

20.34.000

DISTRICT REGULATIONS

20.34.010 R-1 SINGLE FAMILY DETACHED RESIDENCE.

- A. Statement of Intent. This district is intended to provide for high quality, low density residential development of a suburban character limited to single family homes set individually on separate lots where sewer service is not available.
- B. Permitted Uses by Right.
1. Single-Family dwellings.
 2. Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use. (See Section 20.25.030 B)
 3. Public utility transmissions and distribution lines, poles, and other related accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Plan Commission a mapped description of the route of such transmission line.
- C. Permitted Accessory Uses.
1. Private garages, carports, and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation or conditional use, provided that no such garage shall be erected prior to the erection of the principal building to which it is necessary.
 2. Quarters for household employees, provided that such quarters shall be occupied only by individuals employed full time on the premises and their families.
 3. Guest houses, provided such structure shall not be rented, leased, or used for continuous or permanent habitation.
 4. The following signs subject to the general regulations governing signs. (See Section 20.29.000).
 - a. A sign identifying the property or the name of the owner or occupant not in excess of 6 square feet in area.
 - b. A “No Trespassing”, or other similar sign and not in excess of 6 square feet in area.
 - c. Temporary signs pertaining to the lease or sale of the property on which located or any building thereon, not in excess of 20 square feet in area per sign and not more than 2 signs on any single parcel.

5. Home occupations and professional offices, when incident to the principal residential use, situated in the same building, and carried on by the residential occupant, subject to the following conditions:
 - a. Such use shall not occupy more than 20% of the floor area of the principal building in which it is located.
 - b. Such use shall not employ more than one person, not a resident on the premises.
 - c. No such use shall be permitted which generates pedestrian or vehicular traffic incompatible with the residential character of the neighborhood.
 - d. Any offset parking area shall be maintained reasonably dustless, and adequately screened from adjoining residential properties. (See Section 20.24.000)
 - e. Such use shall not include the conduct of any retail or wholesale business on the premises, nor the removal of sand, gravel, stone, topsoil, or peat moss for commercial purposes.
 - f. Such use shall not include the operation of any machinery, tools, or other appliances, or the outside storage of materials, or other operational activity which could create a nuisance or be otherwise incompatible to surrounding residential area.
 - g. A nameplate not in excess of 3 square feet in area shall be permitted.
 6. Home gardening and horticulture not involving commercial facilities for the same of garden produce, trees, shrubs, plants, or cut flowers and not permitting greenhouses in excess of 500 square feet in area.
 7. Private residential outdoor recreation facilities. (See Section 20.25.000)
 8. Service buildings and facilities normally incident to the use of a public park or recreation area.
 9. Any other structure or use normally accessory to the principal use permitted.
 10. Adult day care centers providing services for part of the day in a group setting to adults who need an enriched health-supportive or social experience and who may need assistance with activities of daily living or protection.
- D. Permitted Uses by Conditional Grant.
1. Public, private commercial, private non-commercial group outdoor recreational facilities. (See Section 20.23.000)

2. Public and private schools.
3. Churches and other religious institutions.
4. Public administrative offices and service buildings.
5. Private lodges and clubs.
6. Nursing and rest homes for the aged.
7. Public utility offices and installations including electric and gas transmission lines and substations, municipal water towers, pump houses, water and sewage treatment plants.
8. Bed and Breakfast lodging, providing the property fronts upon a state highway.

20.34.000 DISTRICT REGULATIONS

20.34.020 RS-1 SINGLE FAMILY DETACHED RESIDENCE.

- A. Statement of Intent. This district is intended to provide moderately high quality, moderately low density residential development of an urban character limited to single family homes set individually on separate sewerred lots.

- B. Permitted Uses By Right. Same as R-1 District.

- C. Permitted Accessory Uses. Same as R-1 District.

- D. Permitted Uses By Conditional Grant. Same as R-1 District.

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DISTRICT REGULATIONS

20.34.030 RS-2 SINGLE FAMILY DETACHED RESIDENCE.

- A. Statement of intent. This district is intended to provide for moderately high quality, moderately low density residential development of an urban character limited to single family set individually on separate sewerer lots.
- B. Permitted Uses By Right. Same as R-1 District.
- C. Permitted Accessory Uses. Same as R-1 District.
- D. Permitted Uses By Conditional Use Grant. Same as R-1 District.

20.34.040 RS-3 SINGLE FAMILY DETACHED RESIDENCE.

- A. Statement of Intent. This district is intended to provide for moderate value, moderate density residential development of an urban character limited to single family homes set individually on separate sewerer lots.
- B. Permitted Uses By Right. Same as R-1 District.
- C. Permitted Accessory Uses. Same as R-1 District.
- D. Permitted Uses By Conditional Grant. Same as R-1 District.

20.34.000**DISTRICT REGULATIONS****20.34.050 RS-4 SINGLE FAMILY DETACHED RESIDENCE.**

- A. Statement of Intent. This district is intended to provide for moderately high density residential developments of an urban character limited to single family homes in developed areas of the City as well as new development of modest value single family homes set individually on sewered lots.
- B. Permitted Uses By Right. Same as R-1 District.
- C. Permitted Accessory Uses. Same as R-1 District.
- D. Permitted Uses by Conditional Grant. Same as R-1 District.

20.34.060 RS-5 SINGLE AND TWO FAMILY RESIDENCE.

- A. Statement of Intent. This district provides for the same type and general density of residential development as the RS-4 District, but adds the permissibility of two family dwellings on the same sized lot.
- B. Permitted Uses By Right.
 - 1. Single and Two Family Dwellings.
 - 2. Public Parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use.
 - 3. Public utility transmission and distribution lines, poles, and other accessories provided that when a utility proposes a main inter-city transmission facility, they shall give notice to the Plan Commission of such intention and of the date hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Plan Commission a mapped description of the route of such transmission line.
- C. Permitted Accessory Uses. The same as R-1 District, except No. 2 (Quarters for household employees), and No. 3 (Guesthouses), are not permitted as Accessory Uses in the RS-5 and RS-6 Districts.
- D. Permitted Uses By Conditional Use Grant. The same as in the R-2 District, except No. 1 (group outdoor recreational facilities) and No. 7 (Public Utility installations) are not permitted as conditional uses in the RS-5 and RS-6 Districts.

20.34.000 **DISTRICT REGULATIONS**

20.34.070 **RS-6 SINGLE & TWO FAMILY RESIDENCES.**

- A. Statement of Intent. This district provides for the same type and general density of residential development as the RS-3 District, but adds the permissibility of two family dwellings on the same size lot.
- B. Permitted Uses By Right. Same as RS-5.
- C. Permitted Accessory Uses. Same as RS-5.
- D. Permitted Accessory Uses. Same as RS-5.

20.34.080 RM-1 SINGLE AND TWO FAMILY RESIDENCE.

- A. Statement of Intent. This district is intended to provide for single and two family dwellings, principally in areas of existing older development, such as duplexes, flats or apartment conversions in large, older single family dwellings.
- B. Permitted Uses By Right.
1. Single-family dwellings.
 2. Public parks and recreations areas, but not including facilities for organized athletics except as a permitted conditional use. (See Section 20.25.030 B).
 3. Public utility transmissions and distribution lines, poles, and other related accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Plan Commission mapped description of the route of such transmission line.
 4. Two family dwellings including duplexes, flats, and apartments constructed as such or converted from a single-family dwelling prior to January 1, 2006.
- C. Permitted Accessory Uses.
1. Private garages, carports, and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation or conditional use, provided that no such garage shall be erected prior to the erection of the principal building to which it is necessary.
 2. Quarters for household employees, provided that such quarters shall be occupied only by individuals employed full time on the premises and their families.
 3. Guesthouses, provided such structure shall not be rented, leased, or used for continuous or permanent habitation.
 4. The following signs subject to the general regulations governing signs. (See Section 20.29.000).
 - a. A sign identifying the property or the name of the owner or occupant not in excess of 6 square feet in area.
 - b. A “No Trespassing”, or other similar sign and not in excess of 6 square feet in area.

- c. Temporary signs pertaining to the lease or sale of the property on which located or any building thereon, not in excess of 20 square feet in area per sign and not more than 2 signs on any single parcel.
 5. Home occupations and professional offices, when incident to the principal residential use, situated in the same building, and carried on by the residential occupant, subject to the following conditions:
 - a. Such use shall not occupy more than 20% of the floor area of the principal building in which it is located.
 - b. Such use shall not employ more than one person, not a resident on the premises.
 - c. No such use shall be permitted which generates pedestrian or vehicular traffic incompatible with the residential character of the neighborhood.
 - d. Any offset parking area shall be maintained reasonable dustless, and adequately screened from adjoining residential properties. (See Section 20.24.000).
 - e. Such use shall not include the conduct of any retail or wholesale business on the premises, nor the removal of sand, gravel, stone, topsoil, or peat moss for commercial purposes.
 - f. Such use shall not include the operation of any machinery, tools, or other appliances, or the outside storage or materials, or other operational activity which could create a nuisance or be otherwise incompatible to surrounding residential area.
 - g. A nameplate not in excess of 3 square feet in area shall be permitted.
 6. Home gardening and horticulture not involving commercial facilities for the same of garden produce, trees, shrubs, plants, or cut flowers and not permitting greenhouses in excess of 500 square feet in area.
 7. Private residential outdoor recreation facilities. (See Section 20.25.000).
 8. Service buildings and facilities normally incident to the use of a public park or recreation area.
 9. Any other structures or uses normally accessory to the principal use permitted.
- D. Permitted Use By Conditional Grant.

1. Public, private commercial, and private non-commercial group outdoor recreational facilities. (See Section 20.23.000).
2. Public and private schools.
3. Churches and other religious institutions.
4. Public administrative offices and service buildings.
5. Private lodges and clubs.
6. Nursing and rest homes for the aged.
7. Public utility offices and installations including electric and gas transmission lines and substations, municipal water towers, pump houses, water and sewage treatment plants.
8. Boarding and lodging houses.
9. Multiple family “walk-up” apartment houses of not less than 2 nor more than 4 dwelling units per structure nor more than 2 stories in height.
10. Single family attached dwellings in row buildings of at least 2 but no more than 4 dwelling units per structure.
11. Two-family dwellings including duplexes, flats and apartments constructed as such or converted from a single-family dwelling on or after January 1, 2006.
12. Day care centers providing care for nine (9) or more children.
13. Adult day care centers providing services for part of the day in a group setting to adults who need an enriched health-supportive or social experience and who may need assistance with activities of daily living or protection.

20.34.090 RM-2 MULTIPLE FAMILY (GARDEN APTS. & TOWNHOUSES).

- A. Statement of Intent. This district is intended to provide principally for “family” type occupancy in multiple dwellings constructed at the lowest end of the urban multiple family density range, where the emphasis on unit design is toward fewer units per building and few units per entrance, larger individual units having, in the case of townhouses, private entrances and storage for children’s equipment and where the site development shows concern for adequate children’s play area, shielded from traffic and pedestrian ways toward schools. In many cases, this district will be placed near community facilities that serve families, such as schools and parks. In certain other instances, this district will provide areas for spacious high quality developments often sold as condominiums to be located in areas of very high residential appeal and intended to serve residents compatible to those residing nearby.
- B. Permitted Uses By Right.
1. Multiple family apartment houses and attached single family or row houses of not less than 2 or more than 8 dwelling units per structure nor more than 3 stories in height, subject to approval by the Plan Commission of building, site and operation plans (See Section 20.31.000). The Plan Commission may approve apartment structures containing up to 16 dwelling units where it finds these structures would be compatible with the principles of Section 20.31.000 and with the spirit of the Statement of Intent with regard to units per entrance, accommodations of family occupancy, and relating the bulk of the structure to possible nearby single and two family development, and the site plan provides some additional environmental enhancement in the form of recreational facilities or landscaping amenities, that would not be possible if 8 units structures were developed.
 2. Public parks and recreation areas, but not including facilities for organized athletics except as permitted conditional uses. (See Section 20.25.000).
 3. Public utility transmission and distribution lines, poles, and other accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Plan Commission mapped description of the route of such transmission line.
- C. Permitted Accessory Uses.
1. Garages, carports, and paved parking areas serving exclusively the occupants of the apartment house, their guests, and service employees.
 2. Private residential and private non-commercial group outdoor recreational facilities. (See Section 20.25.000).

3. Service buildings and facilities normally incident of the use of a public park or recreational area.
 4. Any other structures or uses normally accessory to the principal uses permitted.
- D. Permitted Uses by Conditional Grant.
1. Any conditional use permitted in the RS-5 District. (See Section 20.34.060).
 2. Mobile Homes in a mobile home court specifically designed for such occupancy whether for lease, fee simple lot sales, or sale by condominium. The court shall provide each living unit with access to an approved private road or public street, and an exclusive land area not less than 3,600 sq. ft., notwithstanding the provisions of density in this district. Specific unit arrangement, setbacks, and offsets shall be established in the conditions of use, however, building location requirements of this district shall be maintained around the periphery of the court as required in this district. Minimum Floor Area Per Family may be reduced up to 10% from this district's regulations, and the required addition of floor area where there is no basement shall be waived.

20.34.100 RM-3 MULTIPLE FAMILY (LOW RISE APTS.).

- A. Statement of Intent. This district is intended to provide for “adult” type occupancy in multiple dwellings constructed at a higher density than the RM-2 District because the emphasis on occupancy is small family units or individuals, where less space per unit is required in terms of land and buildings, but where outside surface parking is still involved, thus preventing the higher density of the RM-4 District. This district will often occur near work opportunities. The possibility of some children occupancy and the need to relate the bulk of the structures to single family and two family development of which will typically also be nearby, requires a limitation on the height of buildings and the number of units per structures in the RM-2 District.
- B. Permitted Uses By Right.
1. Multiple family apartment houses not exceeding 12 units per structure nor more than 3 stories in height, subject to approval by the Plan Commission of building, site and operational plans. (See Section 20.31.000). The Plan Commission may approve apartment structures containing up to 24 dwelling units where it finds these structures would be compatible with the principles of Section 20.31.000 and with the spirit of the Statement of Intent with regard to relating the bulk of the structure to possible nearby lower density residential development.
 2. Same as RM-2 District.
 3. Same as RM-2 District.
- C. Permitted Accessory Uses.
1. Garages, carports, and paved parking areas servicing exclusively the occupants of the apartment house, their guests, and service employees.
 2. Private residential and private non-commercial group outdoor recreational facilities. (See Section 20.25.000).
 3. Service of buildings and facilities normally incident to the use of a public park or recreational area.
 4. Any other structures or uses normally accessory to the principal uses permitted.
- D. Permitted Uses By Conditional Grant.
1. Any Conditional Use permitted in the RS-5 District.

2. Commercial service facilities accessory to the apartment function such as coin operated automatic laundry equipment, a commissary, etc., provided it is intended solely to serve the occupants of the premises.

20.34.110 RM-4 MULTIPLE FAMILY (MEDIUM RISE APTS.).

- A. Statement of Intent. This district is intended to provide for adult type occupancy of small family size in higher density locations requiring less open land area on the lot, with some underground parking required to meet occupants transportation needs and to help preserve some of the more minimal open lot area in pedestrian and landscape areas rather than parking spaces and where a height limitation and limit on the bulk of the building is imposed to conserve an overall character of the City with regard to the light, air, views and appearance.
- B. Permitted Uses By Right.
1. Multiple Family apartment houses not exceeding 36 units per structure nor more than 6 stories in height, having at least .7 of one parking space for every dwelling under the building or placed underground so that the top surface is usable open space at or near ground grade, subject to approval of building, site and operational plans (See Section 20.31.000). The Plan Commission may approve apartment structures containing more than 36 units where it finds such structures would be compatible with the criteria of Section 20.31.000 and with the spirit of the Statement of Intent and of this District of the basic intent of the Zoning Ordinance regulating the overall features of the City.
 2. Public parks and recreation areas, but not including facilities for organized athletics except as permitted conditional uses. (See Section 20.25.000).
 3. Public utility transmission and distribution lines, poles, and other related accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Plan Commission a mapped description of the route of such transmission line.
- C. Permitted Accessory Uses.
1. Garages, carports, and paved parking areas serving exclusively the occupants of the apartment house, their guests, and service employees.
 2. Private residential and private non-commercial group outdoor recreational facilities. (See Section 20.25.000).
- D. Permitted Uses By Conditional Grant. Any Conditional Use permitted in the RM-3.

20.34.120 CCM CENTRAL CITY MIXED.

- A. Statement of Intent. This district is intended to provide for greater diversity of compatible uses in the central city area where the functional and environmental character is distinctly urban, and where a variety of housing types is needed to accommodate a heterogeneous population, and where a selective controlled mixture of residential uses with appropriate non-residential uses does not produce a depreciating effect upon neighborhood environmental values.
- B. Permitted Uses By Right.
1. Single and two-family dwellings.
 2. Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use. (See Section 20.25.030 B.).
 3. Public utility transmission and distribution lines, and poles.
 4. Rental apartments as a secondary use in commercial buildings on a non-ground level.
 5. The following are subject to approval by the Plan Commission of building, site, and operational plans. (See Sections 20.31.000, et seq.).
 - a. Administrative and public service offices.
 - b. Professional offices (e.g., architect, landscape architect, lawyer, doctor, dentist, minister, engineer, or other similar recognized profession).
 - c. Studios (e.g., photography, painting, music, sculpture, dance, or other recognized art).
 - d. Real estate and insurance offices.
 - e. Specialized retail or customer service establishments: (e.g., boarding, lodging or tourist homes, delicatessen, floral shop, funeral home, gift shop, interior design, restaurant, spa, beauty or barbershop).
 - f. Libraries, museums, art galleries and concert halls.
 - g. Cemeteries and mausoleums.
 - h. Dental and medical clinics.

- C. Permitted Accessory Uses.
1. Private garages, carports, and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation or conditional use, provided that no such garage shall be erected prior to the erection of the principal building to which it is accessory.
 2. Quarters for household employees, provided that such quarters shall be occupied only by individuals employed full time on the premises and their families.
 3. Guesthouses, provided that such structures shall not be rented, leased, or used for continuous or permanent habitation.
 4. Home occupations and professional offices, when incident to the principal residential use, situated in the same building, and carried on by the residential occupant, subject to the following conditions:
 - a. Such use shall not occupy more than 20% of the floor area of the principal building in which it is located.
 - b. Such use shall not employ more than one person who is not a resident on the premises.
 - c. No such use shall be permitted which generates pedestrian or vehicular traffic incompatible with the residential character of the neighborhood.
 - d. Any offset parking area shall be maintained reasonably dustless, and adequately screened from adjoining residential properties. (See Sections 20.24.000, et seq.).
 - e. Such use shall not include the conduct of any retail or wholesale business on the premises, or the removal of sand, gravel, stone, topsoil, or peat moss for commercial purposes.
 - f. Such use shall not include the operation of any machinery, tools or other appliances not associated with the use, or the outside storage of materials, or other operational activity which could create a nuisance or be otherwise incompatible with the surrounding residential area.
 5. Home gardening and horticulture not involving commercial facilities for the sale of garden produce, trees, shrubs, plants or cut flowers, and excluding green houses in excess of 500 square feet in area which shall be prohibited.

6. Private residential outdoor recreation facilities. (See Sections 20.25.000, et seq.).
 7. Service buildings and facilities normally incident to the use of a public park or recreation area.
 8. Commercial service facilities accessory to an apartment function (e.g., coin-operated automatic laundry equipment, commissary, etc.), provided such facilities are intended solely to serve the occupants of the premises.
 9. Any other structures or uses normally accessory to a permitted principal use.
- D. Permitted Uses By Conditional Grant.
1. Public, private commercial and private non-commercial group outdoor recreational facilities. (See Sections 20.25.000, et seq.).
 2. Public and private schools.
 3. Churches and other religious institutions.
 4. Private lodges and clubs.
 5. Nursing and rest homes for the aged.
 6. Public utility offices and installations including electric and gas transmission lines and substations, municipal water towers, pump houses, water and sewage treatment plants.
 7. Multiple family apartment houses constructed after August 18, 2005 that are greater than three (3) units but not exceeding eight (8) dwelling units per structure.
 8. Facilities for organized athletics in public parks and recreation areas.
 9. Printing and publishing houses and related activities.
 10. Day care centers providing care for nine (9) or more children.
 11. Adult day care centers providing services for part of a day in a group setting to adults who need an enriched health-supportive or social experience and who may need assistance with activities of daily living, supervision or protection.

20.34.130 B-1 OFFICE DISTRICT.

- A. Statement of Intent. This district is intended to provide for individual sites, or for planned groupings on single larger sites or on subdivided larger sites, of office buildings and related service uses serving the needs of both neighborhood, and of the larger community area. Planning Commission approval of the building, site and operation plans of each such building proposal will be necessary to achieve a satisfactory relationship of the office use and its operating characteristics to possible adjacent residential uses, to the arterial highway system, and in some cases to adjacent retail and customer service uses where shared parking is likely and some interchange may occur between these various uses.
- B. Permitted Uses By Right. The following subject to approval by the Planning Commission of building, site and operational plans. (See Section 20.31.000).
1. Offices, whether for single or multiple tenant use, including business, professional, governmental or other institutional occupancy as well as for medical and dental clinics.
- C. Permitted Accessory Uses. The following subject to approval by the Planning Commission of building, site, and operational plans. (See Section 20.31.000).
1. Incidental sales or service uses such as product or service display area, warehousing and repair service, customer or employee service including restaurants, cafeterias, day care facilities, studios or instructional area, provided that these uses are accessory or subordinate to the principal office used by not comprising cumulatively more than 30% of the floor area.
 2. Off-street parking or loading areas. (See Section 20.24.000)
 3. Sign subject to the regulations of Section 20.29.000.
 4. Any other structures or uses normally accessory to the principal permitted uses.
- D. Permitted Use By Conditional Grant.
1. Banks, savings and loans, credit unions and similar financial service facilities having drive-up window service.
 2. Rental apartments as a secondary use on other than the ground floor level.
 3. Day care centers not accessory to a principal office use.

20.34.140 B-2 LOCAL SERVICE CENTER BUSINESS.

- A. Statement of Intent. This district is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and service establishments serving the daily needs of the surrounding local community area and, in appropriate situations, the inclusion of residential apartments principally for childless families. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the circulation system and other related facilities, and of potential contribution to the economic welfare of the community.
- B. Permitted Uses By Right.
1. Any use permitted by right in the B-1 District.
 2. The following are subject to approval by the Plan Commission of building, site and operational plans. (See Section 20.31.000).
 - a. Retail stores and shops.
 - b. Community and customer service establishments such as, but not limited to the following:
 - i. Business, professional, public service, banking, and savings and loan offices.
 - ii. Restaurants, taverns, theaters, bowling alleys, nightclubs and other indoor, commercial entertainment facilities.
 - iii. Laundromats, coin operated dry cleaning establishments, and laundry or dry cleaning pick-up stations.
 - iv. Dental and medical clinics.
 - v. Lodges and private clubs.
 - c. Commercial studios, display galleries, and vocational training schools.
 - d. Public utility offices and installations.
 - e. Rental apartments intended for childless couples, single individuals or other small family combinations, as a secondary use of a commercial building on a non-ground level.
- C. Permitted Accessory Uses.

1. The following are subject to approval by the Plan Commission of building, site and operational plans. (See Section 20.31.000).
 - a. Garages for storage of vehicles used in conjunction with the operation of the business.
 - b. Off-street parking and loading areas. (See Section 20.24.000).
 - c. Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business.
 - d. Any other structures or uses normally accessory to the principal uses permitted.

- D. Permitted Uses By Conditional Grant.
 1. Any conditional use permitted in the B-1 District.
 2. Any use permitted by right in the B-3 District.
 3. Animal hospitals.
 4. Appliance and small machinery repair establishments.
 5. Private commercial outdoor recreational facilities. (See Section 20.25.000).
 6. Experimental, testing and research laboratories.
 7. Outdoor eating or drink facilities.

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DISTRICT REGULATIONS

20.34.150 B-3 GENERAL BUSINESS DISTRICT.

- A. Statement of Intent. This district is intended to provide for the orderly and attractive grouping at appropriate locations of commercial activities of the more general retail and wholesale nature, and of office and service facilities serving a larger community trade area. The size and location of such districts shall be based upon relationship to the total community need and economy. Generally, no such district should be less than 100,000 square feet in area.

- B. Permitted Uses By Right.
 - 1. Any use as permitted by right in the B-2 District, except for rental apartments as a secondary use.

 - 2. The following are subject to approval by the Plan Commission of building site and operational plans. (See Section 20.31.000).
 - a. General merchandising and wholesale establishments.

 - b. Printing and publishing houses and related activities.

 - c. Service and sales establishments for automobiles, including body repair shops and used car lots but not including the storage of junked or wrecked automobiles, and parts.

 - d. Transportation terminals, not including trucking.

 - e. Commercial parking facilities.

 - f. Hotels and motels.

- C. Permitted Accessory Uses.
 - 1. Any accessory use as permitted in the B-2 District.

- D. Permitted Uses By Conditional Grant.
 - 1. Any conditional use permitted in the B-2 District.

 - 2. Lumber and building supply yards.

 - 3. Experimental, testing and research laboratories.

 - 4. General warehousing, including boat storage.

20.34.160 B-4 CENTRAL BUSINESS DISTRICT.

- A. Statement of Intent. This district is intended to provide appropriate regulations to insure the compatibility of the diverse uses typical of the “downtown” area and its relationship to the marina and lakefront activities without inhibiting the potential for maximum development of commercial, cultural, entertainment, apartment and other urban activities which contribute to its role as the “heart” of the City.
- B. Permitted Uses By Right.
1. Any use as permitted by right in the B-3 Central Business District except as set forth in B. 2. c. and B. 2. d.
 2. The following are subject to approval by the Plan Commission of building site and operational plans. (See Section 20.31.000).
 - a. Rental apartments intended for childless couples, single individuals or other small family combinations, as a secondary use of a commercial building on a non-ground floor level.
 - b. Apartment buildings intended for childless couples, single individuals or other small family combinations, except that ground floor apartment use shall not be permitted where the Plan Commission determines that such non-commercial use would be in conflict with the continuity of business frontage as proposed in the downtown portion of the City’s General Plan.
 - c. Any use as permitted by right in the OIP District.
 - d. Any use as permitted by right in the PUL District.
- C. Permitted Accessory Uses.
1. Any use as permitted in the B-3 District.
 2. Any accessory use as permitted in the PUL District.
 3. Any other structures or uses normally accessory to a permitted principal use.
- D. Permitted Uses By Conditional Grant.
1. Gasoline service stations.
 2. Appliance and small machinery repair establishments.
 3. Experimental, testing and research laboratories.
 4. Public outdoor recreation.

5. Any use permitted as a conditional grant in the PUL District.
6. Outdoor eating or drinking facilities.
7. Boat sales and service operations without outside storage of merchandise and equipment.

20.34.170 BP BUSINESS PARK DISTRICT.

- A. Statement of Intent This district is intended to provide for the development of an attractive and aesthetically mixed grouping of office and limited retail and retail services, and light industrial uses, in a highly landscaped setting free of outside storage or display, where the setting is highly visible to one or more main traffic arteries, and all of the uses seek or require such exposure and all are willing to adhere to a higher standard of architectural and grounds appearance to maximize the benefit of such visibility.
- B. General Requirements.
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 within the Business Park and surrounding area.
 2. Development shall be designed and sized in such a manner that is architecturally, aesthetically and operationally harmonious with surrounding development.
 3. All business, servicing, processing or storage, except for off-street parking, shall be conducted within completely enclosed buildings.\
 4. All utilities shall be underground.
 5. Vehicular circulation within Business Park development shall be oriented to internal circulation drives with limited access provided to city streets.
 6. No external nuisance which is offensive by reason of odors, lighting, smoke, fumes, dust, vibrations, noise, pollution or which is hazardous by reason of excessive danger of fire or explosion shall be permitted.
 7. Project elements, such as architecture, landscaping, lighting, signage, access, circulation, parking and utilities shall be designed and constructed in a coordinated manner. In approving or disapproving proposed locations for uses in this district, 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, odorous or noxious gases attributed to the proposed use.
 8. Site development shall be approved by the Design Review Board or Plan Commission in accordance with Section 20.31.000 of the City of Port Washington Zoning Code.

C. General Restrictions.

1. No continuous or intermittent noise from operations greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any residential district.
2. No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
3. No vibrations shall be detectable beyond the lot lines.
4. No glare or heat shall be detectable beyond the lot lines.
5. No merchandise shall be handled for sale or service rendered on the premises except that which is incidental or accessory to the principal permissible use of the premises.

D. Permitted Uses. The following uses are permitted in this district if the Plan Commission determines they are not detrimental to the surrounding area and are in compliance with the general restrictions stated above.

1. Professional offices and services including, but not limited to, accounting, architectural, chiropractic, dental, medical, engineering and legal services.
2. Business offices and services including, but not limited to, advertising agency, management consulting, manufacturing representatives, public relations, stenographic, travel agency, and duplicating services.
3. Financial, insurance and real estate offices and services including, but not limited to, financial institutions, security brokers, holding and investments, insurance agency, insurance carriers, electronic data processing and information technology.
4. Restaurants (excluding fast food and drive-thru restaurants), motels and hotels.
5. Retail and retail service shops located on the street level of office buildings, up to 5,000 square feet per building in the aggregate or 50% of the first floor area, whichever is less. No individual retail space shall be larger than 2,000 square feet.
6. Any similar use meeting all the requirements of this District.

E. Permitted Accessory Uses.

1. Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
 2. Signage subject to Section 20.29.000 of the City of Port Washington Zoning Code.
 3. Governmental and public services.
- F. Prohibited Uses.
1. Automobile wrecking yards, junk yards, or similar uses.
 2. Excavating, grading, trucking and similar construction yards.
 3. Drop forges, foundries, grain elevators, refineries, tank farms, tanneries and similar uses.
 4. Dairies, cheese factories, stockyards and rendering plants.
 5. Fertilizer storage and packaging.
 6. Landscape contractors or landscape services.
 7. Uses involving the storage, utilization or manufacture of materials or products which decompose by detonation.
 8. Mini-warehouses.
 9. New and used car and truck sales.
 10. Drive-thru and fast food restaurants.
 11. Waste disposal, dumping, incineration, hazardous waste storage and similar uses.
 12. All types of residential uses.
- G. Conditional Uses.
1. Light industrial uses involving the manufacture and fabrication of goods within the confines of a building, and in which any noise, vibration, heat, flash or odor produced in the manufacturing process is confined within the building.

2. Wholesale and distribution facilities (excluding mini-warehouses) for the storage of non-hazardous goods and materials, where such goods or materials are stored inside a building.
 3. Research and development.
 4. Printing and publication.
 5. Warehousing.
 6. Public and/or private utility, transmission and distribution lines, and other accessories, provided that when the utility proposes a main inter-city transmission facility, the utilities shall give notice to the Plan Commission of such intention and of the date of any hearing before the Public Service Commission, and, before actual construction, shall file with the Plan Commission a map description of the route of any transmission line.
- H. Lot Size. The minimum lot size in the BP Business Park District is 40,000 square feet.
- I. Building Floor To Lot Area Ratio. The floor to lot area ratio of the building(s) shall not exceed forty percent (40%) of the lot area.
- J. Building Height. The maximum height of principal structures shall not exceed thirty-five feet (35ft) unless otherwise allowed as part of a planned development agreement and overlay zoning pursuant to Section 20.21.000 of the City of Port Washington Zoning Code. The maximum height of accessory structures shall not exceed thirty feet (30ft).
- K. Minimum Building Setback. All structures within the BP Business Park District shall be set back forty feet (40ft) from the ultimate road right-of-way.
- L. Minimum Building and Parking Offset. Building or structure offsets shall be a minimum of twenty-five feet (25ft) from a side or rear lot line, except where the property is adjacent to an existing or proposed residential development, in which case the minimum offset shall be one hundred feet (100ft.).
- M. Buffer Area Landscaping. Thirty feet (30ft) of all offsets immediately adjacent to residential zoning districts shall be landscaped in the following manner: 1.) With a minimum of 120 points for every 100 lineal feet of side or rear lot line. 2.) Decorative fencing may be incorporated into, but not replace, the landscape buffer. When decorative fencing is incorporated into the landscape buffer, the total number of required buffer area points may be reduced by 15 points for every 50 lineal feet of fencing. Said buffer area landscaping shall be in addition to that required under the landscape ordinance (Section 20.31.050 of the Zoning Code).

- N. Lot Coverage and Open Space Ratio. A maximum of 70% of each lot shall contain buildings, structures and pavement. A minimum of 30% of each lot shall be open space.
- O. Lot Width. The minimum lot width shall be 150 feet.
- P. Off-street Parking. All parking shall be in accordance with applicable regulations set forth in Section 20.24.000 of the Zoning Code.
- Q. Minimum Parking and Driveway Offset. No driveway shall be located closer than twenty feet (20ft) from a side or rear lot line unless specifically waived by the Plan Commission, except where property is adjacent to an existing or proposed residential property no parking space or access driveway shall be closer than one hundred feet (100ft).
- R. Minimum Parking Setback. No driveway (excluding the portion of driveway required for road access) or parking area shall be located closer than twenty-five feet (25ft) to the ultimate road right-of-way.
- S. Landscaping. All premises shall, within one year after the date of receiving an occupancy permit, be planted with sod or seeded (except for parking areas) and landscaped throughout pursuant to Section 20.31.000 and Section 34.170M of the City of Port Washington Zoning Code.
- T. Loading Docks. Loading docks shall generally not face a dedicated or reserved public street. Loading docks on property adjacent to a residential property shall not face the residential property.
- U. Exterior Mechanical Equipment. All exterior equipment shall be located, screened and painted to minimize visibility from streets and adjacent sites.
- V. Storage. Garbage and refuse containers shall be screened from view from streets and adjacent sites.
- W. Minimum Design Standards. All office or industrial buildings constructed in the BP Business Park District shall be of tilt-up construction, split-face block or brick.

20.34.180 I-1 EXISTING INDUSTRIAL.

- A. Statement of Intent. This district is intended for those established manufacturing and wholesale areas within the City where industrial uses, often in direct proximity to residential uses, have developed on sites too small to provide for the area requirements of the I-2 District.

- B. Permitted Uses By Right.
 - 1. The following are subject to approval by the Plan Commission of building, site and operational plans. (See Section 20.31.000).
 - a. Manufacturing, assembly, fabrication, and processing plants and similar type industrial operations but not including any of the following:
 - i. Manufacture of cement, lime, gypsum, plaster of paris, acid, explosives, fertilizers, or glue.
 - ii. Rendering plants, refineries, or tanneries.
 - iii. Stockyards or slaughter houses.
 - iv. Junk or salvage yards.
 - v. Storage of explosives except as incidental to a permitted use and storage of gasoline or petroleum in excess of 50,000 gallons.
 - vi. Extractive operations except as permitted by Section 20.26.000.
 - vii. Any similar use which in the opinion of the Plan Commission would be hazardous, noxious or offensive to the surrounding area.
 - b. Transportation terminals, including trucking.
 - c. General warehousing.
 - d. Experimental, testing and research laboratories.
 - e. Lumber and building supply yards.
 - f. Dog parks.

- g. Public utility offices, installations, buildings and structures including municipal water towers, pump houses, water and wastewater treatment plants, and related public utility facilities and uses.

C. Permitted Accessory Uses.

- 1. Any accessory use as permitted in the I-2 District.
- 2. The following are subject to the approval by the Plan Commission of the building, site and operational plans. (See Section 20.31.000).
 - a. Office, storage, power supply and other such uses normally auxiliary to the permitted principal use.
 - b. Off-street parking, loading and service facilities. (See Section 20.24.000).
 - c. Residential quarters for the owner, resident operator, guard or caretaker.

D. Permitted Uses By Conditional Grant.

- 1. Automobile body repair shops, including the storage of junked or wrecked automobiles and parts.
- 2. Animal hospitals, kennels, and laboratories using animal products.
- 3. Junk or salvage yards.
- 4. Storage of gasoline or petroleum in excess of 50,000 gallons.
- 5. Ready-mix concrete plants.
- 6. Extractive operations.
- 7. Public utility generating and transmission facilities and offices.
- 8. Public and recreational facilities such as indoor or outdoor ice/roller rinks, archery ranges, go-kart tracks, or any such use as determined (or classified) by the Plan Commission.

20.34.190 I-2 INDUSTRIAL PARK.

- A. Statement of Intent. This district is intended to provide for the orderly and attractive grouping in appropriately landscaped grounds of manufacturing or industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reason of noise, dust, smoke, odor, traffic, physical appearance or other similar factors; and to establish such regulatory controls as will reasonably insure compatibility with the surrounding area in this respect. No such district should normally be less than 25 acres in area.
- B. Permitted Uses By Right.
- Any use as permitted in the I-1 District.
- C. Permitted Accessory Uses.
1. Any accessory use as permitted in the I-1 District except that no residential quarters shall be permitted.
 2. Any other structures or uses normally accessory to the principal use permitted.
- D. Permitted Uses By Conditional Grant.
- Any use as permitted by Conditional Grant in the I-1 District.

20.34.200 AG AGRICULTURAL DISTRICT.

- A. Statement of Intent. This district is intended to permit farming operations on lands annexed to the City for eventual development but where such development is not yet proceeding. The potential nuisance factors of the farming operation to adjacent urban development can be tolerated because of the temporary nature of farm use.
- B. Permitted Uses By Right.
1. Agricultural, including but not limited to crop farming, dairying, horticulture, including commercial greenhouses, livestock and poultry raising.
 2. Public utility transmission and distribution lines, poles, and other related accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Plan Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Plan Commission mapped description of the route of such transmission line.
 3. Dog parks.
- C. Permitted Accessory Uses.
1. Residences for owners or farm laborers actually employed full time in the principal use. New such structures shall at least conform to the RS-3 standards for lot area and building location, subject to the Plan Commission approval as to conformance with possible future lot and street patterns for the property.
 2. Uses normally accessory to residences as regulated in the RS-3 District.
 3. One roadside stand per farm for the sale only of products raised on the premises operated by the resident farmer and subject to the following.
 - a. Off-street parking for a minimum of 4 vehicles shall be provided.
 - b. No stand shall be permitted in a location where it would create a traffic hazard or nuisance; and where permitted, driveways shall be so located as to minimize possible interference with normal flow of highway traffic.
 - c. No such stand shall be closer than 15 feet to the existing street line or closer than 20 feet to any other lot line.
 - d. Signs shall conform to the B-1 District regulations under Section 20.29.000.

D. Permitted Uses By Conditional Use Grant.

1. Boarding and riding stables for horses.
2. Cemeteries.
3. Churches.
4. Dog Kennels.
5. Fire Stations.
6. Gas or electric transmission installations.

20.34.210 SHORELAND-WETLAND ZONING.

- A. Statutory Authorization. This ordinance is adopted pursuant to the authorization in sections 62.23, 62.231, 87.30 and 144.26, Wis. Stats.
- B. Finding of Fact and Purpose. Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters in the City of Port Washington would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has thus delegated responsibility to the City to:
1. Promote the public health, safety, convenience and general welfare;
 2. Maintain the storm and floodwater storage capacity of wetlands;
 3. Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 4. Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wet-lands and other aquatic habitat;
 5. Prohibit certain uses detrimental to the shoreland-wetland area; and
 6. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.
- C. General Provisions.
1. Compliance. The use of wetlands and the alteration of wetlands within the shoreland area of the City shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. All permitted development shall require the issuance of building and site plan approvals unless otherwise expressly excluded by a provision of this ordinance.
 2. Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if section 13.48(13), Wis. Stats. applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when section 30.12(4) (a), Wis. Stats. applies.
 3. Abrogation and Greater Restrictions.
 - a. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under sections 61.35, 62.23 or 87.30, Wis. Stats. which

relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- b. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
4. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in chapter NR 117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the chapter NR 117 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
 5. Severability. Should a court of competent jurisdiction declare any portion of this ordinance invalid or unconstitutional, the remainder of this ordinance shall not be affected?
 6. Annexed Areas. The Ozaukee County shoreland zoning provisions remain in effect for all areas annexed by the City after May 7, 1982 unless any of the changes as allowed by s. 59.692(7)(a)(1-3), Stats. occurs. These annexed lands are described on the City's official zoning map. The Ozaukee County shoreland zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Director of Planning and Development. All lands annexed after the date of adoption of this ordinance shall be subject to the provisions herein. These lands are also described on the City's official zoning map.
- D. Shoreland-Wetland Zoning District. The following maps are hereby adopted and made part of this ordinance and are on file in the office of the City Clerk and Director of Planning and Development:
1. Wisconsin Wetland Inventory maps stamped "FINAL" on September 12, 1989.
 2. Floodplain zoning maps titled and dated October 8, 1991.
 3. United States Geological Survey maps dated 1989.
 4. Zoning map titled Zoning District Map and dated 2002.

- E. District Boundaries. The shoreland-wetland zoning district includes all wetlands in the City that are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this ordinance and which are:
1. Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in City shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance.
 2. Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. Floodplain zoning maps adopted in Section 20.34.210 D.2. shall be used to determine the extent of floodplain areas.
 3. Determinations and Discrepancies.
 - a. Determinations of navigability and ordinary high-water mark location shall initially be made by the Director of Planning and Development. When questions arise, the Director of Planning and Development shall contact the appropriate district office of the Department of Natural Resources for a final determination of navigability or ordinary high-water mark.
 - b. When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the Director of Planning and Development shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the City that a particular area was incorrectly mapped as a wetland, the City shall have the authority to immediately grant or deny building and site plan approvals in accordance with the regulations applicable to the correct zoning district. In order to correct wetland-mapping errors or acknowledge exempted wetlands designated in Sections 20.34.210E.4. or 20.34.210E.5, the Director of Planning and Development shall be responsible for initiating a map amendment within a reasonable period.
 4. Filled Wetlands. Wetlands that are filled prior to the date on which the City received final wetland inventory maps, in a manner that affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

5. Wetlands Landward of a Bulkhead Line. Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982 under s. 30.11, Stats. are not subject to this ordinance.
- F. Permitted Uses. The following uses are permitted subject to the provisions of chapters 30 and 31, Wis. Stats. and the provisions of other local, state and federal laws, if applicable:
1. Activities and uses that do not require the issuance of building and site plan approvals, provided that no wetland alteration occurs:
 - a. Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The practice of silviculture, including the planting, thinning and harvesting of timber;
 - d. The pasturing of livestock;
 - e. The cultivation of agricultural crops; and
 - f. The construction and maintenance of duck blinds.
 2. Uses which do not require the issuance of building and site plan approvals and which may involve wetland alterations only to the extent specifically provided below:
 - a. The practice of silviculture, including limited temporary water level stabilization measures that are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - b. The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - c. The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;

- d. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - e. The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - f. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in Section 20.34.210J.3. of this ordinance; and
 - g. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
3. Uses that are allowed upon the issuance of a permit and which may include wetland alterations only to the extent specifically provided below:
- a. The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under Section 20.34.210F. of this ordinance, provided that:
 - i. The road cannot, as a practical matter, be located outside the wetland;
 - ii. The road is designed and constructed to minimize adverse impacts Upon the natural functions of the wetland listed in Section 20.34.210J.3. of this ordinance;
 - iii. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - iii. Road construction activities are carried out in the immediate area of the roadbed only; and
 - iv. Any wetland alteration must be necessary for the construction or Maintenance of the road.
 - b. The construction and maintenance of nonresidential buildings provided that:
 - i. The building is used solely in conjunction with a use permitted in the

shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;

- ii. The building cannot, as a practical matter, be located outside the wetland;
 - iii. The building does not exceed five hundred (500) square feet in floor area; and
 - iv. Only limited filling and excavating necessary to provide structural support for the building is allowed.
- c. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
- i. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - ii. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures are allowed;
 - iii. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Section 20.34.210F.3.a. of this ordinance; and
 - iv. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- d. The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:
- i. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - ii. Only limited filling or excavating necessary for such construction or
maintenance is allowed; and
 - iii. Such construction or maintenance is done in a manner designed to

minimize adverse impacts upon the natural functions of the wetland listed in Section 20.34.210J.3. of this ordinance.

G. Prohibited Uses.

1. Any use not listed in Section 20.34.210F. of this ordinance is prohibited, unless the wet-land or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with Sections 20.34.210J.1. - 6. of this ordinance.
2. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

H. Nonconforming Structures and Uses. The lawful use of a building, structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, took effect and which is not in conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

1. The shoreland-wetland provisions of this ordinance authorized by s. 62.231, Wis. Stats. shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of the shoreland-wetland provisions, or of any environmental control facility in existence on May 7, 1982 related to such a structure. All other modifications to nonconforming structures are subject to s. 62.23(7) (h), Wis. Stats. which limits total lifetime structural repairs and alterations to 50% of current fair market value.
2. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.
3. Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this ordinance adopted under sections 61.351 or 62.231, Wis. Stats. may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.
4. The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of section 30.121, Wis. Stats.
5. Uses that are nuisances under common law shall not be permitted to continue as nonconforming uses

I. Administrative Provisions.

1. **Zoning Administrator.** The Director of Building Inspections is appointed zoning administrator for the purpose of administering and enforcing this ordinance. The zoning administrator shall have the following duties and powers:
 - a. Advise applicants as to the provisions of the ordinance and assist them in preparing permit applications and appeal forms.
 - b. Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
 - c. Keep records of all permits issued, inspections made, work approved and other official actions.
 - d. Have access to any structure or premises between the hours of 8 a.m. and 6 p.m. for the purposes of performing these duties.
 - e. Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied, to the appropriate district office of the Department.
 - f. Investigate and report violations of this ordinance to the appropriate municipal planning agency and the district attorney, corporation counsel and municipal attorney.
2. **Building and Site Plan Approvals; When Required.** Unless another section of This ordinance specifically exempts certain types of development from this requirement, building and site plan approvals shall be obtained from the Director of Building Inspection before any new development, as defined in Section 20.34.210L.6. of this ordinance, or any change in the use of an existing building or structure is initiated.
3. **Application.** An application for building and site plan approval shall be made to the Director of Building Inspections upon forms furnished by the municipality, and shall include, for the purpose of proper enforcement of these regulations, the following information:
 - a. Name, address, and telephone number of applicant, property owner and contractor, where applicable.
 - b. Legal description of the property and a general description of the proposed use or development.
 - c. Whether or not a private water supply or sewage system is to be installed.
4. **Site Development Plan.** A site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

- a. Dimensions and area of the lot;
 - b. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 - c. Description of any existing or proposed on-site sewage systems or private water supply systems;
 - d. Location of the ordinary high-water mark of any abutting navigable waterways;
 - e. Boundaries of all wetlands;
 - f. Existing and proposed topographic and drainage features and vegetative cover;
 - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
 - h. Location of existing or future access roads; and
 - i. Specifications and dimensions for areas of proposed wetland alteration.
5. Expiration. All permits issued under the authority of this ordinance shall expire one (1) year from the date of issuance.
6. Certificate of Compliance. Except where no building and site plan approvals or conditional use permits are required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Director of Building Inspection subject to the following provisions:
- a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
 - b. Application for such certificate shall be concurrent with the application for building and site plan approvals or a conditional use permit.
 - c. The certificate of compliance shall be issued within ten (10) days after notification of the completion of the work specified in the building and site plan approvals or conditional use permit, providing the building or premises and proposed use thereof conform to all the provisions of this ordinance.

- d. The Director of Building Inspection may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the Common Council.
 - e. Upon written request from the owner, the Director of Building Inspection shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.
7. Conditional use permits. Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the Director of Planning and Development and a conditional use permit has been granted by the Common Council upon recommendation of the Plan Commission, following the procedures in Sections 20.34.210 I.13. and 14. of this ordinance.
- a. Conditions. Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 20.34.210F.3. of this ordinance, the Plan Commission may recommend and the Common Council shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance as listed in Section 20.34.210B. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which the Plan Commission may base its recommendation and the Common Council may base its determination, the Plan Commission or Common Council may require an applicant to furnish, in addition to the information required for building and site plan approvals, other pertinent information that is necessary to determine if the proposed use is consistent with the purpose of this ordinance.
8. Fees. The municipal governing body may, by resolution, adopt fees for the following:
- a. Building and site plan approvals.
 - b. Certificates of compliance.
 - c. Public hearings.
 - d. Legal notice publications.
 - e. Conditional use permits.

- f. Rezoning petitions.
9. Recording. Where building and site plans or conditional use permits are approved, the Director of Planning and Development shall make an appropriate record of the land use and structures permitted.
10. Revocation. Where the conditions of approved building and site plans or conditional use permits are violated, the Common Council upon recommendation of the Plan Commission shall revoke the permit.
11. Board of Appeals. The city mayor shall appoint a Zoning Board of Appeals under section 62.23(7) (e), Wis. Stats., consisting of five members subject to confirmation by the municipal governing body. The Zoning Board of Appeals shall adopt rules for the conduct of its business as required by section 62.23(7) (e) 3., Wis. Stats. The Zoning Board of Appeals:
- a. Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
 - b. May authorize upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
 - i. That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
 - ii. That the hardship is due to special conditions unique to the property; and is not self-created or based solely on economic gain or loss;
 - iii. That such variance is not contrary to the public interest as expressed by the purpose of this ordinance and;
 - iv. That such variance will not grant or increase any use of property which is prohibited in the zoning district.
12. Appeals to the Board. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision, or determination of the zoning administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other official whose decision is in question shall transmit to the Board all the papers constituting the record on the matter appealed.
13. Public Hearings.

- a. Before making a decision on an application for a conditional use permit the Common Council shall, and before making a decision on an appeal the Zoning Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Common Council and Board shall give public notice of the hearing by publishing a Class 2 notice under ch. 985, Stats., specifying the date, time and place of the hearing and the matters to come before the Common Council or the Board. At the public hearing, any party may present testimony in person, by agent or by attorney.
- b. A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.

14. Decisions.

- a. The final disposition of an application for a conditional use permit before the Common Council or an appeal before the Zoning Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the Common Council or Board chairperson. Such decision shall state the specific facts which are the basis of the Common Council's or Board's determination, and in the case of an appeal shall either affirm, reverse, or modify the order, requirement, decision or determination appealed, in whole or in part, or dismiss the appeal for lack of jurisdiction or prosecution.
- b. A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

J. Amending Shoreland-Wetland Zoning Regulations. The City of Port Washington may alter, supplement or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of section 62.23(7) (d) 2., Wis. Stats. and NR 117, Wis. Adm. Code.

1. A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the office of the Director of Planning and Development;
2. All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Director of Planning and Development, and a public hearing shall be held after publication of a Class 2 public notice as required by section 62.23(7) (d) 2., Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.

3. In order to insure that this ordinance will remain consistent with the shoreland protection objectives of section 144.26, Wis. Stats. the City may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
 - a. Storm and flood water storage capacity;
 - b. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
4. Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Section 20.34.210J.3. of this ordinance, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
5. The appropriate district office of the Department shall be provided with:
 - a. A copy of the recommendation and report, if any, by the Director of Planning and Development on a proposed text or map amendment, within ten (10) days after the submission of those recommendations to the Common Council.
 - b. Written notice of the action on the proposed text or map amendment within ten (10) days after the action is taken.
6. If the Department notifies the City in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Section 20.34.210J.3. of this ordinance, that proposed amendment, if approved by the City, shall not become effective until more than thirty (30) days have elapsed since written notice of the municipal approval was mailed to the Department, as required by Section 20.34.210J.5.b. of this ordinance. If within the thirty (30) day period, the Department notifies the City that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City of Port Washington as provided

by sections 62.231(6) and 61.351(6), Wis. Stats. the proposed amendment shall not become effective until the ordinance adoption procedure under section 62.231(6) or 61.351(6), Wis. Stats., is completed or otherwise terminated.

- K. Enforcement and Penalties. Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Building Inspector shall refer violations to the City Attorney who shall prosecute such violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to section 87.30(2), Wis. Stats.
- L. Definitions. For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified, shall be measured horizontally.
1. "Accessory structure or use" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
 2. "Boathouse" as defined in Wisconsin Statutes Section 30.121(1), means a permanent structure used for the storage of watercraft and associated materials and includes all structures that are totally enclosed, have roofs or walls or any combination of structural parts.
 3. "Class 2 public notice" means publication of a public hearing notice under Wisconsin Statutes Chapter 985, in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven (7) days prior to the hearing.
 4. "Conditional use" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the zoning board of appeals or, where appropriate, the municipal governing body.
 5. "Department" means the Wisconsin Department of Natural Resources.
 6. "Development" means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or

accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

7. "Drainage system" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
8. "Environmental control facility" means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
9. "Fixed houseboat" as defined in Wisconsin Statutes Section 30.121(1), means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spud poles attached to the bed of the waterway.
10. "Navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wisconsin Statutes Section 144.26(2)(d), notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under Wisconsin Statutes Sections 61.351 or 62.221, and Chapter NR 117, Wisconsin Administration Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river;
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching. Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc., v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream, which is navigable by skiff or canoe during normal spring high water, is navigable, in fact, under the laws of this state though it may be dry during other seasons.
11. "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark

such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

12. "Planning agency" means the municipal plan commission created under section 62.23(1), Wis. Stats., a board of public land commissioners or a committee of the municipality's governing body which acts on matters pertaining to planning and zoning.
13. "Shorelands" means lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
14. "Shoreland-wetland district" means the zoning district, created in this shoreland-wetland zoning chapter, comprised of shorelands that are designated as wetlands on the wetlands inventory maps that have been adopted and made a part of this ordinance.
15. "Unnecessary hardship" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.
16. "Variance" means an authorization granted by the zoning board of appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.
17. "Wetlands" means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
18. "Wetland alteration" means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

20.34.215 SHORELAND ZONING FOR CERTAIN ANNEXED LANDS

A. Statutory Authorization. This ordinance is adopted pursuant to the authorization in sections 62.23 and 62.233, Wis. Stats.

B. Findings of Fact and Purpose. Uncontrolled use of shorelands and pollution of the navigable waters of the City would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Wisconsin legislature has delegated responsibility to all municipalities to:

1. Promote the public health, safety, convenience and general welfare;
2. Limit certain land use activities detrimental to shorelands; and
3. Preserve shore cover and natural beauty by controlling the location of structures in shoreland areas and restricting the removal of natural shoreland vegetation.

C. General Provisions.

1. Compliance. The use of shorelands within the shoreland area of the City shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

2. Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if section 13.48(13), Wis. Stats., applies.

3. Abrogation and Greater Restrictions.

a. This ordinance supersedes all the provisions of any other applicable municipal ordinance except that where another municipal ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

b. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

4. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes or Wisconsin Constitution.

5. Severability. Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

D. Applicability. These Shoreland Zoning District regulations apply only to a shoreland that was annexed by the City after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under section 59.692, Wis. Stats.

E. Definitions. The following terms used in this section have the meanings indicated:

1. "Principal building" means the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.

2. “Shorelands” has the meaning given in section 59.692(1)(b), Wis. Stats.

3. “Shoreland setback area” has the meaning given in section 59.692(1)(bn), Wis. Stats.

F. District Boundaries. The Shoreland District areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the City of Port Washington that are:

1. Within 1,000 feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources Surface Water Data viewer available on the DNR website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

2. Within 300 feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

3. Determinations of navigability and ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary highwater mark.

4. Pursuant to section 62.233, Wis. Stats., the Shoreland Zoning District does not include lands adjacent to an artificially constructed drainage ditch, pond, or retention basin if the drainage ditch, pond or retention basin is not hydrologically connected to a natural navigable water body.

G. Effect of Existing Land Division, Sanitary, Zoning and Other Regulations. The lands within the Shoreland Zoning District are subject to all applicable provisions of the City’s Municipal Code. Where the provisions of this ordinance are more restrictive than other regulations in the Municipal Code, the provisions of this ordinance shall apply.

H. Setbacks from the Water.

1. Principal Building Setbacks.

a. All principal buildings shall be set back at least 50 feet from the ordinary high-water mark.

b. Adjustment of Shore Yards. A setback less than that required by subsection H.1.a. may be allowed if all of the following apply:

i. The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building; and

ii. The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.

I. **Vegetative Buffer Zone.** Pursuant to section 62.233, Wis. Stats., a landowner must maintain a vegetative buffer zone, as follows:

1. A person who owns shoreland property that contains vegetation must maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending 35 feet inland from the ordinary high-water mark of the navigable water, except as provided in subsection 2.

2. If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

3. A person who is required to maintain or establish a vegetative buffer zone under subsection 1. may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage and extends no more than 35 feet inland from the ordinary high-water mark.

20.34.000

DISTRICT REGULATIONS

20.34.220 PUL PUBLIC & UTILITY LANDS DISTRICT.

- A. Statement of Intent. This district is intended to eliminate the ambiguity of maintaining an unrelated use district for areas which are under public or public utility ownership and where the use for public purpose is anticipated to be permanent.

- B. Permitted Uses By Right.
 - 1. The following are subject to approval by the Plan Commission of building, site and operational plans. (See Section 20.31.000)
 - a. Public schools, libraries, museums, auditoriums, art galleries, concert halls or similar facilities designed to serve the educational or cultural needs of the community.
 - b. Public administrative offices and public service buildings including fire and police stations.
 - c. Public parks and recreational areas, but not including facilities for organized athletics except as a permitted conditional use.
 - d. Public parking lots.
 - e. Public utility offices, installations, buildings and structures including municipal water towers, pump houses, water and wastewater treatment plants, and related public utility facilities and uses.
 - f. Dog parks.

- C. Permitted Accessory Uses.
 - 1. Residential quarters for employees or caretaker.
 - 2. Garages for storage of vehicles used in conjunction with the operation of the permitted use.
 - 3. Parking and service areas and structures serving the employees or for public using the permitted facility.
 - 4. Signs identifying the facility or the activities involved subject to the approval of size and appearance by the Plan Commission.
 - 5. Service buildings and facilities normally accessory to the principal use permitted.

6. Leasing of surplus public space to other public or private uses, where the character of lease use has impacts on the property and on adjacent properties similar to the principal use.

D. Permitted Uses By Conditional Grant.

1. Public service yards
2. Public parking structures
3. Public penal, reform, disciplinary and mental institutions
4. Public hospitals, sanatoriums, and homes for the aged
5. Military installations
6. Public outdoor recreational facilities for organized athletics
7. Leasing of surplus public space to other public or private uses, where the character of lease use has impacts substantially different, though not adverse, on the property or on adjacent properties than the principal use.
8. Public utility generating and transmission facilities and offices.

E. Special Regulations.

To qualify for this district, land must be owned by the municipal, county, state or federal government or an agency thereof or by a public utility subject to the jurisdiction of the Public Service Commission.

20.34.000

DISTRICT REGULATIONS

20.34.230 OOS OFFICE & SPECIAL SERVICE.

- A. Statement of Intent. This district is intended to provide for individuals or limited office, professional, and special services uses where such use would maintain the basic character of the underlying use district in terms of building appearance and where the degree of activity and other aspects of the operation would be compatible with the area, and subject to such regulatory standards as are necessary to insure such compatibility.

- B. Permitted Uses By Right.
 - 1. Any use as permitted by right in the underlying basic district.

 - 2. The following are subject to approval by the Plan Commission of building site and operational plans. (See Section 20.31.000)
 - a. Administrative and public service offices

 - b. Professional offices of an architect, landscape architect, lawyer, doctor, Christian Science practitioner, dentist, minister, professional engineer, or other similar recognized profession.

 - c. Studio of photography, painting, music, sculpture, dance or other recognized art.

 - d. Real estate and insurance offices

 - e. Specialized retail or customer service establishments of a restrictive nature including but not limited to the following:
 - i. Boarding, lodging, or tourist homes

 - ii. Delicatessen

 - iii. Florist Shop

 - iv. Funeral Home

 - v. Gift Shop

 - vi. Interior Decorator

 - vii. Tea Room or restaurant not serving liquor

 - viii. Beauty and barber shops

- C. Permitted Accessory Uses.

1. Any accessory use as permitted in the underlying basic district.
 2. Any other use normally incident or accessory to the overlay use subject to approval by the Plan Commission of building site, and operational plans. (See 20.31.000)
- D. Permitted Uses By Conditional Grant.
1. Any conditional use permitted in the underlying basic district.
 2. Dental and medical clinics
 1. Nursing and rest homes and homes for the aged
 4. Existing taverns and bars, or restaurants serving liquor.

20.34.000

DISTRICT REGULATIONS

20.34.240 OIP INSTITUTIONAL & PUBLIC SERVICE.

- A. Statement of Intent. This district is intended to predetermine and provide in those basic districts in which such uses are appropriate, specifically defined areas where churches, schools, libraries, and other uses of a public or institutional nature shall be permitted subject to such regulatory standards as will insure compatibility with the underlying basic district uses.

- B. Permitted Uses By Right.
 - 1. Any use as permitted by right in the underlying district.

 - 2. The following uses are subject to approval by the Plan Commission of the building, site and operational plans. (See Section 20.31.000)
 - a. Public and private schools

 - b. Churches and religious institutions

 - c. Libraries, museums, art galleries and concert halls

 - d. Public administrative offices and public service buildings

 - e. Public utility offices and installations

 - f. Private lodges and clubs

 - g. Public and private non-commercial group outdoor recreational facilities. (See Section 20.25.000)

 - h. Cemeteries and mausoleums

- C. Permitted Accessory Uses.
 - 1. Any accessory use as permitted in the underlying district.

 - 2. The following are subject to approval by the Plan Commission of building, site and operational plans. (See Section 20.31.000)
 - a. Bar, restaurant or other service facilities accessory to a permitted use and intended solely for the convenience of members and guests and not operated as a business nor open to the general public. Where such facilities are accessory but are open to the public, they may be permitted as a conditional use as hereinafter specified.

 - b. Any other structures or uses normally incident to the permitted overlay use.

D. Permitted Uses by Conditional Grant.

1. Any conditional use permitted in the basic underlying district.
2. Penal, reform, disciplinary, and mental institutions
3. Military installations
4. Public service yards
5. Radio and television transmission and relay towers
6. Hospitals, nursing homes and rest homes for the aged
7. Bar, restaurant or other service facilities basically accessory to a permitted principal use but open to the public and operated as a business.
8. Day care centers providing care for nine (9) or more children.
9. Adult day care centers providing services for part of the day in a group setting to adults who need an enriched health-supportive or social experience and who may need assistance with activities of daily living or protection.

20.34.250 OPD PLANNED DEVELOPMENT.

A. Statement of Intent. This district is intended to allow for greater freedom, imagination, and flexibility in the development of land while insuring substantial compliance to the intent of the normal district regulations of this Ordinance. To this extent it allows diversification and variation in the relationship of uses, structures, open spaces, and heights of structures in developments conceived and planned as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage the preservation of open land.

B. Permitted Uses By Right.

Any use permitted in the underlying district subject to the conditional regulation as to the manner in which permitted as provided in Section 20.21.000.

C. Permitted Accessory Uses.

Any accessory use permitted in the underlying basic district but subject to the conditional regulations as to the manner in which permitted as provided in Section 20.21.000.

D. Permitted Uses By Conditional Grant.

1. Any conditional use permitted in any district
2. Any use permitted by right in any district
3. Any accessory use permitted in any district

20.34.000

DISTRICT REGULATIONS

20.34.260 OHS HIGHWAY SERVICE DISTRICT.

- A. Statement of Intent. This district is intended to provide along portions of major traffic routes, designated areas in which certain uses particularly suited to and compatible with the highway traffic shall be permitted subject to such regulatory standards as will insure compatibility with the underlying basic district uses.

- B. Permitted Uses by Right.
 - 1. Any use permitted by right in the underlying basic district.

 - 2. The following uses are subject to the approval by the Plan Commission of the building, site and operational plans. (See Section 20.31.000)
 - a. Motels

 - b. Restaurants not serving alcoholic beverages

 - c. Tourist homes

 - d. Public, and private non-commercial group outdoor recreational facilities. (See Section 20.25.000)

 - e. Commercial entertainment facilities not serving alcoholic beverages.

 - f. Gasoline service and convenience retail stations.

- C. Permitted Accessory Uses.
 - 1. Any accessory use as permitted in the underlying basic district.

 - 2. Any other use normally incident or accessory to the permitted overlay use subject to approval by the Plan Commission of building, site, and operational plans.

- D. Permitted Uses By Conditional Grant.
 - 1. Any conditional use permitted in the underlying basic district.

20.34.270 ODF DENSITY FACTOR.

A. Statement of Intent. This district is intended to provide for a sliding scale of increased density based on the size of parcels 25,000 square feet or over, in order to permit economically realistic utilization of the mixed use potential of the CCM District, by preventing over inflation of land values based on maximum density expectation regardless of the size of parcels and thereby making economically feasible the assembly of larger parcels for development.

B. Permitted Uses By Right.

Any use as permitted by right in the CCM District.

C. Permitted Accessory Uses.

Any accessory use as permitted in the CCM District.

D. Permitted Uses By Conditional Grant.

Any conditional use permitted in the CCM District

E. Density Factor Alteration.

Where a parcel of land at least 25,000 square feet in area is in single ownership for the purpose of development, the minimum density and open space requirements may be reduced 2 square feet for every 100 square feet of total parcel area in excess of 25,000 square feet, but in no case shall the density requirement be reduced to less than 1500 square feet per family nor the open space to less than 500 square feet per family.

grasses, shrubs, bushes, and trees. A body shop may be included inside the building.

3. Lawn and garden centers, nurseries and greenhouses.
4. Boat sales and service operations.
5. Lumber and building supply yards. All outdoor storage must be screened by the use of walls, fences, or landscaping, and all loading and unloading activities must be done in the back of the building.
6. Indoor self-storage facilities.
7. Animal hospital or veterinary clinic.
8. Experimental, testing and research laboratories.
9. Private commercial outdoor recreational facilities.
10. Gas/service station or convenience store.
11. Outdoor eating and drinking facilities.
12. Hotels and motels.
13. Lodges and private clubs.

F. Prohibited Uses and Activities.

1. Transportation terminals.
2. Commercial parking facilities.
3. Warehousing.
4. Trailer and/or truck rentals.
5. Sexually oriented businesses, subject to Section 9.22.000.
6. Check cashing stores.
7. Pawn shops.
8. Any uses that generate significant dust, odor, or noise.
9. Any uses not permitted by right, as an accessory use, or as a conditional use hereunder.

G. Setback and Area Requirements.

1. As specified in the underlying district, except as follows:
 - a. Minimum Open Space shall be the greater of 30 percent or the amount specified in the underlying district.
 - b. Maximum Floor Area to Lot ratio shall be the lesser of 60 percent or the amount specified in the underlying district.

H. Miscellaneous Requirements; Relief from Strict Application. The following requirements shall also apply to properties within this overlay district. However, the City recognizes that due to unique site conditions or design limitations, strict application of these requirements may impede the maximum use of the proposed development. Therefore, in such cases the Plan Commission may, in its discretion, consider tradeoffs within and among these requirements to facilitate development and increase the benefits to the City.

20.34.000

DISTRICT REGULATIONS

1. Predominant exterior building materials shall be durable materials that can be economically maintained and are of a high quality that will retain their appearance over time such as, but not limited to: fiber-cement siding, wood lap siding, brick, stone, concrete masonry units, or such other materials as may be approved.
 2. Buildings shall be designed with consistent and/or compatible details on all sides visible from public rights-of-way.
 3. Prohibited exterior building materials include: tilt-up concrete panel systems, and metal panel systems.
 4. Garage and overhead doors shall be screened from view from public rights-of-way by the use of walls, fences, or landscaping.
 5. All on-site utilities shall be located underground.
 6. Ground-mounted mechanical equipment shall not be located in the front yard, and shall be screened from view from public rights-of-way by the use of walls, fences, or landscaping.
 7. All roof-mounted mechanical equipment shall be screened to minimize visual impact from public rights-of-way, where such screening will be effective. Where screening will not be effective, the color of such equipment shall be the same as or complementary to the color of the building.
 8. To the extent practicable, parking shall not be in the front of a building, but in the back.
- I. Administrative Review; Special Meeting. If an applicant submits a proposal for the use of a property which is not listed as a Permitted Use by Right under Section C. hereof, the City Planner shall promptly review and give written notice of the proposal to the Plan Commission. A special meeting of the Plan Commission shall be held as soon as practicable, upon prior public notice, to discuss such proposal and determine whether the proposed use is consistent with the intent of this overlay district, and compatible with and similar to the permitted uses by right set forth herein so as to be a Permitted Use by Right.

20.34.310 ONP NEIGHBORHOOD PRESERVATION OVERALAY DISTRICT.

- A. Statement of Intent. This overlay district is intended to preserve and protect the quality and character of established neighborhoods, recognizing that a cohesive appearance retains the community’s image, identity and history. It serves to stabilize and enhance property values, reducing conflict between new construction and existing structures.
- B. General Provisions.
1. This overlay district does not replace the underlying zoning district, which shall remain the source of the minimum applicable restrictions on structures, use and development. It may, however, further limit, but not expand, the structures, uses and development allowed in the underlying zoning district.

2. All new development, complete redesign of the exterior of existing structures, or razing must comply with the standards set forth in Section 20.30.040. The Design Review Board shall consider, among other things, the following in reviewing the proposal:
 - (a) Building design, size and scale.
 - (b) Exterior building materials.
 - (c) Neighborhood character and compatibility.
 - (d) Visual impact on existing natural features and hillsides.
 - (e) Compatibility with existing topography and vegetation.
 - (f) Landscaping and screening.
 - (g) Drainage patterns, site disturbance, erosion, and runoff.
 - (h) Historic or archaeological features.
 - (i) Impact on natural and historic landmarks.
3. The Design Review Board shall also consider the impact of new development in relation to views enjoyed by the owners or occupants of existing structures and properties, and, in particular, public property and public rights-of-way.
4. Action by the Design Review Board shall take the form of advisory recommendations to the Plan Commission.

20.34.320 OCP CONSERVATION PROTECTION OVERLAY DISTRICT.

- A. Statement of Intent. This overlay district is intended to prevent the destruction of valuable natural resources, particularly woodlands, wildlife habitat areas, significant water recharge and discharge areas, prairies, recreational and scenic areas, natural scientific areas, areas with poor soils or high groundwater, and areas of steep topography (e.g., hillsides, bluffs, etc.). Regulation of these areas – including environmental corridors – should serve to control runoff, erosion and sedimentation, protect the natural resource base, promote and maintain the natural beauty of the area, and promote the health, safety and welfare of City residents.
- B. General Provisions.
1. This overlay district does not replace the underlying zoning district, which shall remain the source of the minimum applicable restrictions on structures, use and development. It may, however, further limit, but not expand, the structures, uses, activities and development allowed in the underlying zoning district.
 2. This overlay district is intended to be applied to those lands identified as having significant combinations of natural features or features not conducive to development, and is to be applied to primary environmental corridors, secondary environmental corridors, and isolated natural areas delineated in the City's Comprehensive Plan (or the components thereof), or identified on plats and approved plans, or shown on soils maps.
- C. Permitted Uses by Right.
1. Preservation of scenic, historic, and scientific areas or properties.
 2. Controlled studies of ecosystems for educational purposes.
 3. Forest and game management.
 4. Harvesting of wild crops.
 5. Hiking, fishing, trapping, and swimming, unless restricted or prohibited by other ordinances or laws.
 6. Stormwater management.
 7. Park, open space, and recreation areas.
 8. Recreational trails, bicycle trails, cross-country skiing trails, and equestrian trails.
 9. Sustained yield forestry.
 10. Municipal and public utility work

20.34.000

DISTRICT REGULATIONS

- 11. Wildlife and plant life preserves.

- C. Accessory Uses.
 - 1. Off-street parking serving a permitted principal use, when located on the same lot as the permitted use.
 - 2. Public shelters, benches, and miscellaneous support structures and equipment.

- D. Miscellaneous Permitted or Prohibited Uses and Activities.
 - 1. Filling, removal of topsoil, and the damming or relocating of any watercourse, is prohibited except with the approval of the Plan Commission.
 - 2. Clear cutting of trees and shrubs is prohibited; however vegetation may be partially removed as necessary to accommodate any permitted use. Vegetation may also be selectively pruned or removed to reduce screening so as to achieve a filtered view from a principal structure, or for reasonable access to a watercourse or wetland.

20.34.330 LAND USE TRANSITION OVERLAY DISTRICT (OLUT).

20.34.000**DISTRICT REGULATIONS**

A. Statement of Intent: This overlay district is intended to identify those areas in the City where the Land Use Map 2035 recommends uses that are different from existing uses as identified on the Official City Zoning Map. Section 66.1001 (3) WI Statutes requires that a zoning ordinance and map shall be consistent or not contradictory to the approved land use map.

B. General Provisions.

1. Existing uses may continue until such time they are ready to be rezoned to accommodate new development or redevelopment consistent with the land use plan.

2. Existing uses may be enlarged, reconstructed, or other changes made only by conditional use approval.