality private development throughout the entire cooperative planning area.
  - (3) Encourage flexible and individual creativity rather than uniformity.
  - (4) Enhance existing Town of Port Washington ordinances and policies.

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4. Editor's Note: Appendix A, Examples of Quality Development, is on file at the Town Clerk's office.

## D. General approval standards.

- (1) The Plan Commission shall approve site development in accordance with this chapter, including building architecture, landscaping, lighting, signage, access, circulation, and parking.
- (2) The architectural design of all buildings shall be subject to Plan Commission approval.
- (3) Project elements, such as architecture, landscaping, lighting, signage, access, circulation, parking, and utilities, shall be designed and constructed in a coordinated manner to create the sense of a unified development throughout the Knellsville area.
- (4) In approving or disapproving proposed locations and uses in Knellsville, the Plan Commission shall give due consideration to the character of the use and its suitability in relationship to other nearby uses and shall also base its decision on such evidence as may be presented to the Plan Commission regarding traffic generation, heavy vehicular traffic, soil limitations, emission of noise, smoke, dust or dirt, or odorous or noxious gases attributed to the proposed use, conformance with the Knellsville Overlay Development Standards, and conformance with all Town of Port Washington ordinances.
- (5) The expansion or alteration of existing developed sites or structures in the Knellsville Overlay Development Standards District shall meet the standards of this section to the extent practicable. In approving or disapproving the project elements of a proposed expansion or alteration of an existing developed site or structure, the Plan Commission shall give due consideration to the character of the existing structure and site and the suitability of the proposed building and site design in relationship to the existing structure and other nearby uses.

## E. General requirements.

- (1) Development shall be designed and sized in such a manner that is architecturally, aesthetically and operationally harmonious with surrounding development.
- (2) All business, servicing, processing or storage, except off-street parking, shall be conducted within completely enclosed buildings.
- (3) No external nuisance which is offensive by reason of odors, lighting, smoke, fumes, dust, vibrations, noise, or pollution or which is hazardous by reason of excessive danger of fire or explosion shall be permitted.
- (4) Sidewalks and street furnishings shall be provided throughout developments to enhance pedestrian experience.
- (5) Multistory buildings with quality architectural design shall be constructed at key locations to create a landmark identity.
- (6) Multiple buildings per development site shall be allowed and encouraged.
- (7) Site plans shall be designed to allow uniformity of design with neighboring developments per the Knellsville Land Use Plan.

## F. Building standards.

- (1) Buildings shall not exceed 40,000 square feet of gross floor area, except that following a public hearing the Plan Commission may approve larger buildings based on their location and lot size within the Knellsville Overlay Development Standards District.
- (2) The maximum height of principal structures shall not exceed 45 feet.
- (3) The maximum height of accessory structures shall not exceed 30 feet.
- (4) All buildings constructed in Knellsville shall be constructed of durable materials.
- (5) Exterior building colors shall be nonreflective, subtle, neutral, or earth tone. Building trim and architectural accent elements may feature brighter colors, but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on sign face and copy areas.
- (6) The building orientation shall be designed to accommodate and utilize the natural site features.
- (7) Multistory buildings that allow for a mix of retail and smaller office uses are encouraged in the Town Square District.
- (8) Buildings in the B-2 Business district, BP-1 Business Park district, and TSD Town Square District shall meet the following standards, subject to Plan Commission approval.
  - (a) Materials such as masonry, stone, stucco, glass, Dryvit, cement board, stucco stone, stone veneer, brick veneer, Hardie Board, and precast walls are permitted. Split-face block should generally be used only for base elements. Pre-cast panels should be articulated with scoring and other techniques to provide a higher-quality finish. Steel, aluminum, wood, and vinyl siding are not allowed as the primary exterior building material but may be used for accents and should be generally above a masonry base unless used on a facade that will not face a street. Metals may also be used for roofs and mansards.
  - (b) Buildings shall incorporate four-sided architecture as all or portions of buildings will be visible from all four sides.
  - (c) Buildings shall include changes in the relief of the facade.
  - (d) Buildings shall incorporate features such as arcades, roofs, porches, alcoves, porticoes, and awnings to protect pedestrians from the rain and sun.
  - (e) Buildings shall incorporate windows that allow for views of interior activity or display areas.
  - (f) Variation and articulation in building massing and facades to contribute to visual interest and a fine-grained pedestrian scale environment at the street level is encouraged.

(9) Buildings in the BP-2 Transitional Business Park district may use steel or aluminum as the primary exterior building material. Buildings with steel or aluminum as the primary exterior building material shall incorporate at least five architectural features such as but not limited to the following, and subject to Plan Commission approval:

- (a) Portico or covered entrance.
- (b) Changes in building massing to identify entrance area(s) or different functions of building by area.
- (c) Windows whether illusionary or functional.
- (d) Masonry base or wainscoting.
- (e) Roof overhangs.
- (f) Porch overhang.
- (g) Cupolas.
- (h) Dormers.
- (i) Wood, steel, or masonry accents.
- (j) Vertical or horizontal accents or changes in color to articulate the facade.

G. General performance restrictions.

(1) No activity shall produce a sound level at the site boundary line that exceeds the decibel level in the following table as measured by a sound-level meter:

Time of Day	Decibels
7:00 a.m. to 10:00 p.m.	65
10:00 p.m. to 7:00 a.m.	55

- (a) All noise shall be muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.
- (b) Noises exempt from the requirements of this section include:
  - [1] Noises of vehicles, when utilized in normal vehicle use activities, as the vehicles were originally intended.
  - [2] Home appliances, when utilized as intended.
  - [3] Chain saws, lawn mowers, and snowblowers in private use (not including commercial repair services), when utilized as intended.
  - [4] Occasionally used safety signals, warning and emergency signals, and emergency pressure-relief valves.
  - [5] Unamplified human voice, when not intended to disrupt the peace.

[6] Temporary construction operations, not earlier than 7:00 a.m. or later than 9:00 p.m.

(2) No person or activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to substantially contribute to exceeding state or federal air pollution standards.

(3) Except for temporary construction activities, no activity shall cause or create a displacement in excess of the permitted steady state vibration displacement for the frequencies set forth in the following table. The displacement shall be measured with a three-component measuring system.

Maximum Permitted Steady State Vibration Displacement	
Frequency (cycles per second)	Displacement (inches)
0 to 10	0.0020
10 to 20	0.0010
20 to 30	0.0006
30 to 40	0.0004
40 to 50	0.0003
50 and over	0.0002

(a) For impact vibrations, the maximum permitted vibration displacement shall be twice that permitted for steady state vibrations.

(b) Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section, provided that steady state vibrations and impact vibrations shall not exceed twice the permitted displacement for permanent operations.

(4) No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

(5) No merchandise shall be handled for sale, materials produced, or service rendered on the premises except that which is incidental or accessory to the principal permissible use of the premises.

#### H. Site standards.

(1) The minimum lot dimensions and setbacks in the Knellsville Overlay Development Standards District shall be as follows:

	<b>BP-1 Business Park</b>	<b>BP-2 Transitional Business Park</b>	<b>TSD Town Square District</b>	<b>B-2 Neighborhood Business</b>	<b>I Institutional</b>
Lot area	1.5 acres	1.5 acres	3 acres	40,000 square feet	40,000 square feet
Lot width (feet)	150	150	150	150	150
Setbacks (feet)					
Street	40	40	40	40	40
Side	20	20	5*	20	20
Rear	20	20	20	20	20
Shore	75	75	75	75	75

**Notes:**

\* Minimum of five feet on a side, and the combined total side yard shall not be less than 15 feet.

- (2) A minimum of 30% of each lot shall be open space.
- (3) All utilities, including but not limited to electrical, cable, and telephone, shall be underground.
- (4) Vehicular circulation shall be oriented to internal circulation drives with limited access provided to county trunk highways or Town roads as per plan.
- (5) Loading docks shall generally not face an open or visible area and be screened from adjacent right-of-way. Loading docks on property adjacent to a residential property shall not face the residential property.
- (6) All exterior equipment shall be located, screened, and painted to minimize visibility from streets and adjacent sites.
- (7) Development must be bicycle and pedestrian friendly to promote interaction between the Ozaukee Interurban Trail and future uses. Bicycle storage facilities must be made available to employees and customers.

I. Garbage and refuse storage.

- (1) Garbage and refuse containers shall be screened from view from streets and open spaces by an enclosure with walls a minimum of six feet in height.
- (2) Garbage and refuse enclosure walls shall be constructed of masonry compatible with materials used on the principal building.
- (3) Garbage and refuse enclosures shall have access gates with opaque screening material.
- (4) Garbage and refuse enclosures shall be placed in a discrete location and screened from view with landscaping materials.

(5) The Plan Commission shall approve the size, height, location, design, and construction materials of the garbage and refuse enclosure.

J. Parking standards.

(1) Required parking spaces.

Financial institutions, business offices, and government and professional offices	3 spaces per 1,000 square feet
Restaurants, taverns, places of entertainment, lodges and clubs, and repair shops	1 space per every 100 square feet of customer service area
Retail and service stores	6 spaces per 1,000 square feet (unified development less than 40,000 square feet)*
	5 spaces per 1,000 square feet (unified development from 40,000 to 80,000 square feet)*
	4 spaces per 1,000 square feet (unified development greater than 80,000 square feet)*
Light industrial	3 spaces per 1,000 square feet (uses less than 40,000 square feet)
	2 spaces per 1,000 square feet (uses greater than 40,000 square feet)

**Notes:**

\* A unified development includes a proposed development under single ownership or neighboring uses with cross-access easements.

(2) Parking requirements set forth in § 340-53 of this chapter shall apply. Where a conflict exists, the more restrictive requirements shall apply.

(3) Parking areas shall be set back from the ultimate right-of-way a minimum of 25 feet.

(4) No driveway or parking shall be located closer than 20 feet to a side or rear lot line unless specifically waived by the Plan Commission, except that where property is adjacent to an existing or proposed residential property no parking space or access driveway shall be closer than 50 feet.

(5) No driveway (excluding the portion of driveway required for road access) or parking area shall be located closer than 25 feet to the ultimate road right-of-way.

(6) Where possible, shared parking areas and access points shall be utilized in order to preserve the safety of all pedestrians.

- (7) Parking lots in which the number of spaces significantly exceeds the minimum number required shall be allowed only with specific and reasonable justification. Parking lots in which the number of spaces is less than the minimum required may be allowed with specific and reasonable justification.
- (8) The location of parking areas must be designed in such a way that if the use within the tenant space or building changes, the parking area can be easily modified to accommodate future uses.

**K. Lighting standards.**

- (1) At the time any exterior lighting fixture is installed or substantially modified, whenever a site plan application is made, and whenever a conditional use permit is requested, an exterior lighting plan shall be submitted to determine whether the requirements of this section have been met and that adjoining property will not be adversely impacted by the proposed lighting.
- (2) A lighting plan submitted shall have the following elements:
  - (a) A catalog page, cut sheet, or photograph of all external lighting fixtures, including the mounting method.
  - (b) A photometric data test report of the proposed lighting fixture(s) graphically showing the lighting distribution at all angles vertically and horizontally.
  - (c) A plot plan, drawn to a recognizable scale, indicating the location of the lighting fixture(s) proposed, mounting and/or installation height in feet, the overall illumination levels (in footcandles) and uniformities on the site, and the illumination levels (in footcandles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
  - (d) A graphic depiction of the lighting fixture lamp (or bulb) concealment and light cutoff angles.
- (3) In order to preserve the rural character of the Town, the Plan Commission must review and approve all lighting plans prior to installation in order to minimize light pollution.
- (4) All outdoor lighting fixtures shall be shielded, except incandescent fixtures 150 watts or less and other sources of 70 watts or less. Total cutoff luminaries with angles of less than 90° shall be required for all pole and building security lighting. More than the minimal level of shielding may be required.
- (5) The height of light poles, including the luminaires, as measured from surface of adjacent grade to top of luminary, shall be 25 feet. For luminaires within 50 feet of a residential property or residential district, the top of the luminary shall be 12 feet.
- (6) All outdoor lighting shall not exceed the illumination levels recommended by the Illuminating Engineering Society of North America (IES) given below.

		General Parking and Pedestrian				Vehicle Use Only		
Level of Activity	Examples	Avg	Min	Uniformity (avg/ min)	Avg	Min	Uniformity (avg/ min)	
High	Major cultural or civic events	3.6 fc	0.9 fc	4:1	1.8 fc	0.6 fc	3:1	
	Regional shopping centers	60,000 lu <sup>1</sup>	15,000 lu <sup>1</sup>		30,000 lu <sup>1</sup>	10,000 lu <sup>1</sup>		
		750 W MH	185 W MH		375 W MH	125 W MH		
		750 W HPS	185 W HPS		375 HPS	125 W HPS		
Medium		375 W LPS	90 W LPS	4:1	375 LPS	65 W LPS	3:1	
	Community shopping centers	2.4 fc	0.6 fc		0.9 fc	0.3 fc		
		40,000 lu <sup>1</sup>	10,000 lu <sup>1</sup>		15,000 lu <sup>1</sup>	5,000 lu <sup>1</sup>		
	Cultural, civic or recreational events	500 W MH	125 W MH		185 W MH	60 W MH		
	Office parking	500 W HPS	125 W HPS		185 W HPS	60 HPS		
	Hospital parking	250 W LPS	65 W LPS		90 W LPS	30 LPS		
	Transportation parking							
	Fast-food facilities							
Low	(Airports, commuter lots, etc.)			4:1			4:1	
	Residential complex parking							
	Neighborhood shopping	0.9 fc	0.18 fc		0.45 fc	0.12 fc		
		15,000 lu <sup>1</sup>	3,000 lu <sup>1</sup>		7,500 lu <sup>1</sup>	2,000 lu <sup>1</sup>		
	Industrial employee parking	185 W MH	35 W MH		90 W MH	25 W MH		
Low			35 HPS	4:1			25 W HPS	
	Educational facility	185 W HPS	18 LPS		90 W HPS	15 W LP		
	Church parking	90 W LPS			45 LPS			

**Notes:**

<sup>1</sup> Assumes light is at a height of 20 feet.



- (7) The lighting level at any property line shall be zero footcandles as designed and illustrated on a photometric plan.
- (8) No lighting shall cause glare visible from adjacent rights-of-way and/or properties.
- (9) Metal halide fixtures shall be filtered. Filtering means any outdoor light fixture which has a glass or acrylic enclosure. Quartz glass does not meet this requirement.
- (10) Under no circumstances shall the full illumination of the lot be permitted after 11:00 p.m. Any lighting used after 11:00 p.m. shall be used as security lighting.
- (11) All architectural lighting shall be of 150 watts or less (incandescent) or 70 watts or less (other types) and be extinguished no later than 11:00 p.m. Lights shall have at least 90% of their light falling on the illuminated structure.
- (12) No new mercury vapor outdoor lighting fixtures shall be installed.

L. Landscaping standards.

- (1) The minimum number of trees on a site shall be calculated based on both the principal street frontage and total lot area.
  - (a) One tree is required for each 20 linear feet of street frontage. Street frontage is measured along the property line and includes driveways and all other paved areas.
  - (b) One tree is required for every 8,712 square feet of total lot area (five per acre).
  - (c) Example: five-acre site that is 350 feet wide: 350 divided by 20 equals 17.5 or 18 trees; five times five equals 25 trees. A total of 43 trees is the minimum number of trees required on the site.
- (2) Landscaping plans are subject to Plan Commission review and approval. The Plan Commission may request additional trees to meet the purpose and intent of the Knellsville Overlay Development Standards District.
- (3) Future development abutting an existing residential area shall provide a planting screen in accordance with § 340-59B of this chapter.
- (4) All landscaping shall be completed within nine months following issuance of an occupancy permit.
- (5) Landscaped areas and/or open space, including existing site natural areas, shall account for at least 30% of the total lot area. Site area used for stormwater management/water quality shall not count towards this requirement. Site area used for stormwater infiltration (i.e., rain gardens) may count towards this requirement.
- (6) All proposed plants shall be native or introduced species that are adaptable to the local environment.

- (7) All proposed plants shall meet the standards of the American Standard for Nursery Stock, ANSI Z60.1-2004, by the American Nursery and Landscape Association.
- (8) Selected plantings shall provide multiseasonal interest, and ornamental plant features shall be selected to compliment building colors and other site features.
- (9) All plantings must be maintained. If at any time required plantings shall die or be damaged or destroyed, such plantings must be replaced in the original location.
- (10) New trees shall be:
  - (a) Deciduous shade trees (i.e., maple, ash, oak, etc.) shall be a minimum of 2 1/2 inches in caliper at the time of planting.
  - (b) Ornamental trees (i.e., flowering crab, serviceberry, magnolia, etc.) shall be a minimum of 1 1/2 inches in caliper (single stem) or six feet in height (multistem clump) at the time of planting.
  - (c) Coniferous trees (i.e., spruce, pine, fir, etc.) shall be a minimum of six feet in height at the time of planting.
  - (d) The term "caliper" shall mean the measurement of a tree trunk's diameter in inches at a height six inches above the ground for trees up to and including four inches in caliper and at a height 12 inches above the ground for trees exceeding four inches in caliper.
  - (e) All trees shall be hardy, urban tolerant, and disease resistant.
  - (f) Species mix. To prevent the spread of insects and disease amongst the trees on a development site and to trees on adjacent development sites and to provide a mix of trees appropriate for each site, species diversity is required in the tree planting schedule. Extensive species monocultures are prohibited. All development must meet the following minimum tree species diversity requirements:

#### **Tree Planting Schedule**

<b>Number of Proposed Trees on Site</b>	<b>Maximum Percentage of Any One Species</b>
10 to 20	50%
21 to 40	40%
41 to 60	30%
61+	20%

- (11) New shrubs.

- (a) All shrubs shall be a minimum of 24 inches in height or 18 to 24 inches in diameter at the time of planting.
- (b) A minimum of 25% of all proposed shrubs shall be evergreen.

- (c) All shrubs used for screening purposes shall be a minimum of 36 inches in height at the time of planting.
- (d) Shrubs shall not constitute a tree for the purpose of the minimum number of trees. Shrubs are used for screening and foundation plantings and are necessary for review.
- (12) Efforts to protect and retain existing trees shall be noted on the landscape plan.
- (13) All deciduous trees of four-inch caliper or larger to be removed and all existing coniferous trees six feet or greater in height to be removed shall be noted as to species and location on the landscape plan.
- (14) All mechanical equipment and dumpsters shall be screened from view to the maximum extent possible.
- (15) Landscaping shall not obstruct Fire Department view of external fire alarms or access to the building and shall not obstruct vision triangles for both external or internal traffic flow.
- (16) Plant species that are prohibited include:

Trees	Box elder ( <i>Acer negundo</i> ) Silver maple ( <i>Acer saccharinum</i> ) Russian olive ( <i>Elaeagnus angustifolia</i> ) Ginkgo, female ( <i>Ginkgo biloba</i> ) Cottonwood ( <i>Populus deltoides</i> ) Common buckthorn ( <i>Rhamnus cathartica</i> ) Glossy/columnar buckthorn ( <i>Rhamnus frangula</i> ) Black locust ( <i>Robinia pseudoacacia</i> ) Willow, all species ( <i>Salix</i> ) Siberian elm ( <i>Ulmus pumila</i> )
Shrubs	Japanese barberry ( <i>Berberis thunbergii</i> ) European barberry ( <i>Berberis vulgaris</i> ) Burning bush ( <i>Euonymous alatus</i> ) Common privet ( <i>Ligustrum vulgare</i> ) Belle honeysuckle ( <i>Lonicera x bella</i> ) Morrow honeysuckle ( <i>Lonicera morrowii</i> ) Tartarian honeysuckle ( <i>Lonicera tatarica</i> ) Multiflora rose ( <i>Rosa multiflora</i> ) European cranberry bush ( <i>Viburnum opulus</i> )

Forbs	Goutweed ( <i>Aegopodium podagraria</i> ) Crown vetch ( <i>Coronilla varia</i> ) Cut-leaved teasel ( <i>Dipsacus laciniatus</i> ) Common teasel ( <i>Dipsacus sylvestris</i> ) Dame's rocket ( <i>Hesperis matronalis</i> ) Moneywort ( <i>Lysimachia nummularia</i> ) Purple loosestrife ( <i>Lythrum salicaria</i> ) Japanese knotweed ( <i>Polygonum cuspidatum</i> ) Garden heliotrope ( <i>Valeriana officinalis</i> )
Vines	Round-leaved bittersweet ( <i>Celastrus orbiculatus</i> ) Wintercreeper ( <i>Euonymous fortunei</i> ) Japanese honeysuckle ( <i>Lonicera japonica</i> )

(17) Prior to issuance of any building permit for the subject property, a letter of credit shall be submitted to the Town in a form acceptable to the Town Attorney. The letter of credit shall be in the amount of the estimated cost of landscape materials and installation, plus an additional 10% for Town administrative costs (refundable if landscaping is completed by the applicant), with said estimated cost verified by a representative of the Town. If landscaping is installed in phases, the Town may reduce the letter of credit to an amount of the remaining estimated cost. However, the Town shall retain 25% of the original letter of credit amount for one full year from the date of full landscape plan installation. Should landscaping not be completed within nine months of occupancy, or if landscape materials that do not survive one full growing season are not replaced, the Town shall draw upon the letter of credit as funds to complete or replace landscaping.

#### M. Signage standards.

(1) The intent of the signage standards is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained, and express the identity of individual proprietors, within the Town of Port Washington and Knellsville. The signage standards are also to promote the public safety, area development, preservation of property values and the general welfare of Knellsville. The Town Board recognizes that the visual environment has an effect on the welfare of the residents of the Town and that careful control of signage can preserve and enhance the community. Examples of signage requirements are illustrated in Exhibit B.<sup>7</sup>

(2) General sign requirements

- (a) Sign requirements set forth in Article VI of this chapter shall apply. Where a conflict exists, the more restrictive standards shall apply.
- (b) No sign shall contain, include or be illuminated by a flashing, blinking, or rotating light.
- (c) No sign shall contain moving letters or parts.

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7. Editor's Note: Exhibit B is included at the end of this chapter.

- (d) Color samples of the materials to be used for the sign and structure shall be presented to the Plan Commission.
- (e) Signs lawfully existing at the time of the adoption of this section may be continued though the size or location does not conform to this section. At such time as the existing sign is modified, regulations set forth by this section become effective and the sign must be brought into conformity.
- (f) No sign except those permitted in §§ 340-64 and 340-67 shall be permitted to face an existing residential use within 100 feet of such use.
- (g) A multiple-building or multi-tenant development must submit a master sign plan that includes colors, styles, and location of all signs to be approved by the Town of Port Washington Plan Commission. Following approval of the master sign plan, all future signage must be in conformity with the approved plan unless the plan is amended through the process by which it was first adopted.

(3) Permitted sign types in general. The following types of signs are permitted in the Knellsville Overlay Development Standards District as specified under Subsection M(4) of this section.

- (a) Directional/wayfinding signs, which are signs that designate entrances, exits, parking areas, and similar functions without advertisements. Such signs shall be no more than six square feet in area, nor more than four feet in height, and shall not contain logos or advertising copy.
- (b) Projecting signs, which are any signs other than a wall sign affixed to any building or wall, whose leading edge extends more than 12 inches beyond such building or wall. Projecting signs shall be allowed in the Town Square District, shall not exceed six square feet, and shall not be internally lit. Projecting signs are intended to be utilized under awnings or other partially enclosed walkways. No parts of the projecting sign shall be less than 7.5 feet from the walking surface.
- (c) Monument signs, which are ground signs independent from any building that have a masonry base that is at least as wide as the widest part of the sign face or structure and do not exceed 10 feet in height above the mean building grade. Monument signs shall not exceed 100 square feet of sign area.
- (d) Structure signs, which are ground signs independent from any building that have a masonry base that is at least as wide as the widest part of the sign face or structure and are taller than 10 feet in height but not greater than 30 feet in height above the mean building grade. Structure signs shall not exceed 100 square feet of sign area
- (e) Wall signs, which are signs painted or attached parallel to the exterior walls of buildings that do not extend more than 12 inches outside of a building's wall surface and do not exceed the height of the building where they are affixed. Wall signs facing a street shall not exceed in square footage the

linear width of the facade facing the street. Wall signs that do not face a street shall not exceed, in square footage, 25% of the linear width of the corresponding side of the building.

- (f) Window signs, which are signs placed inside of the premises, or upon an interior or exterior window surface to be seen from the exterior of the building. Window signs are permitted for all uses and shall not exceed 25% of the glass area.
- (4) Permitted sign types specifically. The following regulations establish the permitted sign types and locations specifically. Signs are only permitted as set forth in this subsection. Sign area is determined by §§ 340-65, 340-66, and 340-67 of this chapter, as applicable, and by Subsection M(3) with regard to height.
  - (a) Retail establishments with frontage on Interstate 43 are permitted a structure sign on the interstate side of the property. A second monument sign at an entrance and a wall sign identifying the business to the passerby on the local roads are also permitted. Multi-tenant buildings with frontage on Interstate 43 shall identify the name of the entire development on a structure sign with visibility from the interstate. A single monument sign indicating the name of the entire development is also allowed at each entrance to the development. Wall signs for multi-tenant buildings along Interstate 43 are allowed on the facade that the individual tenant occupies, subject to size limitations for signs on the sides of buildings as set forth under § 340-65A of this chapter.
  - (b) Single tenant retail or office establishments on parcels less than three acres in size within Knellsville are permitted a monument sign that identifies the establishment and a single wall sign on each street side of the building.
  - (c) Multi-tenant retail establishments on less than three acres are allowed a single monument sign that identifies the entire development. Individual tenant signage is limited to the allowable square footage per tenant based on the tenant's facade width. Signage allowable for an individual tenant may be divided between a single wall sign and a single projecting sign on the facade in which the individual tenant is located. Where shared parking is utilized, directional signage to assist visitors is also permitted, subject to limitations set forth under Subsection M(3)(a) of this section.
  - (d) Multi-tenant office establishments on less than three acres are allowed a single monument sign that identifies the entire development, including an individual tenant sign that shall not exceed 1.5 square feet in total area per tenant to be on the monument sign. Where shared parking is utilized, directional signage to assist visitors is also permitted, subject to limitations set forth under Subsection M(3)(a) of this section.
  - (e) Single-tenant retail or office establishments on parcels three acres or more in size in the Knellsville Overlay Development Standards District are permitted a structure sign identifying the establishment, a single wall sign on each side facing a public street, and directional signage to assist visitors subject to limitations set forth under Subsection M(3)(a) of this section.

- (f) Multi-tenant retail developments encompassing three acres or more are permitted a structure sign that identifies the entire development. Individual tenant signage is limited to the allowable square footage per tenant based on the tenant's facade width. Signage allowable for an individual tenant may be divided between a single wall sign and a single projecting sign on the facade in which the individual tenant is located. Where shared parking is utilized, directional signage to assist visitors is also permitted, subject to limitations set forth under Subsection M(3)(a) of this section.
- (g) Single-tenant retail establishments on a separate lot, but part of the larger development, are permitted a single monument sign and a wall sign identifying the individual establishment subject to limitations set forth under Subsection M(3)(a) of this section.
- (h) Retail establishments within a multi-tenant office complex are permitted a single wall sign that identifies the retail establishment without detracting from the office uses that are also located in the complex, subject to wall sign size limitations elsewhere specified. Total allowable wall signage shall be shared between office and retail tenants. Additional signage is not permitted.
- (i) Light industrial tenants are permitted a single monument sign and a single wall sign on each side of a street facing a public street.

(5) The following types of signs are not allowed in the Knellsville Overlay Development Standards District:

- (a) Pole sign, which is a freestanding sign, usually double-faced, mounted on a round pole, square tube or other fabricated member without any type of secondary support or masonry base.
- (b) Roof sign, which is a sign structure that is erected on or above the roof or that is installed directly on the roof's surface.
- (c) Other sign types not listed in this chapter.

(6) Determining sign area.

- (a) In calculating the area of a sign to determine whether it meets the requirement of this chapter, the sign copy and any border or frame surrounding that copy is measured, but not the sign structure or supports. Signs shall be measured by the outside perimeter of the sign face.
- (b) Area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.
- (c) For two-sided signs, where the angle separating the two sides is less than 90°, the area of the sign face shall only be counted once.
- (d) No sign shall have more than three sides.

- (7) Sign lighting and visibility. Any illumination shall be installed so as to avoid glare or reflection into adjacent property or onto a street or alley in such a way that it may create a traffic hazard or nuisance as determined by the Building Inspector and/or Police Department. Signs shall be installed with devices to dim the lights to an acceptable level as determined by the Building Inspector between 10:00 p.m. and 6:00 a.m.
- (8) Sign location.
  - (a) All monument, structure, and directional signs must be set back from the property line by a minimum of 10 feet. Signs shall not be constructed within the approved vision triangle.
  - (b) Off-premises signs are prohibited.

N. Stormwater management and water quality standards.

- (1) Future development shall meet the standards set forth by the Town, county, and the State of Wisconsin Department of Natural Resources.
- (2) Stormwater management practices shall be designed in such a way that coordination between developments is possible to give the impression of a unified development.

O. Shoreland/wetland standards. Future development located within the Ozaukee County shoreland/wetland jurisdiction shall meet all standards set forth by Ozaukee County.

P. Interpretations. Where interpretations of the standards within this section are necessary to adequately administer these standards to all types of applications, the standards shall be interpreted to the benefit of the Town of Port Washington.

## ARTICLE IV Conditional Uses

**§ 340-34. Permit required.**

Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Plan Commission. Conditional use permits shall be done in conformance with this Article IV.

- A. Conditional uses are uses of a special nature as to make impractical their predetermination as a principal use in a district.
- B. Conditional uses are limited to those as defined in Articles III and IV of this chapter.<sup>6</sup>

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6. Editor's Note: Former Subsection C, regarding provisions for certain developments deemed to be a conditional use, which immediately followed this subsection, was repealed 11-13-2013 by Ord. No. 2013-04.

**§ 340-35. Application for permit.**

Applications for conditional use permits shall be made in duplicate to the Town Clerk on forms furnished by the Town and shall include the following:

- A. Names and addresses of the applicant(s), owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
- B. Description of the subject site by lot, block, and record subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- C. A plat of survey prepared by a registered land surveyor or a location sketch drawn to a scale of no less than one inch equals 40 feet. This drawing has to show the location, boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; and existing and proposed street, side and rear yard. In addition, the Building Inspector or the Plan Commission may require that the plat of survey show the location, elevation and use of any abutting lands and their structures within 150 feet of the subject premises. This sketch may also have to show the mean and historic high-water lines on or within 40 feet of the subject premises; the type, slope, degree of erosion and boundaries of soil as shown on the operational soil survey maps prepared by the United States Soil Conservation Service; wetlands; county zoning districts; and existing or proposed landscaping. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**
- D. The Town Plan Commission or the Town Building Inspector may require additional information.

**§ 340-36. Review and approval. **[Amended 6-4-2007 by Ord. No. 2007-1-B]****

The Town Plan Commission reviewing a proposed conditional use under this article shall give consideration to the character and suitability of the use for the proposed location. If these conditions are not hazardous, harmful, offensive, or otherwise adverse to the environment or property values within the Town of Port Washington, a conditional use permit may be granted.

- A. A notification of each conditional use permit granted in the A-1 Agricultural District shall be transmitted to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
- B. Upon approval of a conditional use request, the Town will issue within 20 days a conditional use permit.
- C. The Town Building Inspector shall cause the recording of all conditional use permits with the Town Clerk.
- D. Appeal. See Article XV.

E. Compliance review. All conditional use permits shall be reviewed every two years at a time determined by the Town in order to ensure compliance with the terms and conditions in the permit, unless an alternative review frequency is stated within the permit. **[Added 5-11-2011 by Ord. No. 2011-03]**

**§ 340-37. Public and semipublic uses.**

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

- A. Airports, airstrips, and landing fields in the M-1 Industrial District and A-1 Exclusive Agricultural District, provided that the site is not less than 20 acres in area. Airstrips and landing fields shall be governmentally owned and operated or used for farm-related operations.
- B. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums in any district.
- C. Utilities in all districts provided that all principal structures and uses are not less than 50 feet from any residential district lot line.
- D. Public passenger transportation terminals such as heliports and bus and rail depots, but excluding airports, airstrips, and landing fields, in the B-1 Business District and in the M-1 Industrial District provided that all principal structures and uses are not less than 100 feet from any residential district boundary.
- E. Public, parochial, and private elementary and secondary schools and churches in the R-2 Residential District and the B-1 Business District provided that all principal structures and uses are not less than 50 feet from any lot line.
- F. Colleges; universities; hospitals; sanitariums; religious, charitable, penal, and correctional institutions; cemeteries; and crematories in the R-2 Residential District and the B-1 Business District provided that all principal structures and uses are not less than 50 feet from any lot line.
- G. A berm with any portion thereof five feet and above located between the minimum required building setback and the property line or that obstructs natural flow of drainage. A berm located within the Shoreland Protection Jurisdiction of Ozaukee County may be regulated by additional standards and permits by Ozaukee County. **[Added 12-7-2009 by Ord. No. 2009-07]**

**§ 340-38. Agricultural uses.**

The following agricultural and agricultural-related uses shall be conditional uses and may be permitted as specified:

- A. Housing for farm laborers and for seasonal and migratory farm workers in the A-1 and A-2 Agricultural Districts.

B. An additional single-family or two-family residential dwellings for a child, sibling, or parent of the principal farm resident in the A-1 Agricultural District. The need for more than one single-family dwelling to support and carry on the permitted principal use or conditional use must be established to the satisfaction of the Town Plan Commission before the issuance of a conditional use permit. If approved, the second farm dwelling shall be placed on a parcel separated from the principal farm parcel and shall meet the following standards:

(1) Lot.

(a) Minimum width: 120 feet.

(b) Minimum area: one acre.

(2) Structure.

(a) Maximum height: 35 feet.

(b) Minimum area:

[1] Single-family: 1,200 square feet.

[2] Two-family: 1,000 square feet per dwelling unit.

(3) Yards.

(a) Minimum street distance: 50 feet.

(b) Minimum side yard distance: 25 feet.

(c) Minimum rear yard distance: 40 feet.

C. Commercial raising, propagation, boarding, or butchering of animals, such as mink; rabbits, foxes, goats, and pigs, and the hatching, raising, fattening, or butchering of the same in the A-1 and A-2 Agricultural Districts.

D. Veterinary services intended to service farm animals in the A-1 and A-2 Agricultural Districts provided that all principal uses and structures are located not less than 200 feet from a residential district.

E. Creameries and condenseries; agricultural warehousing; contract sorting, grading, and packaging of fruits and vegetables; corn shelling, hay baling, and threshing services; grist mill services; horticultural services; and poultry hatching services in the A-1 Agricultural District and the M-1 Industrial District.

F. Boat and recreation vehicle storage in the A-1 and A-2 Agricultural Districts when the storage is in a completely enclosed structure which is at least 10 years old.

G. Commercial agricultural uses in the A-1 Agricultural District:

(1) Commercial hatcheries.

(2) Commercial greenhouses.

- (3) Animal kennels.
- (4) Parks, forest preserves, and recreational areas.
- (5) Horse riding academies and boarding stables.
- (6) Private utilities.
- (7) Raising of fur-bearing animals.
- (8) Stock raising
- (9) Commercial dairy.

H. Farm residences with or without other farm structures that existed prior to the adoption of the Town's Exclusive Agricultural Zoning District, October 7, 1996, may be separated from a larger farm parcel. **[Amended 7-6-1999 by Ord. No. 99-5; 12-7-2009 by Ord. No. 2009-07; 9-4-2012 by Ord. No. 2012-04]**

- (1) The separated farm residence or structure shall be placed on a parcel that meets the following standards:
  - (a) Lot.
    - [1] Minimum width: 120 feet.
    - [2] Area: a minimum of 1 1/2 acres.
  - (b) Yards.
    - [1] Minimum street yard distance: 50 feet.
    - [2] Minimum side yard distance: 25 feet.
    - [3] Minimum rear yard distance: 40 feet.
    - [4] Minimum yard distances may be waived for existing structures if it is not feasible to meet the minimum yard distance, provided that a set of deed restrictions as recorded on the certified survey map (CSM) will be attached to the parcel to prohibit the expansion of the existing structures unless the structures are made to comply with the minimum yard distances.
- (2) The landowner and the prospective buyers of farmland or separated farm residences or structures must appear in person before the Plan Commission. The prospective buyers must provide a written statement regarding their intentions for the use of the land.
- (3) If the separated farm parcel is not combined with another legal parcel, a set of deed restrictions as recorded on the certified survey map (CSM) will be attached to the parcel to accomplish the following:

- (a) Prohibit further land division for a period of five years.
- (b) Prohibit the creation of any accessory uses for a period of eight years.

I. Nonfarm accessory structures over 1,200 square feet in size. **[Added 8-4-2008 by Ord. No. 2008-01; amended 11-9-2020 by Ord. No. 2020-04]**

J. A berm with any portion thereof five feet and above located between the minimum required building setback and the property line or that obstructs natural flow of drainage. A berm located within the Shoreland Protection Jurisdiction of Ozaukee County may be regulated by additional standards and permits by Ozaukee County. **[Added 12-7-2009 by Ord. No. 2009-07]**

K. Home industries. Home industries are intended to allow small homeowner-operated businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area with the following standards: **[Added 5-11-2011 by Ord. No. 2011-03]**

- (1) The minimum lot area shall be at least one acre.
- (2) The access to the property shall be located along a county trunk highway, state trunk highway or one of the following Town roads: Dixie Road, Green Bay Road, Hawthorne Drive, Highland Drive, Hillcrest Drive, Lake Drive, Mink Ranch Road, Northwoods Road, Sauk Road, Sunset Road, Willow Lane, Willow Road, Woodland Road.
- (3) The home industry shall not normally generate customer or client traffic to the premises or, at any time, generate an amount of customer or client traffic that is inconsistent with the character of the existing neighborhood.
- (4) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjacent residential uses.
- (5) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other environmental factor not normally associated with the residential use of property in the district.
- (6) A plan of operation shall be submitted and approved by the Plan Commission that must identify and describe the following (If a listed item is not applicable, please state as such.):
  - (a) Type of home industry.
  - (b) Operational control - number of employees/relation to homeowner.
  - (c) Hours of operation.
  - (d) Location (in home, in accessory building, and/or outside).
  - (e) Construction commencement and completion dates.
  - (f) Architectural design.
  - (g) Type of construction.

- (h) Landscaping.
- (i) Planting screens.
- (j) Lighting.
- (k) Fencing.
- (l) Signage.
- (m) Parking requirements.
- (n) Exterior storage of business equipment, vehicles, materials, merchandise, inventory or heavy equipment.
- (o) Inventory of equipment and vehicles to be used on site.
- (p) Inventory of all materials to be stored on site.
- (q) Hours of deliveries and refuse collection.
- (r) Traffic circulation.
- (s) Highway access restrictions.
- (t) Increased yards.

(7) A site plan shall be submitted and approved by the Plan Commission that shall identify both existing and proposed buildings/structures in addition to features identified in Subsection K(6)(e) through (t) above.

(8) Any modification, alteration or expansion of a conditional use in violation of the approved conditional use permit or plan of operation, without approval by the Plan Commission, shall be grounds for termination of the conditional use permit. In the event of termination, a new permit must be obtained, and all procedures in place at the time must be followed to use the property for a home industry.

L. Event venues. For purposes of this subsection an event venue is defined as a place for the gathering of individuals for social, celebratory, or entertainment purposes at an agricultural venue in an agricultural zoning district. The event venue shall be compatible with the agricultural setting of the district and may include uses such as weddings, receptions, corporate events, or other similar uses as approved by the Town Plan Commission. The intent of this subsection is to foster entrepreneurial opportunities in the Town that promote the use and preservation of farms and farmland while maintaining and safeguarding the zoning districts' rural, agrarian landscape. An event venue is subject to the following: **[Added 12-7-2020 by Ord. No. 2020-05]**

- (1) The parcel must meet the following standards:
  - (a) Area: a minimum of 20 acres.
  - (b) Yards.
    - [1] Minimum street yard distance: 50 feet.
    - [2] Minimum side yard distance: 25 feet.

- [3] Minimum rear yard distance: 40 feet.
- [4] No building, structure and/or use shall be closer than 100 feet to the lot line of an adjoining lot in a district permitting a residential use.
- (2) Expansion of existing structures or construction of new accessory structures for use as an event venue may be permitted. The primary structure must have been in existence prior to the adoption of the Town's Exclusive Agricultural Zoning District, October 7, 1996.

**§ 340-39. Residential uses.**

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified in R-1 and R-2 Zoning Districts.

- A. Rest homes, nursing homes, housing for the elderly, clinics and children's nurseries in any residential district provided that all principal structures and uses are not less than 50 feet from any lot line. **[Amended 12-7-2009 by Ord. No. 2009-07]**
- B. Horse and accessory private stables in the R-1 and R-2 Residential Districts provided that the lot is a minimum of five acres in area and provided also that any stable or shelter is located at least 100 feet from any existing adjoining residences. The Plan Commission may permit a maximum of three large domesticated animals on a five-acre parcel and one additional domesticated animal for each additional two acres of lot area.
- C. Boathouses for storage of boats and related recreational equipment in the R-1 Residential District provided that:
  - (1) Equipment stored is for use by the resident occupants.
  - (2) Boathouses shall not extend beyond the average high-water mark.
  - (3) Boathouses shall not exceed 576 square feet in area or 12 feet in height.
  - (4) Boathouses shall not be located closer than 10 feet to any side lot line.
- D. Two-family residences, two units per building, at densities not to exceed 0.67 dwelling unit per net acre, provided that the lot is a minimum of 1.5 acres.
- E. Accessory structures over 1,200 square feet in size. **[Added 8-4-2008 by Ord. No. 2008-01; amended 11-9-2020 by Ord. No. 2020-04]**
- F. A berm with any portion thereof five feet and above located between the minimum required building setback and the property line or that obstructs natural flow of drainage. A berm located within the Shoreland Protection Jurisdiction of Ozaukee County may be regulated by additional standards and permits by Ozaukee County. **[Added 12-7-2009 by Ord. No. 2009-07]**
- G. Home industries. Home industries are intended to allow small homeowner-operated businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area with the following standards: **[Added 5-11-2011 by Ord. No. 2011-03]**

- (1) The minimum lot area shall be at least one acre.
- (2) The access to the property shall be located along a county trunk highway, state trunk highway or one of the following Town roads: Dixie Road, Green Bay Road, Hawthorne Drive, Highland Drive, Hillcrest Drive, Lake Drive, Mink Ranch Road, Northwoods Road, Sauk Road, Sunset Road, Willow Lane, Willow Road, Woodland Road.
- (3) The home industry shall not normally generate customer or client traffic to the premises or, at any time, generate an amount of customer or client traffic that is inconsistent with the character of the existing neighborhood.
- (4) Any off-street parking area shall be maintained reasonably dustless and adequately screened from adjacent residential uses.
- (5) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other environmental factor not normally associated with the residential use of property in the district.
- (6) A plan of operation shall be submitted and approved by the Plan Commission that must identify and describe the following (If a listed item is not applicable, please state as such.):
  - (a) Type of home industry.
  - (b) Operational control - number of employees/relation to homeowner.
  - (c) Hours of operation.
  - (d) Location (in home, in accessory building, and/or outside).
  - (e) Construction commencement and completion dates.
  - (f) Architectural design.
  - (g) Type of construction.
  - (h) Landscaping.
  - (i) Planting screens.
  - (j) Lighting.
  - (k) Fencing.
  - (l) Signage.
  - (m) Parking requirements.
  - (n) Exterior storage of business equipment, vehicles, materials, merchandise, inventory or heavy equipment.
  - (o) Inventory of equipment and vehicles to be used on site.
  - (p) Inventory of all materials to be stored on site.

- (q) Hours of deliveries and refuse collection.
- (r) Traffic circulation.
- (s) Highway access restrictions.
- (t) Increased yards.

(7) A site plan shall be submitted and approved by the Plan Commission that shall identify both existing and proposed buildings/structures in addition to features identified in Subsection G(6)(e) through (t) above.

(8) Any modification, alteration or expansion of a conditional use in violation of the approved conditional use permit or plan of operation, without approval by the Plan Commission, shall be grounds for termination of the conditional use permit. In the event of termination, a new permit must be obtained, and all procedures in place at the time must be followed to use the property for a home industry.



**§ 340-40. Business uses. [Amended 6-4-2007 by Ord. No. 2007-1-B]**

- A. The following business uses shall be conditional uses and may be permitted in the business districts:
  - (1) Drive-in establishments serving food or beverages for consumption outside the structure.
  - (2) Motels.
  - (3) Funeral homes provided that all principal structures and uses are not less than 50 feet from any lot line.
  - (4) Drive-in banks.
  - (5) Gasoline service stations and car wash facility(s) provided that all gas pumps are not closer than 30 feet to a street right-of-way line or other property line.
  - (6) Vehicle sales and service(s).
  - (7) Animal hospitals provided that all boarding or housing of injured animals is in a fully enclosed structure.
  - (8) Accessory structures over 800 square feet in size. **[Added 8-4-2008 by Ord. No. 2008-01]**
- B. Other conditional uses in the B-1 Business District.
  - (1) Cemeteries.
  - (2) Crematory service.
  - (3) Gift stores.
  - (4) Florists (not including greenhouses).
  - (5) Utilities provided that all principal structures and uses are not less than 50 feet from any residential district lot line.
  - (6) Transmitting towers, receiving towers, and relay and microwave towers without broadcast facilities or studios.
- C. Other conditional uses in the BP-1 Business Park District. Processing, manufacturing and/or storage, and uses such as the following, provided that the Plan Commission, in approving or disapproving proposed locations for uses under this subsection shall give due consideration to the character and suitability for development of the area in which any such use is proposed to be located and shall also base its decision on such evidence as may be presented to the Plan Commission in respect to the attributes of the proposed use, such as increased traffic on the public streets, heavy vehicular traffic, municipal water availability, sewage disposal systems, soil limitations, and the emission of noise, smoke, dust or dirt, odorous or noxious gases and the like which would be detrimental to such character and such suitability for development:

Apparel and findings-related products  
Athletic clubs  
Automatic temperature controls  
Baked goods and bakery products  
Barbershops and beauty salons that are physically and service oriented to business park users and employees  
Blank books loose-leaf binders and devices  
Books: publishing, printing, and binding  
Boot and shoe cut stock and findings  
Brooms and brushes

Canvas products  
Child day-care facilities  
Costume jewelry, costume novelties, buttons, and miscellaneous notions  
Curtains and draperies  
Dental equipment and supplies  
Dress and work gloves  
Drive-in or drive-through banks, savings and loan, or other financial institutions that are physically and service oriented to business park users and employees  
Electrotyping and stereotyping  
Engineering, laboratory, scientific, and research instruments and associated equipment  
Envelopes  
Fabrics, broad and narrow woven  
Felt goods  
Flavor extracts and flavor syrups  
Floor coverings limited to rugs and carpeting  
Florists (not including greenhouses)  
Footwear  
Fresh or frozen fruits, fruit juices, vegetables, and specialties  
Gift shops that are physically and sales-wise oriented to business park users and employees  
Greeting cards  
Gymnasiums  
Handbags and other personal leather goods  
Hats, caps, and millinery  
Health resorts  
Household furniture and furnishings  
Ice  
Ice cream and frozen desserts  
Jewelers findings and materials  
Jewelry and other precious metals  
Knit goods  
Lace goods  
Lamp shades  
Luggage  
Manifold business forms  
Mechanical measuring and controlling instruments  
Medical supply sales  
Mens', youth, and boys' furnishings, work clothing, and allied garments  
Morticians' goods

Musical instruments and parts  
Newspapers: publishing and printing  
Office furnishings  
Ophthalmic goods  
Optical instruments and lenses  
Orthopedic, prosthetic, and surgical appliances and supplies  
Paper coating and glazing  
Partitions, shelving, lockers, and office and store fixtures  
Pens, pencils, and other office and artist materials  
Periodicals: publishing and printing  
Pharmacies that are physically and sales-wise oriented to business park users and employees  
Photoengraving instruments and apparatus  
Photographic equipment and supplies  
Pleating, decorative, and novelty stitching and tucking for the trade  
Pressed and molded pulp goods  
Printing, commercial  
Raincoats and other waterproof outer garments  
Restaurants (not including drive-in or drive-through facilities) that are physically and sales-wise oriented to business park users and employees  
Rice milling  
Robes and dressing gowns  
Sanitary paper products  
Sanitary products  
Silverware and plated ware  
Surgical and medical instruments and apparatus  
Textiles, dyeing and finishing  
Tire cord and fabric  
Toys, amusement, sporting and athletic goods  
Typesetting  
Umbrellas, parasols and canes  
Utilities  
Venetian blinds and shades  
Wallpaper  
Warehousing  
Watches, clocks, clockwork-operated devices and parts  
Women's, misses, juniors', girls' and infants' furnishing, work and dress garments  
Wooling, scouring, worsted combing, and towing to top threads  
Yarns

D. A berm with any portion thereof five feet and above located between the minimum required building setback and the property line or that obstructs natural flow of drainage. A berm located within the Shoreland Protection Jurisdiction of Ozaukee County may be regulated by additional standards and permits by Ozaukee County. **[Added 12-7-2009 by Ord. No. 2009-07]**

**§ 340-41. Industrial uses.**

The following industrial uses shall be conditional uses and may be permitted in the M-1 Industrial District:

- A. Recycling stations and sewage disposal plants.
- B. Transportation terminals, truck terminals, and freight forwarding services.
- C. General warehousing and indoor storage.
- D. Lumberyards and building supply yards.
- E. Receiving or transmitting antennas.
- F. Retail and services, as defined in § 340-23.
- G. Accessory structures over 800 square feet in size. **[Added 8-4-2008 by Ord. No. 2008-01]**
- H. A berm with any portion thereof five feet and above located between the minimum required building setback and the property line or that obstructs natural flow of drainage. A berm located within the Shoreland Protection Jurisdiction of Ozaukee County may be regulated by additional standards and permits by Ozaukee County. **[Added 12-7-2009 by Ord. No. 2009-07]**

**§ 340-42. Mineral extraction.**

Mineral extraction operations, including washing, crushing, or other processing of natural resources indigenous to Ozaukee County, are conditional uses and may be permitted in the M-I Industrial District subject to the following:

- A. The application for the conditional use permit shall include an adequate description of the operation (operations plan). This list shall include the equipment, machinery, and structures to be used and topographic map of the site showing existing contours with minimum vertical contour interval of five feet, trees, proposed and existing, proposed excavations, and a restoration plan.
- B. The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, and restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Town's inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates

prepared by the Town Engineer, and the Town Attorney shall approve the form and type of such sureties.

- C. The conditional use permit shall be in effect for a period not to exceed two years and may be renewed upon application for a period not to exceed two years. Modifications or additional conditions may be imposed upon application for renewal.
- D. The Town Plan Commission shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality and shall also consider the practicality of the proposed restoration of the site.
- E. Lot and side yard.
  - (1) Lot shall be a minimum of 50 acres.
  - (2) The minimum street yard (setback) shall be 150 feet from an existing or planned public street right-of-way.
  - (3) There shall be side yards and rear yards of not less than 150 feet on a side. The side yard and rear yard shall be planted with a double row of trees at not less than 40 feet on-center. The side yard and rear yard shall have a planted berm not less than 15 feet high.
- F. Public safety.
  - (1) Noise. The maximum level of noise permitted to be generated by a mineral extraction operation shall be 85 decibels, as measured on the dB(A) scale, measured at the lot line.
  - (2) Fence required. A security fence shall surround all mineral extraction operations not less than eight feet in height.
  - (3) No operation shall reduce the current groundwater level more than five feet.
- G. Building height. No building, parts of a building, or equipment shall exceed 35 feet in height.
- H. Water. The washing of sand and gravel shall be prohibited in any operation where the quantity of water required will seriously affect the supply of other uses in the area, including where the disposal of water will seriously affect the supply of uses in the area or will result in contamination, pollution, or excessive siltation.
- I. A berm with any portion thereof five feet and above located between the minimum required building setback and the property line or that obstructs natural flow of drainage. A berm located within the Shoreland Protection Jurisdiction of Ozaukee County may be regulated by additional standards and permits by Ozaukee County. **[Added 12-7-2009 by Ord. No. 2009-07]**

**§ 340-43. Energy conservation uses.**

The following uses are conditional uses in any district and may be permitted as specified:

- A. Wind energy conversion systems, which are used to produce electrical power, provided that the following standards are complied with:
  - (1) Application. Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system.
  - (2) Construction. Wind energy conversion systems shall be constructed and anchored in such a manner as to withstand wind pressure of not less than 40 pounds per square foot of area.
  - (3) Noise. The maximum level of noise permitted to be generated by a wind energy conversion system shall be 85 decibels, as measured on the (A) scale, measured at the lot line.
  - (4) Electromagnetic interference. Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
  - (5) Location and height. Wind energy conversion systems shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this chapter; however, all such systems over 100 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FM restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
  - (6) Fence required. A security fence shall surround all wind energy conversion systems not less than six feet in height. A sign shall be posted on the fence warning of high voltage.
  - (7) Utility company notification. The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

B. Solar energy conversion systems used to produce electrical power or supplement heating systems, provided that the following standards are complied with:

- (1) Application. Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures. The application shall include calculations showing that the structure is constructed to withstand any additional loading placed upon the structure by the installation of the solar energy conversion system. Copies of any solar access easements or agreements obtained by the applicant shall also be provided to the Town.
- (2) Construction. Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building codes.
- (3) Location and height. Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of this chapter unless otherwise provided in the conditional use permit issued pursuant to this section.

C. A berm with any portion thereof five feet and above located between the minimum required building setback and the property line or that obstructs natural flow of drainage. A berm located within the Shoreland Protection Jurisdiction of Ozaukee County may be regulated by additional standards and permits by Ozaukee County. **[Added 12-7-2009 by Ord. No. 2009-07]**

## ARTICLE V Development Standards

**§ 340-44. Purpose. [Added 3-6-2006 by Ord. No. 2006-2; amended 11-13-2013 by Ord. No. 2013-03]**

Development standards present minimum standards for the design and construction of development approved by a final plat of subdivision, certified survey map, condominium plat, conditional use or other approval required by this chapter. The development standards may be further supplemented by policies adopted by resolution of the Town Board, after review and recommendation by the Town Plan Commission. The expansion or alteration of existing developed sites or structures shall meet the standards of this Article V to the extent practicable. In approving or disapproving the project elements of a proposed expansion or alteration of an existing developed site or structure, the Plan Commission shall give due consideration to the character of the existing structure and site and the suitability of the proposed building and site design in relationship to the existing structure and other nearby uses.<sup>7</sup>

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7. Editor's Note: Development standards and policies for minimum road design, road construction and for fall/winter/spring construction were adopted 3-6-2006 by Res. No. 2006-1. Said standards and policies are included at the end of this chapter.

**§ 340-45. Street access.**

- A. Collector and minor residential streets may be required to connect with surrounding streets when necessary to permit the convenient movement of traffic between neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons. Connection may be denied where the effect would be to encourage the use of such streets by substantial through traffic.
- B. Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line or the subdivided property at the point where the connection to the anticipated proposed street is expected, unless prevented by topography or other physical conditions, unless it is the opinion of the Town Plan Commission that such an extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of the adjacent tracts. In addition, the Town may require temporary turnarounds to be constructed at the end of such streets pending their extension. Notwithstanding other provisions of this subsection, no temporary or permanent dead-end streets in excess of 1,000 feet may be created unless another practical alternative is not available.
- C. Alleys shall be provided in commercial and industrial districts for off-street loading and service access unless otherwise required by the Town Plan Commission but shall not be approved in residential districts. Dead-end or crooked alleys shall not be approved, and an alley shall not connect to an arterial street.
- D. Cul-de-sac streets designed to have one end permanently closed shall normally not exceed 1,000 feet in length. All cul-de-sac streets designed to have one end permanently closed shall terminate in a circular turnaround having a minimum right-of-way radius of 66 feet and a minimum outside paved radius of 45 feet. Greater dimensions may be required when in the interest of the public the Town deems it necessary. **[Amended 3-2-2020 by Ord. No. 2020-01]**
- E. Reserve strips or "spite strips" shall not be allowed on any plat to control access to streets or alleys from abutting property except where control of such strips is placed with the Town under conditions approved by the Town Plan Commission.
- F. Half streets are streets which are only a portion of the required width and are usually platted along property lines. These half streets shall be prohibited except where it is deemed essential for the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Plan Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract.

**§ 340-46. Street grades.**

- A. Unless necessitated by exceptional topography, subject to the approval of the Plan Commission, the maximum center-line grade of any public way shall not exceed the following:



- (1) Arterial streets: 6%.
- (2) Collector streets: 6%.
- (3) Minor streets, alleys and frontage streets: 8%.
- (4) Any street: the grade of any street shall in no case exceed 8% or be less than 1/2 of 1%.

B. Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and the general leveling of the terrain. Tree removal within the right-of-way shall be as required by the Town Board and may be required by the County Highway Commission along county trunk highways where it is deemed necessary to obtain proper vision or additional pavement width. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for arterial streets and 1/2 this minimum for all other streets.

**§ 340-47. Road alignment.**

- A. When a continuous street center line deflects at any one point by more than 5%, a circular curve shall be introduced having a radius of curvature on such center line of not less than the following:
  - (1) Arterial streets and highways: 500 feet.
  - (2) Collector streets: 300 feet.
  - (3) Minor streets: 100 feet.
- B. A tangent of at least 100 feet in length shall be provided between reverse curves on arterial and collector streets.
- C. A minimum sight distance with clear visibility, measured along the center line, not less than the following shall be provided:
  - (1) Arterial streets and highways: 500 feet.
  - (2) Collector streets: 300 feet.
  - (3) Minor streets: 100 feet.
- D. Streets that are to be public dedications are to meet these minimum right-of-way standards. **[Amended 3-6-2006 by Ord. No. 2006-2]**
  - (1) Arterial streets and highways: 100 feet.
  - (2) Collector streets: 80 feet.
  - (3) Minor/rural streets: 66 feet.

**§ 340-48. Street names.**

New street names may not duplicate the names of existing streets within Town boundaries, but streets that are continuations of existing and named streets shall bear the name of the existing street. Street signs shall be required at all intersections and shall be installed by the subdivider. Street sign location and design shall be determined and approved by the Town Plan Commission.

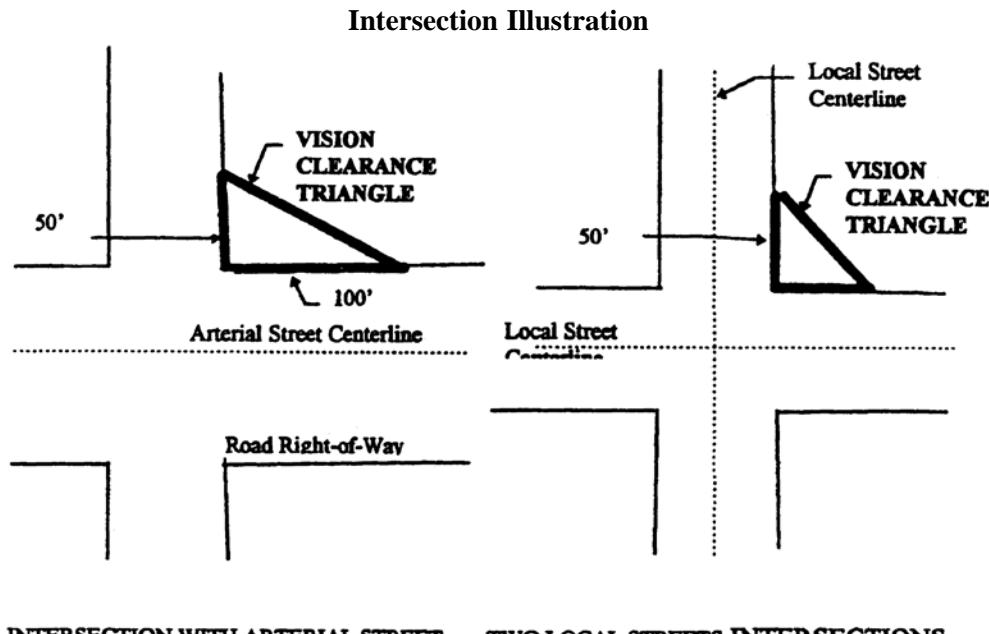
**§ 340-49. Intersection design.**

- A. Streets shall intersect at right angles, and not more than two streets shall intersect at one point.
- B. Intersections shall be approached on all sides by grades not to exceed 4% for a distance of at least 50 feet in length unless exceptional topography would prohibit these grades.
- C. The minimum turning radius at an intersection shall not be less than 40 feet.
- D. If a proposed street is to enter a Town, county or state arterial and it is deemed a hazardous entrance by the governing body having jurisdiction over the road, it will be the responsibility of the subdivider to correct the potential hazard through an agreement with the governing body or else relocate the proposed entrance to a more suitable location approved by the governing body.
- E. The following distances between intersections must be observed:
  - (1) Minor and collector streets shall not empty into state and federal highways at intervals less than 1,300 feet and into an arterial less than 1,000 feet.
  - (2) Minor and collector streets shall be in alignment with existing and planned streets entering the above highways from the opposite side.
- F. If the intersections on minor and collector streets are not in alignment, the distance between streets opening upon opposite sides of any existing or proposed streets must be at least 150 feet measured along the intersecting center line. Where the streets enter on the same side, the intersection distance measured from the center line shall be at least 300 feet.

**§ 340-50. Traffic visibility.**

- A. No obstruction that would create a road hazard or impede road or ditch maintenance shall be permitted on or over any road right-of-way without permission of the Town Board, except for mailboxes.
- B. No obstructions, such as structures, parking, signs, or vegetation, shall be permitted between the heights of 2 1/2 feet and 10 feet above the plane through the mean center-line grade of the road within the triangular space formed by any two existing or proposed intersecting street right-of-way lines and a line joining points on such lines located a minimum of 50 feet from their intersection (see Intersection Illustration). In the case of arterial streets intersecting with other arterial streets, local streets or railways, the

corner cutoff distances establishing the triangular vision clearance space shall be increased to 100 feet along the arterial street (see Intersection Illustration).



- C. Vision triangles providing unobstructed views in both directions perpendicular to the line of sight shall be maintained at all intersections in accordance with this chapter. Where intersections occur at county trunk highways, Ozaukee County vision corner standards apply.<sup>8</sup>
- D. No building or obstruction to view is permitted in the triangular area, and appropriate statements regarding those restrictions shall be provided on the plat or survey document.

**§ 340-51. Loading requirements.**

- A. On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:
  - (1) Retail business: one space of at least 10 feet by 25 feet for each 20,000 square feet of floor area or part thereof.
  - (2) Wholesale and industrial: one space of at least 10 feet by 50 feet for each 10,000 square feet of floor area or part thereof.

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) Bus and truck terminals: sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded or unloaded at the terminal at any one time.
- B. Each loading and unloading space shall have access to a public dedicated street or alley.
- C. At no time shall any part of a truck or van be allowed to extend into the right of-way of a public road or street while the vehicle is being unloaded or loaded.

**§ 340-52. Driveways. [Amended 11-13-2013 by Ord. No. 2013-06]**

All driveways installed, altered, changed, replaced, or extended after the effective date of this section shall meet the following requirements:

- A. Driveways in residential districts shall be a minimum of 12 feet wide.
- B. Shared driveways in residential districts serving more than two residences shall be a minimum of 20 feet wide. A shared driveway agreement addressing repair, maintenance and snowplowing is required for all shared driveways in a form that must be approved by the Town Attorney. The shared driveway agreement shall be recorded with each property's deed in the Ozaukee County Register of Deeds office.
- C. Driveways in agricultural districts shall be a minimum of 20 feet wide.
- D. Driveways intended for public use in all districts, except residential and agricultural districts, shall be a minimum of 24 feet wide for two-directional driveways and 12 feet wide for one-directional entering or exiting driveways.
- E. Islands between driveway openings on the same property shall be a minimum of six feet between all driveways.
- F. There shall be a minimum setback of eight feet from all lot lines for all driveways, except shared driveways.
- G. Openings for vehicular ingress and egress shall not exceed 24 feet at the street line and 30 feet at the roadway.
- H. Vehicular entrances and exits to banks, restaurants, motels, funeral homes, and vehicular sales, service, washing and repair stations or garages shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

**§ 340-53. Parking requirements.**

In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- A. Adequate access to a public street shall be provided for each parking space, and driveways shall be at least 12 feet wide for single- and two-family dwellings, at least 18 feet wide for farmsteads, and a minimum of 24 feet wide for all other uses.
- B. The size of each parking space shall be not less than 180 square feet exclusive of the space required for ingress and egress.
- C. Location is to be on the same lot as the principal use or not over 400 feet from the principal use. No parking stall or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street right-of-way opposite a residential district.



- D. All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked.
- E. Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.
- F. Off-street spaces required:

<b>Use</b>	<b>Minimum Parking Required</b>
Residential	2 spaces for each dwelling unit
Motels and hotels	1 space for each guest room plus 1 space for every 3 employees
Hospitals, clubs, lodges, dormitories and fraternity houses	1 space for every 2 beds plus 1 space for every 3 employees
Sanitariums, institutions and rest and nursing homes	1 space for every 5 beds plus 1 space for every 3 employees
Medical and dental clinics	5 spaces for each doctor
Churches, theaters and auditoriums	1 space for every 5 seats
Colleges and secondary and elementary schools	1 space for every 2 employees plus 1 space for every 10 students of 16 years of age or more
Restaurants, taverns, places of entertainment, lodges and clubs, repair shops and retail and service stores	1 space for every 150 square feet of floor area and 1 space for every 2 employees
Manufacturing and processing plants, laboratories and warehouses	1 space for every 2 employees
Financial institutions and business, government and professional offices	1 space for every 300 square feet of floor area and 1 space for every 2 employees
Funeral homes	20 spaces for each viewing room
Bowling alleys	5 spaces for each alley
Motor vehicle sales (new and used)	1 space for every 500 square feet of floor area used plus 1 space for every 300 square feet of outdoor display for every motor vehicle to be displayed
Automobile repair garages	1 space for every regular employee plus 1 space for every 250 square feet of floor area used for repair work
Gasoline filling stations	3 spaces for each grease rack or similar facility plus 1 space for every attendant

- G. Uses not listed. In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.

H. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.

**§ 340-54. Handicapped parking.**

A. All open off-street parking areas shall provide for accessible parking spaces in accordance with the following minimum standards:

Total Number of Parking Spaces	Number of Physically Handicapped Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total spaces
1,001 and over	20 plus 1 for each 100 over 1,000

B. All parking spaces provided for the use of physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.

C. All parking spaces provided for the use of physically disabled persons shall be marked with a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons. Such signs shall comply with the requirements of §§ 346.50, 346.503 and 346.505, Wis. Stats.

**§ 340-55. Parking lot landscaping.**<sup>14</sup>

Off-street parking lots in all business, industrial, and park and recreation districts with more than 10 stalls shall provide for the following:

A. Ten percent of the interior parking lot area shall be landscaped with trees, shrubs and ground cover.

B. One tree for every 10 parking stalls.

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14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. A landscape buffer shall be located between parking lots and public roads. The buffer shall be at least three feet high and be composed of earth berms or compact hedgerow of shrubs. This landscape buffer is intended to screen the view of parked vehicles from public roads.
- D. A twelve-foot-wide minimum landscape planting screen shall be located between parking lots and adjacent property line.

**§ 340-56. Blocks.**

The width, length and shapes of blocks shall be suited to the planned use of the land; zoning requirements; need for convenient access, control and safety of street traffic; and the limitations and opportunities of topography.

- A. The lengths, widths and shapes of blocks shall be determined by provisions for building sites suitable to meet the needs of the type of use contemplated; the requirements of this chapter pertaining to lot size and dimensions; need for convenient access; circulation, control and safety of street traffic; and limitation and opportunities of topography. Block lengths shall normally not exceed 2,000 feet or be less than 600 feet in length.
- B. In residential areas, pedestrianways of not less than 10 feet in width may be required near the center and entirely across any block over 900 feet in length where deemed essential by the Town Plan Commission to provide adequate pedestrian circulation or access to schools, parks, shopping centers, churches or transportation facilities.
- C. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic. Width of lots or parcels reserved or laid out for commercial, condominium, and industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.

**§ 340-57. Lots.**

The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated and shall conform in all respects to the lot size and width requirements set forth in this chapter. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.

- A. Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
- B. Double frontage and reverse frontage lines shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- C. Lots shall normally have a minimum average depth of 150 feet. Excessive depth in relation to width shall be avoided if possible, and a proportion of two to one is

considered to be a desirable ratio under normal conditions. Depth of lots or parcels reserved or laid out for commercial, condominium, and industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.

- D. Corner lots shall be 20% wider than the minimum width as required for lots less than 150 feet in width. Where the required minimum average width of lots is 150 feet or greater, corner lots shall not be required to be increased in width.
- E. Lands lying between the meander line and the water's edge and any otherwise unplatable lands which lie between a proposed subdivision and the water's edge shall be included as parts of lots, outlots or public dedications in any plat abutting a lake or stream. All lands under option to the subdivider or to which he holds any interest that abut the proposed subdivision and a lake or stream shall also be included.
- F. All lots must abut a public street for at least 60 feet. An exception to that dimension may be on culs-de-sac or sharp curves where the lot lines radiate from the street; under these conditions, the minimum lot width at the public street shall be 30 feet. However, under special conditions a private road may be utilized in accordance with the applicable provisions of this chapter.
- G. Access to flag lots must be a minimum of 60 feet wide. Other lot size requirements of this chapter for minimum size, width and depth of a flag lot begin at the point where the lot is a minimum of 100 feet wide.

#### **§ 340-58. Highway access.**

No direct private access shall be permitted to the existing or proposed rights-of-way of freeways or to any controlled access arterial street without permission of the highway agency that has access control jurisdiction.

- A. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:
  - (1) Freeways, interstate highways, and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes.
  - (2) Arterial streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
  - (3) Local streets intersecting an arterial street within 50 feet of the intersection of the right-of-way lines.
- B. Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above-specified streets or highways.
- C. Temporary access to the above rights-of-way may be granted by the Town Plan Commission after review and recommendation by the highway agencies having

jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.

**§ 340-59. Landscaping.**

- A. Street trees. The subdivider shall plat at least one shade tree of a species acceptable to the Town Plan Commission and of at least 1 1/2 inches to two inches in caliper for every 100 feet of frontage on both sides of all streets proposed to be dedicated. The required trees shall be planted in the street yard within 10 feet of the street lot line in accordance with plans and specifications approved by the Town Plan Commission. In lieu thereof, the Plan Commission may accept tree plantings arranged in groupings rather than spaced equally in rows, provided that the number of trees shall be at least the number required as provided above.
- B. Planting screens. In some circumstances the Town Plan Commission may require a planting screen buffer between conflicting or contrasting land uses and/or to provide visual and sound screening along highways and major Town roads. Such planting shall be placed within a designated planting easement of adequate width and shall conform to plans required as part of the preliminary plat submittal and in accuracy and detail sufficient for review by the Plan Commission.
- C. General landscaping guidelines.
  - (1) Planting screens shall consist of compatible naturalistic groupings of hardy plant material.
  - (2) A diverse mixture of deciduous and evergreen tree and shrub varieties shall be used.
  - (3) Sizes shall be adequate for reasonable immediate effect.
  - (4) Short-lived tree varieties are not acceptable (i.e., silver maple, lombardy poplar, box elder, chinese elm).
- D. Required landscaping, fencing, and buffering between residential land uses and other nonresidential land uses. Along any side between a residential and commercial, business, industrial and/or manufacturing use the following regulations shall apply: **[Amended 8-5-1999 by Ord. No. 99-6]**
  - (1) The Town Planner, or other designee of the Town Plan Commission, shall review the proposed uses and available site plan information and shall make a recommendation to the Plan Commission as part of the application or preapplication process as to which of the following conditions shall be considered as issues or conflicts to be resolved by the proposed landscaping, fencing, or buffering:
    - (a) Safety. Maintaining a safe environment, including issues regarding trespass, traffic and pedestrian safety, and crime prevention.

- (b) Security. Maintaining security in a manner that protects the private property of adjacent landowners.
- (c) Privacy. Maintaining or enhancing a sense of privacy and the enjoyment of residential property and the typical activities that occur on such property
- (d) View. Substantially minimizing bad views and enhancing and protecting good views from residential property to surrounding areas
- (e) Light. Substantially minimizing or blocking artificial light from tall poles associated with nonresidential development at night
- (f) Noise. Substantially minimizing or reducing the amount of noise that is associated with nonresidential uses and activities.

(2) After reviewing the recommendations from the Town Planner (or designee of the Plan Commission), the following types of landscaping, fencing, or buffers may be required by the Plan Commission relative to its findings that the issues noted in Subsection D(1) are applicable:

- (a) Safety and security. This issue shall be addressed with four-foot to eight-foot secure fences, the location and visual character of which may vary from metal fencing to more decorative fencing depending upon the issues of privacy, view, light, and noise. The height of such fencing may be dependent on privacy, views, and light.
- (b) Privacy and views.
  - [1] This issue shall be addressed with any of the following options:
    - [a] Four trees for every 30 linear feet of edge condition (at least two inches in caliper).
    - [b] Two trees (at least two inches in caliper) every 30 feet combined with either four shrubs every 30 feet or an ornamental fence at least four feet in height.
    - [c] Maintenance of large open natural areas at least 100 feet wide.
  - [2] The maturity and location of all plant materials is subject to site plan review by the Plan Commission. Existing plant materials may be considered as part of the required plant materials. The Plan Commission has the discretion to specify which of these alternatives are considered suitable or unsuitable given the circumstances on adjoining properties.
- (c) Light. This issue shall be addressed with planting of trees of a more mature nature (such that they will reach an appropriate height to block artificial light within a five-year time frame) and/or ornamental fencing. The height and distance of the artificial light from the adjoining residential buildings shall be taken into consideration when determining the extent of such provisions.

- (d) Noise. This issue shall be addressed with planting of trees and shrubs as well as solid fencing. The type and character of the anticipated noise shall be taken into consideration when determining the extent of such provisions.
- (3) When more than one issue or conflict is evident, the Plan Commission may determine which issues should be considered more significant and may combine these requirements for landscaping, fencing, and buffering in order to address multiple issues.
- (4) The applicant shall demonstrate the way in which fencing, landscaping, and buffering shall occur in drawings that depict the location of buildings, topography, fences, and plant materials or the adjoining properties. These drawings shall include both scaled plans and sections to show the existing conditions and proposed improvements.

**§ 340-60. Grading.**

- A. Large-scale grading for the purpose of creating lots of excessive slopes shall not be permitted.
- B. In order to protect adjacent property owners from possible damage due to changes in existing grades, no change in the existing topography within 20 feet of the property line shall result in the slope to a ratio greater than three horizontal to one vertical. In no case shall any slope exceed the normal angle of slippage of the soil involved. The exception to this requirement shall be where retaining walls are built with the written consent of the abutting property owner and with the approval of the Plan Commission.
- C. Any berm with any portion thereof over five feet shall require a conditional use, in accordance with the definition within § 340-164; the standards for conditional uses within §§ 340-37 through 340-43, inclusive, and the standards of Subsections A and B within this § 340-60. **[Added 12-7-2009 by Ord. No. 2009-07]**

**ARTICLE VI**  
**Signs****§ 340-61. Permit required.**

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs excepted in § 340-64 and without being in conformity with the provisions of this chapter.

**§ 340-62. Application for permit; surety bond.**

- A. Application for a sign permit shall be made on forms provided by the Town Building Inspector and shall contain or have attached thereto the following information:
  - (1) Name, address, and telephone number of the applicant and location of the building, structure, or lot to which or upon which the sign is to be attached or erected.

- (2) Name of the person, firm, corporation, or association erecting the sign.
- (3) Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
- (4) A scaled elevation drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- (5) A scaled site plan drawing indicating the location and position of such sign in relation to nearby buildings or structures.
- (6) Copies of any other permits required and issued for said sign.
- (7) Additional information as may be required by the Town Plan Commission.

B. Every applicant for a sign permit shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed \$25,000, and it shall be of a form and type approved by the Town Attorney, indemnifying the municipality against all loss, cost, damages, or expense incurred or sustained by or recovered against the municipality by reason of the erection, construction, or maintenance of such sign. A liability insurance policy issued by an insurance company authorized to do business in the State of Wisconsin and approved by the Town Attorney in lieu of a bond may permit conforming to the requirements of this section. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

**§ 340-63. Review and approval.**

- A. Sign permit applications shall be filed within 35 days prior to the Town Plan Commission meeting to allow review. The Plan Commission shall review the application and approve or deny, in writing, the application within 60 days of first consideration at a Plan Commission meeting, unless the time is extended by written agreement with the applicant. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**
- B. A sign permit shall become null and void if work authorized under the permit has not been completed within six months of the date of issuance.

**§ 340-64. Signs allowed in all districts without a permit.**

The following signs are allowed in all zoning districts without a permit subject to the following regulations:

- A. Agricultural signs pertaining to the sale of products on a farm and not exceeding 32 square feet in area for any one farm.
- B. Real estate signs not exceeding eight square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- C. Name, home occupation, and warning signs not exceeding eight square feet in area located on the premises.

- D. Bulletin boards for public, charitable or religious institutions not exceeding 32 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.

**§ 340-65. Signs allowed in business and industrial districts with a permit.**

Signs are allowed in the business and industrial districts upon the granting of a permit therefor for the purpose of advertising a business or activity located on the premises, subject to the following restrictions:

- A. Wall signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface and shall not exceed 20 feet in height above the mean building (first floor) grade. Sign area on the front of a building may equal in square footage the linear width of the front of the structure and on the side of a building may equal in square footage 25% of the linear length of the building. For example, a building 100 feet wide by 200 feet long would be permitted a one-hundred-square-foot sign facing the street and a fifty-square-foot sign on the side of the building.
- B. Projecting signs fastened to, suspended from, or supported by structures shall not exceed 100 square feet in area for any one premises; shall not extend more than six feet into any required yard; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean building grade; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an alley.
- C. Ground signs shall not exceed 20 feet in height above the mean building grade and shall not exceed 100 square feet on one side or 250 square feet on all sides for any one premises.
- D. Roof signs shall not exceed five feet in height above the roof, shall meet all the yard and height requirements for the district in which they are located, and shall not exceed 100 square feet on all sides for any one premises.
- E. Window signs shall be placed only on the inside of commercial buildings and shall not exceed 25% 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 for the individual sign.

**§ 340-66. Signs allowed in agricultural districts with a permit.**

The following signs are allowed in all agricultural districts subject to the granting of a permit therefor and are subject to the following regulations:

A. Business directory signs shall not exceed two in number, indicating the business name and the direction and distance to a specific business, resort or commercial recreation facility located within 10 air miles of the sign. No such signs shall exceed 50 square feet of display area.

**§ 340-67. Signs allowed in residential districts with a permit.**

The following signs are allowed in all R-1 and R-2 Residential Districts subject to the granting of a permit therefor and are subject to the following regulations:

A. Permanent subdivision identification signs. At any entrance to a residential subdivision there may be not more than two signs identifying such subdivision. A single side of any such sign may not exceed 16 square feet, nor may the total surface area of all such signs at a single entrance exceed 32 square feet.

**§ 340-68. Election campaign signs.**

Election campaign signs may be allowed in any district without a permit provided that permission shall be obtained from the property owner, renter or lessee and provided that such sign shall not be erected more than the election campaign period (§ 12.04, Wis. Stats.) and shall be removed within seven days following the election. No more than two campaign signs are permitted on properties in a business or industrial district, and the combined area of these signs shall not exceed 100 square feet. No more than one campaign sign shall be erected on a property in a residential district.

**§ 340-69. Facing.**

No sign except those permitted in §§ 340-64 and 340-67 shall be permitted to face a residential district within 100 feet of such district boundary.

**§ 340-70. Color and shape.**

Other than official signs authorized by the appropriate granting authority, no signs shall 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 erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

**§ 340-71. Flashing or moving signs.**

A. No sign shall contain, include or be illuminated by a flashing light.

B. No sign shall contain moving letters or parts.

**§ 340-72. Construction and maintenance.**

- A. Wind pressure and dead load requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area and shall be constructed to receive dead loads as required in the Town Building Code or other ordinance.<sup>12</sup>
- B. Protection of the public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided that the space occupied is roped off, fenced off or otherwise isolated.
- C. Maintenance. The owner of any sign shall keep it in good maintenance and repair, which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition, and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.
- D. Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated steel, copper, brass, properly treated timbers, or other noncorrosive incombustible material. All projecting signs, if placed at a right or other angle to the wall or roof of any building, shall be attached by such noncorrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction and shall be maintained free from rust or other defects. Every means or device used for attaching any sign shall extend through the walls or roof of the building, should the Town Building Inspector determine that the safe and permanent support of such sign so requires, and shall be securely anchored by wall plates and nuts to the inside of the walls or to bearings on the underside of two or more roof or ceiling joists in accordance with instructions given by the Town Building Inspector. Small flat signs containing less than 10 square feet of area may be attached to a building by the use of lag bolts or other means to the satisfaction of the Building Inspector.
- E. No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe. No such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through any door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Town, as necessity therefor may require.

**§ 340-73. Existing signs.**

Signs lawfully existing at the time of the adoption or amendment of this chapter may be continued though the size or location does not conform to this chapter.

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12. Editor's Note: See Ch. 150, Building Construction.

## ARTICLE VII

**Mobile Service Support Structures and Facilities**

[Added 9-2-1997 by Ord. No. 97-7; amended 6-4-2007 by Ord. No. 2007-1-B; 12-1-2014 by Ord. No. 2014-02<sup>13</sup>]

**§ 340-74. Affected facilities.**

- A. The purpose of this article is to regulate by conditional use permit:
  - (1) The siting and construction of any new mobile service support structure and facilities;
  - (2) With regard to a Class 1 co-location, the substantial modification of an existing support structure and mobile service facilities; and
  - (3) With regard to a Class 2 co-location, co-location on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- B. Mobile service support structures 35 or more feet in height used for the purpose of commercial transmission and/or reception of radio frequency waves shall be defined as a principal use requiring a conditional use permit. As a principal use, the land used for the placement of the mobile service support structure regulated under this article will be subject to the minimum lot size for the district in which it is placed.
- C. Additional mobile service support structures located within 100 feet of the principal tower on an existing site shall be considered an accessory use.
- D. Mobile service facilities shall be defined as an accessory use.
- E. Amateur radio towers will be excluded from this article, but normal setback requirements for these towers as defined elsewhere in this chapter shall be met.
- F. AM multi-tower phased arrays are not addressed in this chapter and would require an ordinance revision if applied for.

**§ 340-75. Definitions**

As used in this section the following terms shall have the meanings indicated:

**ANTENNA** — Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

**APPLICATION** — An application for a permit under this section to construct a new mobile service support structure, or for a Class 1 or Class 2 co-location.

**CLASS 1 CO-LOCATION** — The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a freestanding support structure for the facility but does need to engage in substantial modification.

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13. Editor's Note: This ordinance also amended the title of this article, which was formerly Wireless Communication Facilities.

**CLASS 2 CO-LOCATION** — The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a freestanding support structure for the facility or engage in substantial modification.

**CO-LOCATION** — Class 1 or Class 2 co-location or both.

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

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

**EXISTING STRUCTURE** — A support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.

**FALL ZONE** — The area over which a mobile support structure is designed to collapse.

**MOBILE SERVICE** — Has the meaning given in 47 USC 153 (33).

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

**MOBILE SERVICE PROVIDER** — A person who provides mobile service.

**MOBILE SERVICE SUPPORT STRUCTURE** — A freestanding structure that is designed to support a mobile service facility.

**PUBLIC UTILITY** — Has the meaning given in § 196.01(5), Wis. Stats.

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

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

- A. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- B. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10% or more.
- C. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for co-location.
- D. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

**SUPPORT STRUCTURE** — An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

**UTILITY POLE** — A structure owned or operated by an alternative telecommunications utility, as defined in § 196.01(1d), Wis. Stats.; public utility, as defined in § 196.01(5), Wis. Stats.; telecommunications utility, as defined in § 196.01(10), Wis. Stats.; political subdivision; or cooperative association organized under Ch. 185; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in § 182.017(1g)(cq), Wis. Stats.; for video service, as defined in § 66.0420(2)(y), Wis. Stats.; for electricity; or to provide light.

**§ 340-76. Setback requirements.**

A mobile service facility and all accessory structures shall meet the minimum setback requirements of the zoning district in which they are located, unless the applicant provides an engineering certification showing that a mobile service support structure is designed to collapse within a smaller area than the minimum setback requirements.

**§ 340-77. Landscaping and fencing.**

The tower and the adjacent equipment building(s) shall be security fenced with at least six-foot-high chain-link fencing. Landscaping at the perimeter of the fencing which abuts or is visible from streets, residences, public parks or areas with access to the general public other than the owner of the adjoining property shall be required at a minimum as follows:

- A. For towers 150 feet in height or less, a buffer no less than 25 feet wide shall be commenced at the security fence line. At least one row of evergreen shrubs shall be spaced not more than five feet apart. Shrubs should be of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting. At least one row of evergreen trees or shrubs not less than four feet high at the time of planting and spaced not more than 15 feet apart shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that would not exceed 20 feet in height or would not affect the stability of the guy wires should they be uprooted.
- B. For towers more than 150 feet in height a buffer area of not less than 40 feet wide shall be provided at the security fence line. At least one row of evergreen shrubs shall be spaced not more than five feet apart which will grow into a continuous hedge at least five feet in height within two years of planting. In addition, there shall be one row of deciduous trees not less than 1 1/2 inches in caliper measured three feet from the ground at the time of planting. The deciduous trees are to be spaced not more than 20 feet apart, and at least one row of evergreen trees not less than four feet in height at the time of planting spaced not more than 15 feet apart shall also be planted. Trees and shrubs in the vicinity of guy wires shall be of a type that does not exceed 20 feet in mature height or does not affect the stability of the guy wires should they be uprooted.
- C. The Plan Commission may allow use of an alternate plan or require a more-restrictive plan providing for landscaping and screening, including plantings, fences, walls and

other features. The plan shall accomplish the same degree of screening for the tower(s) and accessory uses achieved in Subsections A and B above, except when lesser requirements are desirable for security purposes and for continued operations of existing agricultural or forest uses, including produce farms, nurseries, and tree farms.

D. Native vegetation on the site shall be preserved to the greatest practical extent. The site plan shall show any existing native vegetation and shall show the type and location of native vegetation to be replanted.

**§ 340-78. Parking and driveways.**

A. A minimum of two parking spaces per carrier shall be provided on each site. On sites with personnel routinely in attendance, the Plan Commission may require additional parking spaces.

B. Drives shall be hard surfaced and be of the minimum called for in the zoning district in which the facility is located.

**§ 340-79. Tower appearance and illumination.**

A. Support structures shall not be illuminated except as required by the Wisconsin Department of Transportation or the Federal Aviation Administration.

B. Illuminated support structures shall use red and flashing red illumination at night. No flashing white strobe lights will be permitted for night illumination.

**§ 340-80. Commencement of operation.**

Mobile service support structures and facilities may not be placed into operation until the Building Inspector issues a certificate of compliance.

**§ 340-81. Mobile service support structure removal.**

The owner must provide an annual affidavit of use on forms provided by the Town as long as the mobile service support structure is in use, and must remove the mobile service support structure in the event that no mobile service provider has utilized the structure for transmission purposes for a period of 12 months. Such removal must take place within 120 days thereafter. The applicant, owner, lessee and/or landowner shall be required to pay the cost of demolition or removal.

**§ 340-82. Co-location of facilities.**

To discourage the proliferation of mobile service support structures, shared use of structures is both permitted and encouraged. Placement of more than one structure on a land site may be permitted if all requirements are met for each structure. New structure applications shall not be approved unless the applicant evaluates the feasibility of co-location and provides a sworn statement as described in § 340-83A(2)(f) below.

**§ 340-83. Application and approval process.**

A. Siting and construction of any new mobile service support structures and facilities.

- (1) A Town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the Town obtainable with this permit.
- (2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
  - (a) The name and business address of, and the contact individual for, the applicant.
  - (b) The location of the proposed or affected support structure.
  - (c) The location of the proposed mobile service facility.
  - (d) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
  - (e) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  - (f) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- (3) A permit application will be provided by the Town upon request to any applicant.
- (4) If an applicant submits to the Town an application for a permit to engage in an activity described in this article, which contains all of the information required under this article, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

- (5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the ninety-day period:
  - (a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
  - (b) Make a final decision whether to approve or disapprove the application.
  - (c) Notify the applicant, in writing, of its final decision.
  - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under Subsection A(2)(f).
- (7) The fee for the permit shall be established by separate resolution of the Town Board and amended from time to time as deemed appropriate but shall not exceed the amount authorized by § 66.0404(4)(d), Wis. Stats.
- (8) The applicant shall pay for the cost of all professional fees incurred for the review of the application.
- (9) Every applicant shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed \$20,000, and it shall be of a form and type approved by the Town Attorney, indemnifying the Town against all loss, cost, damages, or expense incurred or sustained or recovered against the Town by reason of the erection, construction, maintenance or removal of the mobile service support structures and facilities.

B. Class 1 co-location.

- (1) A Town zoning permit is required for a Class 1 co-location. A Class 1 co-location is a conditional use in the Town obtainable with this permit.
- (2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
  - (a) The name and business address of, and the contact individual for, the applicant.
  - (b) The location of the proposed or affected support structure.
  - (c) The location of the proposed mobile service facility.
  - (d) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- (e) If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- (f) If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

- (3) A permit application will be provided by the Town upon request to any applicant.
- (4) If an applicant submits to the Town an application for a permit to engage in an activity described in this article, which contains all of the information required under this article, the Town shall consider the application complete. If the Town does not believe that the application is complete, the Town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (5) Within 90 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the ninety-day period:
  - (a) Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
  - (b) Make a final decision whether to approve or disapprove the application.
  - (c) Notify the applicant, in writing, of its final decision.
  - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (6) The Town may disapprove an application if an applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide the sworn statement described under Subsection B(2)(f).
- (7) The fee for the permit shall be established by separate resolution of the Town Board and amended from time to time as deemed appropriate but shall not exceed the amount authorized by § 66.0404(4)(d), Wis. Stats.
- (8) The applicant shall pay for the cost of all professional fees incurred for the review of the application.

(9) Every applicant shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed \$20,000, and it shall be of a form and type approved by the Town Attorney, indemnifying the Town against all loss, cost, damages, or expense incurred or sustained or recovered against the Town by reason of the erection, construction, maintenance or removal of the mobile service support structures and facilities.

C. Class 2 co-location.

- (1) A Town zoning permit is required for a Class 2 co-location. A Class 2 co-location is a permitted use in the Town but still requires the issuance of the Town permit.
- (2) A written permit application must be completed by any applicant and submitted to the Town. The application must contain the following information:
  - (a) The name and business address of, and the contact individual for, the applicant.
  - (b) The location of the proposed or affected support structure.
  - (c) The location of the proposed mobile service facility.
- (3) A permit application will be provided by the Town upon request to any applicant.
- (4) If an applicant submits to the Town an application for a permit to engage in an activity described in this article, which contains all of the information required under this article, the Town shall consider the application complete. If any of the required information is not in the application, the Town shall notify the applicant in writing, within five days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- (5) Within 45 days of its receipt of a complete application, the Town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Town may agree in writing to an extension of the forty-five-day period:
  - (a) Make a final decision whether to approve or disapprove the application.
  - (b) Notify the applicant, in writing, of its final decision.
  - (c) If the application is approved, issue the applicant the relevant permit.
  - (d) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- (6) The fee for the permit shall be established by separate resolution of the Town Board and amended from time to time as deemed appropriate but shall not exceed the amount authorized by § 66.0404(4)(d), Wis. Stats.
- (7) The applicant shall pay for the cost of all professional fees incurred for the review of the application.

(8) Every applicant shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed \$20,000, and it shall be of a form and type approved by the Town Attorney, indemnifying the Town against all loss, cost, damages, or expense incurred or sustained or recovered against the Town by reason of the erection, construction, maintenance or removal of the mobile service support structures and facilities.

**§ 340-84. Maintenance.**

The owner of any mobile service support structure shall be responsible for maintaining the structure, accessory structures, fencing, road and landscaping in good repair and free from any unsightly rubbish. In addition, the structure owner shall submit to the Town a certified inspection report signed by a State of Wisconsin-registered structural engineer at least once every 10 years to ensure the continuing structural integrity of the mobile service support structure and accessory structures. If the report recommends repairs or maintenance be required, then a letter signed by a State of Wisconsin-registered structural engineer shall be submitted to the Township to verify that such repairs and/or maintenance have been completed. The Township shall have the authority to require the removal of the structure based on the inspection report if it deems the removal necessary to preserve the general welfare and safety of the Township.

**§ 340-85. Worksheets.**

Worksheets for both applicants and Plan Commission members will be constructed so that all necessary procedures are followed in the application and approval process.

**§ 340-86. Conflicting provisions.**

Enactment of this article shall nullify any conflicting language or provisions regarding mobile service support structures or facilities that may appear elsewhere in this chapter.

**ARTICLE VIII  
Modifications****§ 340-87. Height.**

The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following:

- A. Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this chapter.
- B. Special structures, such as elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smokestacks, are exempt from the height limitations of this chapter.

- C. Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this chapter.
- D. Communication structures, such as radio and television transmission and relay towers, aerials, and radio and television receiving and transmitting antennas, shall not exceed in height their distance from the nearest lot line.
- E. Agricultural structures, such as barns, silos, and agricultural windmills, shall not exceed in height their distance from the nearest lot line.
- F. Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of 60 feet, provided that all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.

**§ 340-88. Yards.**

The yard requirements stipulated elsewhere in this chapter may be modified as follows:



- A. Uncovered stairs, landings, and fire escapes may project into any yard but not to exceed six feet and not closer than 15 feet to any lot line.
- B. Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed two feet.
- C. Open fences in the agricultural districts are exempt from the yard and distance requirements of this chapter.
- D. Residential fences, hedges, and walls are permitted on the property lines in the side and rear yards of residential districts but shall not in any case exceed a height of eight feet.
- E. To secure a safe sight distance from a street or road, no hedge or closed fence in the front or side yard shall be permitted within 30 feet of an adjacent right-of-way line.
- F. Security fences are permitted on the property lines in all districts except residential districts but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- G. Accessory structures in the B-1, B-2, TSD, BP-1, BP-2, M-1, I-1 and P-1 Districts.  
[Amended 8-4-2008 by Ord. No. 2008-01<sup>14</sup> ]
  - (1) General standards for accessory structures.
    - (a) Any accessory structure shall be located on a lot only with a principal structure, and shall be subject to site design and architectural review by the Plan Commission.
    - (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. In a unified development lot with multiple principal structures where a rear or side yard are not clearly present, the accessory structure shall be placed away from view by the general public and shall be subject to review and approval by the Plan Commission.
    - (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

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14. Editor's Note: This ordinance also repealed former Subsection H, which provided standards for Accessory uses and detached accessory structures in the street yard of lots abutting a lake. In addition, Ord. No. 2008-01 redesignated former Subsections I and J as Subsections H and I, respectively.

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 applicable zoning district.
  - (b) Shall not exceed 25 feet in height or shall not exceed the height of any principal structure on the lot.
- (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 applicable zoning district.
  - (c) Shall not exceed 35 feet in height, or shall not exceed the height of any principal structure on the lot.

H. Off-street parking is permitted in all yards of the business and industrial districts but shall not be closer than 25 feet to any residential lot line or a street line opposite a residential district.

I. Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.

#### **§ 340-89. Additions.**

Additions in the front yard of existing structures shall not project beyond the average of the existing setbacks on the abutting lots.

**§ 340-90. Average setbacks.**

The required setbacks for residences may be decreased in any residential district to the average of the existing setbacks of the abutting structures on each side but in no case less than a minimum setback of 25 feet.

**§ 340-91. Shore yards on bluffs, ravines and wetlands.**

Ozaukee County Zoning, Sec. 7.00 Zoning District, sets the standard for all shore yards on bluffs, ravines and wetlands.

**§ 340-92. Corner lots.**

Corner lots shall provide a street yard on each street that the lot abuts. The remaining yards shall be a rear yard behind the main entrance to the structure and one side yard.

**§ 340-93. Shoreland lots.**

Shoreland lots shall provide a street yard on the street abutting the lot, a shore yard on the watercourse abutting the lot, and two side yards. Shoreland lots do not normally have a rear yard.

**§ 340-94. Existing substandard lots.**

- A. A lot in any residential district which does not contain sufficient area to conform to the dimensional requirements of this chapter but which is at least 60 feet wide and 7,200 square feet in area may be used as a single-family building site provided that the use is permitted in the zoning district and the lot is of record in the County Register of Deeds office prior to the effective date of this chapter and provided that the lot is in separate ownership from abutting lands. A zoning permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance by the Zoning Board of Appeals.
- B. If two or more substandard lots with continuous frontage have the same ownership as of the effective date of this chapter, the lots involved shall be considered to be a single parcel for the purpose of this chapter. Substandard lots shall be required to meet the setback and other yard requirements of this chapter.

**§ 340-95. Existing substandard agricultural parcels.**

- A. Any parcel of land within the A-1 Exclusive Agricultural District which does not contain sufficient area to conform to the dimensional requirements of that district but which is at least 330 feet in width and five acres in area may be used for any use permitted in the A-1 District provided that the parcel is of record in the County Register of Deeds office prior to the effective date of this chapter and provided that the parcel is in separate ownership from abutting lands. A zoning permit for the improvement of a lot with lesser



dimensions and requisites than those stated above shall be issued only after the issuance of a zoning variance by the Zoning Board of Appeals.

- B. If two or more substandard agricultural parcels with continuous frontage have the same ownership as of the effective date of this chapter, the parcels involved shall be considered to be a single parcel for the purpose of this chapter.
- C. Substandard agricultural parcels shall be required to meet the setback and other yard requirements of this chapter.

## ARTICLE IX

### Nonconforming Uses and Structures

#### **§ 340-96. Existing nonconforming uses. [Amended 3-3-1997 by Ord. No. 97-1; 11-13-2013 by Ord. No. 2013-03; 2-4-2019 by Ord. No. 2019-01]**

The lawful nonconforming use of a building, premises, structure, fixture, land, or water existing at the time of the adoption of or amendment of this chapter may be continued although the use does not conform to the provisions of this chapter; however:

- A. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the building, premises, structure, or fixtures shall conform to the provisions of this chapter.
- B. Substitutions of other nonconforming uses for existing nonconforming uses may be permitted, provided that no structural alterations are to be made and the Town Plan Commission has made a review and determines that the new use would result in no greater degree of nonconformity. The nonconforming use may not thereafter be changed without application.
- C. Subject to the provisions of Article IV, conditional-use status may be granted to existing legal nonconforming uses upon petition of the owner and where such use is determined to be not adverse to the public health, safety or welfare, would not conflict with the spirit or intent of this chapter or would not be otherwise detrimental to the community and particularly the surrounding neighborhood. The conditional use may not thereafter be changed without application. If this conditional use is terminated for any reason, the property shall not revert back to legal nonconforming status but the use shall terminate.
- D. A current file of all nonconforming uses shall be maintained by the Building Inspector listing the following: owner's name and address; and use of the structure, land, or water.

#### **§ 340-97. (Reserved)<sup>15</sup>**

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15. Editor's Note: Former § 340-97, Abolishment or replacement, as amended, was repealed 2-4-2019 by Ord. No. 2019-01.

**§ 340-98. Existing nonconforming structures. [Amended 3-3-1997 by Ord. No. 97-1; 6-4-2007 by Ord. No. 2007-1-B; 2-4-2019 by Ord. No. 2019-01]**

- A. A lawful nonconforming structure existing at the time of the adoption or amendment of this chapter may be continued although its size or location does not conform to the lot width, lot area, yard, height, parking and loading, and access provisions of this chapter.
- B. Except for residential structures in the A-1 District, lawful nonconforming structures in all other zoning districts may only be extended, enlarged, reconstructed, moved, or structurally altered if the extension, enlargement, reconstruction, moving, or alteration is required to comply with applicable state or federal requirements or so as to comply with the provisions of this chapter, or will not cause the structure to be in greater nonconformity with this chapter.
- C. A nonconforming structure which is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation on or after March 2, 2006, may be restored in accordance with the provisions of § 60.61(5m), Wis. Stats.

**§ 340-99. Changes and substitutions. [Amended 11-13-2013 by Ord. No. 2013-03]**

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Zoning Board of Appeals has permitted the substitution of another nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board Appeals. Once the Plan Commission has granted conditional use status to an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Plan Commission.

**§ 340-100. Structures encroaching on setback and yard requirements.**

Structures which encroach upon setback and other yard requirements but which met setback and yard requirements at the time of construction may be structurally altered provided that they do not create a greater degree of encroachment.

**ARTICLE X**  
**Environmental Performance Standards**

**§ 340-101. Purpose.**

This article sets the performance standards for all uses in all zoning districts, except agricultural and residential districts, to limit, restrict, and prohibit the effects of those uses outside their premises or district.



**§ 340-102. Air pollution.**

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding county, state or federal air pollution standards.

**§ 340-103. Glare and heat.**

No activity shall emit glare or heat that is visible or measurable outside its premises. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside of their district.

**§ 340-104. Water quality protection.**

- A. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid material of such quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating of submerged debris, oil, scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- B. In addition, no activity shall withdraw water or discharge liquid or solid material so as to exceed or contribute toward the exceeding of the minimum standards set in Ch. NR 102, Wis. Adm. Code.

**§ 340-105. Noise.**

- A. No activity shall produce a sound level outside the district boundary that exceeds 85 decibels.
- B. All noise shall be muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat frequency, impulse character, or shrillness.

**§ 340-106. Odors.**

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside its premises. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual, 1960, prepared by the Manufacturing Chemists Association, Inc., Washington, DC.

**§ 340-107. Vibrations.**

No activity in any district shall emit vibrations which are discernible without instruments outside the premises.

**§ 340-108. Surface drainage.**

- A. No surface water may be channeled or directed into a sanitary sewer system.
- B. All development shall conform to the natural drainage of the land, and natural and preexisting man-made drainageways shall remain undisturbed, to the extent practicable.
- C. The drainage system of the development shall coordinate with and connect to the drainage systems or drainageway of the surrounding properties or streets, whenever practicable.
- D. The damming, filling, relocation, or interference with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted, except with approval of the Town Engineer.
- E. To increase infiltration, reduce peak runoff and increase safety, surface drainage should be grassy parabolic swales.
- F. No principal building shall be erected, structurally altered, or relocated which is not adequately drained at all times, or which is subject to periodic flooding, or is so located that the lowest floor level is less than three feet above the anticipated seasonal groundwater level.
- G. The discharge of rainwater conductors shall not be directed toward adjacent structures or create a nuisance. Conductors must not end closer than 10 feet to an adjacent property line.
- H. No building other than bridge, dam, boathouse or revetment shall be erected, structurally altered or relocated so that the lowest form of the structure is less than three feet above possible flood stage.

**§ 340-109. Stormwater runoff control.**

- A. The storage and controlled release of excess stormwater shall be required in combination for all commercial and industrial subdivision developments and for residential subdivisions and land divisions where the overall area exceeds 10 acres. The controlled release of stormwater runoff from all development described above should not exceed the peak discharge of stormwater runoff as occurring under existing conditions based upon a ten-year storm event. Where site detention is required for runoff control, the detention facilities shall safely pass the runoff of a one-hundred-year storm through an emergency outlet.
- B. In the event that the developer would choose to release more runoff than what would occur under the existing conditions, the developer will be required to provide adequate outlet facilities downstream to accommodate the increased rate of runoff. The specifications to be used in designing these facilities and computing runoff shall be based upon the standards contained in the Soil Conservation Service's Engineering Field Manual for Conservation Practices, which is available from the United States Department of Agriculture, Soil Conservation Service.

**§ 340-110. Erosion control.**

Erosion control shall be required for all commercial and industrial and for residential subdivisions and minor land divisions where the overall area exceeds 10 acres. The planning process, specifications and construction techniques will be done in accordance with the Wisconsin Construction Site Best Management Practices Handbook prepared by the Wisconsin Department of Natural Resources.

- A. Erosion control plans shall consist of the detailed soil survey map of the area indicating the site location as well as adjacent properties and the identification of any structures or natural features on the land adjacent to the site and within 250 feet of it. The plan shall include a boundary line survey of the site, a location and description of the soil types which have been rated severe for erosion limitations by the United States Department of Agriculture Soil Conservation Service, and the elevation, dimension, location and extent of all proposed grading. It shall include the location and identification of any proposed additional structures or development on the site. It shall include plans for and specifications of drainage provisions, retaining walls, cribbing, planting, anti-erosion devices or other protective devices, whether temporary or permanent, to be constructed in connection with or as a part of the proposed work, together with a map showing the drainage area of the land tributary to the site, upstream culverts and other restrictions which may control the quantity and rate of runoff and a statement explaining the estimated runoff used to determine the design characteristics of any drainage device. Upstream drainage shall be considered and explained if any adverse effect is possible. Plans for removal, recontouring or other final disposition of sediment basins or other structural improvements or devices shall be included in the plan.
- B. Factors which will be considered in reviewing land suitability, runoff and erosion control plans shall relate to the specific site conditions. The plan should reduce land grading and keep land disturbance to a minimum. Both surface runoff and stormwater drainage systems should be integrated to accommodate the increased runoff incurred during land grading. Existing temporary and future protective vegetation should be emphasized. The plan shall coordinate grading operation and sedimentation control measures so as to minimize land exposure to erosion to the briefest time. Sediment basins below high sediment producing areas should be planned, installed and maintained as safety devices to catch and trap excessive sediment from the development site. The plan should utilize available technologies to keep soil erosion to a minimum level.

**§ 340-111. Submission of erosion and sediment control plans.**

- A. The preparation of surface water, erosion and sediment control plans shall be undertaken by a qualified individual and they shall be submitted to the Town Clerk who shall transmit those plans to the Town Engineer, Building Inspector, or Soil Conservation Service, who or which shall review then transmit that information back to the Town Clerk for review and consideration by the Town Plan Commission and Town Board. Any comments or recommendations are advisory only, and the Town Plan Commission may, upon its own action, modify, adopt or reject any or all of the comments or recommendations.

B. Upon consideration of the factors cited above, and for the purpose of the general furtherance of this chapter, conditions may be attached for the approval of erosion control and runoff as are deemed necessary to accomplish the intent of this chapter.

- (1) Among such conditions, without limitation because of specific enumeration, are:
  - (a) Permanent grass and vegetative cover for the area.
  - (b) Stabilization by means of mulching, nonvegetative materials, jute matte, excelsior, etc.
  - (c) Sodding the area subject to erosion.
  - (d) Use of low-growing plants, vines, shrubs, or other ground covers to stabilize sediment-producing areas.
  - (e) Construction of structures that will stabilize the grade and water channels.
  - (f) Use of grass waterways for the safe disposal of runoff water.
  - (g) Utilization of the existing topography and planning development to minimize erosion, such as planning roadways parallel to contours.
  - (h) Leaving critical areas in an undisturbed condition or correction of critical areas that can cause erosion hazards.
  - (i) Constructing diversionary channels and terraces across the slopes.
- (2) All activities on the site shall be conducted in logical sequence to minimize the area of unstable soils at any one time.
- (3) Temporary cover during the grading and development period may be prescribed. Unstabilized soil may not be left over the winter months. If construction of a structure is not to be completed prior to September 30, temporary annual seeding or sod must be installed prior to September 30 on all areas that have bare soil.
- (4) Construction of sediment basins shall be designed and built to ensure against failure of the structure resulting in loss of life or interruption of use or service of public utilities.

## ARTICLE XI Subdivision and Platting

### **§ 340-112. Purpose.**

This article sets forth the procedures and standards for land subdivision(s).

### **§ 340-113. Compliance required.**

No person shall divide any land located within the jurisdictional limits of this chapter which results in a subdivision, condominium, or a replat, as defined herein, no such division or

replat shall be entitled to record and no street shall be laid out or improvements made to land without compliance with:

- A. All requirements of this chapter.
- B. Provisions of Ch. 236, Wis. Stats.
- C. Rules of the State Department of Commerce regulating the size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.
- D. Rules of the Department of Natural Resources setting water quality standards, preventing and abating pollution and regulating septic systems.
- E. Rules of the State Division of Highways relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts upon a state trunk highway or connecting street.
- F. Land use plans, regional plans, county plans or land use plan components, including the this chapter and the Official Map adopted by the Town.
- G. Applicable local, county, state, and federal ordinances.
- H. Development standards (see Article V).
- I. Environmental performance standards (see Article X).

**§ 340-114. Dedication and reservation.**

- A. Where a proposed division abuts an existing state, county, or Town road, and where the Street and Highway Width Map of Ozaukee County or any other officially approved plan in effect within the area shows an intent on the part of the respective public agency to widen the road right-of-way, the Town may require that the area proposed as additional right-of-way be reserved on the face of the plat for future acquisition. The same will be true of any proposed new highways affecting lands included in land divisions. On sites reserved for eventual public acquisition, language on the face of the plat or certified survey map shall prohibit building development for the length of the reservation, generally three years, unless a longer length of reservation is agreed to by the developer.
- B. The Town of Port Washington intends to complete plans and needs assessments for public parks, recreation areas, or other public uses that may require public acquisition of lands and/or construction of capital facilities as a result of new development. The completion of such plans and needs assessments of demands created by new development shall be followed by enactment of provisions under this section for land dedication and/or payment of impact fees in accordance with the requirements of the Wisconsin Statutes. Developers are hereby put on notice that they may be requested to sign a consent to payment of required fees or to execution of a required land dedication depending upon the outcome of such studies.<sup>15</sup>

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15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 340-115. Improvements. [Amended 3-6-2006 by Ord. No. 2006-1; 2-7-2011 by Ord. No. 2011-01]**

A. For any final plat, certified survey map or condominium plat that requires the installation of street and utility improvements, and prior to the installation of the street and utility improvements as hereinafter provided, the subdivider shall, prior to recording of such plat or map, enter into a developer agreement with the Town.

(1) The developer agreement shall:

- (a) Require installation of the required improvements in accordance with the Town Engineer approved construction plans.
- (b) Require the submittal of a contract surety (cash bond or letter of credit), meeting with the approval of the Town Attorney, in an amount equal to the estimated cost of such improvements as submitted by the subdivider and approved by the Town Engineer, plus 10%. The surety shall guarantee that the subdivider or subcontractor will complete such improvements as required by and within the time provided for in the developer agreement. The 10% shall be held as a guarantee of the work for one year after the date of the resolution of final acceptance by the Town Board. The surety may be submitted for the estimated cost, plus 10%, of each phase of development as specified in the developer agreement.
- (c) State all obligations of the subdivider to complete the improvements and other development site preparation and work. The obligations may include, but are not limited to, extension of public sanitary sewer and water, placement of road name signs, traffic control signs, traffic signals, lighting, and landscaping, securing of utility and drainage easements, and construction of drainage facilities.
- (d) State all obligations of the subdivider and/or assigns regarding the care and maintenance of commonly held land or other improvements to be maintained by an owners' association to the benefit of the subdivision, which may include, but not be limited to, subdivision identification signs, common landscaping and fencing, unified yard lighting, and open space and recreation facilities.
- (e) Provide that the subdivider may construct the project in such phases as the Town Board approves. If the subdivider's project is permitted to be constructed in phases, the amount of any surety bond or other security required by the Town Board shall be limited to the phase of the project that is currently being constructed. The developer agreement may not, however, require the subdivider to provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

(2) Developments of lands that are not part of a final plat, certified survey map or a condominium plat may be subject to entering into a developer agreement with the Town when the development involves public improvements, extension of sewer

and water service, or other factors of development that may require clarification of responsibilities, subject to the same criteria as noted above.

- B. Governmental units to which these surety and contract provisions apply may file, in lieu of such contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this chapter.
- C. Survey monuments shall be in place before final acceptance of the development, and the subdivider shall ensure that survey monuments are placed in accordance with the requirements of Ch. 236, Wis. Stats., and as may be required by the Town Engineer.

**§ 340-116. Soils testing.**

It is a known fact that certain soils in the county have severe limitations that are difficult to overcome or that preclude their use for residential development either because of the inability of on-site sewerage systems to function properly and/or because of fluctuating or seasonable high water table or other reasons. The Town Board may require extensive soils testing at the preapplication stage in order to obtain preliminary data concerning the suitability of the soils for residential development. The purpose of this requirement is to save the developer engineering costs in preparation of preliminary plats should the subject areas be determined to be unsuitable for residential development. The data obtained is to assist the Plan Commission in making determinations of land suitability. If extensive testing is not required at an early stage, it may be required at a later stage.

**§ 340-117. Submission of preliminary plat. [Amended 6-4-2007 by Ord. No. 2007-1-B; 2-7-2011 by Ord. No. 2011-01]**

- A. Prior to the submittal of a final plat, the subdivider shall file with the Town a preliminary plat along with an application for final plat and a sufficient number of copies to be forwarded within two days to the authorities to which the plat must be submitted for approval under §§ 236.10 and 236.12, Wis. Stats., and according to the following:
  - (1) Twelve copies to the Town along with two copies each of soil percolation results and soil borings.
  - (2) One copy to be forwarded to each of the utility companies serving the area. This is to inform the utility companies that there is a pending development in the area. It shall be the responsibility of the subdivider and the utility companies to arrange for the services needed and their location within the plat.
- B. The State Department of Administration, Department of Commerce, and the Department of Transportation shall be hereinafter referred to as "objecting agencies." All other agencies mentioned, excepting the utility companies, shall hereafter be referred to as "approving agencies."
- C. Within 20 days of the date of receiving the copies of the plat, any agency having objecting authority shall notify the subdivider and all approving authorities of any objection which it may have, based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover. If there are no objections, the

objecting agency shall so certify on a copy of the plat and return that copy to the Town. If any objecting agency fails to act within the established twenty-day period, it shall be deemed to have no objection to the plat.

- D. After all objections have been formally removed by the objecting authorities, the approving agencies may approve the plat upon compliance with all other rules, regulations or plans which are in effect in the area of the plat. This decision shall be made within 90 days of the date of first submittal unless objections are received from any objecting authorities. Failure of the approval authority to act within the prescribed 90 days shall constitute an approval of the plat. However, copies shall be on file with the Town at least 28 days prior to the meeting of the Town Plan Commission at which action is desired. If submittal is not in time to meet the ninety-day required time for approval, the plat shall be denied at a regular meeting of the Plan Commission unless extended by agreement with the Town and developer.
- E. Approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within 36 months of the preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in Ch. 236, Wis. Stats., the final plat may be entitled to approval with respect to such layout unless conditions in the area of the plat have changed substantially to require an alteration to the plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat which will be subject to further consideration by the Town at the time of its submission. Street plans and drainage plans shall be prepared and submitted prior to approval of the final plat or minor land division and may normally be submitted after preliminary approval or as a condition of preliminary approval. Construction may not commence until approval has been granted by all appropriate agencies.

#### **§ 340-118. Preliminary plat data.**

A preliminary plat shall be required for all subdivisions (as defined herein) and shall be based upon a survey by a registered land surveyor and the plat prepared on drafting film or paper of good quality at a scale of not less than 200 feet to the inch and shall show correctly on its face the following information:

- A. Title under which the proposed subdivision is to be recorded.
- B. Location of proposed subdivision by government lot, section, township, range, county and state.
- C. Date, scale and North arrow.
- D. Names and addresses of the owner, subdivider and surveyor preparing the plat.
- E. The design and location of proposed lots, outlots, blocks and streets to be provided in the development, including that land which is contiguous to and owned or controlled by the developer, notwithstanding the fact that only a portion of these lands may be developed in the immediate future.

- F. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the United States Public Land Survey and the total acreage encompassed thereby.
- G. Contours at vertical intervals of not more than five feet. Where ground slopes are less than 5%, two-foot contour intervals shall be required. Elevations shall be based upon mean sea level datum.
- H. High-water elevation of all ponds, streams, lakes, flowages and wetlands based upon mean sea level datum. County floodland and shoreland boundaries shall be delineated and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, five feet above the maximum flood on record or a known high-water elevation.
- I. Location and names of any adjacent developments and/or property along with the location established and existing width of all roads and names of all existing and proposed streets, alleys or other public ways, easements, railroad and utility rights-of-way and easements, all section and quarter section lines in the immediate area of the plat, and the type, width and elevation of existing street pavements within or adjacent to the proposed development, together with any legally established center-line elevations referred to mean sea level datum.
- J. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drainpipes, manholes, catch basins, hydrants, electric power and telephone poles or underground installations and location and size of any existing water and gas mains within the area of the plat or adjacent thereto. If no sewers, water mains or other utility facilities are located on or immediately adjacent to the tract, the nearest such facilities, which might be extended to serve the tract, shall be indicated by their direction and distance from the tract, their size and their invert elevation.
- K. Location of all existing property boundary lines, structures, drives, streams or watercourses, wetlands, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto.
- L. The scaled dimensions of all proposed streets, lots and blocks, proposed open space dedication, drainageways or other public use areas such as shopping centers, church sites, group housing or other nonpublic uses that do not require platting.
- M. Existing zoning on and adjacent to the proposed subdivision along with corporate limit lines.
- N. Proposed lake and stream access in the subdivision along with any improvement or relocation of the lake or stream.
- O. Soil types, slopes and boundaries as shown on the soil survey maps prepared by the Soil Conservation Service, United States Department of Agriculture, and the accurate delineation of the five-foot depth to water table contours and all areas where the bedrock is within five feet below grade.
- P. Any additional information as may be deemed necessary by the Town Plan Commission or Town Board shall be shown where required by the same.

**§ 340-119. Submission of final plat. [Amended 6-4-2007 by Ord. No. 2007-1-B; 2-7-2011 by Ord. No. 2011-01]**

- A. The subdivider shall prepare a final plat and an application for final plat in accordance with this chapter and shall file an adequate number of copies of the plat with the Town Clerk who shall within two days forward copies of the plat to the approving and objecting agencies.
- B. The required number of copies shall be made at the subdivider's expense. Within 20 days of the date of receiving the copies of the plat, any objecting agency shall notify the subdivider and all agencies having the authority to object of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover. If there are no objections, it shall so certify on the face of a copy and return that copy to the Department of Administration. After each agency and the Department of Administration has certified that they have no objection or that their objections have been satisfied, the Department of Administration shall so certify on the face of the plat. If an agency fails to act within 20 days from the date of receipt of copies of the plat, and the Department of Administration fails to act within 30 days of receipt of the original plat, it shall be deemed that there are no objections to the plat and, upon demand, it shall be certified on the face of the plat by the Department.
- C. The extraterritorial plat approval authority, county and the Town shall, within 60 days of the receipt of the final plat, approve or reject such plat unless the time is extended by agreement with the subdivider or unless objections have been filed which would require a formal resubmission of the plat after the corrections have been made.
  - (1) The Town Plan Commission shall recommend approval, conditional approval or rejection of the plat and shall transmit the final plat along with its recommendation to the Town Board which shall, within 60 days from the date of original receipt of the final plat by the Town Clerk, approve conditionally, approve outright, or reject the plat unless the time of review is extended as provided elsewhere within this section.
  - (2) The Town Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat, this chapter and all ordinances, rules, regulations or other plans which may affect the plat. The Town Engineer, Planner, or other person charged by the Town to review plats shall also provide the Town Board with his or her conclusions as to whether the final plat conforms substantially with the preliminary plat and with his or her recommendation with regard to the approval of the final plat. Although the review and recommendation need not be in writing, it shall be included in the record of the meeting at which the final plat is considered.
  - (3) The final plat may constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time. The final plat may be rejected if it is not submitted within 36 months of the date of the last required approval of the preliminary plat or the time for submission of the final plat may be extended.
  - (4) No approval by any approving agency shall be granted until all formal objections of the objecting agencies have been satisfied.

- (5) Failure of any approving agency to act within 60 days, the time not having been extended and no objections having been filed, shall constitute an approval.
- (6) The necessary certificates shall be placed upon the original drawing of the final plat and shall be signed by all appropriate review agencies prior to recording.

D. The final plat shall be recorded in the office of the Register of Deeds of the County in accordance with Ch. 236, Wis. Stats.



**§ 340-120. Condominium plat.**

A condominium plat that involves creation of units and commons on one or more parcels or lots shall be reviewed and approved by the Town Plan Commission prior to recording of such plat solely to determine whether the use and layout satisfy the Town ordinance standards for use and physical development unless the ordinance compliance questions have been previously dealt with in the course of subdivision or zoning review for the same development. Town Plan Commission requirements shall be communicated in the form of a letter or other written notification to the applicant. The requirements of § 703.27, Wis. Stats., shall be respected in the review of condominium plats.

**§ 340-121. Replat.**

- A. When it is proposed to replat a recorded subdivision or part thereof so as to change the boundaries of a recorded subdivision or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §§ 236.40 to 236.44, Wis. Stats. The subdivider or person wishing to replat shall then proceed as specified in this chapter.
- B. The Town Board shall schedule a public hearing when a replat of lands within the Town is filed and shall cause notice of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 500 feet of the exterior boundaries of the proposed replat. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

**§ 340-122. Certified survey map for minor subdivision.**

Any minor subdivision as defined herein shall be surveyed and a certified survey map prepared and recorded as provided in § 236.34, Wis. Stats., and this chapter. Any parcel of 20 acres or less resulting from a certified survey map, whether a lot, outlot or residual parcel, shall not be further divided by another certified survey map; further land divisions shall be by major subdivision.

- A. A preliminary map or drawing of the proposed certified survey shall be required to be submitted to the Town Plan Commission for preliminary approval prior to the preparation of the certified survey map document. Prior to submittal of the preliminary map or drawing, the owner shall consult with the Town Planner in order to obtain the Planner's advice and assistance. This preliminary map or drawing shall indicate the manner in which all of the land owned or controlled by the person developing or owning the land is to be divided into streets, lots, blocks and outlots, notwithstanding the fact that only a portion of such land may be included on the minor subdivision proposal and certified survey map under consideration at any one time.
- B. The subdivider shall prepare the certified survey map in accordance with this chapter and shall file 12 copies of the map and the letter of application with the Town Clerk at least 28 days prior to the meeting of the Town Plan Commission at which action is desired. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

- C. The Town Clerk shall, within two days after filing, transmit 10 copies of the map and letter of application to the Town Plan Commission.
- D. The Town Clerk shall transmit a copy of the map to all affected Town commissions and departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Town Plan Commission within 10 days from the date the map is filed. The Town Plan Commission shall review the map for conformance with this chapter and all ordinances, rules, regulations, land use plans and land use plan components that affect it. The Town Plan Commission shall, within 60 days from the date of filing of the map, recommend approval, conditional approval, or rejection of the map and shall transmit the map along with its recommendations to the Town Board.
- E. The Town Board shall approve, approve conditionally, or reject such map within 90 days from the date of first consideration of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the Town meeting and a written statement forwarded to the subdivider. If the map is approved, the Town Board shall cause the Town Clerk to so certify on the face of the original map and return it to the subdivider. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**
- F. The subdivider shall record the map with the County Register of Deeds and submit proof of such recording to the Town Clerk as provided in § 340-132. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

**§ 340-123. Certified survey map data. [Amended 11-2-2009 by Ord. No. 2009-04]**

A certified survey map prepared by a registered surveyor shall be required for all minor subdivisions. It shall comply in all respects with the requirements of Ch. 236, Wis. Stats., and this chapter. Any improvements necessary for proper use of the subject parcels shall be required as specified by this chapter.

**§ 340-124. Construction plans.**

- A. The Town shall require that the subdivider provide street improvement plans and profiles showing existing ground surfaces, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested, and any other pertinent engineering data as may be required by the Town or the Town Engineer. The plans and profiles shall be prepared in accordance with standards contained in this chapter or other Town construction standards and be either

approved or modified as necessary prior to the commencement or construction in the development.

B. Grading plans for the lots or other areas in the proposed development shall also be prepared and submitted for review and approval prior to commencement of grading and construction of roads.

C. Stormwater, drainage and erosion control plans shall be prepared and submitted along with other grading and road construction plans and shall indicate how surface water runoff is to be accommodated on the development and on any downstream properties along with the methods of erosion and sediment control.

D. All plans and profiles as set forth above shall be prepared in accordance with the provision of this chapter or any other appropriate ordinance or standards in force in the Town. In addition, all elevations shall be based upon mean sea level datum. All plans shall be subject to review and subsequent recommendation by the Town Plan Commission and the approval by the Town Board. No construction activity of any kind shall commence on any development until the preliminary plat has been approved by all agencies and until the plans for roads, ditches, erosion and sediment control, and lot grading have been reviewed and approved by the Town Plan Commission and Town Board.

**§ 340-125. Final plat data.**

A final plat prepared by a registered land surveyor shall be required for all subdivisions. The final plat shall show correctly on its face, in addition to the information required by Ch. 236, Wis. Stats., the following:

A. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat shall be adequately identified.

B. Special restrictions as may be required by the approving agencies.

C. Drainage and utility easements.

D. Location of the area of the proposed lot where soils are found to be unsuitable for a septic system.

E. Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, a vertical distance of five feet above the elevation of the maximum flood of record.

F. The contour line of the high-water mark of a lake or stream and the elevation of the water level on the date of survey.

G. The accurate delineation of the five-foot depth to groundwater contours and all areas where the bedrock is less than five feet below grade.

H. Any additional information required by the Town.

**§ 340-126. Certificates.**

All final plats shall provide all the certificates required by Ch. 236, Wis. Stats., and in addition the surveyor shall certify that he has fully complied with all the provisions of this chapter.

**§ 340-127. Testing.**

The Town may require that additional borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table.

**§ 340-128. Public sites and open spaces.**

- A. Public sites. In the design of the plat, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds drainageways and other public purposes. If designated on the Land Use Plan or Official Map, such areas shall be made a part of the plat. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, streams, shorelands, ravines and other natural features.
- B. Residential cluster development open space. Within a residential cluster development, the aggregate common open spaces shall be designed to preserve and protect those features of the natural environment that are deemed environmentally sensitive, and appropriate legal arrangements shall be made for the improvement, long-term maintenance and proper management to ensure that these areas retain their value as common open space assets to the project and the Town as a whole.

**§ 340-129. Required survey monuments.**

The subdivider shall install survey monuments in accordance with the requirements of Ch. 236, Wis. Stats., and as may be required by the Town Engineer.

**§ 340-130. Installation of required improvements.**

- A. Prior to final approval by the Town Board, the subdivider shall provide and dedicate the following facilities and improvements, all of which shall be installed or provided for within the time required by the Town Board:
  - (1) Streets. Graded and paved according to the standards approved by the Town Engineer.
  - (2) Drainage. Ditches, culverts and such other facilities necessary to provide adequately for surface water and stormwater drainage according to the standards set forth in this chapter. The Town Board may also require the size of all culverts to be utilized by the future lot owners of the development to be noted on a copy of the final plat to be submitted to the Town Clerk and Building Inspector. This

information does not need to be placed upon the original final plat or certified survey map to be recorded.

- (3) Utilities. Facilities for distribution of electric, telephone, and gas utility service located within a subdivision shall be installed underground except where the Town Board, upon recommendation of the Town Plan Commission, find that adverse soil conditions or problems of utility distribution make such installation prohibitively expensive or impractical. Transformer junction boxes, meter points, or similar equipment may be installed upon the ground surface. Any landscape screening plan required for such aboveground equipment shall be submitted to the utility for approval.
- (4) Street signs. Street signs shall be erected by the subdivider at all intersections and shall be of a standard design approved by the Town.
- (5) Erosion control. All open cuts or ground shall have topsoil sufficient to support vegetation and shall be planted or seeded in a manner to prevent excessive runoff, erosion, or sedimentation on adjoining lands or water.

B. Bond. If the above facilities and improvements have not been fully installed at the time the plat is submitted to the Town for final approval, the subdivider shall file with the Town Clerk a surety bond or other financial guarantee deemed adequate by recommendation of the Town Attorney, Plan Commission and/or Town Engineer and approved by the Town Board to cover the cost of completing such facilities and improvements.

C. Other improvements. All other improvements to be installed shall be at the direction of the Town Board or in accordance with any other ordinance in effect.

D. Review. The adequacy of such facilities and improvements and their proper installation shall be subject to review by the Town Plan Commission, and Town Engineer and approval of the Town Board prior to approval of the final plat.

E. Approval required. Construction or installation of improvements shall not commence until the preliminary plat and the construction plans have been approved by all agencies having authority to review the plat. All work or improvements to the subdivision shall also be subject to inspection by the Town Engineer to determine conformance with any applicable requirements.

#### **§ 340-131. Building and occupancy permits.**

No building permit or occupancy permit shall be issued for construction or occupancy of a structure on any lot not of record or on a lot of record in new development whose preliminary plat has not been approved and accepted by the Town until all the requirements of this chapter or any other ordinance have been met, unless specifically authorized by the Plan Commission and Town Board.

- A. A building permit is required prior to start of any site development or construction work within a subdivision.

B. An occupancy permit is required prior to occupancy of any structure in a subdivision.

**§ 340-132. Recording final plat and map.** [Amended 6-4-2007 by Ord. No. 2007-1-B; 2-7-2011 by Ord. No. 2011-01]

The subdivider shall record the approved final plat or map with the County Register of Deeds within 12 months after the date of the final approval and 36 months after first approval.

**§ 340-133. Modifications.**

- A. Where, in the judgment of the Town Plan Commission, it would be inappropriate to apply literally the provisions of this chapter to a subdivision because exceptional or undue hardship would result, the Town Plan Commission may recommend to the Town Board to waive or modify any requirements to the extent deemed just and proper.
- B. Such relief shall be granted without detriment to the public good and without impairing the intent and purpose of this chapter or the desirable general development of the community in accordance with the Land Use Plan or Land Use Plan component of the Town. A majority vote of the Town Board shall be required to grant any modification of this chapter and the reasons shall be entered in the minutes of the Plan Commission.
- C. In granting variances and modifications, the Town Board may require such conditions which will in its judgment secure the objectives of this chapter.

**§ 340-134. Planned residential development.**

The standards and requirements of these regulations may be modified by the Town Board upon recommendation of the Plan Commission in the case of a plan and program for a planned residential development which in the judgment of the Town provides adequate public spaces and improvements for circulation, recreation, light, air and service needs of the tract when fully developed and populated and which also assures conformity with the purpose of the zoning regulations of the Town.

**ARTICLE XII**  
**Changes and Amendments**

**§ 340-135. Authority.**

Whenever the public necessity, convenience, general welfare, or good zoning practices require, and upon recommendation of the Town Plan Commission, the Town Board may by ordinance change a district boundary or amend, change, or supplement this chapter or amendments thereto after public notice and hearing and as may be required by Ch. 236, Wis. Stats.

**§ 340-136. Initiation of change.**

A change or amendment to a zoning district or this chapter may be initiated by: Town Board, Town Plan Commission, or by a petition of one or more of the owners, lessees, purchase option holders, or holders of a contract to purchase of property within the area proposed to be changed.

**§ 340-137. Petitions.**

Petitions for any change to the district boundaries or amendments to this chapter shall be filed with the Town Clerk. The petition shall describe the premises to be rezoned, or the portion of this chapter to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

- A. Plot plan drawn to a scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 500 feet of the area proposed to be rezoned.<sup>34</sup>
- B. Owners' names and addresses of all properties lying within 500 feet of the area proposed to be rezoned.<sup>35</sup>
- C. Additional information required by the Town Plan Commission or Town Board.

**§ 340-138. Plan Commission recommendation.**

The Town Plan Commission shall review all proposed changes and amendments within the limits of the Town and shall recommend to the Town Board that the petition be granted as requested, modified, or denied. Such recommendation shall be made at a Plan Commission meeting subsequent to the meeting at which the petition is first submitted and shall then be made in writing to the Town Board.

**§ 340-139. Public hearing.**

The Town Board shall hold a public hearing upon each proposed change or amendment(s) recommended by the Plan Commission. The Town Board shall give notice of any such public hearing as specified in Article XIV of this chapter.

**§ 340-140. Town Board action.**

Following such hearing and after careful consideration of the Town Plan Commission recommendation(s), the Town Board shall vote on the passage of the proposed change or amendment.

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34. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

35. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 340-141. Protest.**

In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet from the street frontage of such opposite land, such change or amendment shall not become effective except by a unanimous vote of the Town Board.

**§ 340-142. Changes to A-1 Agricultural District.**

- A. No change in the A-1 Agricultural District shall be recommended unless the Plan Commission finds that:
  - (1) Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.
  - (2) Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of local units of government to provide them.
  - (3) The land proposed for rezoning is suitable for development and development will not result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.
- B. The Town Board shall notify the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) of any change in the A-1 Agricultural District.

### ARTICLE XIII Administration and Enforcement

**§ 340-143. Duties of Plan Commission and Building Inspector.**

- A. The Town Plan Commission shall have the duties of making reports and recommendations as to the planning and development of the Town to the Town Board, public officials, agencies, public utility company(s), civic, educational, professional and other organizations and citizens.
- B. The Town Plan Commission shall review all plans submitted under this chapter for the purpose of promoting compatible development and stability of property values, fostering the attractiveness and functional utility of the Town as a place to live and work, preserving the character and quality of the built environment, maintaining the integrity of those areas which have a discernible natural or historical character, and protecting certain public investments. The Town Plan Commission may recommend for approval said plans only after determining that:
  - (1) The proposed use(s) conforms to the use(s) permitted in that zoning district.
  - (2) The dimensional arrangement of buildings and structures conforms to the required area, yard, setbacks, and height restrictions and other standards set forth in this chapter.

- (3) There is a proper relationship between the existing and proposed streets and highways within the vicinity of the project in order to assure the safety and convenience of pedestrian and vehicular traffic.
- (4) The proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effect upon the owners and occupants of the adjacent and surrounding properties by providing for adequate design of the ingress/egress, interior/exterior traffic flow, stormwater drainage, erosion, grading, lighting, parking, and other standards set forth in this chapter.
- (5) Natural features of the landscape are retained where they can enhance the development of the site or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes, or where they assist in preserving the general safety, health, welfare, and appearance of the Town.
- (6) Adverse effects of the proposed development and activities upon adjoining and surrounding properties are mitigated by appropriate screening, fencing, or landscaping.
- (7) Land, buildings, and structures are readily accessible to emergency vehicles and handicapped persons.
- (8) The site plan is consistent with the public goals, objectives, principles, standards, and policies set forth in the Town's adopted Land Use Plan or components thereof.
- (9) The site plan is consistent with the intent and purpose to promote the public health, safety and general welfare, to encourage the use of the land in accordance with its character and adaptability, to avoid the overcrowding of population, to lessen congestion on public roads and streets, to reduce hazards to life and property, and to facilitate existing Town plans.

C. The duty of the Building Inspector shall be to interpret and administer this chapter. The Building Inspector and his duly appointed deputies may enter at any reasonable time onto any public or private land(s) or water(s) to make a zoning inspection. The Building Inspector shall further:

- (1) Issue, after on-site inspection, all permits required by this chapter.
- (2) Maintain records of all permits issued.
- (3) Investigate all complaints under this chapter.
- (4) Give notice of violations of this chapter to the Plan Commission and Town Board.
- (5) Issue orders to comply with this chapter.
- (6) Assist the Town Attorney in the prosecution of violators of this chapter.

**§ 340-144. General approval and review process.**

This is a general description of the zoning process used for building permits, sign permits, zoning district changes and changes to this chapter, subdivisions plats, certified survey maps, and conditional use permits.<sup>36</sup>

- A. Preapplication. It is recommended that, prior the filing of an application for action under this chapter, the applicant consult with the Plan Commission and/or its planning staff in order to obtain their advice and assistance. This consultation is neither mandatory nor binding but is intended to inform the applicant of the purpose and objectives of these regulations, the Land Use Plan, Land Use Plan components, and duly adopted plan implementation devices of the Town and to otherwise assist the applicant in planning his development. In so doing, both the applicant and Plan Commission may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community, and the applicant will gain a better understanding of the subsequently required procedures.
- B. Application. The applicant should get the appropriate forms from the Town Clerk and file the application and required information with Town Clerk. The 14 copies of the application have to be filed with the Town Clerk 28 days prior to the meeting when it will be considered. The application will be scheduled to be reviewed at the next reasonably available meeting of the Plan Commission.<sup>37</sup>
- C. Presentation at Plan Commission meeting. Applicants are encouraged to be present and explain their project at the meeting at which their application is scheduled for consideration. The applicant may appear in person or by agent.
- D. Consideration. The Town Plan Commission will consider the information that has been presented to determine if the project conforms to the Town ordinances and promotes compatible development and stability of property values, fosters the attractiveness and functional utility of the Town as a place to live and work, preserves the character and quality of the built environment, maintains the integrity of those areas which have a discernible natural or historical character, and protects certain public investments.
- E. Additional project information. The Plan Commission may request information about the project such as existing and proposed uses and structures; neighboring uses; site plans and architectural plans for proposed structures; circulation issues such as driveway locations, highway access and parking; utility information such as drainage, sewerage, water system, and site lighting; and compliance with Ozaukee County ordinances.
- F. Additional impact information. The Plan Commission may also request information about the impact of the project on the community, such as increased traffic on public streets, increased school capacity, soil limitation, sewage disposal, stormwater disposal, sediment control, fire protection requirements, architectural character, visual impact from public areas, and emission of smoke, noise, dust, dirt, light, vibrations, and odorous or noxious gases.

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36. Editor's Note: For procedures and time frames for review of subdivision plats and certified survey maps see Art. XI.

37. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

G. Modifications. The Plan Commission may suggest modifications that are necessary to fulfill the purpose and intent of this chapter. Modifications may include, but are not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements, and emissions control.

H. Plan Commission action. The Commission may take several actions:

- (1) Recommend approval to the Town Board.
- (2) Table the action for further consideration.
- (3) Deny.
- (4) Recommend approval with conditions.

I. Notification. The Plan Commission shall review the application(s) and approve or deny, in writing, the application within 31 days of first consideration of the action before the Plan Commission, unless the time is extended by written agreement with the applicant. Time schedules for subdivisions will be as provided in Article XI.

J. Recommendations. The Plan Commission shall recommend to the Town Board for review and approval all applications requiring Town Board action. These applications may include but are not be limited to:

- (1) Subdivision plats.
- (2) Certified survey maps.
- (3) Changes and modifications to this chapter.

K. Town Board review and approval. The Town Board shall review the application and approve or deny, in writing, the application within 60 days of first consideration of the action before the Town Board, unless the time is extended by written agreement with the applicant.

**§ 340-145. Nonresidential building and site plans. [Amended 7-1-2024 by Ord. No. 2024-03]**

A. Required. In any commercial, industrial, park and recreation, or institutional zoning district, no site may be developed or altered, and no building or structure may be erected, expanded, altered on the exterior or relocated until a building and site plan has been approved by the Plan Commission.

B. Application. Application for approval of a building and site plan shall be made to the Town Clerk on forms furnished by the Town and shall include the following where applicable:

- (1) Name(s) and address(es) of the applicant, owner of the site, architect, professional engineer, or contractor.

(2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

(3) Two plats of survey prepared by a registered land surveyor or, if approved by the Town Building Inspector, a sketch at a scale of no less than one inch equals 40 feet showing the location, boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; and existing and proposed street, side and rear yards and also 10 copies of a plat or sketch 11 inches by 17 inches for Plan Commission review. In addition, the Building Inspector or the Plan Commission may require that the plat of survey show the location, elevation and use of any abutting lands and their structures within 150 feet of the subject premises; the mean and high water line; the type, slope, degree of erosion and boundaries of soil as shown on the operational soil survey maps prepared by the United States Soil Conservation Service; wetlands; and county zoning districts.

(4) Proposed sewage disposal plan, if municipal sewerage services is not available. This shall include a copy of the permit issued by the Ozaukee County Environmental Health Department for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal.

(5) Proposed water supply plan, if municipal water service is not available. This plan shall be in accordance with Ch. NR 812, Wis. Adm. Code.

(6) Detailed plans and specifications.

(7) Additional information as may be required by the Town Plan Commission, Town Engineer, and Building, Health or Plumbing Inspector.

C. Review and approval. The Plan Commission shall review the application for the building and site plan for its completeness and conformance with this chapter. The building and site plan shall be granted or denied in writing by the Plan Commission within 60 days of the first consideration. The approval shall be good for one year and may be extended upon application and personal appearance, with the plans for completion, before the Town Plan Commission.

**§ 340-146. Building permits. [Amended 7-1-2024 by Ord. No. 2024-03]**

A. Permit required. In all zoning districts no building shall be erected or structurally altered, relocated, or used, unless excepted by § 340-10, until a building permit has been issued by the Building Inspector certifying that such building would follow the provisions of this Ordinance and with the Building Code of the Town of Port Washington.

B. Application. Application for a building permit shall be made in duplicate to the Building Inspector. Application will be made on forms furnished by the Town.

C. Review and approval. The Building Inspector shall review the application for the building permit for its completeness and conformance with this chapter. The building permit shall be granted or denied in writing by the Building Inspector within 60 days. The permit shall be good for one year and may be extended upon application and personal appearance, with the plans for completion, before the Town Plan Commission. No building permit shall be issued until:

- (1) A county zoning permit has been issued, where applicable, by the county zoning administrator, certifying that such activity complies with the provisions of the Ozaukee County Shoreland and Floodplain Zoning Ordinance.
- (2) A permit has been issued by the county for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal.
- (3) A conditional use permit, where applicable, has been issued by the Town.
- (4) A site plan for any nonresidential use has been approved by the Town in accordance with § 340-145.

**§ 340-147. Certificate of compliance. [Amended 6-4-2007 by Ord. No. 2007-1-B]**

A. Required. No agricultural buildings and supplemental structures not used for human habitation in agricultural districts shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after having secured a certificate of compliance. Such certificate shall show that the building or premises or part thereof is in compliance with the applicable setback, yard, height and other requirements of this chapter. These agricultural buildings and structures may include but not be limited to barns, crop storage, farm equipment storage and animal shelters.

B. Application. Application for a certificate of compliance shall be made in duplicate to the Building Inspector. Application will be made on forms furnished by the Town and shall include the following, where applicable:

- (1) Name(s) and address(es) of the applicant, owner of the site, architect, professional engineer, or contractor.
- (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; and existing and proposed operation or use of the structure.

C. Review and approval. The Building Inspector shall review the application for its completeness and conformance with this chapter and visit the site. The certificate shall be granted or denied in writing by the Building Inspector within 60 days.

**§ 340-148. Occupancy permit. [Amended 7-1-2024 by Ord. No. 2024-03]**

A. Occupancy permit required.

- (1) Residential occupancy permits. No new building and no existing building which has been remodeled, relocated, structurally altered, enlarged, or converted for

residential dwelling purpose, unless excepted by § 340-10, shall be occupied or used until an occupancy permit has been issued by the Building Inspector. Such a permit shall certify that prior to occupancy the premises or building or part thereof was in compliance with this chapter and all applicable conditions, regulations, and laws.

- (2) Nonresidential occupancy permits. No new building, no existing building which has been remodeled, relocated, structurally altered, enlarged, or converted for nonresidential use, or has had a change in use, unless excepted by § 340-10, shall be occupied or used until an occupancy permit has been issued by the Building Inspector. Such a permit shall certify that prior to occupancy the premises or building or part thereof was in compliance with this chapter and all applicable conditions, regulations, and laws.
- B. Application. An occupancy permit shall be applied for from the Building Inspector at the time of substantial completion and prior to occupancy of any land and/or building.
- C. Review. Where the proposed use involves human occupancy and connections are not made to municipal water and sewer systems, satisfactory evidence of a safe and adequate water supply and sewage disposal service is to be provided.
- D. Approval. Within 10 days after the notification of the completion, the Building Inspector shall make an inspection of the premises and if the building and intended use thereof and the proposed use of the premises comply with this chapter shall issue an occupancy permit.
- E. Expiration. If within 12 months of the date of application an occupancy permit has not been issued, any building permit related to the building shall lapse and the Building Inspector shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon showing of valid cause, the Building Inspector may grant an extension of such permit not to exceed six months.
- F. Temporary occupancy permit. Pending the issuance of a regular permit, a temporary permit for nonresidential use may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants. A temporary permit shall be voided if the building fails to such a degree as to render it unsafe for the occupancy proposed.

#### **§ 340-149. Other required permits.**

It is the responsibility of the applicant to secure all other necessary permits required by local, county, state or federal authorities.

#### **§ 340-150. Fees. [Amended 7-1-2024 by Ord. No. 2024-03]**

All persons, firms or corporations performing work which by this chapter requires the review of plans, appearance at a public hearing, or issuance of a permit shall pay all fees and charges as required by Chapter 183 of the Town Code of the Town of Port Washington. No permits

shall be granted or issued until all fees and charges required under Chapter 183 have been paid.

**§ 340-151. Double fee.**

The Town Building Inspector shall charge a double fee if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.

**§ 340-152. Enforcement. [Amended 3-3-1997 by Ord. No. 97-1]**

- A. Failure to comply with the zoning permit requirements of this chapter may result in revocation of the permit and any other provision of the law, including but not limited to injunction or other civil suit. Any permit issued in conflict with the provisions of this chapter shall be null and void.
- B. When it appears to the Town Plan Commission, either by observation or by citizen complaint, that a permitted conditional use apparently is being or has been violated, the Plan Commission may convene a public hearing, as set forth in Article XIV, giving notice to the holder of the conditional use permit and advising the permit holder of the purpose of the hearing, which may be to modify, revoke, or reaffirm the conditional use permit then in effect. Following the public hearing, the Plan Commission may take action to modify, revoke, or reaffirm the conditional use permit then in effect. The Plan Commission may direct the Town Clerk and/or Town Building Inspector to take any necessary action to modify or revoke the conditions, restrictions, covenants or other pertinent documents concerning the conditional use.

**ARTICLE XIV**  
**Public Hearings**

**§ 340-153. Notice of public hearing.**

Notice of any public hearing which the Town Board, Town Plan Commission, or Zoning Board of Appeals is required to hold under the terms of this chapter and § 62.23(7)(d) and (e), Wis. Stats., shall specific the date, time, and place of said hearing and shall state the matter to be considered at said at such hearing.

- A. Content of public notice. Such notice shall state the time and place of the public hearing and the purpose for which the hearing is held and shall include, in the case of map change, a description of the area involved and, in the case of text changes, a description of the proposed change, in sufficient detail for general public identification. Reference shall be made to the fact that detailed descriptions are available for public inspection at the Town Clerk's office.
- B. Publication of notice. Notice shall be published in a newspaper of general circulation at least once each week for two consecutive weeks, and the hearing shall not be held until at least seven days following the last publication.

- C. Notice to adjoining municipality. The Town Clerk shall also give at least 10 days' prior written notice to the clerk of any municipality within 1,000 feet of any lands included in the petition.
- D. Notice to adjoining landowner and parties of interest: The Town Clerk shall also give at least 10 days' prior written notice to the owners of all lands lying within 500 feet of any land included in the petition. Failure to give notice to any property owner shall not invalidate the action taken by one of the aforementioned bodies.<sup>19</sup>
- E. Notice to parties interested in the matter. The Town Clerk shall also give at least 10 days' prior written notice to the parties that have shown interest in the matter and have given the Town Clerk a contact address. Failure to give notice to parties of interest shall not invalidate the action taken by one of the aforementioned bodies.

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19. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**ARTICLE XV**  
**Zoning Board of Appeals**

**§ 340-154. Establishment.**

There is hereby established a Zoning Board of Appeals for the Town of Port Washington for the purpose of hearing appeals and applications and granting variances and exceptions to the provisions of this chapter.

**§ 340-155. Membership; terms of office.**

The Zoning Board of Appeals shall consist of five members appointed by the Town Board Chairperson and confirmed by the Town Board.

- A. Terms shall be for staggered three-year periods.
- B. The Chairperson shall be appointed by the Town Board Chairperson.
- C. Two alternate members shall be appointed by the Town Board Chairperson. An alternate member shall serve for a term of three years and shall act only when a regular member is absent or refuses to vote because of interest.<sup>40</sup>
- D. One member shall be a Town Plan Commissioner.
- E. The Secretary shall be the Town Clerk.
- F. The Building Inspector shall attend meetings for the purpose of providing technical assistance when requested by the Board.
- G. Official oaths shall be taken by all members in accordance with § 19.01, Wis. Stats., within five days of receiving notice of their appointment.<sup>41</sup>
- H. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

**§ 340-156. Organization.**

The Zoning Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

- A. Meetings shall be held at the call of the Board and shall be open to the public.
- B. Minutes of the proceedings and a record of all actions shall be kept by the Secretary, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be a public record.

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40. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

41. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. The concurring vote of four members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified, or substituted use.

**§ 340-157. Powers.**

A. The Zoning Board of Appeals shall have the following powers:

- (1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Inspector.
- (2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this chapter shall be observed and the public safety, welfare, and justice secured.
- (3) Interpretations. To hear and decide applications for interpretation of the zoning regulations and the boundaries of the zoning districts after the Town Plan Commission has made a review and recommendation.
- (4) Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided that no structural alterations are to be made and the Town Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

B. Permits. The Board may reverse, affirm wholly or partly, or modify the requirements appealed from and may issue or direct the issuance of a permit.

C. Assistance. The Board may request assistance from other Town officers, departments, commissions, and boards.

D. Oaths. The Chairperson may administer oaths and compel the attendance of witnesses.

**§ 340-158. Appeals and applications.**

Any officer, department, board, or bureau of the Town or any person aggrieved may make appeals from the decision of the Building Inspector concerning the literal enforcement of this chapter. Such appeals shall be filed with the Secretary within 30 days after the date of written notice of the decision or order of the Building Inspector. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and applications shall include the following:

- A. Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of survey prepared by a registered land surveyor, or a location sketch drawn to scale, showing all of the information required under Article XIII for a zoning permit.

C. Additional information required by the Town Plan Commission, Town Engineer, Zoning Board of Appeals, or Building Inspector.

**§ 340-159. Hearings.**

The Zoning Board of Appeals shall fix a reasonable time and place for the required public hearing and shall give notice as specified in Article XIV of this chapter. At the hearing, the appellant or applicant may appear in person, by agent, or by attorney.

**§ 340-160. Variances.**

The Board shall grant no variance to the provisions of this chapter unless it finds that all of the following facts and conditions exist and so indicates in the minutes of its proceedings:

- A. Preservation of intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.
- B. Exceptional circumstances. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
- C. Hardships. Economic hardship and self-imposed hardship are not grounds for variance: No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- D. Preservation of property rights. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- E. Absence of detriment. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

**§ 340-161. Decision.**

The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Building Inspector, and Town Plan Commission.

- A. Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- B. Variances, substitutions, or use permits granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.

**§ 340-162. Review by court of record.**

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may, within 30 days after the filing of the decision, commence an action seeking the remedy available by certiorari in accordance with § 62.23(7)(e)10, Wis. Stats.

**ARTICLE XVI**  
**Word Usage and Definitions**

**§ 340-163. Word usage.**

For the purpose of this chapter, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense in this chapter include the future. The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual. The word "shall" is mandatory, the word "should" is advisory, and the word "may" is permissive. Any words not defined in this article shall be presumed to have their customary dictionary definitions.

**§ 340-164. Definitions.**

As used in this chapter, the following terms shall have the meaning indicated:

**ABOVE-ROOF SIGN** — A sign or part of a sign which is displayed above the roofline.

**ACCESSORY USE OR STRUCTURE** — A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

**ADMINISTRATIVE APPROVAL** — The same approval procedure as a conditional use except a public hearing and notice will not be required.

**ALLEY** — A special public right-of-way affording only secondary access to abutting properties.

**AM MULTI-TOWER PHASED ARRAY** — A series of towers physically spaced so as to create a directional signal. The array usually consists of two or more towers placed in a straight line with the distance between towers dependent on the transmitted frequency.

**ANTENNA, COMMERCIAL** — A building-mounted communications device designed to receive or send a broadcast as part of a commercial operation.

**ANTENNA, RESIDENTIAL** — A building-mounted communications device designed to receive or send a broadcast for a residential structure.

**APPROVAL AUTHORITY** — The Town of Port Washington Board of Supervisors.

**ARTERIAL STREET** — A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets shall include any street, highway or parkway with more than 80 feet of right-of-way.

**BASEMENT** — That portion of any structure that is located below lot grade or a room(s) with a ceiling that is less than four feet above lot grade. Basement floor areas shall not be used to compute minimum floor areas as required by this chapter.

**BERM** — A raised mound or bank of earth, typically used as, but not limited to, a barrier for visual screening, wind break or sound attenuation. Berm height is measured vertically from prior existing grade immediately adjacent to either side of the berm to the maximum height.

**[Added 12-7-2009 by Ord. No. 2009-07]**

**BOARDINGHOUSE** — A building other than a hotel or restaurant where meals or lodging is regularly furnished by prearrangement for compensation for four or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

**BLUFF** — The steep slopes generally wave cut and nearly vertical with exposed soil rising from the shorelines of lakes or streams. Bluffs may also be referred to as "cliffs" or "banks."

**BUILDING** — Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

**BUILDING, ACCESSORY** — A building or portion of a building used for a purpose customarily incidental to the permitted principal use of the lot or to a principal building and located on the same lot as the principal. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

**BUILDING AREA** — The total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

**BUILDING COVERAGE** — Area of the gross acreage of a site occupied by a building.

**BUILDING HEIGHT** — The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the roof, or to the highest point of a parapet wall if provided as a flat roof. **[Amended 8-4-2008 by Ord. No. 2008-01]**

**BUILDING, PRINCIPAL** — The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

**CERTIFIED SURVEY MAP** — A map intended to be recorded and prepared in accordance with § 236.34, Wis. Stats.

**CHANNEL** — A natural or man-made watercourse of perceptible extent, with a definite bed and banks to convey and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined channel.

**COLLOCATION OF FACILITIES** — The sharing of a tower or other supporting structure for the antennas of two or more different users or services.

**CONDITIONAL USES** — Uses of a special nature as to make impractical their predetermination as a principal use in a district. See Articles III and IV for listed conditional uses.

COUNTY — Ozaukee County, Wisconsin.

CUL-DE-SAC — Minor street closed at one end with turnaround provided.

DEVELOPMENT — Subdivision or minor subdivision.

DISTRICT, BASIC — A part or parts of the Town for which the regulations of this chapter governing the use and location of land and buildings are uniform.

DISTRICT, OVERLAY — Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirement shall apply.

DRIVEWAY, RESIDENTIAL — That portion of a parcel or property intended to be used for delineated access, paved or unpaved, from the abutting access street to a garage or carport.

DWELLING — A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

DWELLING, SINGLE-FAMILY — A detached building designed for or occupied exclusively by one family.

DWELLING UNIT — A group of rooms constituting all or part of a dwelling which are arranged, designed, used, or intended for use exclusively as living quarters for one family.

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, electrical, steam, water, sanitary sewerage, stormwater 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 not including buildings.

EXTRACTIVE OPERATION — The removal of rock slate, gravel, sand, topsoil, or other natural material from the earth by excavation, stripping, leveling or other process.

FAMILY — One or more persons related by blood, marriage or adoption living together, exclusive of household servants. A number of persons living together as a single housekeeping unit, although not related by blood, adoption or marriage, shall be deemed to constitute a family. A boardinghouse shall not be considered a family. **[Amended 6-4-2007 by Ord. No. 2007-1-B]**

FARM — A parcel or parcels in agricultural use that constitute a single economic unit for purposes of filing an individual, fiduciary, partnership or corporate income tax return. **[Added 7-6-1999 by Ord. No. 99-5]**

FARM CONSOLIDATION — The combination of two or more farms to create a smaller number of farms. **[Added 7-6-1999 by Ord. No. 99-5]**

FARMSTEAD — The farmhouse, buildings, and adjacent service areas of a working farm. **[Added 12-7-2009 by Ord. No. 2009-09]**

**FENCE, OPEN** — A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 50% of their surface area open for free passage of light and air. Examples of such fences include barbed wire, chain link, picket, and rail fences.

**FENCE, SOLID** — A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 50% or less of their surface area open for free passage of light and air. Examples of such fences are stockade, board-on-board, board and batten, basket weave, and louvered fences.

**FINAL PLAT** — The map or plat which is prepared for recordation in the Register of Deeds office.

**FLOOD** — A temporary rise in the stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel. It should be noted that flooding could occur in areas not adjacent to streams or lakes due to overland movements of larger quantities of stormwater at the time of heavy or intense rainfall in a short period of time.

**FREEWAY** — An expressway with full control of access and with fully grade-separated intersections.

**FRONTAGE** — The smallest dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the smallest dimension measured along the shoreline.

**GARAGE, PRIVATE** — A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports are considered garages.

**GARAGE, PUBLIC OR COMMERCIAL** — Any garage other than a private garage.

**HIGH-WATER MARK OR ELEVATION** — The average annual high-water level of a pond, lake, river, stream, or flowage usually distinguished by a line where the presence of water is so continuous as to leave a distinct mark by erosion, change in or destruction of vegetation, or other easily recognized topographic, geologic, or vegetative characteristics.

**HOME INDUSTRIES** — A homeowner-operated business operation that is incidental to the principal residential use. Home industries include logistics, or daily staging area of vehicles to be used off the premises and employee vehicles; off-premises excavation; landscaping; and similar uses. **[Added 5-11-2011 by Ord. No. 2011-03]**

**HOME OCCUPATION** — Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed 25% of the area of one floor, employs no more than one nonresident employee, uses only household equipment, and where no stock-in-trade is kept or sold except that made on the premises. A home occupation includes uses such as baby-sitting, millinery, dressmaking, canning, laundering, music teaching to not more than two pupils at one time, and crafts but does not include the display of any goods nor such occupations as barbering, beauty shops, dance schools, real estate brokerage, or photographic studios. (See also "professional home office.")

LOT — A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use, provided that such parcel shall not be bisected by a public street and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot size for the purposes of this chapter. **[Amended 11-13-2013 by Ord. No. 2013-06]**

LOT, CORNER — A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135° or less, measured on the lot side.

LOT, DOUBLE FRONTAGE — A parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water. Double frontage lots, for the purpose of this chapter, shall be deemed to have two front yards and no rear yard.

LOT WIDTH — The width of a parcel of land measured at the setback line.<sup>24</sup>

MOTEL — A series of attached, semiattached, or detached sleeping units for the accommodation of transient guests.

NET ACREAGE — The acreage in a parcel of land including no land devoted to access to the parcel or devoted to uses attendant to or provided for service to the parcel or residents.

NONCONFORMING USE OR STRUCTURE — Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this chapter or amendments thereto which does not conform to the regulations of this chapter or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

PARCEL — Real property upon which one or more rural structures, including farm residences, are placed, together with the required open spaces. The term "parcel" is used in the A-1, A-2 and A-3 District regulations and is distinguishable from the term "lot" as defined elsewhere in this chapter. **[Amended 12-7-2009 by Ord. No. 2009-08]**

PARKING LOT — A structure or premises containing 10 or more parking spaces open to the public. Such spaces may be for rent or a fee.

PARKWAY — A continuous or semicontinuous park, open space area or drive, usually along a watercourse or park, where the land is owned or reserved for public or semipublic purposes.

PARTIES IN INTEREST — Includes all abutting property owners, all property owners within 200 feet, and all property owners of opposite frontages. The application of the two-hundred-foot rule is not affected by Town, city, or village corporate limit lines.

PLAN COMMISSION — The Town of Port Washington Plan Commission.

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24. Editor's Note: The definition of "minor subdivision" which immediately followed this definition was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See the definition "subdivision, minor."

**PLANTING SCREEN** — A combination of plants that cover at least 50% of the face surface area between the ground and five feet high when planted.

**PLAT** — The map and related documents, which are intended to be recorded with and referenced, of a subdivision or minor land division showing the division of the land into lots, blocks, outlots, streets or other required information.

**PRELIMINARY PLAN** — The preliminary drawing described in this chapter indicating the proposed manner or layout of the streets, lots and blocks of the subdivision or development.

**PRINCIPAL STRUCTURE** — The building or structure on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.



**PROFESSIONAL HOME OFFICES** — Residences of clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, real estate agents, artists, teachers, authors, musicians, or other recognized professions used to conduct their professions where the office does not exceed 25% of the area of only one floor of the residence and only one nonresident person is employed.

**RAVINE** — A deep gorge or gully, usually one worn by the flow of water.

**REAR YARD** — A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

**REPLAT** — The changing of the boundaries of a recorded plat or part thereof.

**SHORELANDS** — All lands, water and air located within the following distances from the normal high-water elevation of navigable waters as defined in § 281.31(2)(d), Wis. Stats.: 1,000 feet from a lake, pond or flowage or 300 feet from a river or stream to the landward side of the floodplain, whichever distance is greater.

**SHORE YARD** — A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the high-water mark of the lake or stream upon which the lot abuts and a line parallel thereto through the nearest point of the principal structure.

**SIGN** — Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which are visible from any public street or highway.

**STREET** — A public right-of-way not less than 48 feet wide providing primary access to abutting properties.

**STREET YARD or SETBACK** — A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards.

**STRUCTURAL ALTERATION** — Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

**STRUCTURE** — Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment.

**SUBDIVIDER** — Any person or persons engaged in the act of subdividing land.

**SUBDIVISION, MAJOR** — A division of a parcel of land which results in five or more lots, outlots, building sites, or residual parcels, each of five acres or less in area, either by the division or successive divisions within a period of five years.

**SUBDIVISION, MINOR** — Any division of land other than a major subdivision as defined in this section.

**SUBURBAN** — An area where the lot sizes are one acre or less.

**TOWER** — Ground-mounted communications device designed to receive and/or send broadcasts.

**TOWN** — The Town of Port Washington, Town Board of Supervisors

**TURNING LANE** — 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.

**USE, PRINCIPAL** — The main or primary use of property or structures as permitted on such lot by the regulations of the district in which it is located.

**UTILITIES** — Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

**VALUE-ADDED AGRICULTURE** — A small commercial, manufacturing or service operation, which is located on the same site and is accessory to an agricultural use. Examples of value-added agriculture include small-scale food processing, handcrafting, product packaging and marketing, and agricultural tourism. These farm-based activities may involve new structures but are accessory to the principal use. **[Added 5-4-2015 by Ord. No. 2015-01]**

**WIND ENERGY CONVERSION SYSTEM** — A combination of:

- A. Some sort of surface area for capturing the wind;
- B. A shaft, gearing belt, or coupling assembly for converting the rotational power of the attached surface area to an electrically or mechanically usable form;
- C. A generator or alternator to convert the rotational energy into electrical energy; and
- D. Some sort of tower or other structure upon which the first three elements are mounted.

**YARD** — An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

**ZONING PERMIT** — A permit issued by the Town Building Inspector for construction, moving, alteration, or addition to any use, structure, or structure and use in combination upon compliance with the provisions of this chapter.

## ARTICLE XVII

### Adoption

#### **§ 340-165. Exercise of village powers.**

The electors of the Town of Port Washington, Ozaukee County, Wisconsin, authorized the Town Board to exercise all powers relating to villages granted by Ch. 61, Wis. Stats., at an annual meeting held in April 1996.

**§ 340-166. Plan Commission recommendation.**

The Plan Commission of the Town of Port Washington recommended the adoption of this chapter at a meeting held on the 11th day of September 1996.

**§ 340-167. Public hearing.**

Pursuant to and in accordance with the laws of the State of Wisconsin, the Town Board of the Town of Port Washington held a public hearing on this chapter on the 7th day of October 1996.

**§ 340-168. Town Board approval.**

The Town Board of Supervisors concurred with the recommendations of the Town Plan Commission and proceeded to adopt the Zoning and Subdivision Ordinance for the Town of Port Washington at a meeting held on the 7th day of October 1996.



## ZONING AND SUBDIVISION

340 Attachment 1

### Town of Port Washington

#### Exhibit B Illustration of Knellsville Overlay Development Standard District Signage Requirements

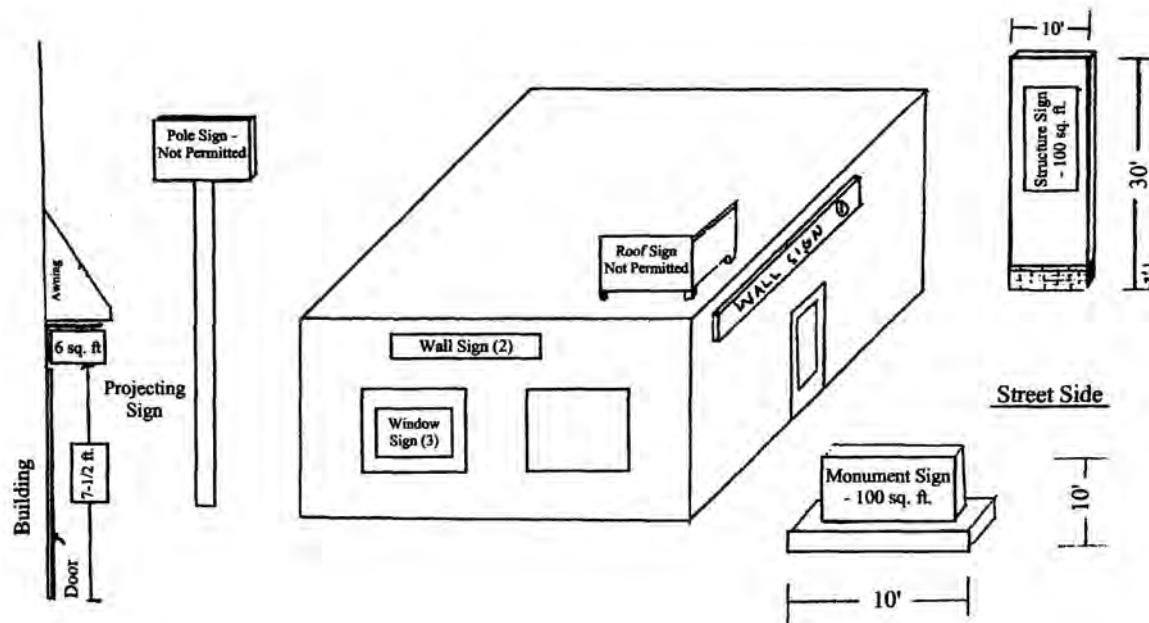
Wall sign:

Street side (front) = 100% of the linear frontage (1)  
Side (side) = 25% of the linear frontage (2)

Window sign = 25% of glass area (3)

Pole sign - not permitted

Roof sign - not permitted



\* Examples of allowable signage in Knellsville. Please see §§ 340-33 and Article VI of Chapter 340, Zoning and Subdivision, for details.



## ZONING AND SUBDIVISION

### *340 Attachment 2*

#### **Town of Port Washington**

#### **Zoning and Subdivision Derivation Table**

In order to assist Code users in the transition to the Zoning and Subdivision chapter organization of the 2007 Code, this Derivation Table indicates where the original sections of Ordinance No. 96-3, Zoning and Subdivision, as amended through August 2006, have been included in Chapter 340, Zoning and Subdivision.

<b>1996 Ordinance</b>	<b>Location in Chapter 340</b>
Section 1.00	Article I
1.01	§ 340-1
1.02	§ 340-2
1.03	§ 340-3
1.04	§ 340-4
1.05	§ 340-5
1.06	—
1.07	—
1.08	§ 340-6
Section 2.00	Article II
2.01	§ 340-7
2.02	§ 340-8
2.03	§ 340-9
2.04	§ 340-10
2.05	§ 340-11
2.06	§ 340-12
2.07	§ 340-13
2.08	§ 340-14
2.09	§ 340-15
2.10	§ 340-16
Section 3.00	Article III
3.01	§ 340-17
3.02	§ 340-18
3.03	§ 340-19
3.04	§ 340-20
3.05	§ 340-21
3.06	§ 340-22
3.07	§ 340-23
3.08	§ 340-24
3.09	§ 340-25
3.10	§ 340-26
3.11	§ 340-27
3.12	§ 340-28
3.13	§ 340-29
3.14	§ 340-30

**PORT WASHINGTON CODE**

<b>1996 Ordinance</b>	<b>Location in Chapter 340</b>
3.15	§ 340-31
3.16	Article VII
3.16A	§ 340-74
3.16B	§ 340-75
3.16C	§ 340-76
3.16D	§ 340-77
3.16E	§ 340-78
3.16F	§ 340-79
3.16G	§ 340-80
3.16H	§ 340-81
3.16I	§ 340-82
3.16J	§ 340-83
3.16K	§ 340-84
3.16L	§ 340-85
3.16M	§ 340-86
3.16N	—
3.17	§ 340-32
3.18	§ 340-33
Section 4.00	Article IV
4.01	§ 340-34
4.02	§ 340-35
4.03	§ 340-36
4.04	§ 340-37
4.05	§ 340-38
4.06	§ 340-39
4.07	§ 340-40
4.08	§ 340-41
4.09	§ 340-42
4.10	§ 340-43
Section 5.00	Article V
5.01	§ 340-45
5.02	§ 340-46
5.03	§ 340-47
5.04	§ 340-48
5.05	§ 340-49
5.06	§ 340-50
5.07	§ 340-51
5.08	§ 340-52
5.09	§ 340-53
5.10	§ 340-54
5.11	§ 340-55
5.12	§ 340-56
5.13	§ 340-57
5.14	§ 340-58
5.15	§ 340-59
5.16	§ 340-60

## ZONING AND SUBDIVISION

<b>1996 Ordinance</b>	<b>Location in Chapter 340</b>
Section 6.00	Article VI
6.01	§ 340-61
6.02	§ 340-62
6.03	§ 340-63
6.04	§ 340-64
6.05	§ 340-65
6.06	§ 340-66
6.07	§ 340-67
6.08	§ 340-68
6.09	§ 340-69
6.10	§ 340-70
6.11	§ 340-71
6.12	§ 340-72
6.13	§ 340-73
Section 7.00	Article VIII
7.01	§ 340-87
7.02	§ 340-88
7.03	§ 340-89
7.04	§ 340-90
7.05	§ 340-91
7.06	§ 340-92
7.07	§ 340-93
7.08	§ 340-94
7.09	§ 340-95
Section 8.00	Article IX
8.01	§ 340-96
8.02	§ 340-97
8.03	§ 340-98
8.04	§ 340-99
8.05	§ 340-100
Section 9.00	Article X
9.01	§ 340-102
9.02	§ 340-103
9.03	§ 340-104
9.04	§ 340-105
9.05	§ 340-106
9.06	§ 340-107
9.07	§ 340-108
9.08	§ 340-109
9.09	§ 340-110
9.10	§ 340-111
Section 10.00	Article XI
10.01	§ 340-113
10.02	§ 340-114
10.03	§ 340-115
10.04	§ 340-116

**PORT WASHINGTON CODE**

<b>1996 Ordinance</b>	<b>Location in Chapter 340</b>
10.05	§ 340-117
10.06	§ 340-118
10.07	§ 340-119
10.08	§ 340-120
10.09	§ 340-121
10.10	§ 340-122
10.11	§ 340-123
10.12	§ 340-124
10.13	§ 340-125
10.14	§ 340-126
10.15	§ 340-127
10.16	§ 340-128
10.17	§ 340-129
10.18	§ 340-130
10.19	§ 340-131
10.20	§ 340-132
10.21	§ 340-133
10.22	§ 340-134
Section 11.00	Article XII
11.01	§ 340-135
11.02	§ 340-136
11.03	§ 340-137
11.04	§ 340-138
11.05	§ 340-139
11.06	§ 340-140
11.07	§ 340-141
11.08	§ 340-142
Section 12.00	Article XIII
12.01	§ 340-143
12.02	§ 340-144
12.03	§ 340-145
12.04	§ 340-146
12.05	§ 340-147
12.06	§ 340-148
12.07	§ 340-149
12.08	§ 340-150
12.09	§ 340-151
12.10	§ 340-152
Section 13.00	Article XIV
13.01	§ 340-153
Section 14.00	Article XV
14.01	§ 340-154
14.02	§ 340-155
14.03	§ 340-156
14.04	§ 340-157
14.05	§ 340-158

## ZONING AND SUBDIVISION

<b>1996 Ordinance</b>	<b>Location in Chapter 340</b>
14.06	§ 340-159
14.07	§ 340-160
14.08	§ 340-161
14.09	§ 340-162
Section 15.00	Article XVI
15.01	§ 340-163
15.01A	§ 340-164
Section 16.00	Article XVII
16.01	§ 340-165
16.02	§ 340-166
16.03	§ 340-167
16.04	§ 340-168

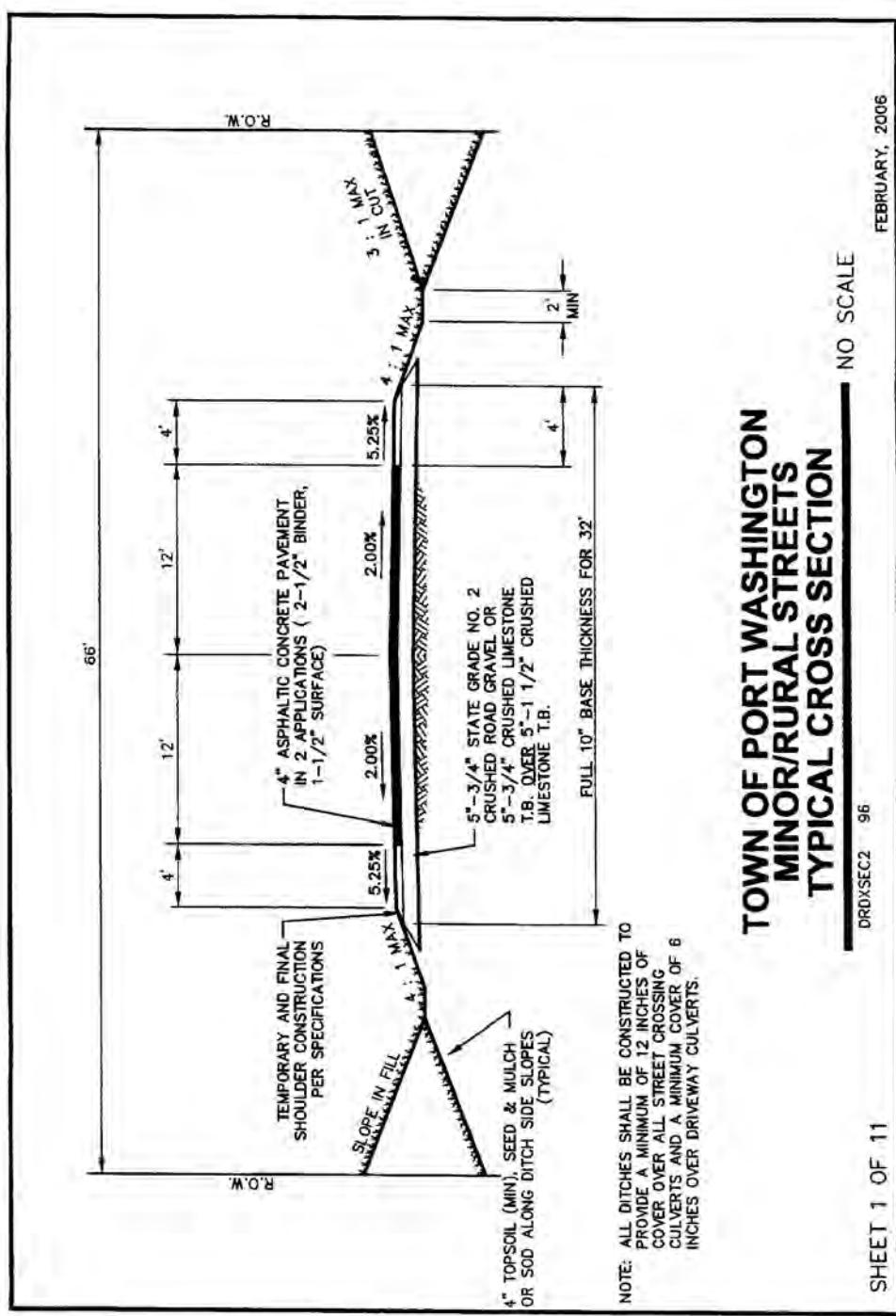


## ZONING AND SUBDIVISION

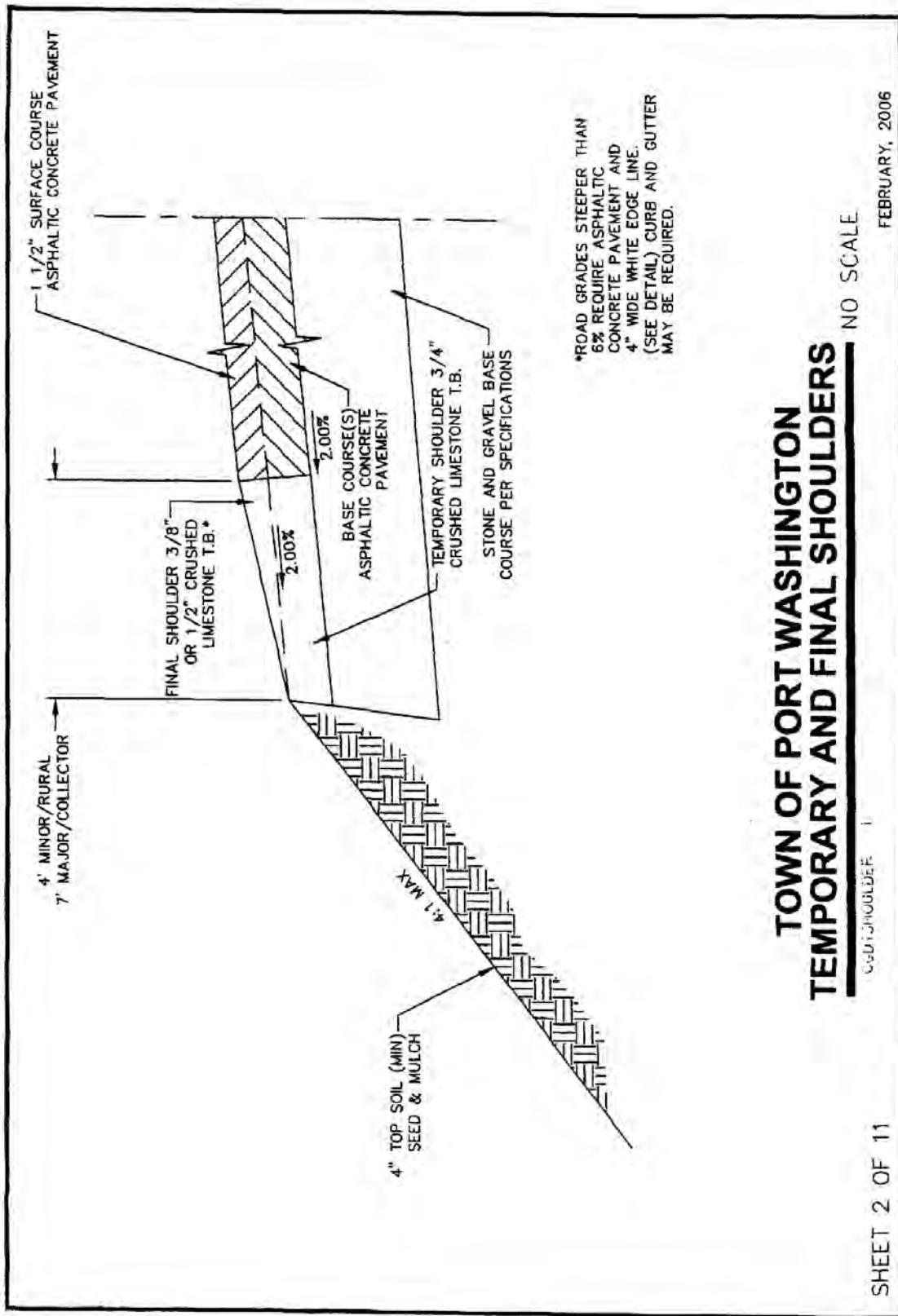
340 Attachment 3

## Town of Port Washington

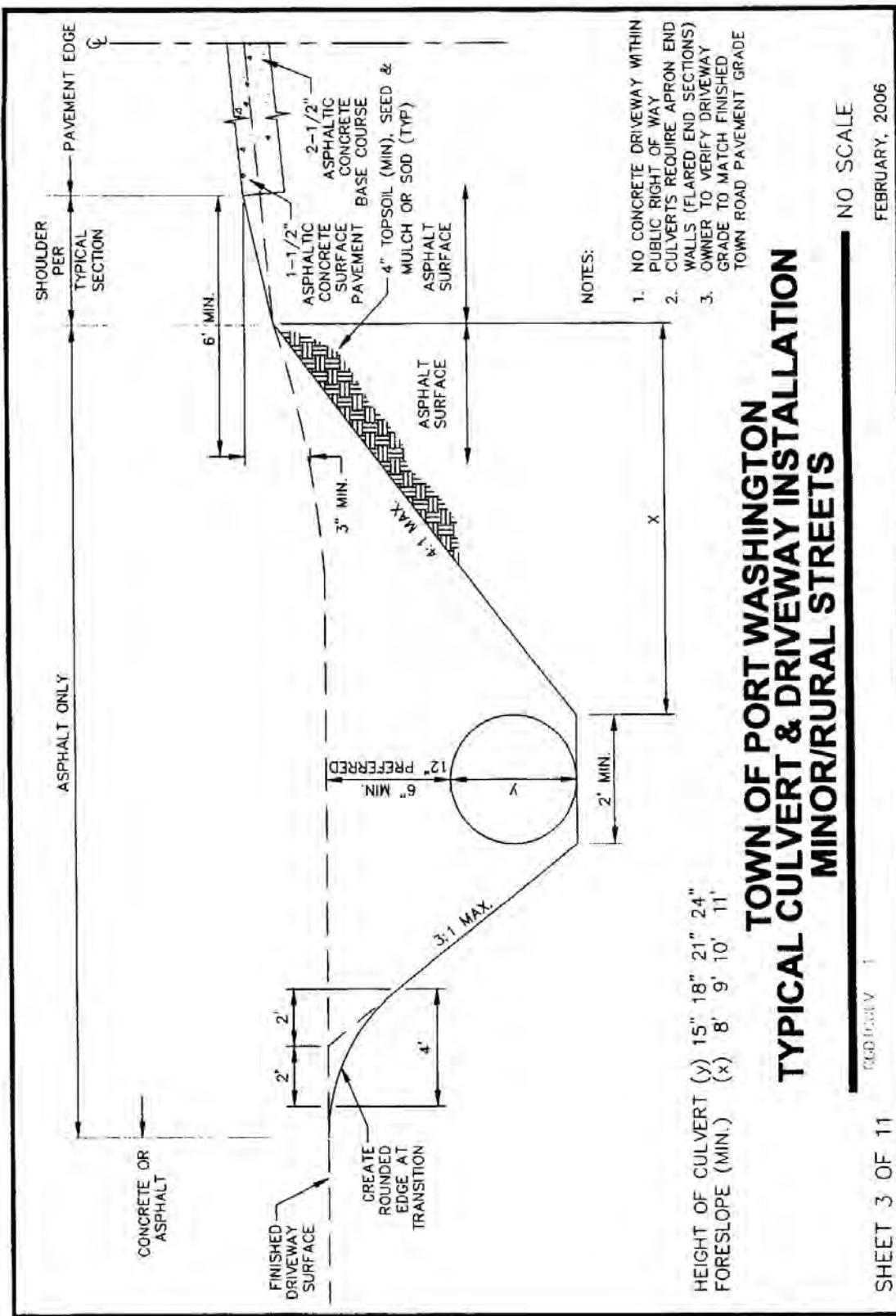
## Minimum Road Design Standards



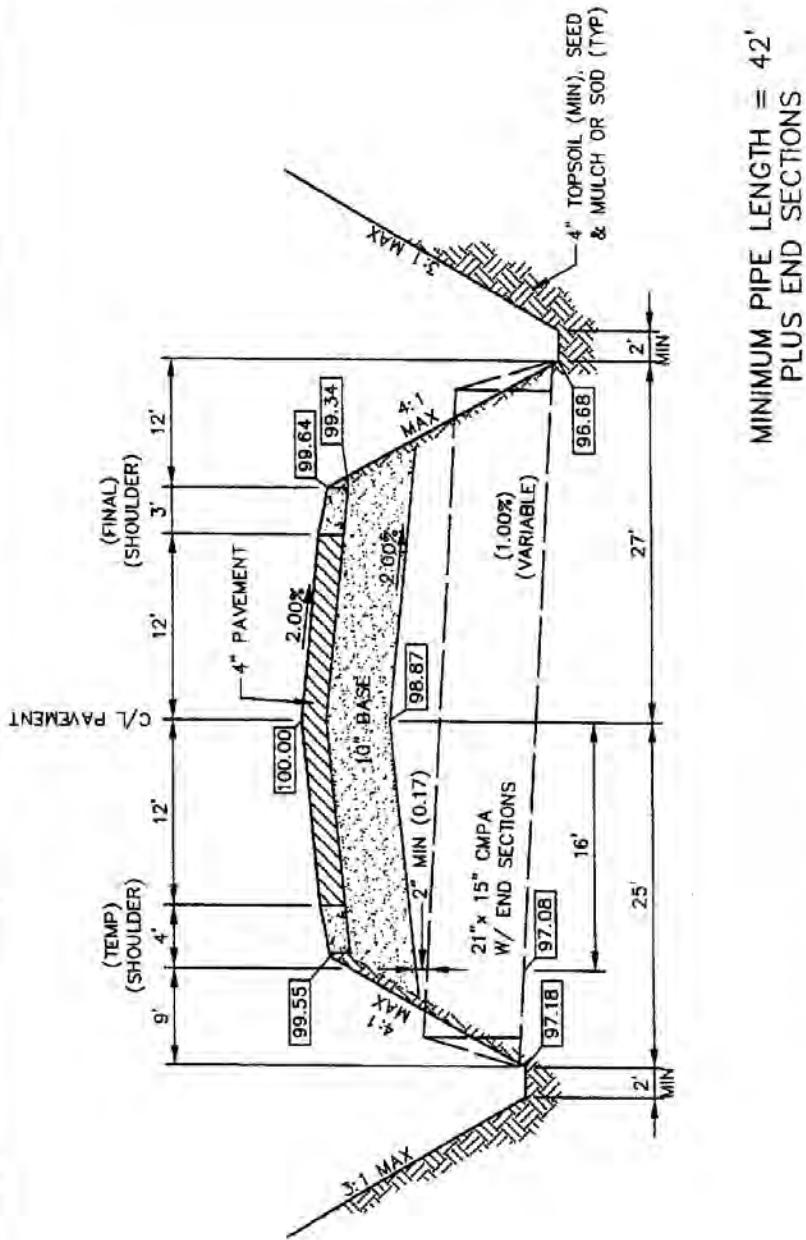
PORT WASHINGTON CODE



ZONING AND SUBDIVISION



# PORT WASHINGTON CODE



**TOWN OF PORT WASHINGTON  
TYPICAL CROSS SECTION THRU  
MINIMUM SIZE 21"x 15" CMPA**

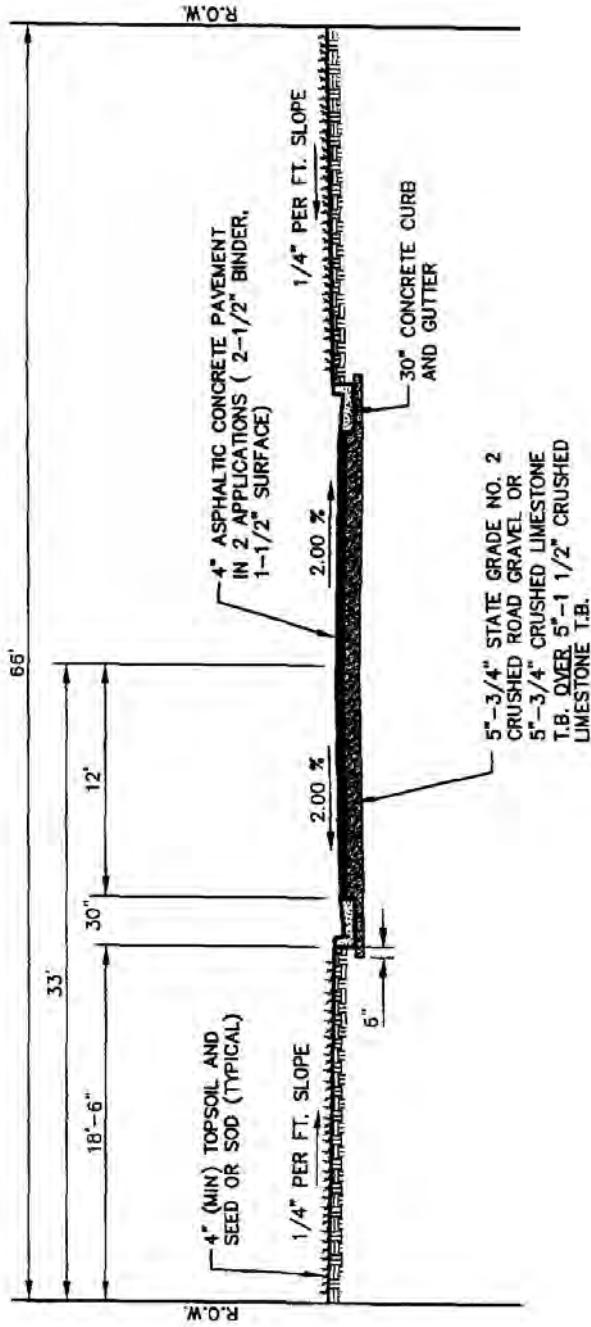
NU 3241

FEBRUARY, 2006

הנִּמְצָא

SHEET 4 OF 11

ZONING AND SUBDIVISION



**TOWN OF PORT WASHINGTON  
MINOR URBAN STREETS  
TYPICAL CROSS SECTION**

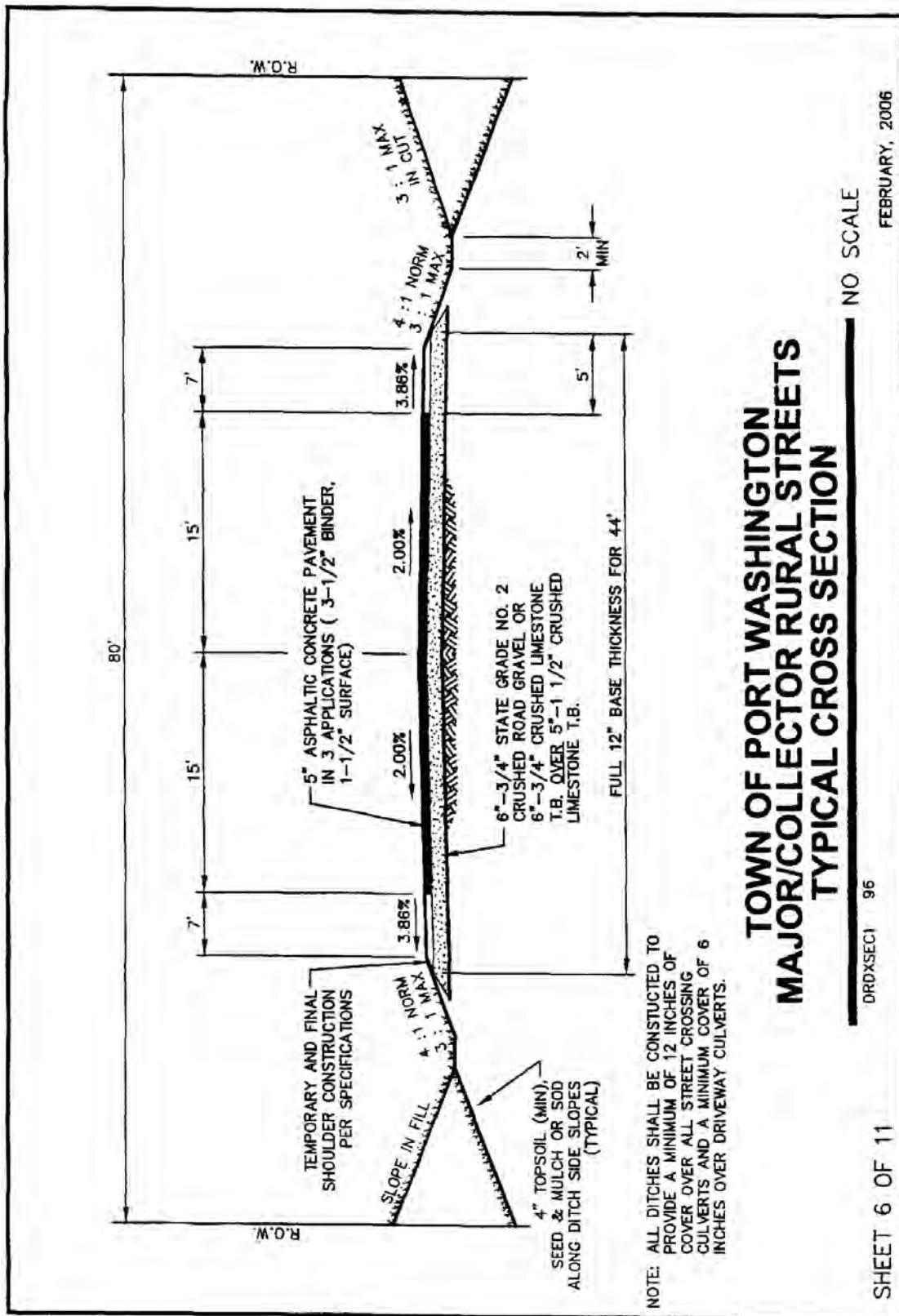
NO SCALE

FEBRUARY, 2006

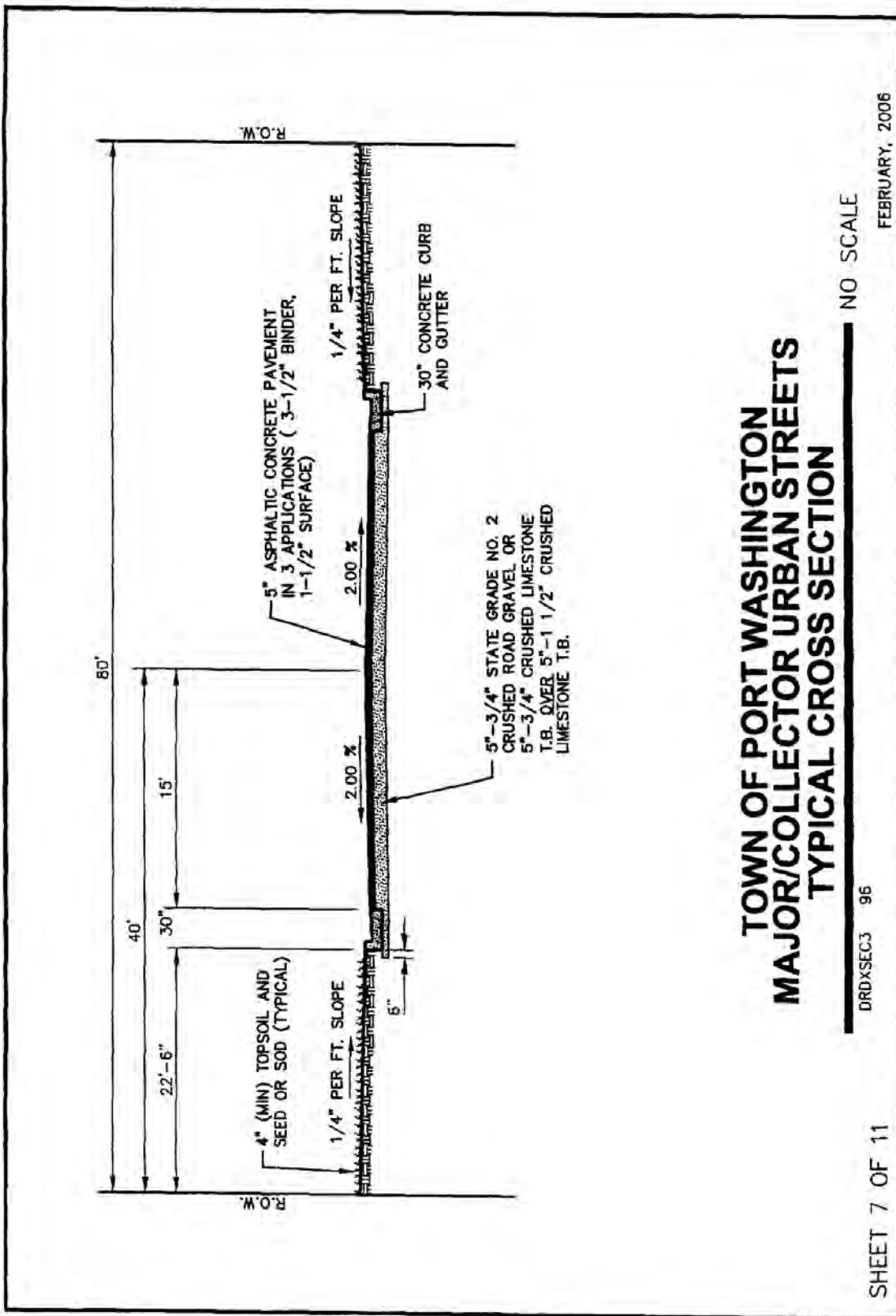
DRDXSEC4 96

SHEET 5 OF 11

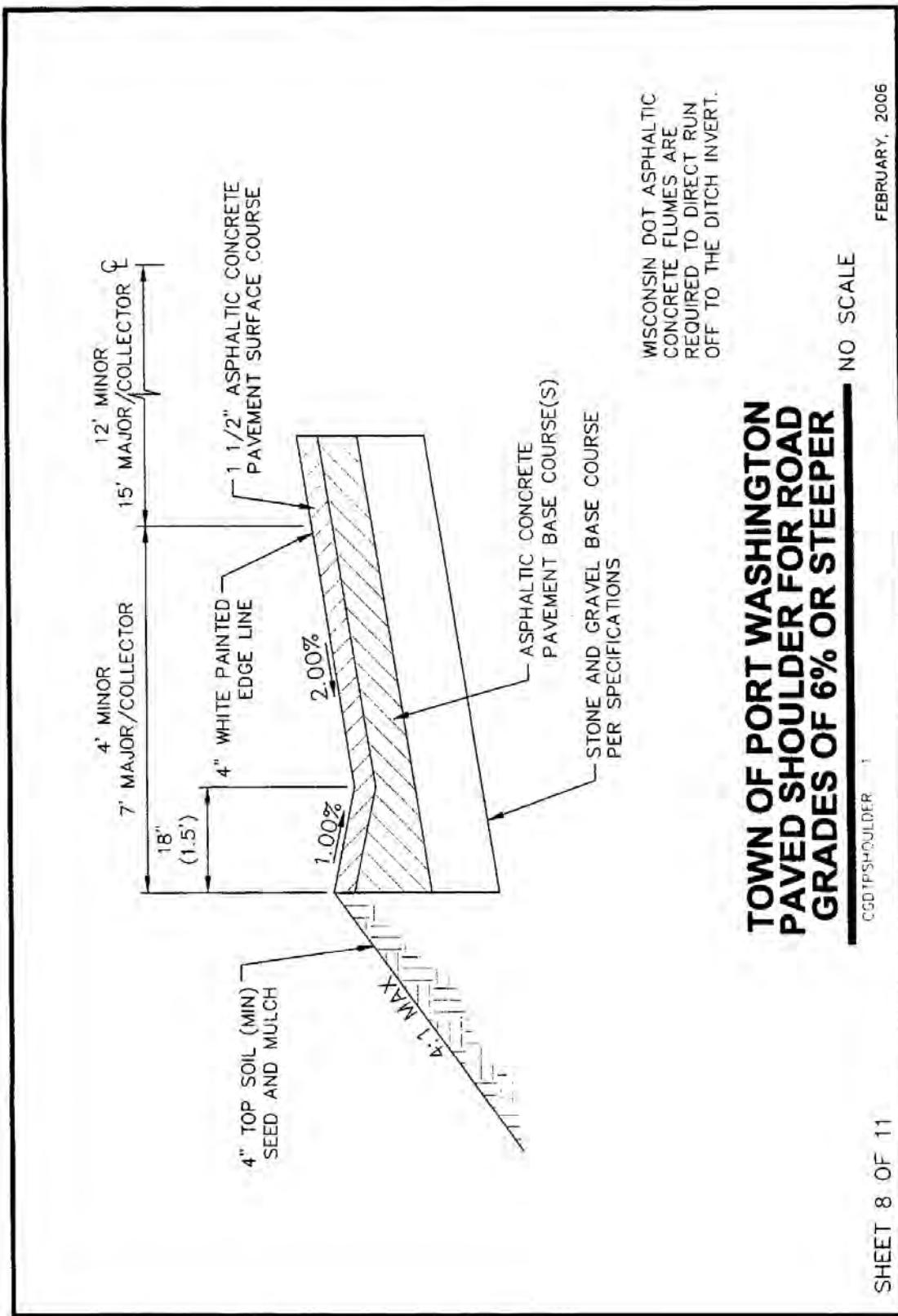
PORT WASHINGTON CODE



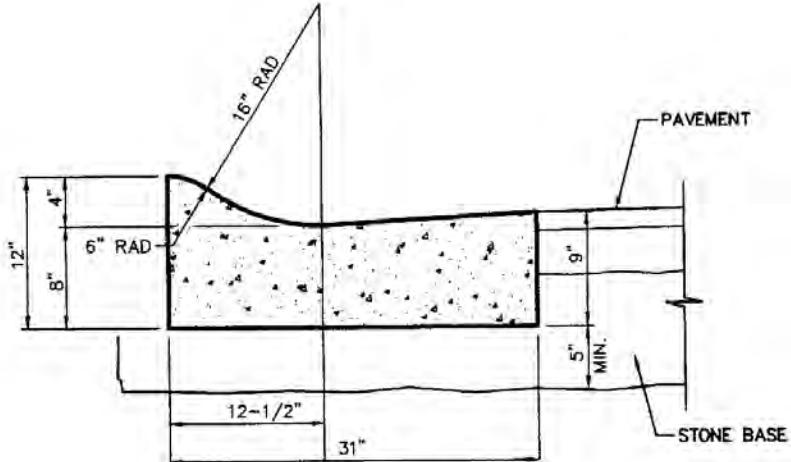
ZONING AND SUBDIVISION



PORT WASHINGTON CODE

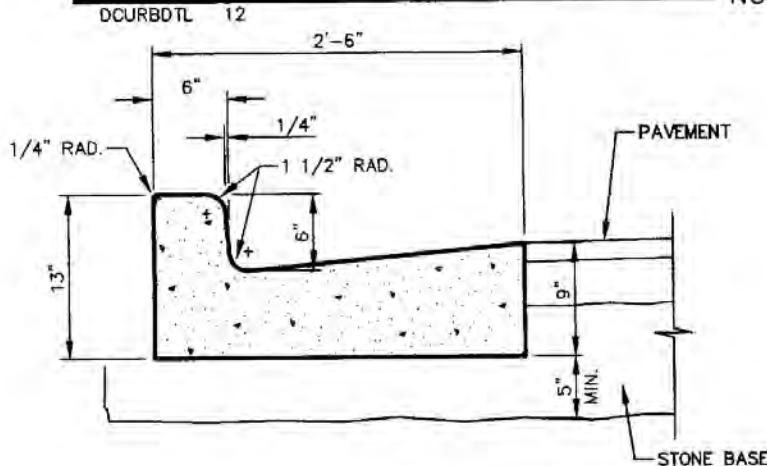


ZONING AND SUBDIVISION



**STANDARD  
TOWN OF PORT WASHINGTON  
MOUNTABLE  
CONCRETE CURB AND GUTTER**

NO SCALE



**OPTIONAL WITH PLAN COMMISSION APPROVAL  
TOWN OF PORT WASHINGTON  
VERTICAL FACE  
CONCRETE CURB AND GUTTER**

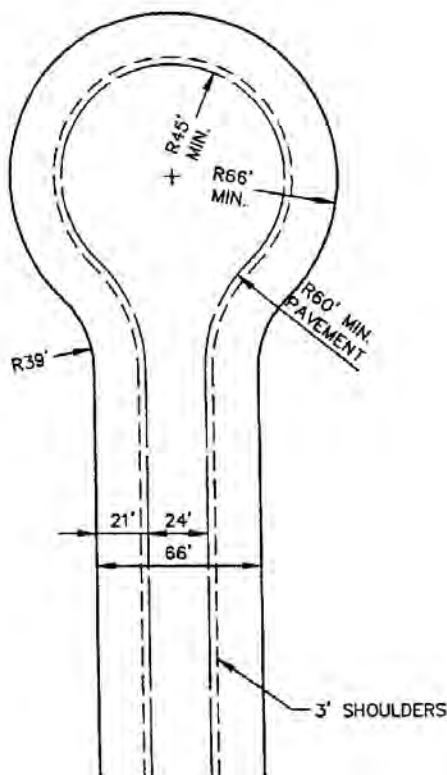
NO SCALE

SHEET 9 OF 11

DCURBDTL 12

FEBRUARY, 2006

PORT WASHINGTON CODE



NOTES:

1. DITCH, SHOULDER, PAVEMENT AND BASE PER TYPICAL CROSS SECTION.
2. ADDITIONAL DRAINAGE EASEMENTS MAY BE REQUIRED ON PROJECT SPECIFIC BASIS.

**TOWN OF PORT WASHINGTON**  
**TYPICAL RESIDENTIAL CUL-DE-SAC**  
**RURAL SECTION (HARD CENTER)**

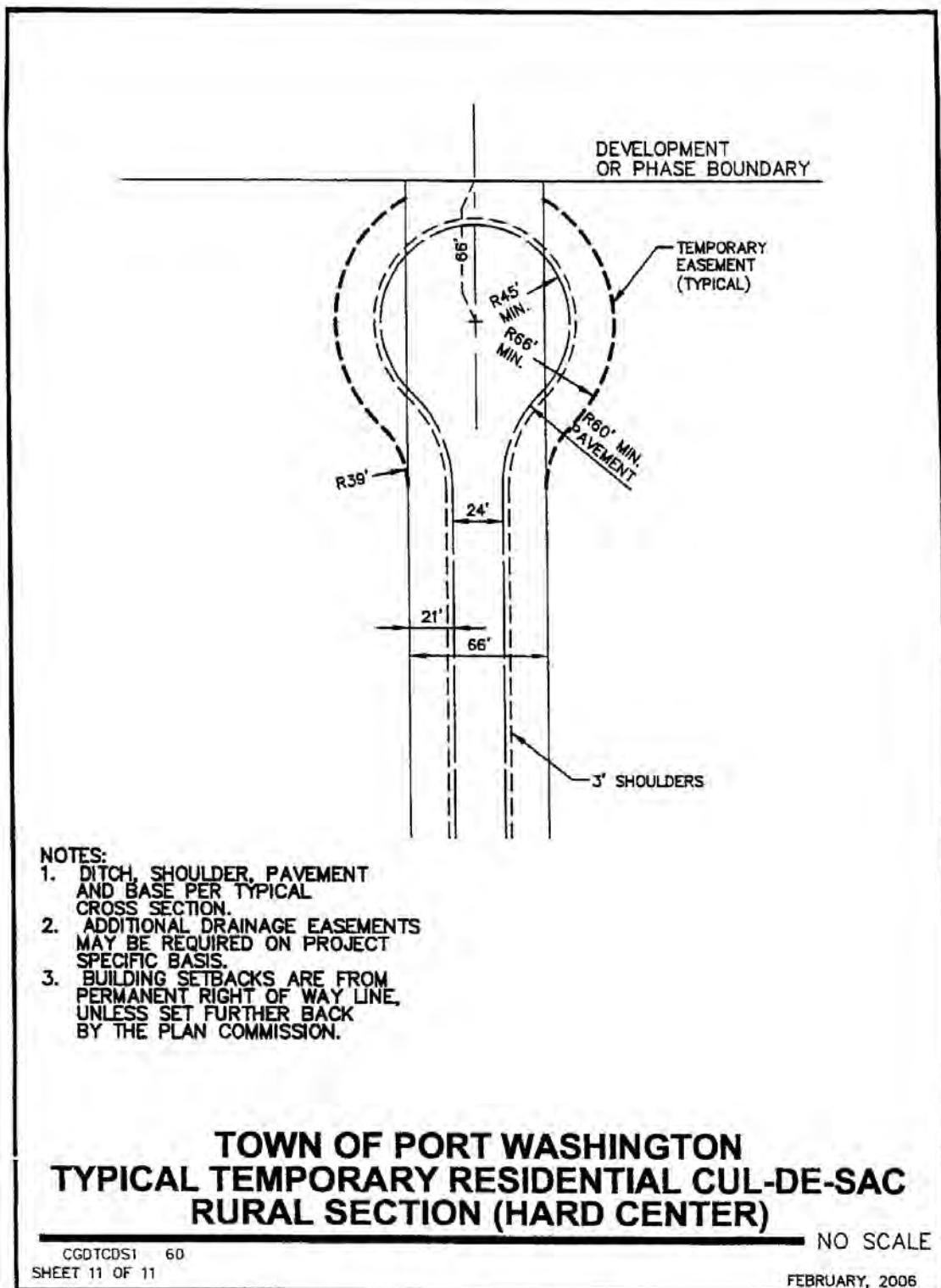
NO SCALE

SHEET 10 OF 11

CODEDST: 65

FEBRUARY, 2006

ZONING AND SUBDIVISION





## ZONING AND SUBDIVISION

### *340 Attachment 4*

#### **Town of Port Washington**

#### **Road Construction Standards**

##### **Asphaltic concrete pavement:**

Width:	Per approved cross section
Surface:	9.5 mm - E0.3 (Minor) or 9.5 mm - E1.0 (Major/Collector)
Binder Course(s):	12.5 mm - E0.3 (Minor) or 19.0 mm - E1.0 (Major/Collector)
Follow:	State Specifications 460
Asphalt Binder:	PG 58-28
Tack coat between all pavement courses:	State Specifications 455.2.5

##### **Surface course pavement to be installed:**

Not less than one full winter after binder course pavement was installed  
Not more than three years after binder course pavement was installed or after 80% of the building on the lots have been completed, which ever occurs first

##### **Dense graded base:**

Thickness:	Per approved cross section
Follow:	WisDOT Specifications 305
Top Course:	3/4" crushed limestone
Bottom Course:	1 1/4" crushed limestone

##### **Shoulders:**

Aggregate:	Per approved cross section
Paved:	
Slopes less than 6%:	same as road pavement
Slopes greater than 6%:	follow Town standard detail



## ZONING AND SUBDIVISION

### *340 Attachment 5*

#### **Town of Port Washington**

#### **Fall/Winter/Spring Construction Policy**

1. Subgrade:

May not be constructed over any frozen subsoil

Proof rolls may not be done on frozen grade

2. Stone and gravel base courses:

Prohibited on subgrades which do not have a passing proof roll

Proof rolls may not be done on frozen base course

3. Binder course paving

Prohibited on frozen base or when ambient air temperature is below 32°F

4. Surface course paving prohibited

November 1 to May 1 (or on frozen ground) unless approved in writing by the Town Engineer

5. Concrete work may not be placed on frozen base or grade or when ambient air temperature is below 40°F.

6. All other work follow Wisconsin Department of Transportation Standard Specifications



# DISPOSITION LIST



## Chapter DL

### DISPOSITION LIST

#### **§ DL-1. Disposition of legislation.**

The following is a chronological listing of legislation of the Town of Port Washington adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ord. No. 2007-1, adopted 4-2-2007.

---

#### **§ DL-1. Disposition of legislation.**

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 2007-1-B	6-4-2007	Adoption of Code	Ch. 1, Art. I
Ord. No. 2007-2	6-4-2007	Intoxicating liquor and fermented malt beverages: provisional operator's licenses	Ch. 216, Art. IV
Ord. No. 2007-3	7-2-2007	Intoxicating liquor and fermented malt beverages: cancellation of liquor license for non-use	Ch. 216, Art. V
Res. No. 2007-1	11-5-2007	Emergency management: National Incident Management System	Ch. 33, Art. I
Res. No. 2008-01-A	1-7-2008	Intergovernmental cooperation agreement	NCM
Ord. No. 2008-01	8-4-2008	Zoning and subdivision amendment	Ch. 340
Ord. No. 2008-20	8-4-2008	Vehicles and traffic: speed limits amendment	Ch. 322, Art. II
Res. No. 2008-01-B	8-4-2008	Emergency management: All Hazards Mitigation Plan	Ch. 33, Art. II
Ord. No. 2009-01	2-2-2009	Comprehensive Plan	Ch. 16
Ord. No. 2009-02	3-11-2009	Zoning and subdivision amendment	Ch. 340
Res. No. 2009-02	10-5-2009	Library reimbursement	NCM

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Res. No. 2009-03	10-15-2009	2010 census	NCM
Ord. No. 2009-03	11-2-2009	Vehicles and traffic: speed limits amendment	Ch. 322, Art. II
Ord. No. 2009-04	11-2-2009	Zoning and subdivision amendment	Ch. 340
Ord. No. 2009-05	12-7-2009	Deputy Clerk and Deputy Treasurer amendment	Ch. 82, Art. I
Ord. No. 2009-06	12-7-2009	Zoning and subdivision amendment	Ch. 340
Ord. No. 2009-07	12-7-2009	Zoning and subdivision amendment	Ch. 340
Ord. No. 2009-08	12-7-2009	Zoning and subdivision amendment	Ch. 340
Ord. No. 2009-09	12-7-2009	Zoning and subdivision amendment	Ch. 340
Ord. No. 2011-01	2-7-2011	Zoning and subdivision amendment	Ch. 340
Ord. No. 2011-02	2-7-2011	Zoning and subdivision amendment	Ch. 340
Ord. No. 2011-03	5-11-2011	Zoning and subdivision amendment	Ch. 340
Ord. No. 2011-04	9-6-2011	Vehicles and traffic: speed limits amendment	Ch. 322, Art. II
Ord. No. 2011-05	10-12-2011	Zoning and subdivision amendment	Ch. 340
Ord. No. 2011-06	11-7-2011	Zoning and subdivision amendment	Ch. 340
Ord. No. 2012-01	1-11-2012	Zoning and subdivision amendment	Ch. 340
Ord. No. 2012-02	2-6-2012	Solid waste: recycling	Ch. 296, Art. I
Ord. No. 2012-03	5-9-2012	Extension of terms of Town officers for 2012 and 2013	NCM
Ord. No. 2012-04	9-4-2012	Zoning and subdivision amendment	Ch. 340
Ord. No. 2012-05	12-27-2012	Zoning and subdivision amendment	Ch. 340
Ord. No. 2013-01	7-1-2013	Records amendment	Ch. 95

§ DL-1 DISPOSITION LIST § DL-1

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Ord. No. 2013-02	8-5-2013	Fire prevention: open burning	Ch. 190, Art. III
2013-03	11-13-2013	Zoning and subdivision amendment	Ch. 340
2013-04	11-13-2013	Zoning and subdivision amendment	Ch. 340
2013-05			Failed
2013-06	11-13-2013	Zoning and subdivision amendment	Ch. 340
2014-01	1-8-2014	Officers and employees: Town Clerk	Ch. 82, Art. III

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp. No.</b>
2014-02	12-1-2014	Zoning and Subdivision Amendment	Ch. 340	5
2015-01	5-4-2015	Zoning and Subdivision Amendment	Ch. 340	5
2015-02	7-6-2015	Boards, Commissions and Committees: Board of Review	Ch. 12, Art. IV	5
2016-01	4-11-2016	Nuisances Amendment	Ch. 250	5
2019-01	2-4-2019	Zoning and Subdivision Amendment	Ch. 340	5
2019-02	11-4-2019	Zoning and Subdivision Amendment	Ch. 340	5
2019-03	11-4-2019	Officers and Employees: Town Treasurer	Ch. 82, Art. IV	5
2020-01	3-2-2020	Zoning and Subdivision Amendment	Ch. 340	5
2020-02	5-4-2020	Zoning and Subdivision Amendment	Ch. 340	5
2020-03	8-3-2020	Zoning and Subdivision Amendment	Ch. 340	5
2020-04	11-9-2020	Zoning and Subdivision Amendment	Ch. 340	5
2020-05	12-7-2020	Zoning and Subdivision Amendment	Ch. 340	5
2021-01	2-1-2021	Boundary Change	NCM	5

Enactment	Adoption Date	Subject	Disposition	Supp. No.
2021-02	2-1-2021	Vehicles and Traffic: Speed Limits Amendment	Ch. 322, Art. II	5
2021-03	2-1-2021	Vehicles and Traffic: Speed Limits Amendment	Ch. 322, Art. II	5
2021-04	2-1-2021	Vehicles and Traffic: Speed Limits Amendment	Ch. 322, Art. II	5
2022-01	2-7-2022	Broadband Network Project Applications	Ch. 2	6
2022-02	5-2-2022	Vehicles and Traffic: ATV/UTV Regulations	Ch. 322, Art. V	6
2023-01	9-5-2023	Zoning and Subdivision Amendment	Ch. 340	6
2024-01			Not Adopted	
2024-02			Not Adopted	
2024-03	7-1-2024	Zoning and Subdivision Amendment	Ch. 340	6
2024-04	7-1-2024	Building Construction	Ch. 150	6
2025-01	10-6-2025	Vehicles and Traffic: Speed Limits Amendment	Ch. 322, Art. II	6

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