

20.01.000 TITLE, AUTHORITY, PURPOSE, SCOPE, SEVERABILITY

20.01.010 TITLE. This ordinance shall be known as the Zoning Ordinance of the City of Port Washington.

20.01.020 AUTHORITY. This Ordinance is adopted pursuant to the authorization in §62.23 (7) of the Wisconsin Statutes.

20.01.030 PURPOSE. The provisions of this Ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the City of Port Washington. Among other purposes, such provisions are intended to provide for adequate light, air, sanitary drainage, convenience of access and safety from fire and other dangers; to promote the safety and efficiency of the public streets and highways, to aid in conserving and stabilizing the economic values of the community; to preserve and promote the general attractiveness and character of the community environment; to guide the proper distribution and location of population and of the various land uses; to conserve and protect from misuse such areas as flood plains and wetlands; and prevent flood damage to persons and property, minimize expenditures for flood relief and flood control projects, and otherwise provide for the healthy and prosperous growth of the community.

20.01.040 SCOPE. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to laws; provided however, that where this Ordinance in any way imposes greater restrictions, than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this Ordinance shall govern.

20.01.050 SEVERABILITY. The several sections, subsections and paragraphs of this Ordinance are hereby declared to be severable. If any section, subsection, paragraph, or subparagraph of this Ordinance shall be declared by a decision of a Court of competent jurisdiction to be invalid, such decisions shall not affect the validity of the other provisions of this Ordinance, or of the section of which the invalid portion or paragraph may be a part.

20.01.060 COMPLIANCE-OTHER PERMITS. Any development within or adjacent to floodplains and wetlands as regulated by this Ordinance may also require permits from other agencies with jurisdiction over the same area, such as the Wisconsin Department of Natural Resources or the US Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334. It is the responsibility of the applicant to secure such other permits as may be appropriate from these agencies.

20.01.070 MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by State Statute, all state, county, city or other municipal lands or facilities within the jurisdiction of this Ordinance shall comply with this Ordinance and obtain all of its necessary permits. State agencies are required to comply if s. 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 s.30.1294) (a), Wis. Stats. applies.

20.01.000 TITLE, AUTHORITY, PURPOSE, SCOPE, SEVERABILITY

20.01.080 ABROGATION AND GREATER RESTRICTIONS.

- A. ABROGATION. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law nor is it the intent of this Ordinance to abrogate, impair or interfere with the legal rights of individuals or corporations as they may be guaranteed by the state or federal constitutions, statutes, or administrative rules. Claims for such interference may be processed through the appeals procedure provided for in Section 20.08 of this ordinance.
- B. GREATER RESTRICTIONS. Where this ordinance permits a property to be placed in more than one zone, as is the case of overlay districts, or where a property is subject to both wetland and floodplain regulations, the more restrictive regulations shall apply. Where this Ordinance regulates the same or similar items as contained in easements, covenants, deed restrictions, and where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall apply.

20.02.000

INTERPRETATIONS

20.02.010 INTERPRETATIONS. 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 Chapters NR 116 or NR 117 of the Wisconsin Administrative Code, and where the ordinance provision is unclear in a specific application, the provision shall be interpreted in the light of the NR 116 and NR117 standards in effect on the date of the adoption of the affected provision.

20.02.020 SEVERABILITY. Should any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance shall continue in full force and effect.

20.02.030 WARNING AND DISCLAIMERS OF NONLIABILITY. In adopting this Ordinance setting forth land, water and building use regulations including site development and appearance standards, and in delegating to the Plan Commission and to the City Engineer or to the Building Inspector certain powers of interpretation and enforcement of this Ordinance, and to the Zoning Board of Appeals the power to grant variances to said provisions or to the actions of the aforementioned, the Common Council does not guarantee, warrant, or represent that if such provisions or variances are adhered to that under all conditions persons or property will not be subject to some degree of the adverse consequence being protected against by enforcement of the provisions. For example, floodwaters may exceed levels defined through this Ordinance, wetlands or soils that are deemed unsuitable for specific uses may extend farther than delineated, driveway connections to public streets arranged under the terms of this Ordinance to reduce traffic congestion and improve safety may still experience some levels of congestion and experience some accidents, landscape requirements imposed to screen adverse views may still admit partial views. Therefore the City asserts that adoption and enforcement of this Ordinance does not create liability on the Council, its Commissions, Boards or employees that may result from reliance upon this Ordinance.

20.02.040 SPECIFIC WORDS AND PHRASES. When used in this Ordinance the following words and phrases shall have specific meaning as hereinafter defined:

1. Apartment: A suite of rooms or a room in a multiple dwelling which suite or room is arranged, intended or designed to be occupied as a residence of a single-family, individual or group of individuals.
2. Apartment House: See “Dwelling, Multiple”.
3. Base Setback Area: The land lying between the edge of the existing street right-of-way and the Base Setback Line.
4. Base Setback Line: The line from which all required setbacks are measured, which line corresponds to the established ultimate street right-of-way line as set forth in Section 20.15.020 (1).

5. Basement: A story partly underground which, if occupied for living purposes shall be counted as a story for purposes of height measurement.
6. Bed & Breakfast Lodging: Any place of lodging that provides 5 or fewer rooms for rent, is the owner's personal residence and is occupied by the owner at the time of rental.
7. Boarding House: A building or premises where meals, or meals and lodging are offered for compensation for 5 or more persons, but not more than 12 persons, and having no more than 5 sleeping rooms for this purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant. An establishment with more than 5 sleeping rooms shall be deemed a hotel or motel. For purposes of this Ordinance, group homes shall be defined as boarding houses.
8. Building: Any structure used, designed or intended for all roofed shelter, enclosure, or protection of persons, animals or property.
9. Building, Accessory: A building or portion of a building used for a purpose customarily incident to the permitted principal use of the lot or to a principal building and located on the same lot as the principal use.
10. Building, Principal: The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
11. Building, Height of: The vertical distance from the average established street grade in front of the lot or the average finished grade at the front building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.
12. Camping Trailer: A self propelled or towable vehicle designed to travel over public highways and when parked to provide temporary living accommodations without hook-up to water or sanitary sewer.
13. Channel: Those floodlands normally occupied by a stream, lakebed, or other body of water under average annual high-water flow conditions while confined within generally well established banks.
14. Clinic, Medical or Dental: A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed patient care.
15. Court: An occupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the wall of such building.

16. Court, Inner: A court enclosed on all sides by exterior walls of a building, or by exterior walls and lot lines on which walls are allowable.
17. Court, Outer: A court extending to a street line or opening upon any front, side or rear yard.
18. Development: Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or deposition of materials.
19. Dwelling, Single Family Attached: A residential structure designed to house a single family unit from lowest level to roof, with private entrance, but not necessarily occupying a private lot, and sharing a common wall between adjoining units.
20. Dwelling, Single Family Detached: A residential structure designed to house a single family on a private lot and surrounded on all sides by a private yard.
21. Dwelling, Multiple: A building or portion thereof designed for and occupied by 2 or more families, including 2 family “flats”, apartment houses and apartment hotels.
22. Dwelling Unit: A housekeeping unit designed and used for occupancy by a single individual or family.
23. Equal Degree of Encroachment: The effect of any encroachment into the floodplain must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down, or across the river or stream will have the same right of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodplain.
24. Extractive Operations: The removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other process.
25. Family: One or more persons related by blood, adoption or marriage or not to exceed three persons not so related occupying the premises and living as a single housekeeping unit, as distinguished from a group of individuals occupying a boarding house, group home, rooming house, club, fraternity-sorority, or hotel.
26. First Floor Area: In residential structures the total of all livable floor area which is not over any other livable floor area. Liveable floor area shall be limited to that space meeting the minimum requirements for room size, height and light and ventilation as set forth by the Building Code or in this Ordinance.
27. Flood: A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

28. Flood Insurance Study: An examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mud slide or mud flow, and/or flood related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards.
29. Flood Profile: A graph showing the relationship of the flood water surface elevation of a flood event of a specific recurrence interval along a stream.
30. Floodproofing: Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials to operation and management safeguards, such as the following: reinforcement of basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction, erection of permanent watertight bulkheads, shutters, and doors; treatment of exposed timbers; elevation of flood, vulnerable utilities; use of waterproof cement; provision of adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal tight windows and doors; installation of wire-reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation, or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal or waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and flood drain pipes; placement of movable watertight bulkheads; erection of sandbag levees; and shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two (2) feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.
31. Floor Area Ratio: The term “Floor Area Ratio” or F.A.R. shall be used to indicate the total floor area of buildings, exclusive of basement, allowed on a given lot, expressed as a percentage ratio to the total area of the lot; i.e. an F.A.R. of 100% allows a floor area equal to the total area of the lot, an F.A.R. of 50% allows a floor area of 1/2 the total area of the lot, etc. A floor area ratio of 50% could be applied to a one-story building occupying 50% of the lot or a two-story building occupying 25% of the lot.
32. Garage, Private: A structure primarily intended and used for the enclosed storage or shelter of the private motor vehicles of the families’ resident upon the premises.
33. Garage, Public or Commercial: Any garage not falling within the definition of “private garage” as herein established, and used for storage, repair, rental or servicing of motor vehicles.

34. Garage, Private Attached: A garage, the roof of which is attached to the principal building.
35. Gasoline Service Station: A place where gasoline, kerosene, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, and including facilities greasing, oiling, washing and minor repair or vehicles on the premises, but not including automatic car washing or any body repair facilities, or storage of vehicles for scrap or spare parts.
36. Grade, Established: The elevation of the finished street at the center line of curb as fixed by the Engineer or by such authority as shall be designed by law to determine such an elevation.
37. Height of Buildings, how measured, see Building, Height of.
38. Highway: Same as "Traffic Artery".
39. Home Occupation: A gainful occupation conducted primarily by members of the family, within its place of residence, where the space used is incidental to residential use.
40. Hospital: An institution intended primarily for the medical diagnosis, treatment, and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for bed patient care.
41. Hospital, Animal: An establishment providing for medical care and treatment of animal pets, but distinguished from a kennel in that no outdoor runs shall be permitted for boarded animals and all indoor runs shall be sound proofed.
42. Hotel: A building in which lodging, with or without meals, is offered for compensation and which may have more than 5 sleeping rooms for this purpose, but not including kitchen facilities in individual rooms.
43. House Trailer, see Mobile Homes and Camping Trailer.
44. Kennel, Commercial: An establishment where dogs or other animal pets not part of the actual household on the lot on which the facility is located, are raised, bred or boarded.
45. Legal Non-conformity: The zoning status of a structure or parcel of land which, or the use of which, though legal prior to the passage of this Ordinance does not comply with one or more of the provisions of this Ordinance.
46. Lodging House: A building where lodging only is provided for compensation and having not more than 5 sleeping rooms for this purpose.

47. Lot: A single parcel of contiguous land occupied or intended to be occupied by such structures and uses as permitted under this Ordinance together with the open spaces required by this Ordinance, and abutting on a public street or officially approved way.
48. Lot Area: The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfare.
49. Lot Lines: The lines bounding a lot as defined herein.
50. Mean: A distance measurement having a value intermediate between the values of other distances; an average obtained by adding several distance measurements together and dividing the sum by the number of measurements. (For example: the mean of 1, 5, 2, and 8 feet is 4 feet).
51. Mobile Home: A structure, designated to be a permanent single family residence, which is constructed and inspected in a factory or intended by its inherent design to be transportable from factory to site, and from its original site to possible subsequent sites. The structure at its site may rest upon wheels, or upon a slab or pier foundation, and to be habitable requires hook-up to water, sanitary sewer and electricity.
52. Modular Housing: A structure, designed to be a permanent residence, which is constructed and inspected in a factory, then shipped to its site and placed together with other modules on a permanent foundation and hooked up to utilities to form a larger dwelling or to form a multiple dwelling structure.
53. Motel: A building or series of buildings in which lodging only is offered for compensation and which may have more than 5 sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit.
54. Non-Conforming Structure: A structure which does not conform to the Building Location, Height, Building Size or Floor Area Regulations of the district in which it is located.
55. Non-Conforming Use of Structure: A use carried on within any building which use does not conform to the Use of Residential Density Regulations of the district in which it is located.
56. Non-Conforming Lot: A lot which does not conform to the Lot Size Regulations of the district in which it is located.
57. Non-Conforming Use of Land: A use of any land in a way which does not conform to the Use, Residential Density or Open Space Regulations of the district in which it is located.

58. Official Letter of Map Amendment: Official notification from the Federal Emergency Management Agency (FEMA), that a Flood Hazard Boundary Map of Flood Insurance Rate Map has been amended.
59. Off Street Parking Space: The area on a lot designed to accommodate a parked motor vehicle as an accessory service to the use of said lot and with adequate access thereto from the public street. For purposes of satisfying parking requirements of this Ordinance an off-street parking space shall be an area of no less than 160 square feet.
60. Offset: The shortest horizontal distance between any structure and a lot line, other than a street line.
61. Open Space: An unoccupied space opens to the sky on the same lot with the building and not used for parking or driveway purposes.
62. Outdoor Recreational Facilities: Land and structure, along with accessory equipment, designed and utilized for leisure time activities of a predominantly “outdoor” nature and for more specific purpose than passive park-like open areas, and further classified as follows:
- i. Public: Facilities owned and operated by a governmental agency for limited or general use.
 - ii. Private Commercial: Facilities owned and operated by an individual or group for profit as a business whether or not open to general public use.
 - iii. Private Non-Commercial Group: Facilities owned and operated by a group for the exclusive use of the members of such a group and their guests and not for profit as a business.
 - iv. Private Residential: Facilities owned by an individual, located on the same or adjoining lot to this residence, and intended solely for the use of his family and guests.
63. Primary Floor Area (P.R.A.): The floor area of a building for purposes of determining required parking ratios, which area shall include only that portion of the total floor area devoted to customer service, sales and office space and shall not include warehouse, utility, hallways and other accessory space which does not generate parking demand.
64. Private Club or Lodge: A structure of grounds used for regular or periodic meetings or gatherings of a group of persons organized for a non-profit purpose, but not groups organized to render a service customarily carried on as a business.
65. Professional Office: The office of a doctor, Christian Science practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, artist, musician or other similar recognized profession.

66. Regional Flood: A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years, this means that in any given year there is one (1) percent chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26 percent chance of occurrence.
67. Road: Synonymous with street.
68. Rooming Houses: Same as Lodging House.
69. Setback: The shortest horizontal distance between any structure and the base setback line. See Section 20.15.020 (3).
70. Shorelands: Those lands which have been defined by state statute lying within the following distances from the ordinary high water mark of navigable waters: 100 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
71. Sign: Any structure or part thereof, or any device attached to a structure, or any other form of visual communication applied by paint, illumination, embossing or other technique to a structure for the purpose of directing, advertising, informing, warning or otherwise conveying information visually to the viewer.
72. Sign, Directional: A sign intended solely for the purpose of directing patrons or customers to an establishment off the main traveled road and not including promotional advertising unnecessary to such directional purpose.
73. Sign, Non-Accessory: A sign related to commercial or similar activities other than those actually engaged in on the site on which non-accessory sign is located.
74. Story: That portion of a building between the surface of a floor and the surface of the floor next above it, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one-half of its height above grade shall be deemed a story for purposes of height regulation.
75. Street: A public or private right-of-way usually affording primary access to abutting property.
76. Street, Frontage: A street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.
77. Street Right of Way Line: A dividing line between a lot, tract or parcel of land and contiguous street.

78. Structure: A combination of materials other than natural terrain or plant growth erected or constructed to form a shelter, enclosure, retainer, container, support, base pavement or decoration.
79. Structure, Principal: A structure used or intended to be used for the principal use as permitted on such lot by the regulations of the district in which it is located.
80. Structure, Accessory: A structure or portion of a structure used for a purpose customarily incident to the permitted principal use of the lot and located on the same lot as the principal use.
81. Structure, Permanent: A structure placed on or in the ground or attached to another structure in a fixed and determined position, and intended to remain in place for a period of more than 9 months.
82. Structure, Temporary: Any structure other than a permanent structure.
83. Structural Alterations: Any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls.
84. Trailer, House: See Mobile Home.
85. Trailer Camp: Any tract or parcel of land upon which 2 or more trailers, as herein defined are located or where trailer or camp sites are provided for the purpose of either temporary or permanent habitation.
86. Tourist Home: A building in which lodging, with or without meals, is offered to transient guests for compensation and having no more than 5 sleeping rooms for this purpose with no cooking facilities in any such individual room or apartment.
87. Traffic Artery: A right-of-way, (designed on a comprehensive system) for the principal purpose of providing a vehicular thoroughfare and not necessarily affording direct access to an abutting property.
88. Use, Accessory: A use subordinate to and customarily incident to the permitted principal use of the property or buildings and located upon the same lot as the principal use.
89. Use, Permitted: The utilization of land by occupancy, activity, building or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which said land is located.
90. Use, Principal: The main or primary use of property or structures as permitted on such lot by the regulations of the district in which it is located.
91. Vision Setback: An unoccupied triangular space, at the street corner of a corner lot, as established by Section 20.15.020 (6).

92. Wetlands: 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.
93. Wetland Alterations: Any construction filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

20.03.000 ADMINISTRATIVE AND ENFORCEMENT OFFICER

20.03.010 BUILDING INSPECTOR DESIGNATED. The Building Inspector is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. For such duties he may be provided with the assistance of such additional persons as the City Council may direct.

20.03.020 DUTIES. In the enforcement of said Ordinance the Building Inspector shall perform the following duties:

1. Issue the necessary Building Permits and Occupancy and Zoning Permits required by the provisions of this Ordinance provided its provisions and those of the building code have been complied with.
2. Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.
3. In case of any finding of a violation of a provision of this Ordinance, notify the actual violator where known, or the owner of the property, or both, indicating the nature of the violation and the action necessary to correct it including a provision specifying a reasonable number of days to comply. The violator or owner so affected may within 20 days of notification, request pursuant to Section 20.08.000 of this Ordinance, a hearing before the Zoning Board of Appeals, to appeal the time to correct the finding of violation. Such request shall state the grounds for appeal. If no appeal is taken and corrective action is not completed, issue one additional notice to comply, which contains a date by which compliance is required.
4. Carry out such additional responsibilities as are hereinafter set forth by the provisions of this Ordinance.
 - i. In conjunction with matters regulated by this Ordinance as specified in NR 116 or NR 117 of the Wisconsin Administrative Code having to do with floodplains and wetlands protection, respectively, insure where appropriate that flood elevations and wetland limits are shown on any permit applications and appeal forms.
 - ii. Submit to the Wisconsin Department of Natural Resources within 20 days after they are granted or denied, copies of decisions on variances, conditional use permits, appeals, or petitions for map or Ordinance text amendments, if any of these affect floodplain or wetland areas as regulated by NR 116 or NR 117.
 - iii. Submit copies of floodplain text or map amendments to the regional Federal Emergency Management Agency (FEMA) office which administers the National flood Insurance Program.

20.03.000 ADMINISTRATIVE AND ENFORCEMENT OFFICER

20.03.030 AUTHORITY. In the enforcement of said Ordinance, the Building Inspector shall have the power and authority for the following:

1. At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.
2. Upon reasonable cause or question as to proper compliance, to remake any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Ordinance, such revocation to be in effect until reinstated by the Building Inspector or the Board of Appeals; or take any other action as directed by the City Council to insure compliance with or to prevent violation of its premises.
3. In the name of the City and with the authorization and assistance of the City Attorney, commence any legal proceedings necessary to enforce the provisions of this Ordinance, or the Building Code as applicable to this Ordinance, including the collection of forfeitures provided for herein. Where the City Attorney is not able to provide the requested authorization or assistance, and makes apparent such position in writing or otherwise, seeks authorization from the Common Council for such assistance.

20.04.000

PERMITS

20.04.010 BUILDING PERMITS.

- A. Required. No structure 6 inches or more above the surface of the ground, except those exempted in the Building Code, nor any structure classified as a building, nor any swimming pool, shall be erected, structurally altered, or relocated within the City of Port Washington until a building permit has been issued by the Building Inspector certifying that such building would be in compliance with the provisions of this Ordinance and with the Building Code of the City of Port Washington.
- B. Procedure. An application for the Building Permit shall be made in conformity with the requirements of the Building Code of the City of Port Washington.

20.04.020 OCCUPANCY AND ZONING USE PERMIT.

- A. Required. No new building, and no existing building which has been remodeled to more than 50% of its value, and no existing building which has been relocated, shall be occupied or used until an Occupancy and Zoning Permit has been issued certifying that any such building complies with the provisions of this Ordinance. A like permit shall be obtained before any legal non-conforming use is resumed, changed, extended or granted conditional use status.
- B. Procedure:
 - 1. Application for such permit shall be made to the Building Inspector prior to or at the same time as the application for a Building Permit, or prior to the commencement of any use not involving a Building Permit.
 - 2. Such application shall be prepared and shall include, for the purpose of proper enforcement of this Ordinance, the following data:
 - a. A statement by the applicant as to the intended use of the premises and buildings thereon.
 - b. An accurate map of the property, in duplicate, drawn to reasonable scale and properly dimensioned showing:
 - i. The boundaries of the property involved.
 - ii. The location of the center line of any abutting streets.
 - iii. The location of the lot of any existing buildings, additions, or proposed new buildings, including the measured distances between such buildings, and from the lot lines and from the center line of any abutting street to the nearest portion of such building.

- iv. The proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting streets, and the general direction of surface drainage on the lot including the defined location of any defined drainage way.
 - (5) The base of regional flood level and ordinary high water line of any stream, flowage, wetland or lake on or abutting the property, as well as the defined boundaries of any wetlands as shown on the Wetland Inventory Map of the WisDNR and of any floodplains as shown on the FEMA floodplain map for the City or where appropriate to an adjacent municipality.
 - (6) Where a zoning permit application includes lands within a designated floodplain, the applicant shall provide all computations required to show the effects, if any, of the project on flood heights, velocities and floodplain storage. This requirement may be waived by the Building Inspector where there appears to be insignificant measurable effect and the project is minor in nature, that is, involving no building and no earthmoving.
 - (7) Where a zoning permit application shows that the applicant's intended activity will raise the regional flood level by 0.01 foot or more on another property, the applicant shall present flooding easements or other appropriate legal arrangements from all such affected owners before the zoning permit shall be issued.
 - iii. Where the proposed use involves human occupancy and connection is not to be made to municipal sewer service, a plan of the proposed system for sewage disposal, which shall be in compliance with all the City Ordinances and other governmental laws or regulations then applicable to such systems.
 - iv. Where the proposed use involves human occupancy and connection is not to be made to municipal water service, satisfactory evidence that a safe and adequate supply of pure water is to be provided and the location of any well for that purpose shown on the map.
3. Within 10 days after the notification of the completion of erection, alteration or relocation of the building or intent to commence a use, the Building Inspector shall make an inspection of the premises and any building thereon and if the building and the intended use thereof, and the proposed use of the premises comply with the requirements of this Ordinance, an Occupancy and Zoning Permit shall be issued.

4. For the purpose of defraying the cost of inspection and administrative processing, such application shall be accompanied by a fee of \$10.00, except that where a building permit is also required, this fee shall not be required.
- C. Expiration. If within 12 months of the date of application no Occupancy and Zoning Use Permit has been issued, any building permit related thereto shall lapse and the Building Inspector shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon showing of valid cause, the Building Inspector may grant an extension of such permit for a period not to exceed 6 months.
- D. Temporary Occupancy and Use Permit. Pending the issuance of a regular permit, a temporary permit for non-residential use may be issued for a period not exceeding 6 months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this Ordinance to such a degree as to render it unsafe for the occupancy proposed.

20.05.000 ESTABLISHMENT OF OFFICIAL ZONING MAP

20.05.010 DISTRICTS MAPPED. The City of Port Washington is hereby divided into Zoning Districts as shown upon a map designated as the Zoning Map of the City of Port Washington and made part of this Ordinance, and all the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein.

20.05.020 MAP CHANGES. The Official Zoning Map shall be kept current at all times. A change resulting from amendment to the district boundaries shall be shown on a detailed excerpt map showing the exact area of change which references shall be a part of the official amendatory ordinance and kept as a supplementary file record to the official map. The Official Zoning Map shall be corrected by the City Engineer within 30 days of passage of the amendatory ordinance.

20.05.030 EFFECTIVE DATE. Any map change, or text amendment shall become effective upon passage and publication, except that where the amendment involves the provisions of this Ordinance regulating floodplains or wetlands under the terms of NR 116 or NR 117 of the Wisconsin Administrative Code, no such change or amendment shall become effective if disapproved by the Wisconsin Department of Natural Resources (WDNR), provided said department acts within 30 days of the City's adoption of the proposed change or amendment. Notice of public hearing for any such change shall be sent not less than 10 days before the date of hearing to said WDNR.

20.05.040 REPLACEMENT OF OFFICIAL ZONING MAP. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

20.05.050 DETERMINATION OF BOUNDARIES. District boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Plan Commission shall interpret the map according to the reasonable intent of this Ordinance.

Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section, or sixteenth section lines; or the centerlines of streets, highways, railways, or alleys.

20.05.060 IDENTIFICATION OF OFFICIAL ORDINANCE AND MAP. The text of the official zoning regulations and the corresponding Official Zoning District Map shall be kept on file in the offices of the City and any other copies thereof shall be purely informational and shall not have the status of law. Said text and map shall be identified by the signature of the Major, attested by the City Clerk and bearing the seal of the City, together with the date of the adoption of this Ordinance, under the following words: "This is to certify that this is the Official Zoning (Ordinance) (Map) referred to in Section 20.05.050

20.05.000 ESTABLISHMENT OF OFFICIAL ZONING MAP

of the City Zoning Ordinance, City of Port Washington, Ozaukee County, State of Wisconsin.

20.06.000

CHANGES AND AMENDMENTS

20.06.010 **AUTHORITY.** Pursuant to the provisions of Section 62.23 (7) of the Wisconsin Statutes, the City Council may, after first submitting the proposal to the Plan Commission for report and recommendation, and after notice and public hearing as hereinafter provided, amend the regulations of this Ordinance or change the district boundaries.

20.06.020 **PROCEDURE.**

1. Initiation. A proposal to amend the text or change the district mapping of this Ordinance may be initiated by the City Council on its own motions, by recommendation of the Plan Commission or by petition of one or more property owners.
2. Filing of Petition. A petition for change or amendment submitted by a private property owner shall be prepared in triplicate on printed forms provided for the purpose and filed with the City Clerk.
3. Data Required. In addition to all information required on the petition form, the petitioner shall supply the following:
 - a. A plot map drawn in triplicate to scale no smaller than 100 feet to the inch showing the land in questions, its location, the length and direction of each boundary thereof, the location and existing use of all buildings on such land and the principal use of all properties within 200 feet of such land.
 - b. The names and addresses of the owners of all properties within 200 feet of any part of the land included in the proposed change.
 - c. Any further information which may be required by the Plan Commission to facilitate the making of a comprehensive report to the City Council.
4. Referral.
 - a. The City Administrator shall transmit without delay, one copy of such petition to the Plan Commission and one copy to the Building Inspector.
 - b. The Plan Commission shall conduct a study and investigation and where deemed desirable, an informal hearing, and report its recommendation to the City Council as promptly as possible.
5. Official Hearing. The City Council shall hold a public hearing upon the petition in the manner provided by Section 20.07.000 of this Ordinance.
6. Notice: Notice of any proposed change in district boundaries and a copy of the public hearing notice shall be sent by regular mail to all owners of property within 200 feet of the property for which the change is proposed.

7. Action.
 - a. After such public hearing and no later than the second Council meeting following receipt of the Plan Commission's recommendations, the City Council shall act to approve, modify and approve, or disapprove the proposed change amendment.
 - b. The City Council shall not take action without having first heard the recommendations of the Plan Commission. Should the Council not concur in the recommendation of the Plan Commission, it shall re-refer the matter to the Plan Commission for reconsideration before taking final action.
 - c. An approved change shall be by appropriate ordinance, and necessary changes in the Official Zoning Map or text shall be made promptly.
8. Protest. In case of protest against a change duly signed and acknowledged by the owners of 20% or more either of the area of land included in such proposed change, or by the owners of 20% or more of the area of land immediately adjacent and extending 100 feet there from, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, and filed with the City Clerk no later than the close of work the day preceding City Council vote on the change, such change shall require a favorable vote of three-fourths of the City Council for passage.

20.06.030 EFFECTIVE DATE. Any map change or text amendment shall become effective upon passage and publication.

20.06.040 ANNEXED LANDS. A petition for a direct annexation, or a petition for referendum on the question of annexation, shall be filed with the City Clerk pursuant to the provisions of Section 66.0217 of the Wisconsin Statutes.

1. Temporary Zoning. Pursuant to Section 620.06.021 (7) Wis. Statutes, the City Council shall refer to the Plan Commission for recommendation as to temporary zoning classification, any land being considered for annexation, and shall include in the annexing Ordinance a provision designating temporary zoning classification for such area.
2. Permanent Zoning. As soon as practical after the annexation is final, the zoning classification for such annexed area shall be established by amendment according to the regular procedure outlined in this section.

20.07.010 REQUIRED. In order that the owners of property involved and other legitimately interested parties may have fair opportunity to be heard, adequate notice shall be given of any public hearing required by the provisions of this Ordinance in the manner hereinafter defined or as may be otherwise specifically designated elsewhere in this Ordinance.

20.07.020 PROCEDURE.

- A. Posting and Publishing.
 - 1. Except as may be otherwise herein specifically provided; such notice shall be given a Class 2 notice under Chapter 985, Wisconsin Statutes.
- B. Information. Such notices shall state the time and place of such public hearing, the purpose for which the hearing is held, and shall include in the case of map changes, a description of the area involved and in the case of text changes, a description of the proposed change, in sufficient detail for general public identification. Reference shall also be made to the fact that detailed descriptions are available for public inspection at the City Administrator's Office.
- C. Petitions Not Involving Zoning Change. Where such hearing is required by the provisions of this Ordinance as a result of a request for other than a zoning change, such request shall be presented to the City Administrator in writing and shall be accompanied by a map or description clearly identifying the property involved.
- D. Informal Hearing. Hearings not specifically required under the provisions of this Ordinance may be noticed as deemed appropriate by the body holding the hearing.

20.08.000

APPEAL PROVISIONS

20.08.010 APPEAL RIGHTS. Any person aggrieved or any officer, department, board or bureau of the City affected by a decision of the administrative officer or of the Plan Commission may appeal such decision to a Board of Appeals as hereinafter established, provided such appeal to be taken within a reasonable time, as provided by the rules of said Board of Appeals.

A. Filing Fee – Any appeal to the Board of Appeals shall be accompanied by a filing fee.

20.08.020 BOARD OF APPEALS.

A. Establishment. There shall be a Board of Appeals consisting of 5 members appointed by the Mayor subject to confirmation by the Common Council, for terms of 3 years, except that of those members first appointed one shall serve for 1 year, two for 2 years and two for 3 years. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Mayor shall appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the Mayor shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.

B. General Rules.

1. The members of the Board of Appeals shall serve at such compensation as is fixed by the Ordinance.
2. Members shall be removable by the Mayor for cause upon written charges and after public hearing.
3. The Mayor shall designate one of the members, Chairman and the Board of Appeals may designate such other officers and employ such employees as it feels necessary.
4. The Board of Appeals shall adopt rules governing its procedure consistent with the terms of this Ordinance.

C. Meetings. Meetings of the Board shall be held at the call of the Chairman and at other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and

other official action, all of which shall be immediately filed in the office of the Board and shall be a public record.

- D. Powers. The Board of Appeals shall have the following powers as defined by statute.
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance.
 2. To hear and decide special exceptions to the terms of this Ordinance upon which such Board is required to pass under the Ordinance.
 3. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- E. Additional Requirements. In making its determination, the Board shall consider whether the proposed exception or variance would result in the use being hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to location, construction, and maintenance and operation – in addition to any which may be stipulated in this Ordinance – as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare.
- F. Performance Standards. In order to reach a fair and objective decision, the Board may utilize and give recognition to appropriate performance standards which are available in model codes or ordinances or which have been developed by planning, manufacturing, health, architectural, and engineering research organizations.
- G. Enforcement of Decisions. In exercising the above mentioned powers, such Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district; of rezoning; or granting a conditional use or special exception where such grant is not specifically assigned to the Board for determination under this Ordinance; or of permitting, without the approval of the Plan Commission any building within the base setback area as hereinafter established by the provisions of this Ordinance.
- H. Required Vote. The concurring vote of 4 members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required

20.08.000

APPEAL PROVISIONS

to pass under this Ordinance, or to effect any variation there from. The grounds of every such determination shall be stated.

1. Further Appeal. Any person or persons aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the City may appeal from a decision of the Board of Appeals within 30 days after the filing of the decision in the office of the Board of Appeals in the manner provided in Section 62.23 (7) of the Wisconsin Statutes.

20.08.030 PROCEDURE

- A. Filing. A notice of appeal shall be filed with the officer from whom the appeal is taken and with the Board of Appeals, specifying the grounds thereof. The officer, from whom the appeal is taken, shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Stay. An appeal shall stay all legal proceedings in furtherance of action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal, shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the office from whom the appeal is taken, and on due cause shown.
- C. Hearing. Each appeal shall be heard within 40 days from the time of filing and public notice of such hearing shall be given as provided by Section 20.07.000 of this Ordinance as well as to the parties of interest except that such notice to other owners need not include the owners of any lands beyond those adjacent to the sides and rear of the property petitioning for appeal and directly opposite thereto and extending 100 feet from the street frontage of such opposite land. The City Administrator shall mail such notice at least 7 days before said hearing. Such notice however shall require only one publication in the newspaper of general circulation within said City which shall not be less than 3 days prior to the date of hearing. Any party may appear in person, or by agent or by attorney representing him.
- D. Decision. The Board of Appeals shall render its decision in writing within 15 days after completion of the hearing thereon.
- E. Special Exceptions. Requests for special exceptions upon which the Board of Appeals is required to pass under the provisions of this Ordinance shall be presented by petition and public hearing held thereon as provided for appeals.

20.09.000

VIOLATIONS

20.09.010 PENALTIES. Any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of these provisions of the Ordinance, shall be subject to a forfeiture of not less than \$10.00 and not to exceed the sum of \$200.00 for each offence, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the County Jail of Ozaukee County, for the period not to exceed 6 months, or until such forfeiture and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punished as such.

20.09.020 ENFORCEMENT BY INJUNCTION. Compliance with the provisions of this Ordinance may also be enforced by injunction order at the suit of the City or one of more owners of real estate situated within an area affected by the regulations of this Ordinance.

20.09.030 DECLARED NUISANCE. Any building erected, structurally altered, or placed on a lot, or any use carried on in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se, and the City may apply to any court of competent jurisdiction to restrain or abate such nuisance.

20.10.000 GENERAL APPLICATION OF REGULATIONS

20.10.010 ESTABLISHMENT OF DISTRICTS. For the purpose of this Ordinance, the zoning district classifications listed under Section 33.010 are hereby created and established.

20.10.020 COMPLIANCE.

- A. Required. Within the City of Port Washington, the use of any land; the size, shape, and placement of lots; the use, size, height, location and type of structure thereon; and the provisions of open spaces shall be in compliance with the regulations established therein and made applicable to the district or districts in which such land or structure is located.
- B. Prior Permit.
 - 1. Construction Permitted. Nothing herein contained shall require any change in the plans, construction, size or designed use of any structure or part thereof for which a building permit has been issued before the effective date of this Ordinance and the construction of which shall have been substantially started within 6 months from the date of such permit.
 - 2. Subsequently Non-Conforming. Any such use which does not conform to the regulations of the districts in which it is located shall, however, subsequently be considered a legal non-conforming use.

20.10.030 STRUCTURES OTHER THAN BUILDINGS.

- A. Structures less than 6 inches in height. Structures not classified as buildings and less than 6 inches in height from the surface of the ground shall not be subject to the setback, offset, building size, or open space requirements of this Ordinance except as may be specifically otherwise provided.
- B. Structures 6 inches or more in height. Structures not classified as buildings and 6 inches or more in height from the surface of the ground shall be subject to the setback, offset, height and open space requirements of this Ordinance except as may be specifically otherwise provided, such as in Section 20.11.020 (4), (6) and (7).

20.10.040 UNDERGROUND BUILDINGS. Any structure classified as a building and not extending more than 6 inches above the surface of the ground shall not be subject to the setback, offset, building size, or open space requirements of this Ordinance.

20.11.000 ACCESSORY USES AND STRUCTURES

20.11.010 GENERAL.

1. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located except as specifically otherwise provided.
2. Any accessory use or structure not identified hereafter shall not be permitted unless approved by the Plan Commission.
3. No accessory use or structure shall be permitted that by reason of noise, dust, odor, appearance or other objectionable factor creates a nuisance or substantial adverse affect on the property value or interferes with the reasonable enjoyment of the surrounding properties.
4. Any permanent roofed structure serving an accessory use if attached to the principal building shall be considered as part of such principal building for all regulatory purposes. If such structure is a building and is not attached to the principal building it shall conform to the building location, height, and open space requirements of the district in which such building is located.

20.11.020 DETACHED GARAGES.

1. The primary use of the garage must be the required parking use.
2. No garage or driveway shall be used to carry on any contracting or repair business.
3. No more than one detached garage is permitted on a lot.
4. No detached garage shall have a floor area greater than 720 sq. ft. with doors that will accommodate no more than three (3) vehicles except that, in lieu of a permitted accessory shed, a storage area not exceeding 150 sq. ft. may be added on to a garage if the floor area of the garage, before such addition, does not exceed 720 sq. ft. maximum allowed.
5. Subject to the maximum floor area limitation provided in subsec. 20.11.020 (4) hereof, no detached garage shall have a floor area greater than 60% of the floor area of the principal building on the lot.
6. Only one (1) floor, with storage in the attic space, is permitted and the slope of the roof shall not exceed the pitch or the height of the principal structure.
7. Carports or covered storage areas are permitted only when attached to an approved structure and shall be included when calculating the structure's maximum permitted floor area. Carports and covered storage are not permitted as stand-alone structures.

20.11.000 ACCESSORY USES AND STRUCTURES

8. If a premises has an existing attached garage structure, no detached garage shall be permitted except upon the following conditions, which are hereby made a part of any permit so issued:
 - a. The existing driveway shall be removed and landscaped.
 - b. The garage door(s) shall be removed and the wall shall be remodeled to be compatible with the existing building.
 - c. Subsecs. i. and ii. shall be completed within one (1) year of the date of issuance of the garage permit.
 - d. Any further remodeling of the interior shall require a separate permit.

20.11.030 SHEDS.

1. No more than two (2) accessory buildings shall be permitted on a lot.
2. The maximum height of a shed shall be 15 feet.
3. The maximum floor area of a shed shall be 150 sq. ft.
4. Covered storage areas are permitted only when attached to an approved structure and shall be included when calculating the structure's maximum permitted floor area.
5. Sheds shall be constructed of solid common building materials or kits of pre-molded plastic-like materials commonly found in home improvement stores.
6. Foundations are not required unless the shed is constructed of masonry materials.
7. The shed shall be anchored to the ground to prevent uplift.

20.11040 FENCES.

1. Fences shall be constructed of masonry, wood or other common fencing materials available from retail suppliers and fencing contractors. Materials such as barbed wire, chicken wire, snow fencing, safety fencing, doors, etc. shall not be permitted.
2. Structural supports of the fence shall face the interior of the lot and be capable of supporting the fence and the wind loads imposed on it.

20.11.000 ACCESSORY USES AND STRUCTURES

3. Except for structural supports, both sides of a fence shall be constructed of the same materials, and shall be of the same color and appearance.
4. Fences shall be plumb and straight when fully erected.
5. Fences are permitted to be erected up to the lot line.
6. The maximum height of a fence, or any portion thereof, located within the setback area shall be four (4) feet. Outside of the setback area, within the offset area, and in all other areas on the lot a fence may be a maximum of six (6) feet in height except that:
 - a. An additional two (2) inches of height shall be permitted to hold fencing materials above grade and to allow for slight variation in grades.
 - b. An eight (8) inch step in the top of an eight (8) foot long section of fencing shall be permitted to allow for sloped yards.

20.11.50 MISCELLANEOUS ACCESSORY STRUCTURES.

1. Walks, patios, drives and purely decorative garden accessories such as manufactured ponds, fountains, statuary, etc., that are less than four (4) feet in height are permitted in the setback and offset areas but in no event shall they be located closer than three (3) feet to any lot line.
2. Arbors or trellises used to cover or embellish an entry way that are less than seven (7) feet in height shall be permitted in the setback and offset areas but in no event shall they be located closer than three (3) feet to any lot line.
3. Decks, arbors, trellises, walls, poles, children's play apparatus, lattice or other screening devices and other approved structures shall conform to the applicable regulations of the district in which they are located.
4. Retaining walls shall be permitted in the setback and offset areas, except that:
 - a. Retaining walls shall not be closer than three (3) feet to an abutting lot line.
 - b. No individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls.
5. Attached antennas and satellite dishes six (6) feet or less in height measured vertically from base to vertex including all mounting hardware and related equipment, shall be permitted.

20.11.000 ACCESSORY USES AND STRUCTURES

6. Solar devices, windmills, and all antennas and satellite dishes and similar devices, exceeding six (6) feet in height, measured vertically from base to vertex including mounting hardware and related equipment, shall not be permitted unless approved by the Plan Commission.
7. Any temporary structure serving as an accessory use may be permitted with the approval of the Plan Commission.

20.11.60 SPECIAL EXCEPTIONS.

1. Upon submittal of a building, site, and operational plan, the Plan Commission may grant a special exception to the setback, offset, height, and open space requirements of the zoning district in which an accessory structure is located if the Commission determines that granting such special exception would not have a substantial adverse affect on surrounding properties by reason of noise, dust, odor, appearance or other objectionable factors, nor create a nuisance or substantial adverse affect on the property value or interfere with the reasonable enjoyment of the surrounding properties.
2. In granting a special exception, the Plan Commission may require such architectural treatment, screening by landscape or architectural means, lighting requirements or limitations, or other measures which, in the judgment and discretion of the Commission, shall be necessary conditions of such special exception.

20.12.010 EXISTING USE PERMITTED. The existing lawful use of a building or premises at the time of the enactment of this Ordinance or any amendment applicable thereto which is not in conformity with the provisions established by this Ordinance may be continued in the manner and for the purposes then existent, subject to the conditions hereinafter stated.

20.12.020 CLASSIFICATION AND REGULATION. For the purpose of administration such non-conformity shall be classified and regulated as follows:

- A. Non-Conforming Structures.
 - 1. No such structure shall be expanded or enlarged except in conformity with the regulations of the district in which it is located.
 - 2. When such structure is damaged to the extent of more than 50% of its current full market value, it shall not be restored except in conformity with the regulations of the district in which it is located.
- B. Non-Conforming Use of Structure.
 - 1. No such use shall be expanded or enlarged.
 - 2. Upon petition to and approval of the Plan Commission such use may be changed to another use provided the Plan Commission determines that the new use would result in no greater degree of non-conformity and provided further that such new use shall thereafter determine the degree of legal non-conformity.
 - 3. Where any such use is discontinued for a period of 12 consecutive or for 18 accumulative months during any 3 year period, any future use of the structure shall conform to the regulations of the district in which it is located.
 - 4. Where the structure in which such use is carried on is damaged to the extent of more than 50% of its current full market value, it shall not be restored for use except in conformity with the regulations of the district in which it is located.
 - 5. Structural repairs and alterations to a structure housing such use shall not, as long as such use continues, exceed 50% of the full market value of the structure at the time the use became non-conforming.

C. Non-Conforming Lots.

1. No such lot shall be conveyed to a new owner except in conformity with the applicable provisions of the Subdivision Control Ordinance of the City.
2. No Building or Occupancy Zoning Use Permit shall be issued except in conformity with Section 20.18.000 of this Ordinance.
3. The size and shape of such lot shall not be altered in any way so as to increase the degree of non-conformity except with the approval of the Plan Commission.

D. Non-Conforming Use of Land

1. No such use shall be expanded or enlarged.
2. Upon petition to and approval of the Plan Commission such use may be changed to another use provided the Plan Commission determines that the new use would result in no greater degree of non-conformity and provided that such new use shall thereafter determine the degree of legal non-conformity.
3. Where any such use is discontinued for a period of 12 consecutive or for 18 accumulative months during any 3 year period, any future use of the land shall conform to the regulations of the district in which it is located.

20.12.030 **CONDITIONAL USE STATUS.** Subject to the provisions of Section 20.23.000 of this Ordinance any such legal non-conforming use may be reclassified as a conditional use.

20.12.040 **REMOVAL OF HAZARDS.** Where, upon complaint of the Building Inspector, any non-conforming structure or use shall be found by the Plan Commission as a matter of fact to be a detriment to the public health, safety, or general welfare, such structure shall be ordered to be removed or such use to be discontinued within such time as the Plan Commission may deem reasonable. Upon failure to carry out such order, the City may take such steps as are necessary to remove such structure or discontinue such use and assess the cost thereof against the property owner.

20.12.050 **SIGNS FOR EXISTING BUSINESSES OUTSIDE COMMERCIAL DISTRICTS.** Existing businesses not located in one of the zones listed in Table 20.29.120, shall comply with standards for the B-1 District.

20.13.000 BASIC LOCATIONAL REGULATIONS

20.13.010 BUILDING MUST BE ON A LOT. Every building hereafter erected, structurally altered, or relocated shall be placed on a lot as herein defined.

20.13.020 ONLY ONE PRINCIPAL RESIDENCE BUILDING ON A LOT. Except as specifically otherwise provided herein for attached single family dwellings, apartments, or planned development project only one principal residence building shall be permitted on a lot, provided however that the Board of Appeals may grant an exception to permit more than one principal building on a lot where such grant would not be contrary to the spirit or intent of the Ordinance or to the regulations applicable to the specific district, and provided that a sufficient lot area is provided and the buildings so located as to individually meet the setback, offset, lot size, density and open space requirements of the district in which located.

20.13.030 STREET ACCESS REQUIRED. No lot shall hereafter be created or any building placed on a lot which does not abut on a public street or approved way except as hereinafter provided.

20.13.040 PRIVATE STREET OR WAY. Subject to the approval of the Plan Commission, a building may be permitted on a tract of land which does not abut on a public street or approved way, provided such tract of land is at least 40,000 square feet in area, and provided further such tract has access by permanent easement to a public street or approved way and does not conflict with plans for the future development of streets in the area, except that where a future street is possible the Plan Commission may require a 60 foot street reservation.

20.14.000

USES WITHIN DISTRICTS

20.14.010 **USES RESTRICTED.** No structure or land shall be used and no structure shall be hereafter erected, structurally altered, or relocated except for a use as permitted and in compliance with the regulations hereinafter established for the district in which it is located.

20.14.020 **USES CLASSIFIED.** For the purpose of this Ordinance, all uses shall be classified according to the following categories:

- A. Permitted Uses By Right. Principal uses the permissibility of which is a predetermined right anywhere in the district in which located subject only to the regulations established governing such use.
- B. Permitted Accessory Uses. Uses incidental, customary to, and commonly associated with a permitted principal use.
- C. Permitted Uses By Conditional Grant. Uses, the nature, character, or circumstances of which are so unique, or so dependent upon the specific contemporary conditions, that predetermination of permissibility by right, or the detailing in the ordinance of the specific standards, regulations, or conditions necessary or appropriate to such permissibility are not practical; but which may be permitted in the districts where listed subject to certain conditions and requirements as hereinafter specified.

20.14.030 **UNCLASSIFIED USES.** Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of questions as to the classification of a use, the question shall be submitted to the Plan Commission for determination.

20.14.040 **ADDITIONAL REQUIREMENTS.** Any use, in any district, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood may be required to be corrected or improved by such measures as are directed by the City Council consistent with reasonable technological and economic practicality.

20.15.000

BUILDING LOCATION

20.15.010 LOCATION RESTRICTED. No building shall be hereafter erected, structurally altered or relocated on a lot except in conformity with the following locational regulations as hereinafter specified for the district in which it is located.

20.15.020 SETBACKS. The proximity of a building to a public street or way is regulated by setback provisions as follows.

- A. Base Setback Lines are hereby established parallel to the centerline of all public streets and ways as follows:
 1. On all principal traffic arteries as designated on the Traffic Artery System Plan set forth in the General Plan for the City of Port Washington, the Base Setback Line shall be located at a distance from the centerline of the street equal to one-half the width of the highway as designated on the map attached hereto as part of this Ordinance.
 2. On all other streets, which shall be designated as “local streets” the Base Setback Line shall be located 30 feet from the centerline of such street or 60 feet from the center point of a cul-de-sac unless specifically designated otherwise by action of the City Council
 3. In the case of frontage streets along principal traffic arteries, the Base Setback Line shall be located on the property line as established by the frontage street.
- B. Except as provided in subsections i(a) through (d) hereof, no building shall hereafter be erected, structurally altered, or relocated so that it is closer to the Base Setback Line than the setback distance hereinafter specified by the regulations of the zoning district in which it is located.
 1. Notwithstanding the minimum setback required within a zoning district, a setback may be reduced to the mean of the setbacks of the immediately adjacent lots on both sides of the subject lot. In calculating the mean setback, the following rules shall apply:
 - a. Only the setbacks on lots that abut the subject lot and are on the same side of the street as the subject lot may be used; and
 - b. When one abutting lot is vacant, the setback of the subject lot shall be the mean of the setbacks of the non-vacant abutting lot and the zoning district minimum setback; and
 - c. When the subject lot is a corner lot, the setback of the subject lot shall be the mean of the setbacks of the abutting lot fronting on the same side of the street as the front of the building on the subject lot

and the zoning district minimum setback.

- d. In no event shall any building be erected, structurally altered or relocated so as to be located within the Vision Setback Lines as set forth in Sections 20.15.020 6. and 7.

- 2. Additions to existing structures which lack the required setback may be allowed if the addition is setback at the distance greater than or equal to the average of the existing building setback and required setback of adjacent buildings. In no event shall the setback be reduced to less than that of the existing structure. This regulation shall apply to all property platted prior to January 1, 1970.

- 3. On corner lots, on record as of the adoption of this ordinance, the effect of the setback regulation shall not reduce the buildable width of such corner lot to less than thirty (30) feet.

- C. Where the mean of the setbacks of the buildings on the immediately adjacent lots on each side of the subject lot is greater than the minimum setback required within a zoning district, the Building Inspector shall not issue any building permit for the subject lot but shall promptly refer the matter to the Plan Commission. In such event, building setback lines appropriate for the location of the subject lot and for the type of development and use contemplated which are more restrictive than the regulations of the zoning district in which the subject lot is located may be required by the Plan Commission. Examples of the application of this provision would include, but are not limited to requiring greater setbacks on cul-de-sac lots to achieve the necessary lot width at the setback line, requiring greater setbacks that are compatible with setbacks of existing adjacent development, or setting special yard requirements to protect natural resource elements. In determining appropriate building setback lines in such cases, the Plan Commission shall consider the following, together with such other factors as the Plan Commission may deem relevant:
 - 1. Compatibility. The setback, size, quality and character of existing lots and building development in the immediate area with a view to maintaining compatibility and protecting property values.

 - 2. Practicability. The economic and engineering practicability of constructing buildings on the subject lot.

 - 3. Hardship. The degree of practical hardship which may be imposed upon the owner of the subject lot.

- D. The setback required by Sections 20.15.020 2. and 3. shall be measured from the nearest enclosed or roofed portion of a building, provided however that the first two feet of an overhanging eave and gutter shall not be included.

- E. The only structures permitted within such setback area shall be necessary highway and traffic signs, public utility lines and poles, walls and fences as regulated by Section 20.11.010 (4), rural mailboxes, signs as permitted under the district regulations, structures other than buildings as regulated by Section 20.11.030, underground buildings as regulated by Section 20.10.040, and enclosed canopies for lighting and rain protection in conjunction with such uses as automobile sales lots of “drive-in” commercial facilities provided that such canopy structures are approved by the Plan Commission, and those structures included in item 2 above.
- F. Additions to and replacements of existing structures lying between the Base Setback Line and the existing street right-of-way may be made subject to approval of the Plan Commission and provided the owner will file with the City, and record as part of the deed for such property, an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Ordinance at his expense, when necessary for the improvement of the street and will claim no damage for the same.
- G. Vision Setback Lines at the intersection of public streets and of a street with a railroad or alley, where the grade is not separated, are hereby established as follows:
1. Across each sector between the intersection of a street with a railroad a Vision Setback Line shall be established by a straight line connecting points on the Base Setback Line and the railroad right-of-way line, which points are located 120 feet from the intersection of the Base Setback Line and the railroad right-of-way line.
 2. Across each sector between intersecting streets, one or more of which has a designated width of 100 feet or greater, a Vision Setback Line shall be established by a straight line connecting two points on the intersecting Base Setback Lines, which points are located 30 feet from the intersection of said Base Setback Lines.
 3. Across each section between any other intersecting street a Vision Setback Line shall be established by a straight line connecting two points on the intersecting Base Setback Lines, which points are located 20 feet from the intersection of said Base Setback Lines.
 4. Across each sector between an alley and intersecting street a Vision Setback Line shall be established by a straight line connecting two points on the intersecting Base Setback Lines, which points are located 10 feet from the intersection of said Base Setback Lines.

20.15.000

BUILDING LOCATION

- H. In the Vision Setback Area no structure of any kind shall be permitted which exceeds a height of 2-1/2 feet above elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines, and open fences through which there is clear vision; no shall any plant material or natural growth be permitted which obscures safe vision of the approaches to the intersections.
- I. The requirements for vision setback shall not apply within the B-4 Central Business District.

20.15.030 OFFSETS. The proximity of any portion of a building to any other lot line than a street line is regulated by offset provision as follows:

- A. No building shall hereafter be erected, structurally altered, or relocated so that any roofed or enclosed portion thereof is closer to any lot line than the offset distance hereinafter specified by the regulations for the district in which it is located except as follows:
 - 1. In the case of any lot of record which has minimum average width less than that required by the district in which it is located, the offset from a side lot line may be reduced proportionately to the ratio between the actual minimum average width and the required minimum average width provided however that no offset shall in any case be less than 1/2 the required offset except that the offset for detached garages may be reduced to 4 feet on no more than 2 sides.
 - 2. Where a lot abuts a district boundary line, the offset from such line in the district of less restrictive use shall not be less than that required for the district of more restrictive use.
 - 3. In the case of single family attached, multiple family, commercial or industrial use structures two or more buildings on adjoining lots may be erected with common or directly adjoining walls provided the requirements of the State Industrial Code relative to such construction are complied with and provided that at both ends of such “row” type buildings the applicable offset requirements shall be complied with.
 - 4. How measured. The offset shall be measured from the roofed or enclosed portion of a building, including overhanging eaves, except that the first 2 feet of an overhanging eave and gutter shall not be included.
 - 5. Any garage accessory to a residential use for which a building permit was issued and which conforms to the offset in force prior to January 1, 1970, shall be exempt from the offset regulations of this ordinance, however, garages classified as non-conforming to the previous setback shall remain so classified.

- B. In all districts which allow common wall construction or do not require an offset, all buildings, which are hereafter erected, structurally altered, or relocated having any rooms required by the Building Code to have light and ventilation by windows opening directly to the outer air shall provide courts as follows:
1. Outer Courts. The width of any required court shall be not less than the height of any opposing wall forming said court. The depth of an outer court formed by walls on three sides shall be not greater than one and one half times the width.
 2. Inner Courts. The least dimension of an inner court shall be not less than the full height of the walls enclosing such court.

20.15.040 EXTRA HEIGHT CONSTRUCTION FACTOR. In those districts permitting buildings in excess of 35 feet in height, and requiring use of the “Extra Height Construction Factor” described herein, the setbacks and offsets required by the district shall be modified for buildings over 35 feet in height as follows: providing an “obstruction factor” for determining either the setback or offset of those portions of buildings exceeding 25 feet in height, said setbacks and offsets shall be determined by the application of a “plane of obstruction formula” as follows:

- A. Street Setback and Vision Corner: Where a zero street setback is permitted by the district regulations, buildings over 35 feet in height shall recess the first story at least five (5) feet from the base setback line. Building support columns are exempt from this five (5) foot requirement.
- B. Common Wall Construction: Where common wall construction is permitted by the district regulations, the building may be built upon the property line provided local and state building code requirements for common wall construction are met throughout the height of the building façade being located on the property line.
- C. Offsets: Where common wall construction is not involved, buildings over 35 feet in height shall provide the minimum offset required by the district regulation, but in no case less than ten (10) feet, plus one additional foot of offset for each story over three (3) stories in height.

20.15.050 MAINTENANCE AND USE OF SETBACK AND OFFSET AREAS. Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse, and shall not be used for the storage or display of equipment, products, vehicles or any other material except as may be specifically otherwise permitted under this Ordinance.

20.15.000

BUILDING LOCATION

20.15.060 **ACCESSORY BUILDING LOCATION.** No accessory building shall be erected, structurally altered, or relocated so that any roofed or enclosed portion thereof is closer than 10 feet to the principal building on the lot.

20.16.000

HEIGHT REGULATIONS

20.16.010 **MAXIMUM HEIGHT RESTRICTED.** In any district no building or structure shall be hereafter erected or structurally altered to a height in excess of that hereinafter specified by the regulations for the district.

20.16.020 **EXCEPTIONS.** Except as provided in Section 20.16.040 relating to buildings or structures in the B-4 Central Business District, the following shall be excepted from the height regulations for all districts:

- A. Chimney and flues.
- B. Accessory farm buildings, not to exceed 60 feet in height on lots of 120,000 square feet or more in area.
- C. Electrical, telephone and telegraph transmission and distribution structures.
- D. Subject to approval of Plan Commission: elevator bulkheads, stacks, scenery lofts, water towers, church spires, radio or television broadcasting towers, non-dish type antenna extending more than 10 feet above the height limit, aerials, windmills and necessary mechanical appurtenances. The Commission in granting or denying the exception shall be guided by the standards contained in Section 31.000 except that dish-style earth station satellite antenna shall not be installed on the roofs of residential or their accessory buildings, nor be eligible for this height regulation exception nor that of 20.16.030.

20.16.030 **INCREASE PERMITTED.** The maximum height of any structure may be increased by no more than 10 feet, providing all required offset and setbacks are increased by one foot for each foot in excess of the height limit of the district in which located.

20.16.040 **MAXIMUM BUILDING HEIGHTS IN B-4 CENTRAL BUSINESS DISTRICT.**

- A. **Buildings Existing on or Before September 17, 2004.** Any building or structure within the B-4 Central Business District which exceeds thirty-five (35) feet in height, existing or for which a building permit was issued on or before September 17, 2004, shall be a permitted building or structure and shall not be deemed a legal non-conforming building or structure on the basis of the height thereof, nor be subject to any conditions relating to such height nonconformity under Section 20.12.020 1. The height of such building or structure may be increased up to a maximum of sixty-one (61) feet by special exception, upon petition to and recommendation of the Plan Commission, and upon the favorable two-thirds (2/3) vote of all of the elected members of the Common Council. A request for such special exception shall be subject to the petition, public hearing, notice and determination procedures applicable to a petition for conditional use permit under Section 20.23.020. In considering such petition for special exception, the Plan Commission and Common Council shall be guided

by the standards contained in Section 20.30.040 relating to site plan and design review, and by the criteria contained in Section 20.31.030 relating to approval of building, site and operational plans, provided, however, that such building or structure shall not be eligible for the height regulation exceptions set forth in Section 20.16.020 nor be eligible for the height increase permitted under Section 20.16.030.

Notwithstanding any other provision of this subsection, in the event a building or structure subject to this subsection is damaged to the extent of more than 50% of its current full market value, it may be repaired or restored to its height at the time of such damage, provided, however, that it shall not be repaired or restored for use except in conformity with the use and lot regulations then in effect for buildings, structures and land within the B-4 Central Business District.

- B. Buildings Erected or Structurally Altered After September 17, 2004. Except as provided in Section 20.16.040 A. and this section, no building or structure erected or structurally altered within the B-4 Central Business District and for which a building permit is issued after September 17, 2004, shall exceed a height of thirty-five (35) feet. The height of such building or structure may be increased up to a maximum of sixty-one (61) feet by special exception, upon petition to and recommendation of the Plan Commission, and upon the favorable two-thirds (2/3) vote of all of the elected members of the Common Council. A request for such special exception shall be subject to the petition, public hearing, notice and determination procedures applicable to a petition for conditional use permit under Section 20.23.020. In considering such petition for special exception, the Plan Commission and Common Council shall be guided by the standards contained in Section 20.30.040 relating to site plan and design review, and by the criteria contained in Section 20.31.030 relating to approval of building, site and operational plans, provided, however, that such building or structure shall not be eligible for the height regulation exceptions set forth in Section 20.16.020 nor be eligible for the height increase permitted under Section 20.16.030.
- C. Building Inventory. An inventory listing the heights of all buildings and structures within the B-4 Central Business District as of September 17, 2004 shall be prepared and maintained by the City Engineer or his designee for purposes of future reference in the application, interpretation and enforcement of this Section.

20.17.000 BUILDING SIZE AND FLOOR AREA REGULATIONS

20.17.010 MINIMUM REQUIRED. Any building intended in whole or part for residential purposes shall provide a minimum floor area, and basement or utility area as hereinafter specified by the regulations for the District in which such building is located.

- A. The minimum floor requirement for residential use shall be based upon the number of bedrooms, as defined by the Building Code, and total rooms, as defined by the Building Code exclusive of bathrooms, and is stated in terms of the total useable residential floor area required per family on a single floor level.
- B. In any district which requires minimum floor area for purposes and an attached garage requirement (**sic**), the district may credit a portion of the garage area toward the required minimum floor area. Carports shall not be so credited nor garages built at a basement level.
- C. In the case of any residential building which has more than a single floor level, the total of all liveable floor area which is not over any other liveable floor area shall be called the First Floor Area, and shall conform to the required minimum total floor area, except that the required First Floor Area may be reduced, to any further minimum as established and in proportion to an increase in total liveable floor area as set forth in the individual district regulations.
 - 1. The individual district regulations may allow that a percentage of any such increase in total liveable floor area may be unfinished floor space capable under the Building Code or this Ordinance below of being finished to liveable floor area, provided such unfinished area is in the second story of a two story home as defined on the fold-out chart, (see 20.33.000.) In addition to requirements of the Building Code, such space shall meet the following requirements.
 - a. Ceiling height shall be a minimum of 7'2" (86").
 - i. Sloped ceilings shall have an average height of at least 6'0", with at least 50% of the area more than 6'0".
 - b. Wiring to be roughed in to the extent that sufficient branch circuits to meet electrical code standards are provided to the unfinished area and terminated in a proper junction box. The power for such circuits shall not go beyond the panel or circuit box unless the unfinished area is wired according to code.
 - c. Every room shall have at least one outside window which can be opened from the inside without the use of tools to provide a clear opening of not less than 16 inches in the least dimension and 400 square inches in area, with the bottom of opening not more than 4 feet from the floor.

20.17.000 BUILDING SIZE AND FLOOR AREA REGULATIONS

2. In no case shall application of (c) above require a total liveable area in any particular district be larger than the largest required minimum floor area listed for that district under 20.33.000.
- D. Basement or other suitable utility areas shall be provided within the principal building on the basis of a minimum per family as set forth in the individual district regulations.
- E. Room Areas -Room sizes for one and two family dwellings shall be equal to or greater than those listed in Table No.1. Multiple family buildings shall be subject to the same minimum requirements, although, the Plan Commission may increase the size of each room upon site plan approval.
1. Minimum dimension of living rooms shall be eleven (11) feet and of kitchens, six (6) feet. Minimum room areas shall not include areas used for storage or closet purposes.
 2. Rooms and spaces not herein regulated as to area shall be connected to a living or other habitable room. Rooms and spaces not herein regulated and of areas less than the minimum areas herein required shall not be used for living, dining, sleeping or kitchen purposes.
 3. No additional dwelling units shall be created or maintained by rearranging room suites, by subdividing rooms or by alterations in any existing building or structure unless such dwelling units have been authorized by permit and comply with this and other applicable regulations.
- F. Toilets, Bathrooms, and Kitchens.
1. Bathrooms for required toilets, tubs or showers or lavatories shall have a minimum floor area of not less than twelve (12) square feet for each water closet and each tub and ten (10) square feet for each shower, lavatory or other sanitary plumbing fixture or equipment installed herein. The ceiling height of the required bathroom shall not be less than seven (7) feet. Powder rooms or second baths are not subject to the above but shall have a minimum floor area of fourteen (14) square feet with a minimum dimension of three (3) feet in one direction.
 2. Each bathroom or toilet room shall be provided with a door. No bathroom or toilet room shall provide sole access to any habitable room.

20.17.000 BUILDING SIZE AND FLOOR AREA REGULATIONS

TABLE 1
ROOM AREAS

| <u>CATEGORY</u> | <u>REQUIRMENT</u> | <u>MIN. DIMENSION</u> |
|-----------------------------|---------------------|-----------------------|
| Living Room | 160 sq. feet | 11' |
| Living Room w/ dining space | 180 sq. feet | |
| Dining Room | 80 sq. feet | |
| Kitchen-useable floor area | 60 sq. feet | 6' |
| Bedroom | 100 sq. feet | |
| Other Habitable Rooms | 70 sq. feet | |
| Bathroom | See sec. F (i) (ii) | |

20.17.020 MAXIMUM PERMITTED (F.A.R.). The maximum floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio (F.A.R.) as hereinafter specified by the regulations for the district in which such building is located.

20.17.030 HOW MEASURED. Floor area shall be measured at each level from outside of wall to outside of wall, but for the purpose of determining minimum required floor area shall not include any area having an average height of less than 7 feet, basements, attached garages, open porches, attics, public hallways, or storage areas. Basements and attics shall not be included in determining permitted F.A.R. For the purposes of minimum and maximum floor area regulations, in the case of floor levels built into a hillside, the floor area subject to the regulation shall be the area extending back in depth one-half the length of the exposed wall at grade.

20.17.040 INCREASE PERMITTED. The maximum permitted F.A.R. may be increased as permitted by Section 20.000.

20.18.000

LOT SIZE

20.18.010 **MINIMUM REQUIRED.** No building shall be erected on a lot of less area or of minimum average width less (**sic**) than hereinafter specified by the regulations of the district in which such building is located.

20.18.020 **LOT AREA-HOW MEASURED.** For the purpose of this Ordinance, the lot area shall be measured from the Base Setback Line and shall be exclusive of the area between the Base Setback Line and the existing property line ultimately to be included in the street.

20.18.030 **LOT WIDTH-HOW MEASURED.** In determining the minimum average width of a lot such measurement shall be made by a line perpendicular to the line establishing the average depth of the lot, at any point where one-half (1/2) the required minimum area would fall on each side of such line establishing the minimum average width provided that the frontage at the street line measured by a straight line on a curving frontage shall not be less than 50% of the required average width, whichever is greater.

20.18.040 **REDUCTION.** No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located.

20.18.050 **EXCEPTIONS.** Where a lot has less land area or width than required for the district in which it is located and was of record at the time of passage of this Ordinance, such lot may be used for any purpose permitted in such district, subject to the regulations governing substandard lots set forth under the Subdivision Control Ordinance of the City of Port Washington provided, however, that in no case shall the setback, or offset requirements be reduced except by order of the Board of Appeals after due hearing, or as otherwise herein provided. The open space requirements in the case of such lot may be reduced without appeal provided the open space is equal to at least 50% of the actual lot area.

20.19.000 RESIDENTIAL DENSITY AND OPEN SPACE

20.19.010 RESIDENTIAL DENSITY.

- A. Purpose of Control. The regulatory techniques controlling the distribution of population throughout the community are intended to achieve the desired environmental character as set forth in the General Plan and to achieve a practical economic and functional relationship between the residential use of land and its consequent impact upon traffic circulation, sewage, disposal, school facilities, and other service demands.
- B. Method of Control. In single family detached development, the density is established by the minimum required lot size. In single family attached, or multiple family developments, no minimum lot size is established by the minimum required lot size. In single family attached, or multiple family developments, no minimum lot size is established; but the allowable density is established by a required ratio of lot area to each dwelling unit. In a planned residential development project, the density is established by a special factor giving the number of dwelling units permitted per acre based on the underlying zoning. In the Central City Mixed District, a maximum control may be established by the Density Factor Overlay District which provides for a sliding scale upon the size of the parcel being developed.
- C. How Computed. The determination of the number of allowable dwelling units on a given property developed with single family attached or multiple family units shall be made as follows:
1. Single Family Attached and Multiple Family. By dividing the net area of the parcel to be so developed by the number of square feet of lot area required per dwelling unit.
 - 2.. Planned Development Projects. By applying the percentage factor to the total area of the project as hereinafter set forth in Section 20.21.050 on the basis of the underlying zoning.
 - 3.. Density Factor Overlay. By applying the Density Factor formula to parcels of 25,000 square feet or larger in area as set forth in the ODF District Regulations, Section 20.33.010.

20.19.020 OPEN SPACE

- A. Minimum Required. No building shall be erected, structurally altered or relocated on a lot so as to reduce the useable open area of such lot to less than that hereinafter specified by the regulations for that district.
- B. How measured. To be considered useable, such open area shall be readily accessible and of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, play space, drying yard, garden, etc., but shall not include parking area and drives.

20.19.000 RESIDENTIAL DENSITY AND OPEN SPACE

- C. Overlapping. No part of the open space provided for any building shall be included as part of the open space required for another building, except as hereinafter provided for planned development projects.

20.20.000 ENVIRONMENTAL ENHANCEMENT INCENTIVE

20.20.010 PURPOSE. In order to encourage the inclusion of site amenities in business and multiple family developments, incentives are offered in the form of increased density on F.A.R. allowances where in the opinion of the Plan Commission such increase would be justified by the enhancement to the environment and would not adversely affect the value or enjoyment of surrounding property, the provision of municipal services, or the safe efficient flow of traffic on nearby streets.

20.20.020 APPLICATION. The granting of increases in either allowable density or F.A.R. may be made by the Plan Commission upon submittal of a request for such allowance accompanied by appropriate building and site plans, and shall be based upon the following table of maximum allowable incentive increases. The Commission shall use its discretion as to whether the character and quality of the proposed enhancement justifies the maximum increase or a proportion thereof:

| Type of Environmental Enhancement | Incentive Business Incr. in F.A.R. | Increase Multi-Family Increase in Density (sic) |
|--|---|---|
| Plaza, malls, and other pedestrian promenades or gathering places provided they are specifically designated and appropriately developed to enhance the pleasure and comfort of the pedestrian and the aesthetic appearance of the development. | 2 sq. ft. of additional floor area for each sq. foot of plaza, mall, etc. | 1 dwelling unit for each 500 sq. feet of plaza, mall, etc. |
| Recreational facilities intended for the free use of residents or patrons such as children’s play grounds, tennis courts, swimming and wading pools, etc. | 2 sq. ft. of additional floor area for each sq. ft. of recreational area. | 1 dwelling unit for each 250 sq. ft. of pool area, or 500 sq. ft. of other recreational area. |
| Underground parking or underground truck service area. | 1 sq. ft. of additional floor area for each sq. ft. of underground parking or service area. | 1 dwelling unit for every 3 underground parking spaces. |
| Landscaped areas. Special landscape treatment or features such as outdoor sculpture, pools, fountains, flower beds, etc. | 1 sq. ft. of additional floor area for each sq. ft. of landscaped area. | Not to exceed 10% of the base allowance density. |

20.21.000 PLANNED DEVELOPMENT PROJECTS

20.21.010 PERMITTED. The unified and planned development of a site, in single or corporate ownership at the time of development, may be permitted in an OPD Planned Development Overlay District without the customary division into individual lots, or without specific compliance to the district regulations as applicable to individual lots, subject to the regulations as hereinafter provided in Section 20.33.010.B.3 of this Ordinance.

20.21.020 CLASSIFICATION. For the purpose of this Ordinance all Planned Development shall be classified as follows and be limited to parcels of not less than the size indicated:

| | | |
|---------------------|---------|---------|
| 1. Residential..... | 75,000 | sq. ft. |
| 2. Commercial..... | 100,000 | sq. ft. |
| 3. Industrial | 200,000 | sq. ft. |
| 4. Mixed..... | 100,000 | sq. ft. |

For Planned Development Projects in existing, developed areas where redevelopment is being proposed, parcels shall not be subject to the minimum square footage limitations set forth in this section, but the size of the project area subject to the Planned Development regulations of this Zoning Ordinance may be recommended by the Plan Commission and determined by the Common Council, based upon the criteria contained in Section 20.21.050 applicable to the type of the project being proposed.

20.21.030 APPLICATION OF REGULATIONS.

- A. In addition to the uses permitted in the underlying district, any other use may be permitted as hereafter designated in Section 20.34.250 consistent with the criteria established in 20.22.060 following.
- B. Individual uses and structures in a Planned Development Project District need not comply with the specific building location, height, building size, floor area, lot size, and open space requirements of the underlying basic district provided that the spirit and intent of such requirements are complied with in the total development plan for such project consistent with the criteria as established in 20.22.060 following, and subject to such further requirements as are hereinafter specified under Section 20.34.250.

20.21.040 PROCEDURE.

- A. Petition: Petition may be made to the City Council by the owner or agent of property proposed for such development, to amend the zoning map by the overlaying of an OPD District in order to permit the application of the provisions of this section to such development. Such petition shall be accompanied by a fee of \$25.00 plus \$1.00 for every acre or fraction thereof in the project area, and the following information.
 - 1. A statement describing the general character of intended development along with such other pertinent information as may be necessary to make a

20.21.000 PLANNED DEVELOPMENT PROJECTS

determination that the contemplated arrangement or use makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this Ordinance.

2. A general development plan of the project showing the following: intended use or uses of land; the dimensions and location of proposed structures and of areas to be reserved for vehicular and pedestrian circulation; parking; public uses such as schools and playgrounds, park, landscaping and other open spaces; and architectural drawings and sketches illustrating the design and character of the proposed uses and the physical relationship of the uses.
- B. Referral to the Plan Commission and Architectural Review Board: Such petition shall be referred to the Plan Commission and processed as any other petition for zoning change except that copies of those exhibits of the petition which relate to building appearance shall at the same time be referred to the Architectural Review Board. Where the petitioner chooses to seek general approval of the land use and circulation pattern first, as mentioned in 20.20.060.B following, submittal of building plans to the Architectural Review Board can be delayed until more specific and detailed plans are required for approval to proceed. Upon completion of necessary study and investigation the Plan Commission shall make its recommendation to the City Council as to the appropriateness and desirability of the proposed zoning change, the suitability of the site and development plans and any additional conditions which it may feel necessary or appropriate. Where building plans have been submitted to the Architectural Review Board, the Board shall also make its recommendation to the City Council, basing their finding on the standards set forth in Section 20.30.000 of this Ordinance.
- C. Public Hearing: Upon receipt of the Plan Commission's recommendations, the City Council shall cause a public hearing to be held pursuant to Section 20.07.000 of this Ordinance.

20.21.050 BASIS FOR APPROVAL. The Plan Commission in making its recommendations and the City Council in making its determination shall give consideration and satisfy themselves as to the following:

1. That the proponents of the proposed development have demonstrated they intent to start construction within a reasonable period following the approval of the project and requested overlay of the OPD District, that the project appears economically sound, that adequate financing is possible, and that the development will be carried out according to a reasonable construction schedule to the City. The developers may not re-sell an approved planned development project without permission of the City, until construction is complete, and all terms of the project are complete to the City's satisfaction.
2. That the proposed development is consistent in all respects to the spirit and intent of this Ordinance, is in conformity with the general plans for

20.21.000 PLANNED DEVELOPMENT PROJECTS

community development, would not be contrary to the general welfare and economic prosperity of the City or of the immediate neighborhood, that the specific development plans have been prepared with competent professional advice and guidance, and that the benefits and improved design of the resultant development justifies the variation from the normal requirements of this Ordinance through the application of the Planned Development Project Overlay District.

3. In the case of proposed residential developments:
 - a. That such development will create an attractive residential environment of sustained desirability and economic stability, compatible with the character established for the area by the community General Plan, and where the economic impact of the development in terms of income levels, property values, and service demands is at least as beneficial to the community as that which could be anticipated under the basic zoning.
 - b. That the population composition of the development will not alter adversely the impact upon school or other municipal service requirements as anticipated under the existing basic zoning and General Plan.
 - c. That the project will not create traffic or parking demand incompatible with that anticipated under the General Plan.
 - d. That the total average residential density of the project will be compatible with the General Plan. For specific project density computation, the project area shall be measured to include all project land except those portions zoned Industrial or Wetland Floodplain, and exclusive of existing public right-of-way or public open space easement. The allowable maximum density shall be computed separately for each existing basic district except for Industrial and Wetland Floodplain Districts. The density shall be computed by multiplying the area in each such district by the percentage factor given in the following table and then dividing the result by the number of square feet per family unit as required by the table for that district. The total allowable density for the project is the sum of those individual computations. In the case of a project which includes land classified as Wetland Floodplain the total allowable density may be increased by the percentage which such land is of the total project area, but in no case more than 40%. In the case of any such land which is reclaimed from its Wetland Floodplain characteristic as a result of the project development, the total allowable density may be increased by the percentage which such reclaimed land is of the total project area. An increase in the computed allowable maximum density, not to

20.21.000 PLANNED DEVELOPMENT PROJECTS

exceed 10%, may be permitted upon recommendation of the Plan Commission that the increased density is justified in terms of the relationship to open areas, service demand, and the total quality and character of the project. In no case, however, shall the provisions of paragraph (5) following be waived.

| Underlying Basic District | Percentage Factor | Density in Feet per Family |
|----------------------------------|--------------------------|-----------------------------------|
| R-1 | 100% | 45,000 |
| RS-1 | 100% | 15,000 |
| RS-2 | 90% | 12,000 |
| RS-3 | 85% | 10,000 |
| RS-4 | 80% | 8,400 |
| RS-5 | 100% | 6,000 |
| RS-6 | 100% | 4,000 |
| RM-1 | 100% | 3,500 |
| RM-2 | 100% | 4,000 |
| RM-3 | 100% | 2,000 |
| RM-4 | 100% | 1,500 |
| CCM | 100% | As established by ODF |
| B-1 | 100% | 1,500 |
| B-2 | 100% | 1,500 |
| B-3 | 100% | 10,000 |
| B-4 | 100% | 200 |
| B-5 | 100% | 10,000 |

- e. That the aggregate open space of the development will be no less than would have resulted from the application of open space requirements of the underlying district.
- f. That adequate guarantee is provided for permanent retention as “open area” of the residual open land area resulting from the application of these regulations, either by private reservation for the use of the residents within the development or by dedication to the public.
- g. In the case of private reservation the open area to be reserved shall be protected against building development by conveying to the municipality as part of the conditions for project approval in open space easement over such open areas restricting the are against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational satisfaction of the surrounding residences. Buildings or uses for non-commercial recreational or cultural purposes compatible with the open space objective may be permitted only where specifically authorized as part of the project plan or subsequently with the express approval of the

20.21.000 PLANNED DEVELOPMENT PROJECTS

performance standards and industrial development design and will not produce an effect upon the property values of the surrounding neighborhood incomparable with that anticipated under the General Plan.

- b. That the proposed development will have adequate provision for off-street parking and truck service areas and will be adequately served by rail or highway facilities.
 - c. That the proposed development is properly related to the total transportation system of the community and will not produce an effect on the safety and efficiency of the public streets incompatible with that anticipated under the General Plan.
6. In the case of mixed developments:
- a. That the proposed mixture of uses produces a unified composite which is compatible within itself and which as a total development entity is compatible with the surrounding neighborhood and consistent with the general objectives of the General Plan.
 - b. That the various types of uses conform to the general requirements, as hereinbefore set forth, applicable to projects of such use character.
 - c. The allowable maximum residential density shall be computed in the same manner as provided for a residential development under 20.21.050 (3) iv.
 - d. This figure shall then be reduced by the percentage which any non-residential use is of the total project area. In determining the area of non-residential use, landscaped area, pedestrian malls, or other areas which in the opinion of the Plan Commission contribute to the enhancement of the total project environment may be excluded.

20.21.060 DETERMINATION.

- A. The Common Council after due consideration may deny the petition, approve the petition as submitted or approve the petition subject to additional information.
- B. The approval of a petition and consequent amending of the Zoning Map by an overlay of the OPD District shall be issued upon and include as conditions thereto, the building, site and operational plans for the development as approved as well as all other commitments offered or required with regard to project value, character or other factors pertinent to assuring that the project will be developed basically as presented on the official submittal plans, and shall be mapped and recorded as provided for conditional uses under Section 20.23.000 of this Ordinance. Such plans, however,

20.21.000 PLANNED DEVELOPMENT PROJECTS

need not necessarily be completely detailed at the time of Overlay zoning, provided they are of sufficient detail to satisfy the Plan Commission and City Council as to the general character, scope, and appearance of the proposed development. Such preliminary plan shall at least designate the pattern of proposed streets, the basic pattern of land use, the size and arrangement of lots, and illustrate a “typical” example of the development proposed. The approval of such preliminary plans shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as the development progresses.

- C. Any subsequent change or addition to the plans or use shall first be submitted for approval to the Plan Commission and if in the opinion of the Plan Commission such change or addition constitutes a substantial alteration of the original plan, a public hearing shall be required.
- D. The provision of Section 20.23.000 governing termination of the conditional grant shall apply to such group project development.

20.22.000 ENGINEERING REGULATIONS.

20.22.010 ESTABLISHMENT OF GRADES. Every building hereafter erected, structurally altered or relocated shall be at a grade approved by the City Engineer as being in satisfactory relationship with the established street grades, or with the existing street grade where none is established with particular consideration for proper drainage and safe vehicular access.

20.22.020 WATER SURFACE PROFILES. The City engineer shall maintain a record of all water surface profiles, floodplain areas and elevations, elevations of underground utilities traversing any floodplain and of flood proofing measures established in the floodplain and shall obtain from the owner of any new structures placed in the floodplain elevations of those structures as actually built, certified by a registered engineer, architect or surveyor.

20.22.030 DRAINAGE.

- A. Adequate Drainage Required: No principal building shall be erected, structurally altered, relocated on land which is not adequately drained at all times nor which is subject to periodic flooding, nor so that the lowest floor level is less than 3 feet above the highest anticipated seasonal ground water level.
- B. Obstruction to Drainage: The damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with approval of the Plan Commission.
- C. Building Restricted Adjacent to Drainage Channels or Watercourses: No building other than a bridge, dam, boathouse, or revetment subject to the aforesaid approval, shall be erected, structurally altered or relocated so that the lowest form of said building is less than 3 feet above possible flood stage as determined by the City engineer.

20.22.040 SANITATION AND WATER SUPPLY.

- A. No principal building involving human use or occupancy shall be permitted on a lot unless provision is insured for safe and adequate facilities for water supply and disposal of sewage.
- B. In areas intended for municipal sewer no principal building involving human use or occupancy shall be permitted until connection is made to municipal sewer or an approved communal sewage disposal system.
- C. In areas not being served by a municipal or other approved communal sewage disposal system, evidence must be submitted that safe sewage disposal is possible based on the proposed use, the type of disposal system, the permeability of the soil, and the size of the lot.

- D. No outhouse or privy shall be hereafter erected.

- E. Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result increasing any portion of the slope to a ratio greater than 2 horizontal to 1 vertical, within a distance of 20 feet from the property line, except where retaining walls are built pursuant to Section 20.11.000 or with the written consent of the abutting property owner and with the approval of the Plan Commission; or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case, shall any slope exceed the normal angle or slippage of the material involved, and all slopes shall be protected against erosion.

20.23.000

CONDITIONAL USES.

20.23.010 GENERAL.

- A. Approval Required: Uses listed as permitted by conditional use grant may be permitted in the district in which listed upon petition for such grant to the City Council and subject to the approval of the Council upon recommendation of the Plan Commission and to such other conditions as hereinafter designated. Legal non-conforming uses may also be permitted conditional grant status pursuant to Section 20.12.030 and Section 20.23.020.F. of this Ordinance.

- B. Basis of Approval: The City Council upon recommendation of the Plan Commission shall base their determination on general consideration as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and specifically of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive, or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carrying out the intent of conditional grants as expressed in Section 20.14.000.

20.23.020 PROCEDURE.

- A. Petition: A request for conditional use grant shall be submitted in writing to the City Administrator who shall promptly refer such petition to the Plan Commission for recommendation. Such petition shall be accompanied by appropriate data and information necessary for proper evaluation of the request including specifically the following:
 - 1. An accurate map of the property including indication of general terrain and topographic characteristics, the location of all significant terrain features such as streams, ponds, tree growth, etc., and the location of all existing structures.
 - 2. An accurate and complete written description of the use for which conditional grant is being requested including pertinent statistics and operational characteristics.
 - 3. Plans and other drawings showing proposed development of the site and buildings including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc.
 - 4. Any other pertinent information required by the Plan Commission or Council as set forth in forms supplied by the City.
 - 5. The names and addresses of the owners of all property within 200 feet of the proposed conditional use.

- B. Hearing: Upon receipt of the petition the City Council shall hold a public hearing thereon. For any application on lands located in the WF Wetland and Floodplain

- District, a copy shall be transmitted to the Wisconsin Department of Natural Resources (DNR) for review and comment. Final action on Floodplain applications shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions related to conditional uses in the WF Wetland and Floodplain District shall be transmitted to the DNR within 10 days of the effective date of such decision.
- C. Notice: Notice of the proposed conditional use and a copy of the public hearing notice shall be sent by regular mail to the owners of all property within 200’.
- D. Determination: Following public hearing and necessary study and investigation by the Plan Commission, the City Council shall as soon as practical render its decision in writing and a copy made a permanent part of the Council records. Such decision shall include an accurate description of the use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or if disapproved shall indicate the reasons for disapproval.
- E. Mapping & Recording: When a conditional grant is approved, the Building and Occupancy and Zoning Use Permits shall be appropriately noted and such grant shall be applicable solely to the structures, use and property so described. Indication of such grant shall also be made on the Zoning Map by appropriate code number or symbol.
- F. Termination: Where a permitted conditional use does not continue conformity with the conditions of the original approval or where a change in the character of the surrounding area or the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for public welfare the conditional grant may be terminated by action of the City Council following referral to the Plan Commission for recommendation, and public hearing thereon. Such use shall thereafter be classified as a legal non-conforming use, except that where the action is due to failure to comply with the conditions of the conditional grant, the City Council may require complete termination of such use.
- G. Application to existing uses:
1. A use which existed lawfully on a lot at the time said lot was placed in a district where such use would be permitted only as a conditional grant, may be granted conditional use status subject to submitting the data required under Section 20.23.020 A.

20.23.000

CONDITIONAL USES.

2. The grant of conditional use in such case shall be based upon the existing conditions at the time, however, the City Council upon recommendation of the Plan Commission may require improvements in general building appearance, in storage of trash and other materials, in the provision of more satisfactory off-street parking, in the use of planting fencing screens where necessary, and in operational matters relating to the control of noise, dust, odor, smoke, and excessive glare or illumination of lighting, provided that such measures be within the reasonable economic capacities of such a use. Any expansion or change in use shall require changing of the conditional use grant.
 3. Petition may be made at any time for expansion or other change of the conditional use grant and such petition shall not prejudice the existing grant as herein authorized.
- H. A request for conditional use shall be accompanied by a review fee of \$75.00 for initial review plus a \$250.00 deposit to be drawn on. The applicant will be billed for the actual costs of publication.

20.23.030 REQUIREMENTS.

- A. Standard Requirements:
1. Except as may be specifically otherwise provided, any such use shall conform to the Building Location, Height, Building Size, Lot Size, and Open Space Regulations of the district in which it is located.
 2. Building, site and operation plans of the proposed use shall be submitted for approval by the Plan Commission. Such plans shall be in sufficient detail to enable the Commission to evaluate the suitability of architectural and landscape treatment; the proper location of the building or buildings on the lot; the satisfactory provision for parking and circulation needs, for drainage and sewage disposal, for adequate planting screen where necessary to eliminate noise, dust, odor, smoke, or other objectionable operating conditions; and the general compatibility of the proposed use with the area in which it is located.
- B. Special Requirements: In addition to the general standards and requirements as stated in this section, such conditional uses shall be subject to more specific standards and requirements pertinent to the particular use, which standards and requirements may be set out in a supplementary guide for conditional use regulation adopted by the Plan Commission, and modified from time to time in order that they reflect the best and most contemporary or regulatory practices.

- C. Modification Regulations: Requirements applicable to uses permitted by right or as accessory uses in any district by the regulations of this Ordinance may be modified or waived by the Plan Commission in their application to a conditional use if in the Commission's opinion they are not appropriate or necessary to the proper regulation of the conditional use, and where such modification or waiver would not in the commission's opinion result in adverse effect upon the surrounding properties.

- D. Accessory Uses and Structures: Uses and structures accessory to a principal conditional use shall be subject to appropriate regulations in the same manner as herein set forth for the principal conditional use.

20.24.000 PARKING & LOADING REQUIREMENTS

20.24.010 DEFINITIONS. As used in sections 20.24.010, 20.24.020 and 20.24.030, the following words and phrases shall have the following meanings:

- A. Approved: When used in reference to an area, location, material, structure or use, means specifically permitted under the provisions of Sections 20.24.020 or 20.24.030 or, if subject to Plan Commission review under said sections or under this section, means authorized by official permission of the Plan Commission.
- B. Base Setback Area: The land lying between the edge of the existing or proposed street right-of-way and the Base Setback Line.
- C. Base Setback Line: The line from which all required setbacks are measured, which line corresponds to the established ultimate street right-of-way line as set forth in Section 20.15.020.
- D. Carport: Any parking or storage space or shelter for a motor vehicle, having a roof but not completely enclosed by walls. A carport shall be attached to a principal or accessory building or structure, and its covered area shall be included when calculating any building or zoning code requirements.
- E. Commercial Vehicle: A motor vehicle, whether a single vehicle or a combination vehicle, designed or used to transport passengers or property in conjunction with the operation of a trade, industry or business, which has information painted on or attached to such vehicle (e.g., a logo, company name, symbol, telephone number or text) that identifies a business or service.
- F. Driveway: A private road providing access for motor vehicles from a street, alley or highway to a house, carport, garage, parking lot, parking space or parking structure.
- G. Garage: A structure or portion thereof, whether commercial, private or public and whether attached or detached to a building, primarily used for the enclosed parking, rental, repair, servicing, shelter or storage of motor vehicles
- H. Loading Space: An off-street space for the temporary parking of vehicles while engaged in loading or unloading goods, materials or merchandise.
- I. Motor truck: See truck.
- J. Park (Parked, Parking): The halting of a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.
- K. Parking Space (Parking Area): A designated location or area where a vehicle is parked.

20.24.000 PARKING & LOADING REQUIREMENTS

- L. Paved (Paving): The act or result of applying material (e.g., cement, concrete, asphalt mixture, cobblestones, precast concrete, paver units, clay fired bricks, or other approved driveway material) to a ground surface so as to create a uniform, dust free, hard, usually level surface for a driveway or for travel.
- M. Reconstructed (Reconstruction): The act or result of removing and replacing a paved surface.
- N. Setback Area: The shortest required horizontal distance between any structure and the Base Setback Line. (See Section 20.15.020.)
- O. Street Right-of-Way Line: A dividing line between a lot, tract or parcel of land and a contiguous street.
- P. Street Yard: A yard extending across the full width of a lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots and double frontage lots have two (2) such yards.
- Q. Storage (Store) (Stored): A place or a space where a vehicle or recreational vehicle is kept; to place a vehicle or recreational vehicle for safekeeping or for disposal for any period of time longer than temporary storage.
- R. Temporary storage: As applied to any vehicle or recreational vehicle, a period of time not exceeding thirty (30) days, provided that such vehicle is removed from the lot or parcel on which it is kept or placed for a period of at least ten (10) days thereafter before a recurrence of the temporary storage.
- S. Trailer: A vehicle without motive power designed or used for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, but does not include a mobile home as defined in Section 20.02.000.
- T. Truck: Any motor vehicle designed or used primarily for carrying heavy loads, having a powerful motor, a transmission geared for heavy pulling, and various types of bodies including, but not limited to, dump trucks and tractor-semitrailers, but excluding pick-up trucks.
- U. Vehicle: Every device in, upon, or by which any person or property is or may be transported upon a street, road or highway. Vehicles include, but are not limited to, automobiles, trucks, vans, sport utility vehicles, mopeds or motorcycles, which are or can be licensed for use on a public street, road or highway.
- V. Vehicle, Recreational: Any device or vehicle equipped and used or intended to be used primarily for temporary human habitation or recreation, whether on land, water or in the air. Recreational vehicles include, but are not limited to, all-terrain

20.24.000 PARKING & LOADING REQUIREMENTS

vehicles, boats, campers, camping trailers, fifth-wheel mobile homes, motor homes, off-road motorcycles, off-road utility vehicles and snowmobiles. Recreational vehicles do not include any device or vehicle which was intended by its inherent design to be used for commercial purposes, such as a truck, bus, tow truck, etc., or a mobile home as defined in Section 20.02.000.

- W. Vehicle Parking Space (Vehicle Parking Area): An approved location or area where one or more vehicles can be parked.
- X. Vehicle Storage Space (Vehicle Storage Area): An approved location or area where one or more vehicles can be stored.
- Y. Yard: An open space on the same lot with a building or structure, unoccupied and unobstructed from the ground upward except for vegetation. The street yard extends the full width of the lot.

20.24.020 BUSINESS, INDUSTRIAL, INSTITUTIONAL AND MULTIPLE FAMILY ZONING DISTRICTS. The following requirements shall apply to all property within the Business, Industrial, Institutional, and RM-2, RM-3 and RM-4 Multiple Family Zoning Districts:

- A. Flexibility in Application. The City recognizes that due to unique site or design conditions, strict application of these parking standards may impede the maximum use of an existing lot or a proposed development. In such event the Plan Commission may consider tradeoffs within these standards to facilitate the benefits to the City.
- B. Off-Street Parking Required: In connection with every use, there shall be provided at the time any use or building is erected, changed, enlarged, extended or increased, off-street vehicle parking space in accordance with the parking requirements set forth in this section, except that in the B-4 Central Business District business uses are exempt from the number of parking spaces required and from the general requirements set forth in Sections 20.24.020.E.3., E.4., and E.5.
- C. Approval: The owner of any parking areas constructed, reconstructed, expanded or extended after March 4, 2010 shall obtain approval of the proposed parking site plan from the Plan Commission prior to the commencement of such work.
- D. Determination of Need: The number of parking spaces required shall be based upon the anticipated parking demand of the particular use(s) and shall be as listed in the following table (as amended from time to time), or as may be determined by the Plan Commission for specific uses not so listed:

20.24.000 PARKING & LOADING REQUIREMENTS

| Use | Parking Space Requirements |
|---|---|
| Multiple Family Dwelling Units ** | 1.75 spaces per dwelling unit with a minimum of 60% of the required spaces to be enclosed and 10% or a minimum of 3 spaces shall be accessible to visitors. |
| Elderly (55 years and older) Multiple Family Dwelling Units ** | 1 space per dwelling unit of which 75% shall be enclosed and 10% (a minimum of 3 spaces) shall be at grade and accessible to visitors, except in the B-4 Central Business District where 0.5 spaces per unit shall be required. |
| Public Assembly Facilities providing for seated audiences (churches, theatres, auditoriums, etc.,) | 1 space for every 5 seats based on the maximum capacity of the facility. |
| Commercial Lodging (hotels, motels, tourist homes, etc.) ** | 1 space for each room. |
| Hospitals | 1 space for every 3 beds, plus 1 space for each medical staff member, plus 1 space for every 3 employees for the work shift with the most employees. |
| Nursing Homes, Convalescent Homes, Community Based Residential Facilities (CBRF) and Elderly Assisted Living Facilities. | 1 space for every 3 beds, plus 1 space for each staff member employee for the work shift with the most employees. |
| Clinics | 5 spaces for every practitioner on the staff, plus 1 space for each employee for the work shift with the most employees. |
| Industrial Uses ** A. Manufacturing, Processing, Fabrication and Storage Operations B. Wholesale Business C. Warehouse | 1 space per 2,500 sq. ft. of gross floor area. 1 space per 2,500 sq. ft. of gross floor area. 1 space per 5,000 sq. ft. of gross floor area. |
| Commercial Office Buildings** | 3 spaces per 1,000 sq. ft. of gross floor area. |
| Retail Stores ** | 3 spaces per 1,000 sq. ft. of gross floor area. |
| Customer Service Establishments ** | 3 spaces per 1,000 sq. ft. of gross floor area. |
| Restaurants, Taverns, Clubs, etc. ** | 1 space for every 100 sq. ft. of GLA.* |
| Planned Shopping Centers ** | 1 space for every 200 sq. ft. of GLA.* |

20.24.000 PARKING & LOADING REQUIREMENTS

| | |
|---|--|
| Commercial Recreation: Indoor (other than theaters)** | 1 space for every 200 sq. ft. of GLA.* |
| Outdoor Recreational Facilities ** | As required by Section 20.25.020 C. |

* **(GLA) Gross Leasable Floor Area:** The total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use. GLA excludes public or common areas, such as utility rooms, stairwells, hallways or other accessory space, which do not generate parking demand.

** **Handicap parking spaces** required to comply with the Americans with Disabilities Act and/or the Wisconsin Administrative Code are excluded in determining whether a use meets the parking space requirements set forth above.

E. General Requirements:

1. Prohibited Use. No truck, recreational vehicle, mobile home, or other vehicle, equipment or materials shall be parked or stored on any lot or parcel unless accessory to or part of the approved use of the development in which such lot or parcel is located.
2. Surface requirements. All off-street parking areas and driveways shall be paved. New developments shall be paved prior to issuance of an occupancy certificate or permit.
3. Paving. All paved surfaces shall be constructed and maintained free of any upheavals, settlement, holes or loose material.
4. Landscaping. All parking lot street yards and paved areas shall comply with the landscaping requirements set forth in Sections 20.31.050, et seq.
5. Residential Buffer. In any off-street vehicle parking area, all parking spaces shall be at least 20 feet from an abutting residential lot line, unless zoning district requirements are more restrictive.
6. Setback. In any off-street vehicle parking area, no vehicle shall be parked nearer than 10 feet to the existing or proposed street right-of-way line. A permanent barrier shall be required on the interior side of all parking lots to prevent vehicles from driving on the planted areas. A continuous 6" vertical curb shall be required along the entire length of any parking lot that abuts a public or private roadway.
7. Lighting. Lights installed in or provided for any off-street vehicle parking area shall be shielded or directed so as to confine the area of light dispersion to the parking area. Maximum illumination and fixture height shall be evaluated and established by the Plan Commission as part of the site review process. An

20.24.000 PARKING & LOADING REQUIREMENTS

engineering drawing illustrating proposed lighting types and levels for the development and for the adjoining properties shall be submitted with the proposed site plan.

8. Off-Street Loading and Unloading.
 - a. Required. In all business and industrial zoning districts, off-street loading space shall be provided, in addition to the required off-street vehicle parking area, for every building used for business or industrial purposes which exceeds 3,000 square feet in area, excluding storage areas.
 - b. Standard Dimensions. Each individual loading space shall be at least 12 feet wide by 54 feet long, and shall have a minimum height clearance of 14 feet.
 - c. Street Servicing Prohibited. No loading space used for a business or industrial building shall be constructed or located in a manner requiring or permitting servicing directly from an abutting public street.

20.24.030 SINGLE AND TWO-FAMILY RESIDENCE ZONING DISTRICTS; CCM CENTRAL CITY MIXED ZONING DISTRICT. The following requirements shall apply to all property within the Single and Two-Family Residence Zoning Districts, and to single and multiple family dwellings within the CCM Central City Mixed Zoning District:

A. General Requirements:

1. Driveways.

- a. All driveways shall be paved.
- b. Driveways shall traverse the setback area from the street to the garage in the shortest path.
- c. Driveways shall be located at least three (3) feet from all abutting lot lines.
- d. Driveways leading to a garage or carport facing the street shall be no more than two (2) feet wider, on each side, than the vehicle garage door(s) being served, or more than two (2) feet wider, on each side, than the outermost surface of the posts which face the street and support the carport roof.

20.24.000 PARKING & LOADING REQUIREMENTS

- e. Driveways that do not conform to these General Requirements may be replaced if the newly constructed or reconstructed driveway uses the same footprint as the driveway being replaced, or less area. Any expansion of the original footprint or changes in the location of the driveway shall require conformity with these General Requirements.
- f. Every vehicle parked in a driveway shall be located so that its wheels are resting entirely upon the surface of the driveway, and parallel to the nearest edge of the driveway upon which the vehicle is parked.

2. Parking Spaces.

- a. All parking spaces shall be paved.
- b. Parking spaces shall be located at least three (3) feet from all abutting lot lines.
- c. Parking spaces that do not conform to these General Requirements may be replaced if the newly constructed or reconstructed parking space uses the same footprint as the parking space being replaced, or less area. Any expansion of the original footprint or change in the location of the parking space shall require conformity with these General Requirements.
- d. Parking spaces are prohibited in the setback area, unless there is no garage or carport on the premises.
- e. Every vehicle parked in a vehicle parking space shall be located so that its wheels are resting entirely within the vehicle parking space, and parallel to the nearest edge of the parking space within which the vehicle is parked.

3. Non-Recreational Vehicle Parking and/or Storage.

- a. Parking for at least two (2) vehicles per dwelling unit shall be required in a single or two-family residence zoning district.
- b. No vehicle, or any portion thereof, shall be parked or stored so as to extend over the sidewalk or the street right-of-way line.
- c. Commercial vehicles, whether occupied or not, shall not be parked on any lot, except temporarily for the purpose of and while actually engaged in delivering, loading or unloading goods, property or services to that premises. Notwithstanding the foregoing, one commercial vehicle having a gross vehicle weight rating (GVW) of not more than 15,000 pounds shall be permitted to park on a lot if

20.24.000 PARKING & LOADING REQUIREMENTS

the owner or a permanent resident of the premises regularly uses the commercial vehicle in the course of the employment in which he or she is principally engaged. For purposes of this section, “principally engaged” means that the person devotes the major part (i.e., over 50%) of his or her time actively and directly working at such employment, and derives his or her principal support (i.e., over 50% of his or her gross income) from such employment.

4. Recreational Vehicle Parking or Storage.
 - a. Temporary guests traveling in a recreational vehicle, camping trailer or travel trailer may park such vehicle or trailer in the driveway of an owner or a permanent resident of the premises for a period not exceeding seven (7) consecutive days. Such guests shall be allowed to connect to electrical and water services and to inhabit the vehicle or trailer during such period, provided that any water used by the guests shall be contained within such vehicle or trailer. All electrical connections, equipment and facilities shall comply with applicable local and state laws.
 - b. Not more than one (1) recreational vehicle, camping trailer or travel trailer shall be parked or stored at the same time in the street yard of any lot or parcel. Such vehicle or trailer shall be parked or stored either in the driveway or in a paved off-street vehicle parking or storage space on the lot or parcel. Such vehicle or trailer shall also be parked so that it does not extend over any portion of the sidewalk or street right-of-way line.
 - c. Except as provided in subsection d., multiple recreational vehicles (e.g., snowmobiles) may be parked or stored on a lot or parcel if such vehicles are kept on a trailer designed or used for carrying such vehicles and for being drawn by a motor vehicle. For purposes of this section, multiple recreational vehicles so parked or stored shall count as one (1) recreational vehicle.
 - d. Not more than two (2) recreational vehicles or trailers shall be parked or stored at the same time on any lot or parcel, excluding recreational vehicles or trailers properly parked or stored and screened from public view in an enclosed garage.
- B, Special Exceptions. The Plan Commission may, in its discretion in an appropriate case, grant a special exception to these General Requirements for a new or reconstructed driveway or vehicle parking space if the Plan Commission determines that granting such special exception would not have a substantial adverse effect on surrounding properties by reason of noise, dust, odor, appearance or other objectionable factors; nor create a nuisance; nor have a

20.24.000 PARKING & LOADING REQUIREMENTS

substantial adverse effect on property values; nor interfere with the reasonable enjoyment of the surrounding properties.

20.25.000 OUTDOOR RECREATIONAL FACILITIES

20.25.010 CLASSIFIED. For the purpose of this Ordinance outdoor recreational facilities such as beaches, swimming pools, tennis courts, riding paddocks, golf courses, athletic fields, etc., shall be classified as follows:

1. Public
2. Private, Commercial
3. Private, Non-Commercial Group
4. Private, Residential

20.25.020 GENERAL.

- A. Such uses shall be permitted in those districts and subject to those regulations as are hereinafter designated in this section and in the other sections of this Ordinance specifically applicable thereto.
- B. No such use shall be permitted in any case where it shall create a nuisance, a hazard, or otherwise result in a substantial adverse effect on the surrounding property values or on the enjoyment of such property or be otherwise detrimental to the general public welfare. Every reasonable effort shall be made to prevent such effect through control of lighting, attractive design and maintenance of structures, use of planting screens or attractive fences, careful placement on the site, and sensible regulation of use.
- C. Adequate provision shall be made for off-street parking for public, private commercial and private non-commercial group facilities consistent with the need generated by the facility. The Building Inspector shall submit the plans for such facilities to the Plan Commission for determination as to parking need.
- D. Outdoor lighting installations shall be so located and shielded that no objectionable glare or excessive illumination is cast upon adjoining property.

20.25.030 PUBLIC FACILITIES.

- A. Where permitted by right as a principal or accessory use any active use area or structure shall conform to the appropriate setback, offset and height regulations of the district in which located.
- B. Where permitted as a conditional grant such facilities shall conform to the appropriate regulations as set out in Section 20.23.000 of this Ordinance.

20.25.040 PRIVATE COMMERCIAL FACILITIES.

- A. Where permitted by right as a principal accessory use any active use area or structure shall conform to the appropriate setback, offset, and height regulations of the district in which located provided, however, that in no case shall any active use area or structure be closer than 50 feet to an adjoining property line of a property in a residential district.

20.25.000 OUTDOOR RECREATIONAL FACILITIES

20.25.050 PRIVATE NON-COMMERCIAL GROUP FACILITIES.

- A. Where permitted by right as a principal or accessory use any active use area or structure shall conform to the appropriate setback, offset, and height regulations of the district in which located provided, however, that in no case shall any active use area or structure be closer than 50 feet to an adjoining property line of a property in a residential district.
- B. Where permitted as a conditional grant such facilities shall conform to the appropriate regulations as set out in Section 20.23.000 of this Ordinance.
- C. Commercial activity incident but not directly involved in the primary outdoor recreational purpose such as restaurants, taverns, and personal service facilities shall be permitted only where specifically authorized as part of the conditional grant.

20.25.060 PRIVATE RESIDENTIAL FACILITIES.

- A. Where such facilities are permitted as a principal or accessory use by right, any active use area or structure shall be subject to the setback, offset, and height regulations of the district in which located except as may be hereinafter specifically designated otherwise, the provisions of Section 20.10.030 not withstanding.
- B. The requirement for offset may be eliminated where the signed consent of the affected abutting property owner has been obtained.

20.25.070 SWIMMING POOLS. In addition to the foregoing, swimming pools shall be subject to the following:

- A. Pumps and filter equipment shall in no case be closer than 15 feet to a property line and shall be adequately housed and muffled.
- B. Surfaced terraces, sun decks, and walks shall be permitted no closer than 5 feet to a lot line where accessory to a private residential pool. In any other case they shall be permitted no closer than 10 feet to a lot line.
- C. Reasonable precautions shall be taken to insure the safety of the pool area and to prevent it from becoming an “attractive nuisance”. Pools other than those classified as “Private Residential” shall be completely fenced so as to prevent the unregulated entrance of young children to the pool area.
- D. Pools erected on top of the surface of the ground shall have the pool construction completely and adequately screened from view of the abutting properties by means of combined fence and landscape screen approved by the Plan Commission.
- E. Pools other than those classified as “Private Residential” or “Private Non-Commercial Group” shall conform to the following:

20.25.000 OUTDOOR RECREATIONAL FACILITIES

1. Pool water shall meet state standards for pure drinking water.
2. Adequate provision shall be made for separate shower, lavatory, and dressing facilities for men and women which are well lighted, ventilated and properly equipped.
3. Pool construction shall be of concrete, steel, or other material having an impervious smooth surface and approved by the Engineer.
4. Pool shape, design, depth, and slopes shall be such as to promote safe control of the bathers in the pool.
5. Inlets must be submerged and produce uniform circulation without “dead” spots.
6. Outlets must be of ample size and located at the pool low points.
7. Hose connections must be of ample size and located at the pool low points.
8. Overflow gutters must surround the pool and have a pitch adequate to carry off all overflow.
9. Adequate steps or ladders shall be provided to allow safe emergence from the pool and shall be made of impervious material, easily cleaned, and must not collect water or retain water.
10. A suction cleaner must be used to remove sludge, sediment and other accumulations.
11. Recirculation systems shall consist of pumping equipment, hair and lint gather, filter, and all necessary fixtures and connections; must be capable of six-hour turnover of water; and must include disinfecting equipment.
12. All equipment must be accessible, satisfactorily located and the equipment room adequately drained.
13. Each pool shall have available a pH and residual determination outfit.
14. If used at night, the pool shall be adequately lighted.

20.26.000

EXTRACTIVE OPERATIONS.

20.26.010 RESTRICTED. Quarrying, the removal of any sand or gravel, stripping of topsoil, mining of minerals or any other extractive operation as defined in this Ordinance shall not be permitted except as follows:

- A. Extractive operations incident to or pre-requisite to the preparation of the site for a permitted use may be permitted provided such operation does not involve the sale or commercial disposal of the material removed and for a period of no longer than 30 days.
- B. The following may be permitted in any district subject to approval of the Plan Commission:
 - 1. Operations incident to another permitted use of the premises where the material removed is sold or otherwise commercially disposed of or for a period in excess of 30 days.
 - 2. Sod removal provided no such operation shall be permitted which adversely affects the drainage of the area and provided adequate provision is made to prevent erosion.
 - 3. Topsoil removal, except that no such operation shall be permitted except as incidental to another permitted use of the premises, and provided such operation will not adversely affect the drainage of the area, or exceed 18 inches in depth, and provided adequate provision is made to prevent erosion.

20.26.020 PERMIT. No extractive operation shall take place in any district until a permit has been secured from the Building Inspector.

20.26.030 APPLICATION. Application for a permit shall be made directly to the Building Inspector and shall be accompanied by:

- 1. A fee of \$50.00 to defray the cost of notification and holding of public hearing and administrative processing.
- 2. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation.
- 3. A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.
- 4. A topographic map of the area at a minimum contour interval of 5 feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.
- 5. A restoration plan as hereinafter required.

20.26.000

EXTRACTIVE OPERATIONS.

20.26.040 REFERRAL TO PLAN COMMISSION & PUBLIC HEARING. Where the application is for a use permitted only with Plan Commission approval, the application and all data and information pertaining thereto shall be referred to the Plan Commission for public hearing. The Plan Commission shall hold such public hearing within 30 days after an application has been referred to it. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all owners within a half mile radius of the approximate center of the proposed operation. These notices shall be mailed or delivered at least 10 days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient.

20.26.050 CRITERIA. The Plan Commission in making its determination shall give particular consideration to the following factors:

1. The effect of the proposed operation on drainage and water supply.
2. The possibility of soil erosion as a result of the proposed operation.
3. The degree and effect of dust and noise as a result of the proposed operation.
4. The practical possibility of restoration of the site.
5. The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.

20.26.060 ADDITIONAL CONDITIONS. Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the City.

20.26.070 RESTORATIVE REQUIREMENTS.

- A. In order to insure that the area of extractive operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall prior to the issuance of a permit submit to the Plan Commission a plan for such restoration in the form of the following:
1. An agreement with the City whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the City.
 2. A physical restoration showing the proposed contours after restoration, plantings and other special features of restoration, and the method by which such restoration is to be accomplished.
 3. A bond, written by a licensed surety company, a certified check, or other financial guarantee satisfactory to the City in an amount sufficient in the opinion of the Plan Commission to secure the performance of the restoration agreement.

20.26.000

EXTRACTIVE OPERATIONS.

- 4. Such agreement and financial guarantee shall be in a form approved by the City Attorney.
- B. In the event of the applicant's failure to fulfill this agreement, such bond, check or other financial guarantee shall be deemed forfeit for the purpose of enabling the City to perform the restoration.
- C. Restoration shall proceed as soon as practicable and at the order and direction of the Plan Commission. However, the owner or operator may, at his option, submit a plan for progressive restoration as the operation is being carried on. The required financial guarantee in such case may cover progressive stages of the restoration for periods of not less than 2 years.
- D. At any state during the restoration the plan may be modified by mutual agreement between the City and the owner of the operation.
- E. Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility, or unsightliness. In any case the finished grade of the restored area except for rock faces, outcroppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.

20.26.080

EXISTING OPERATIONS.

- A. Permit: Within 60 days after the adoption of this Ordinance all existing extractive operations shall be required to register with the City Administrator submitting data relative to the present operation, including the boundaries of the actual operation and of the ownership. A permit shall be granted to such existing operation subject to compliance with the Operational Requirements, Section 20.26.090 where they can be reasonably applied under existing circumstances.
- B. Plan for Restoration: There shall be required within one year after the adoption of this Ordinance, the submission of a plan for restoration of the site of existing extractive operation as provided by Section 20.26.070 (9) where they can be reasonably applied under existing circumstances.
- C. Renewal Permit: Within 3 years after the date of this Ordinance, any such existing operation unless permitted as a use by right shall be required to make application for a renewal permit the same as for re-application for the renewal permit the same as for re-application in the case of a new operation under this Ordinance.

20.26.090

OPERATIONAL REQUIREMENTS.

20.26.000**EXTRACTIVE OPERATIONS.**

- A. Fencing or other suitable barrier shall be erected and maintained around the site where in the determination of the City Council such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the Plan Commission.
- B. All machinery and equipment used in the extractive operation be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by the Council.
- C. The crushing, washing, refining or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit or as otherwise provided in an Industrial District.
- D. The manufacture of concrete building blocks or similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing process which might be related to the extractive operation shall not be permitted except as otherwise provided in an Industrial District.
- E. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will seriously affect the supply for other uses in the area, or where disposal of water required will seriously affect the supply for other uses in the area, or where disposal of water will result in contamination or pollution or excessive silting.
- F. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Plan Commission to screen the operation so far as practical from normal view to enhance the general appearance from the public right-of-way, and to generally minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practicable, but no later than 1 year after extractive operations have begun and shall be done according to the recommendations of the Plan Commission.

20.27.000

HOUSE TRAILERS

20.27.010 PERMANENT HABITATION PROHIBITED. Except within an approved trailer camp no house trailer camp no house trailer shall be used for the purpose of permanent habitation in the City, permanent habitation being herein defined as more than 3 days of habitation.

20.27.020 TRAILER CAMPS. The provision of area and facilities for permanent habitation as above described for two or more house trailers shall be permitted only as a conditional grant in those districts designated and where permitted shall be subject to the provisions of the Trailer Camp Ordinance of the City.

20.28.000

AIRPORT SAFETY ZONE

20.28.010 **MAXIMUM HEIGHT.** No building or object of natural growth located within 2 miles of the boundaries of any airport, landing field, or landing and take-off strip and within a band of 500 feet on each side of the center line extended of any runway shall hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point of such runway greater than 1/15 of the distance from said point.

20.28.020 **CONTROL OF USES.** No building or land located within 2 miles of the boundary of any airport, landing field, or landing and take-off strip shall be so used that by reason of the emission of smoke, gas or other emanation it shall produce a hazard to the operation of aircraft.

20.28.030 **DENSITY.** No apartment, church, assembly hall or other type of building where people normally congregate is permitted within the area prescribed in sub-paragraph (28.020).

20.28.040 **EXCEPTIONS.** The aforesaid regulations shall not apply to growing field crops which are harvested at least once a year nor to fences not over 5 feet high. The provisions of this section shall not apply to landing areas that are designed and used exclusively for helicopters or similar vertical take-off aircraft.

20.29.010 PURPOSES AND INTENT. The purposes and intent of this sign ordinance are:

- A. To regulate the size, type, construction standards, maintenance and placement of signs situated within the boundaries of the City of Port Washington, Wisconsin.
- B. To promote the public health, safety, welfare and comfort of the general public by:
 - 1. Reducing distractions and obstructions from signs which would adversely affect pedestrian and/or traffic safety, and alleviate hazards caused by signs projecting over or encroaching upon the public rights-of-way.
 - 2. Discouraging excessive visual competition in signage and ensuring that signs aid orientation and adequately identify uses and activities to the public.
 - 3. Preserving or enhancing the natural beauty and unique physical characteristics of the City of Port Washington as a community in which to live and work by requiring new and replacement signage which is:
 - a. Creative and distinctive;
 - b. Harmonious with the buildings, surrounding neighborhood aesthetics and other signs in the area;
 - c. Appropriate to the type of activity to which it pertains;
 - d. Expressive of the City's identity in a manner which will not diminish property values;
 - e. Complimentary to the City's architectural character and to unobtrusive commercial developments; and
 - f. Professionally designed and/or manufactured, except as may otherwise be approved by the Plan Commission.
 - 4. Promote a healthy and properly designed business environment.
 - 5. Protect property values within the City.

20.29.020 UNIFORM APPLICATION; VARIANCES AND SPECIAL EXCEPTIONS.

- A. The restrictions and limitations expressed in this sign ordinance are intended to provide uniformity in sign use, design, placement, etc. throughout the City. However, the Plan Commission may grant a special exception to the setback, offset, height, size, landscaping, and permitted sign requirements if the Plan Commission determines that granting such special exception would not have a substantial adverse effect on surrounding properties by reason of appearance or other objectionable factors, or create a nuisance, or have a

substantial adverse effect on property values, or interfere with the reasonable enjoyment of the surrounding properties.

- B. In granting a special exception, the Plan Commission may require such architectural treatment, screening by landscape or architectural means, lighting requirements or limitations, or other measures which, in the judgment of the Plan Commission shall be necessary conditions of such special exception.

20.29.030 DEFINITIONS.

When used in this chapter, the following words and phrases shall have the specific meaning as hereinafter defined, and any words not listed shall have the meaning defined by the Zoning Ordinance of the City of Port Washington:

1. Abandoned Sign – A sign that no longer correctly advertises an existing, bona fide business, lesser, product or activity conducted or available on the premises where the sign is displayed.
2. Animated Sign - A sign that creates an illusion of movement or motion, but excluding a flashing sign as defined in this sign ordinance.
3. Area of Sign – Measurement of sign area shall be calculated as the sum of the area within the smallest regular rectangle that will encompass all elements of the actual sign face including any writing, logo, representation, emblem, or any figure or similar character together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed.
 - a. For a sign painted on or applied to a building or to a freestanding wall, the area shall be considered to include all lettering, wording, and accompanying designs or symbols, together with any background of a different color than the natural color, or finish material of the building or architectural wall. The architectural wall shall be subject to Plan Commission approval of the site and landscaping plan.
 - b. The main supporting sign structure (i.e., brackets, posts, foundation, etc.) shall be included in the area measurement.
 - c. When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except that where two (2) faces are placed back to back and the angle between the faces measures forty-five (45) degrees or less the total sign area shall be computed by measuring the square footage of a single face.
 - d. When the angle between sign faces measures greater than forty-five

(45) degrees, the total sign area shall be computed by adding the square footage of each face.

4. Banner - A sign intended to be hung either with or without a frame, and which possesses characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind.
5. Bulletin Board - A sign not to exceed twenty (20) square feet in area located on the premises of a charitable, religious or educational institution, or a public agency, for purposes of announcing events which are held on the premises. The City of Port Washington official bulletin boards may be located off the premises.
6. Building Front (Fascia) – That portion of a building that is parallel or closely parallels the abutting street or public right-of-way.
7. Canopy Sign – Any sign that is attached to or part of an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, sidewalk, window, or outdoor service area.
8. Changeable Message Sign – A sign such as a manual reader board where copy changes. Changes to copy can be made either manually or electronically. Any sign may be, or included as part of, a changeable message sign.
9. Construction Sign – A temporary sign identifying companies involved in the design, engineering, construction, razing, financing or development of a commercial building, development or a residential subdivision.
10. Copy - The message, announcement, words, letters, numbers, pictures, art, decoration or other information displayed on a sign.
11. Crawl Sign - A sign in which the copy moves or crawls across the message area and/or creates an illusion of movement or motion.
12. Development Sign - A temporary sign designating and/or promoting the future use of a new commercial building, commercial development, residential development, or subdivision.
13. Directional Sign – A sign, the purpose of which is to direct patrons or traffic to a location or area on the premises, including, but not limited to, “Enter,” “Exit” or “Parking” signs. Such signs should contain no advertising material, and the display area will not exceed three (3) square feet or extend higher than four (4) feet above the immediate grade.
14. Election Campaign Period – In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers

to be required, and ending on the day of the election. In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate, and ending on the day on which the referendum is held.

15. Election Campaign Sign – A sign which supports a candidate for public office or an issue on a referendum election ballot.
16. Electronic Message Sign – A changeable message sign whose message is electrically activated or displayed such as with light bulbs or mechanical flip discs.
17. Flashing Sign – A sign whose illumination is not kept constant in intensity at all times when in use and/or which exhibits changes in light, intensity or animation. Illuminated signs, which display a message that change from a complete line of text to the next line of text, are permitted. However, signs that indicate the date, time and temperature will not be considered flashing signs.
18. Frontage – The length of the property line of any one premises parallel to and along each public right-of-way it borders.
19. Ground Mounted Sign – A permanent sign which is free-standing, or mounted on poles or other supports placed on and anchored in the ground or on a base, and which is not attached to any building or other structure. Public agency signs and Directional Signs are defined elsewhere, and are not deemed ground mounted signs for purposes of this ordinance.
20. Home Occupation Sign – A sign associated with a home occupation as defined in the Zoning Ordinance.
21. Height of Sign – The height of a sign shall be the distance between the existing natural grade at the base of the sign *or, in the case of a negative grade, a point one foot above the curb line*, and the highest point on the sign or supporting structure.
22. Historic Sign - A sign which makes a contribution to the cultural, historic, or aesthetic character of the City because of the unique construction materials or unique design, unusual age, prominent location within the City, or unique craftsmanship from another period of time.
23. Illuminated Sign – A sign designed to incorporate artificial light by the following means:
 - a. External Illumination - Illumination of a sign with an exterior lighting source.

- b. Illuminated Canopy/Awning – An internally illuminated canopy/awning fabricated from a translucent material, which may be used for an awning sign.
 - c. Internal Illumination - Illumination of a sign in which the source of light is contained within the sign itself.
24. Landscaping – the adornment, alteration, development or improvement of a natural landscape such as yards, gardens, parks, grounds and other planned outdoor spaces through the arranging of land, plants and objects for human use and enjoyment, including, but not limited to, the decorative use or planting of a combination of vegetation such as trees, shrubs, bushes, flowers, vines and grasses, and other elements such as retaining walls, fencing, rocks, etc. for aesthetic effect or conservation.
25. Length of Lineal Building Front Foot - The length of any wall of the building adjacent and parallel or closely parallel to any abutting street or public right-of-way.
26. Marquee - A permanent roof-like structure extending from part of the wall of a building, but not supported by the ground, and constructed of durable material such as metal or glass.
27. Master Identification Sign – A sign which is a listing of tenants or services in a multi-tenant retail, office or mixed-use building or center.
28. Master Sign Program – A plan that is approved by the Plan Commission and identifies all signs in a multi-tenant retail, office or mixed-use development.
29. Memorial Signs and Plaques – A sign, plaque or tablet, not exceeding four (4) square feet in area, containing the name of a building and/or date of erection which are cut into a masonry surface or inlaid so as to be part of the building or constructed of bronze or other nonconvertible material and attached to a building.
30. Monument Sign - A sign that rests on, is supported by, or is attached to a base at least two (2) feet above the immediate grade.
31. Nonconforming Sign – A sign that does not meet the requirements of this sign ordinance.
32. Off-Premises Sign – A sign owned or leased by a person or entity other than the owner or occupant of the principal business on the parcel on which the sign is located.

33. Operational Sign – A sign that relates to the functional operation of the building including, but not limited to, “Drive Thru,” “Restrooms” or “No Trespassing” signs.
34. On-Premises Sign – Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.
35. Political Message Sign – A sign containing a message intended for a political purpose or a message which pertains to an issue of public policy of possible concern to the electorate, but does not include a message intended solely for a commercial purpose.
36. Portable Sign – A sign not permanently affixed to the ground, building, or other structure and which may be easily moved from place to place.
37. Projecting Sign – A sign, normally double faced which is attached to and projects from a structure or building façade.
38. Public Agency Sign – A sign erected by national, state, county, or municipal governmental agencies, including official traffic and informational signs such as, but not limited to, “Hospital,” “School Zone,” “Speed Limit,” “Parking,” or “No Parking,” signs.
39. Real Estate Sign – A temporary on-premises sign pertaining to the sale, lease or rental of land and/or buildings.
40. Residential Contractor Sign - A sign in a residential district that identifies the company or contractor performing a service on the premise.
41. Roof Sign – A sign or billboard which is located or projects above the lowest point of the eaves or the top of the parapet wall of any building or structure, or which is painted on or fastened to a roof.
42. Rummage Sale Sign – A temporary sign advertising the sale of used household goods in residential districts.
43. Sandwich Board Sign - A portable, freestanding, temporary A-frame advertising sign only visible from two sides, consisting of two (2) equal or approximately equal length boards or placards hinged or otherwise fastened at the top with no moving parts or lights.
44. Sign - Any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or non-illuminated, to advertise, identify, convey information or direct attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently

installed or situated merchandise. For the purpose of removal, signs shall also include all sign structures, but not including any buried foundations.

45. Sign Contractor – Any person or entity engaged in whole or in part in the erection or maintenance of signs, excluding the business that the sign advertises.
46. Sign Structure – Any device or material that supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers.
47. Temporary Sign - A sign intended to be used for a period not to exceed seven (7) consecutive days with no more than four (4) such occurrences per year, with a time interval of at least thirty (30) days between occurrences, unless otherwise specified in this sign ordinance.
48. Time and Temperature Sign – An electrically controlled sign alternately displaying date, time and temperature for public service information. Such signs may be incorporated into a business identification sign.
49. Wall Sign – A sign attached to the wall of a building or structure with the face in a plane parallel to the plane of the wall of the building or structure, and including signs painted directly on a wall.
50. Window Sign – A sign installed on the interior surface of a window.

20.29.040 PROHIBITED SIGNS. Except as noted, the following signs shall be prohibited within all zoning districts:

- A. Abandoned signs.
- B. Any sign other than public agency signs located in the public rights-of-way or on publicly owned lands, unless otherwise specified in this sign ordinance.
- C. Banners, pennants, streamers, balloons, and other gas-filled figures, except as permitted in Section 20.29.070 N.4. for Special Events or Promotions.
- D. Flashing or rotating signs, crawl signs, signs containing moving parts, and signs containing reflective elements which sparkle or twinkle in the sunlight.
- E. Hazard or Nuisance signs: Any sign that creates a hazard or dangerous distraction to pedestrians or traffic, or a nuisance to adjacent property.
- F. Interior lit box signs.
- G. Non-accessory signs: No sign not directly related to the use of the premises on which it is located, except directional signs, shall be permitted in any zoning district. Signs showing

date, time, temperature and similar information not related to the premises are permitted, but must be counted as part of the allowable sign area.

- H. Portable and wheeled signs, except as permitted in Section 20.29.070 N.4. for Special Events or Promotions.
- I. Roof signs.
- J. Signs placed on or affixed to vehicles and/or trailers, which are parked on public rights-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or service or direct people to a business or activity. However, this provision shall not restrict or prohibit signs placed on or affixed to vehicles and/or trailers, such as lettering on motor vehicles, where such sign is incidental to the primary use of the vehicle or trailer.
- K. Signs attached or otherwise affixed to rocks, trees, or other vegetation.
- L. Signs or other advertising painted directly on walls, unless specifically approved by the Plan Commission.
- M. Outdoor advertising devices such as banners, decorative displays or other advertising devices of cloth, paper, or other non-rigid materials, unless otherwise permitted in this sign ordinance.
- N. Signs which bear, contain or depict statements, letters, words, symbols, drawings or pictures of obscene, pornographic or immoral subjects.
- O. Signs which imitate, or resemble in shape, size, copy or color, an official traffic control sign or signal.

20.29.050 EXISTING NONCONFORMING SIGNS. Signs lawfully existing at the time of the adoption or amendment of this sign ordinance may be continued even though the use, size or location may not conform to the provisions of this ordinance. Such signs shall be nonconforming signs and shall comply with the following regulations:

- A. Nonconforming signs may be repaired provided they are not relocated, expanded, enlarged, repositioned, or raised in height.
- B. In the event that any such sign or its supporting structure is hereafter damaged or altered to an extent exceeding fifty percent (50%) of the replacement cost of the sign, or is removed by any means, including an act of God, such sign when restored, reconstructed, altered, repaired, or replaced must conform to the requirements of this sign ordinance. If restoration of a damaged sign is not completed within three (3) months of the date damage occurred, such sign shall be removed or replaced in a manner as will conform to all specifications of this sign ordinance.

- C. If a nonconforming sign is to be replaced with a compliant sign in a specific case where owing to special conditions a literal application of the standards set forth in Section 20.29.140 would result in practical difficulty or unnecessary hardship in the location of the replacement sign, the Plan Commission may recommend to the Zoning Board of Appeals the granting of a variance or special exception to allow a reduction of the offset and setback requirements of that section, provided such variance or special exception is not contrary to the public interest, safety or welfare.
- D. Any change in wording of the sign shall require that the sign be brought into conformity with the requirements of this sign ordinance.
- E. A nonconforming sign or sign structure shall be removed within thirty (30) days of the date the building containing the use, to which the sign is accessory, is demolished or destroyed to an extent exceeding fifty percent (50%) of the building's appraised value.
- F. At any such time as the owner of any building, structure or lot on which a nonconforming sign is located requests Plan Commission approval of any proposed change to the use, building, structure or lot, the Plan Commission may, as a condition of building or site plan approval, require that such nonconforming sign be removed or made to conform to this sign ordinance.

20.29.060 SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT. Except as noted, the following signs are permitted in all zoning districts without a permit, subject to the following restrictions:

- A. Bulletin boards for a charitable, religious or educational institution, or a public agency, not exceeding thirty-two (32) square feet in area.
- B. Directional signs.
 - 1. A parking lot contiguous to the business may have directional signs the display area of which does not exceed three (3) square feet or extend higher than four (4) feet above the existing natural grade at the base of the sign. The total directional signage shall not exceed twenty-four (24) square feet, except as permitted in Section 20.29.100 for Signs for Multi-Tenant Buildings and Centers.
 - 2. Parking lots or premises not contiguous to and owned or leased by the business may, in addition to the directional signs allowed in Subsection B.1., above, have one (1) sign identifying the business. A permit is required for such business sign, and such sign shall be limited to fifty percent (50%) of the size and height of the signage as permitted for the business under Section 20.29.090 of this sign ordinance.
- C. Political Message and Election Campaign signs.

1. Number – Except as provided in §12.03, Wis. Stats. or as restricted in this Subsection C., any individual may place no more than one (1) election campaign sign per candidate for office, and no more than one (1) sign per referendum question to be voted upon, and no more than one (1) sign containing a political message upon residential property owned or occupied by that individual during an election campaign period.
 2. Area – To ensure pedestrian and traffic safety, the gross surface area of any political message or election campaign sign shall not exceed eleven (11) square feet.
 3. Location – No political message or election campaign sign shall be posted on any building or structure, in any rights-of way, or upon any grounds that are owned, operated or maintained by a public agency. Such signs shall be subject to the vision setback regulations for rights-of-way as set forth in the Zoning Ordinance of the City of Port Washington. Such signs shall not be located in a manner so as to obstruct a window, door, fire escape, ventilation or other area which is required by an applicable building code to remain unobstructed.
 4. Time Limit – No political message or election campaign sign shall be erected prior to the first day of an election campaign period, and shall be removed within five (5) following the day of the election or the day on which the referendum is held in connection with which election or referendum such sign is posted.
 5. Political message and election campaign signs shall not have any electrical, mechanical or audio auxiliary or augmentation.
- D. Flags. The display of a national flag, an official flag of the state and/or a flag displaying the logo of a business or industry located on the same premises is permitted in any zoning district without a permit. Such flags shall not be located within a vision setback area and shall be set back at least ten (10) feet from all lot lines. Flags in the Central City Mixed zoning district shall be set back at least five (5) feet from all lot lines. Flags hung from a building or structure are subject to the requirements in Section 20.29.090 C.5.
- E. Home occupation signs and professional home office signs shall not exceed three (3) square feet in area, shall be mounted flush against the dwelling, may not be illuminated and are limited to one such sign.
- F. Memorial signs, plaques and tablets containing names of buildings, and/or date of erection when cut into a masonry surface or inlaid so as to be part of building or when constructed of bronze or other nonconvertible material and affixed flat against a structure.
- G. Murals or other artwork determined by the Plan Commission, upon referral by the Building Inspector, not to be signs, shall be exempt from this sign ordinance.

- H. Operational signs and other such signs relating to functional use of the building or premises shall be permitted. The maximum size of such sign shall be four (4) square feet, and the aggregate total area of all such signs cannot exceed thirty-two (32) square feet.
- I. Public agency signs erected by national, state, county or municipal governmental agencies, including traffic and informational signs, unless the principal use is permitted by Conditional Use Grant, in which case any restrictions on such signs shall be specified and included as part of the Conditional Use Grant.
- J. Real estate signs that advertise the sale or lease of the premises upon which such signs are temporarily located, provided that:
1. Such signs in residential zoning districts shall not exceed eight (8) square feet in area and one (1) sign per street frontage.
 2. Such signs in industrial or agricultural zoning districts shall not exceed thirty-two (32) square feet in area and six (6) feet in height.
 3. Such signs in business zoning districts shall not exceed twelve (12) square feet in area.
 4. Such signs shall be set back a minimum of five (5) feet from front or side lot lines. Such signs may be placed on the building or placed in a window if there is less than a five (5) foot set back. Signs shall not be located within the vision setback area or closer than fifteen (15) feet to a driveway.
 5. Such signs may be single or double-faced.
 6. Such signs shall not be illuminated.
 7. Such signs shall be removed within seven (7) days of sale or lease of the premises.
- K. Residential nameplates identifying the owners or occupants, provided that no more than two (2) such signs are erected, each being less than two (2) square feet in area.
- L. Sandwich board signs are permitted in all business zoning districts, subject to the following restrictions:
1. The sign shall not be placed so as to block any intersection or cause a public safety hazard.
 2. The sign shall be professionally lettered, neatly painted and assembled, constructed of finished all-weather materials, and shall be maintained at all times. Notwithstanding the foregoing, a sandwich board sign hand lettered on a chalkboard surface is permitted.

3. Only one (1) sign is allowed per business and shall be displayed in front of the main entrance to the business using the sign, unless a special exception is granted by the Plan Commission pursuant to Section 20.29.020.
 4. The sign shall be displayed only during business hours of the business using the sign, and shall be removed at the close of such business hours.
 5. The sign shall be no larger than 24” in width, and 48” in height measured from the ground.
 6. A permit shall be required before the sign is erected. Permit applications may be obtained at City Hall, and a one-time permit fee may be charged for processing the sign application.
 7. Any sign that does not comply with the restrictions set forth in this section may be immediately removed from the public right-of-way by City personnel.
- M. Seasonal signs advertising the sale of seasonal products, including Christmas trees and pumpkins, provided that:
1. Only one (1) sign per business site shall be permitted.
 2. The sign shall be set back a minimum of five (5) feet from all lot lines.
 3. The sign area shall not exceed sixteen (16) square feet.
 4. The sign shall not exceed five (5) feet in height.
 5. The sign shall not be posted for more than thirty (30) days in any calendar year.
- N. Temporary signs – These signs shall not be illuminated except as noted below.
1. Portable Signs: The Plan Commission may permit on any single premises in any zoning district the temporary use of a portable sign for advertising purposes, provided that:
 - a. Such sign shall not be located in any public rights-of-way.
 - b. Such sign shall not be located closer than ten (10) feet to an adjacent property, and shall not cause a hazard to pedestrians or traffic, or adjacent properties.
 - c. A sign permit shall not be granted for a period exceeding seven (7) consecutive days per event, and shall be limited to four (4) events per year.

- d. The Plan Commission shall determine an appropriate size limit of the sign for the specific use, but in no event shall such sign exceed thirty-two (32) square feet in area.
 - e. Except in any residential zoning district, the Plan Commission may allow such sign to be illuminated.
 - f. A permit is required.
2. Public or Community Events signs:
- a. Signs located in the public rights-of-way require approval of the Department of Public Works, and are further subject to the requirements and regulations of that Department.
 - b. Signs or banners that advertise an event open to the public, such as a grand opening, fish fry etc. Such signs are not permitted for the promotion or sale of the goods or merchandise of a particular business establishment. Such sign shall not exceed thirty-two (32) square feet in area, shall be erected not more than fourteen (14) days before the event and must be removed within three (3) days after completion of the event.
3. Residential Contractor signs – A sign in a residential district that identifies the company or contractor performing a service on the premises. Such sign shall not exceed six (6) square feet in area, and must be removed within seven (7) days after completion of the work.
4. Special Events or Promotions signs - For advertising or promoting special sales or events, the following signs are permitted for business uses, on business premises, subject to the following restrictions:
- a. Grand Opening signs. One (1) grand opening sign not exceeding thirty-two (32) square feet in area shall be allowed per business. The sign may be displayed for a maximum of thirty consecutive (30) days.
 - b. Banners. Special event banners shall be allowed for each business as follows:
 - i. Banner size shall not exceed thirty-two (32) square feet in area.
 - ii. Banners shall not be displayed for more than fourteen (14) consecutive days.
 - iii. Each individual business shall be limited to four (4) banner events per year.

- iv. There shall be no more than two (2) banners erected per business site at any one time.
 - c. Inflatables, temporary structures, vehicles, props, etc. used for advertising or promoting a sales event must be approved in advance by the Plan Commission.
- O. Window signs – Permitted subject to the restrictions in Section 20.29.090 C.

20.29.070 SIGNS PERMITTED IN ALL DISTRICTS WITH A PERMIT. The following signs are permitted in all zoning districts with a permit, subject to the following restrictions:

- A. Permanent real estate development signs placed at the entrance to a residential complex, subdivision, or development shall contain only the name and/or address of the complex, subdivision, or development. The Plan Commission may permit a permanent development sign within a street right-of-way or driveway median after determining that the sign will not have an adverse impact on pedestrian or traffic safety, and provisions are established for the maintenance of such signs. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent buildings and land uses.
- B. Quasi-public informational, noncommercial signs of a general information nature such as community welcome, safety warning or other sign similar in nature may be erected by service clubs or other non-profit organizations upon approval of the Plan Commission.
- C. Temporary construction and development signs
 - 1. The size of the sign shall not exceed thirty-two (32) square feet in area.
 - 2. No more than one (1) sign of each type is permitted.
 - 3. The period of time the sign may remain is one (1) year, which may be extended up to one (1) additional year upon approval of the Plan Commission.
 - 4. Such signs shall be professionally designed, either new or in good condition and repair, and all visible structural members shall have a decorative, aesthetically pleasing appearance.

20.29.080 SIGNS PERMITTED IN BUSINESS, CCM CENTRAL CITY MIXED, B-4 CENTRAL BUSINESS, AND INDUSTRIAL ZONING DISTRICTS.

- A. Total Square Footage Permitted: The total sign area permitted for each business or industrial building or site shall be determined by multiplying the length of lineal building front foot by a factor of 1.5 square feet, up to a maximum of 200 square feet. This

maximum shall exclude monument signs, the restrictions on which are set forth in Subsection 20.29.080C.4. The provisions of Section 20.29.090 shall regulate signs proposed for multi-tenant buildings or centers.

1. If there is parking for the business, or a public way, located on the side or to the rear of a building, the additional signage for the side and/or rear of the building shall not exceed fifty percent (50%) in area of the sign allowed on the building front.
 2. In a case where the building is not adjacent to a public street, the Plan Commission shall designate the “front” of the building for purposes of this Subsection 20.29.090A.
- B. Relationship Between Sign Number and Total Sign Area: The aggregate total sign area for all signs (but excluding the area of monument signs) permitted for a business or industrial building or site shall not exceed the square footage limitation under Subsection 20.29.080A. and, in addition, shall be subject to the following restrictions:
1. An industrial site of more than ten (10) acres may have a monument sign identifying the site. As part of the design review process, the Plan Commission shall determine the appropriate sign location and size.
 2. Signs proposed for multi-tenant buildings or centers shall be regulated by Section 20.29.090.
- C. Permitted Signs by Type: The following signs are permitted in all business and industrial zoning districts, subject to the following restrictions:
1. Awning and Canopy signs affixed to the surface of an awning or canopy are permitted, provided that such signs do not extend vertically or horizontally beyond the limits of such awning or canopy. In addition:
 - a. The total area of the sign portion of an awning or canopy sign shall not exceed 1.0 square foot times the length of lineal building front foot of the building.
 - b. An awning or canopy sign may extend into the street right-of-way, but in no event shall such sign extend beyond a point one (1) foot back from the vertical plane formed by the curb line extended vertically.
 - c. An awning or canopy sign shall not extend more than six (6) feet from the wall of the building to which the sign is attached.
 - d. The maximum height of an awning or canopy sign shall be limited to the height of the rooftop or parapet wall of the building to which the sign is attached.

- e. An awning or canopy sign may be internally illuminated.
2. Banners. As permitted in Section 20.29.070 N. 4. for Special Events or Promotions.
3. Changeable Copy signs. Changeable copy signs, including electronic message signs, are permitted in any business zoning district as follows:
 - a. The maximum size shall be twenty-four (24) square feet per face.
 - b. The sign may be illuminated.
 - c. Animation, flashing, or distracting features are prohibited.
 - d. Changeable copy signs shall be part of a permanent sign, and its area shall be included in the calculation of the maximum allowable permanent sign size.
 - e. Changeable copy signs shall be limited to one (1) per business site.
4. Monument signs:
 - a. The maximum size of a monument sign shall be one hundred twenty-five (125) square feet, which shall include the sign, base, and supporting or decorative elements of the structure.
 - b. The base, supports, monument and decorative portion of the sign must be at least forty percent (40%) of the total area of a monument sign.
 - c. Landscaping shall be provided as required in Section 20.29.140 E.
 - d. The color scheme of the sign shall, to the greatest extent practicable, follow the color scheme of the principal building.
 - e. Architectural features (e.g., sills, piers, reveals, capstones, medallions, etc.) that are part of the architectural style of the principal building shall, to the greatest extent practicable, be incorporated into the sign.
 - f. The maximum height of a monument sign shall be twelve (12) feet.
 - g. Such signs may be double faced.
5. Projecting signs fastened to, suspended from, or supported by a building:
 - a. Shall be limited to one (1) sign per building façade.

- b. Shall not exceed, in total area, 1.0 square foot times the length of lineal building front foot per business.
 - c. Shall not extend more than six (6) feet from the building to which such sign is attached.
 - d. Shall not extend beyond the height of the roofline.
 - e. Shall not be less than eight (8) feet above the adjoining sidewalk, or more than fifteen (15) feet above an adjoining driveway or alley.
6. Time and Temperature signs may be erected as a wall sign, projecting sign, monument sign, or freestanding sign, provided they shall meet the requirements for each of those sign types.
7. Wall signs. The total area of a wall sign shall not exceed 1.0 square foot times the length of lineal building front foot for office, retail and/or mixed uses. Mixed-use sites include buildings and centers with a combination of retail and office uses or a combination of retail, office, and industrial uses. In addition:
- a. The face of a wall sign shall not project more than twelve (12) inches from the outside of the building's wall surface.
 - b. No part of a wall sign shall extend above the roofline of the building to which such sign is attached.
8. Window signs: Shall not cover more than twenty percent (20%) of the total glazed front window area per business premises.
- a. Temporary window signs:
 - i. Shall not be included in calculating the total permitted sign square footage.
 - ii. Shall not be placed on glass doors or window areas so as to cause a pedestrian or traffic hazard, or impede a clear view by police.
 - iii. Shall not be illuminated.
 - iv. A permit is not required for such signs. However, it is intended that enforcement of this provision shall generally occur upon a complaint basis.
 - b. Permanent window signs:
 - i. Shall be included in calculating the total permitted sign square footage.

- ii. Shall not be placed on glass doors or window areas so as to cause a pedestrian or traffic hazard, or impede a clear view by police.
- iii. May be illuminated.

D. Flexible Criteria Covering Signs in Industrial Parks and Business Parks. Signs located in areas zoned for industrial parks or business parks may be approved by the Plan Commission with elements that exceed the permitted height, size, type, or number of signs if the director of planning and development determines that:

- 1. The site contains unique or unusual physical conditions such as topography, proportion, or size of the principal building, or relation to a public street or roadway that would limit or restrict normal sign visibility; or
- 2. The proposed or existing development exhibits unique characteristics of land use, architectural style, site location, physical scale, historical interest or other distinguishing features that represent clear variation from conventional development; or
- 3. The proposed signage incorporates special design features such as logos, emblems, murals or statuaries that are integrated with the principal building architecture or business/corporate identity.

E. Special Criteria Applicable to Signs in CCM Central City Mixed and B-4 Central Business Zoning Districts.

- 1. CCM Central City Mixed Zoning District:
 - a. Ground mounted signs with two (2) or more supports are permitted. Ground mounted signs with one (1) support are prohibited.
 - b. Ground mounted signs may not exceed six (6) feet in height.
 - c. Ground mounted signs may not exceed thirty-two (32) square feet in area.
 - d. Ground mounted signs shall not extend over the property line or be located in the public right-of-way.
 - e. Landscaping shall be as provided in Section 20.29.130 E.
- 2. B-4 Central Business Zoning District:
 - a. A monument sign may not exceed eight (8) feet in height.

- b. A monument sign may not exceed sixty (60) square feet in area.
- c. Ground mounted signs shall not extend over the property line or be located in the public right-of-way.

20.29.090 SIGNS FOR MULTI-TENANT BUILDINGS AND CENTERS.

- A. Definitions. For purposes of calculating the total sign area under this section, “length of lineal building front foot” shall mean the length of any wall of a building or adjoining buildings within the center that are adjacent to and face any street, public rights-of-way, or the parking lot of the building.
- B. Multi-Tenant Building signs. In a multi-tenant retail, office, or mixed-use building or center in which each business premises is primarily accessed by an interior door after the building is entered by an exterior door shared with other tenants, only the building shall be identified, and then only by its name and address. A monument sign or a wall sign shall be permitted.
- C. Master Sign Program.
 - 1. An application for a Master Sign Program shall be filed with the Building Inspector, who shall forward it to the Plan Commission for review and approval.
 - 2. In a multi-tenant retail, office or mixed-use building or center, a Master Sign Program shall be used if more than one (1) sign will be erected in conjunction with such building or center.
 - 3. Each individual sign proposed in accordance with an approved Master Sign Program must be applied for and permitted separately. Approval of a Master Sign Program shall not constitute, nor be deemed, permission to construct any particular sign under that program.
 - 4. All signs that are intended to be erected must be included in the Master Sign Program. These shall include, but are not be limited to:
 - a. Master identification sign.
 - b. Entrance markers.
 - c. Traffic directional signs.
 - d. Tenant identification signs.
 - e. Wall signs.

f. Operational signs

5. The maximum sign area of all signs within a multi-tenant building or center, excluding the master identification sign, entrance markers, and traffic directional signs, shall not exceed 1.5 square feet times the length of lineal front foot of the building or center. The total area of individual signs shall not exceed the maximum size specified in Section 20.29.090.C, for the specific type of sign proposed.
6. In evaluating an application for approval of a Master Sign Program, the Plan Commission shall, in its discretion, consider the type and location of the building site, the proposed tenant mix, the size of the development and such other factors as it may in each particular case deem relevant. In determining the size of signs permitted signs, the Plan Commission shall consider factors such as the building setback from the abutting street, the speed of traffic on that street, the area to be occupied by each tenant, and the size and shape of the building façade. The Plan Commission may, in its discretion, permit an additional twenty-five percent (25%) sign area to the maximum sign area. The total area of individual signs shall not exceed the maximum size specified in Section 20.29.090.C for the specific type of sign proposed.
7. Application for approval of a Master Sign Program for new multi-tenant buildings or centers shall be submitted to and approved by the Plan Commission before sign permits may be issued.
8. Owners of existing multi-tenant buildings or centers shall submit an application to the Building Inspector for approval of any sign changes. The application must show all existing signage for the site and the proposed changes. If upon review the Building Inspector determines that the proposed changes will not comply with Section 20.29.100, an application must be submitted to the Plan Commission for its review and approval before a sign permit may be issued

D. Master Identification signs. Master identification signs under a Master Sign Program for a multi-tenant retail, office, or mixed-use building or center, shall be subject to the following guidelines:

1. Monument signs are preferred; however site conditions may warrant consideration of wall signs.
2. Master identification signs shall not contain the names of tenants of the building or center unless the identification of the building or center includes the name of the principal tenant. However, any tenant, but not more than two (2) tenants, each occupying one-third or more of the building area of any building or center may be identified on such master identification sign.

3. The size and number of such signs shall be determined by the total area of the project, the design of traffic patterns and/or the arterial street frontage of the project.
- E. Apartments in Multi-Tenant Buildings in Nonresidential Districts. Where apartments exist or are proposed as a part of multi-tenant buildings or centers in nonresidential zoning districts, the residential portion of the building or center shall be identified only by the name of the building or center and/or the address.

20.29.100 SIGNS PERMITTED IN INSTITUTIONAL AND PARK DISTRICTS.

The following signs are permitted in the institutional and park zoning districts only upon the approval of the Plan Commission, and subject to the following restrictions:

- A. Private institutional and park name signs.
- B. Public institutional and park name signs, after review and recommendation by the Park and Recreation Commission.
- C. Design and location of institutional and park signs shall be subject to review and approval based upon the compatibility of the proposed signs with adjacent buildings and land uses.

20.29.110 HISTORIC SIGNS.

- A. If the Plan Commission determines that a sign is of historic significance, the Plan Commission may, in its discretion, exempt such historic sign from any or all of the size, height, animation, lighting, or setback requirements of this sign ordinance.
- B. Signs determined to be of historic significance by the Plan Commission shall be exempt from the restrictions in Section 20.29.050 for Existing Nonconforming Signs.
- C. Historic signs shall be maintained in good condition and repair.

20.29.120 COMPLIANCE.

- A. In any zoning district, no sign shall be permitted except as specified for that district. All signs shall meet the structural requirements of City and state building codes.
- B. No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without first obtaining a permit reflecting conformity with the provisions of this sign ordinance, except for those signs allowed without a permit under Sections 20.29.060 or 20.29.070.

- C. Unless otherwise specified, all sign permits shall be issued by the Building Inspector.
- D. Where signs are illuminated electrically, a separate electrical permit shall be obtained as required by City and state electrical codes.

20.29.130 SIGN STANDARDS.**A. Location**

- 1. Except as provided in Section 20.29.080 D., no nonresidential sign shall be located nearer than ten (10) feet to any street or public right-of-way.
- 2. No nonresidential sign shall be located closer to the side lot line than the required offset of the zoning district in which the sign is to be located.
- 3. No nonresidential sign shall be located in such a manner as to obstruct entrance, exit, access, ventilation, natural light or view from, to or of a building or property.
- 4. Placement of all signs shall be subject to the vision setback regulations at rights-of-ways as set forth in the Zoning Ordinance of the City of Port Washington.
- 5. Any sign located near an entrance to or exit from any parking lot or area must be so placed as to provide a clear view of and for pedestrians and traffic.
- 6. Permanent signs that are professionally designed and/or manufactured and which meet the requirements and standards of Sections 20.29.000 to 20.29.130 shall be approved by the Plan Commission.

B. Construction

- 1. Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed to withstand loading and other forces through best engineering practices. The Building Inspector may, at any time, require data and calculations, certified as accurate by a professional engineer, to substantiate the structural integrity of any sign.
- 2. Construction of Supporting Members or Braces. Supporting members or braces of all signs shall be constructed of properly treated wood, non-corrosive materials or materials that will be protected from the elements. The Building Inspector may require that all materials and methods to be used for erecting or attaching any sign shall be furnished along with the application for a sign permit.
- 3. Protection of the Public. The temporary occupancy of a sidewalk, street, right-of-way or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted, provided that the space occupied shall be

roped off, fenced off, barricaded or otherwise rendered inaccessible by pedestrians and traffic for the protection of the public.

4. Attachment of Signs to Fire Escapes, etc. No signs or any part thereof, nor any sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe, and no such sign or any part thereof or any anchors, braces, or guide rods shall be erected, installed or maintained so as to limit, hinder or prevent ingress or egress through any door, doorway, or window, or so as to limit, hinder or prevent the raising or placing of ladders against such building by the Fire Department, as necessity or public health and safety may require.
5. Overhead Electrical Wiring. Overhead electrical wiring for signs is prohibited, and all electric signs shall be listed by a recognized testing laboratory.
7. Permanent signs that are professionally designed and/or manufactured and which meet the requirements and standards of Sections 20.29.000 to 20.29.130 shall be approved by the Plan Commission.

C. Maintenance Standards

1. Maintenance. The owner of any sign shall keep it in good maintenance and repair which shall include landscaping, restoring, repainting and/or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is placed or erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish and weeds. Restoration or painting which changes the name, size or location of a sign shall require a new sign permit.
2. Painting Requirement. The owner of any sign shall be required to have all parts and supports of a sign properly painted as directed by the Building Inspector, unless they are galvanized or otherwise treated to prevent rust or deterioration and have not been previously painted.
3. Sign Owner's Responsibility. The sign owner shall be responsible for the maintenance of the sign. If ownership of the sign should be transferred, the new owner shall be responsible for the maintenance of the sign.

D. Illumination Standards

1. In addition to complying with the provisions of this sign ordinance, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of City and state electrical codes. No person may erect a sign with exposed electrical wires.

2. Lighting Intensity. In no case shall the lighting intensity of any sign, whether resulting from internal or external illumination, exceed sixty (60) foot candles when measured with a standard light meter held perpendicular to the sign face at a distance of ten (10) inches.
3. All sign lighting shall be so designed, located, shielded or hooded so as to prevent the casting of direct light or glare upon adjacent roadways, surrounding properties or into the sky.
4. The use of unshielded lighting, including exposed incandescent light bulbs hung or strung on poles, wires or any other type of support intended to illuminate a sign or other advertising device is prohibited.
5. Neon signs or other exterior neon displays may be permitted in cases where they are custom designed to be compatible with the building's architectural character, and where the colors of such signs have been selected to harmonize with the building's exterior colors. Such lighting shall be subject to review and approval by the Plan Commission.
6. Signs shall not have any bare light bulbs, shall not rotate or have any flashing lights, shall not resemble, imitate or approximate the shape, size, text, form or color of official railroad or official traffic signs, signals, or devices, and shall not obstruct or interfere with the effectiveness of said devices.

E. Landscaping Standards

1. The minimum landscaping required for signs shall be designed and determined in accordance with Section 20.31.000, Table 1 Landscaping Points and Minimum Installation Sizes. The classification of plants contained in that section is a baseline, and shall not be deemed a complete list of recommended and acceptable plants. A minimum of twenty (20) landscaping points shall be required for a sign up to four (4) feet in width, and six (6) additional landscaping points shall be required for each additional one (1) foot of a width in excess of four (4) feet. Landscape plantings shall be of such type as will ensure effective year-round aesthetics.
2. The landscaping area shall extend a minimum of three (3) feet around the entire base of the sign or the sign face, whichever is greater.

20.30.000 SITE PLAN AND DESIGN REVIEW

20.30.010 PURPOSE.

- A. In order that commercial, industrial, public and multi-family development within the City be compatible with the general character of the surrounding neighborhood and with the environmental and aesthetic goals of the community, and thereby provide both a satisfying physical environment and greater economic stability through preservation and enhancement of property values, new construction or exterior remodeling within those Zoning Districts enumerated below shall not be issued a Building Permit until the Design Review Board has recommended and the Plan Commission approved all building, site, landscaping and operational plans, except those involving Planned Unit Developments or Conditional Uses which are to be submitted directly to the Plan Commission.
- B. Historic Preservation. Pursuant to sec. 62.23(7)(em), Stats., in all zoning districts of the City every building, property, place, structure, object or landmark listed on, or within and contributing to a historic district listed on, the national register of historic places in Wisconsin, the state register of historic places, or identified as potentially eligible to be listed on such national or state registers, or listed on the inventory of historic places maintained by the City entitled Intensive Survey Report (1998), as such registers, identification or inventory may be amended from time to time, and every building, property, place, structure, object or landmark subsequently designated by the Common Council with the consent of the owner as having historic or archeological significance, including groups of properties designated by the Common Council as a historic district, shall be regulated as provided in Sections 20.30.010 through 20.30.050, inclusive.
- C. Pursuant to Wis. Stats. Sec. 62.23 (7) (em). Historic Preservation, in addition to the above number under A, regardless of zoning district and including single family residences, any property or place on the national register of historic places as of December 31, 1995, and any place, structure or object subsequently designated by the Common Council with the consent of the owner as having historic or archeological significance, including groups of property designated by the Council as an historic district, shall be regulated under this section.
1. The purposes of such historic designation shall be to aid in the preservation, enhancement, and restoration of such places or structures to reflect the City's cultural heritage, without impeding the continuing progress of the City and the stabilization or improvement of property values, commerce and the evolving social and economic character of the City.
 2. Before a place, structure, or object is presented to the Council for consideration under this section, it shall first receive the favorable endorsement of the Plan Commission after hearing from the Design Review Board, (see 20.30.030 and 20.30.050 below). Nomination for such endorsement may be by the Council, Commission, or by citizen petition, provided that prior to Council action, the reasons for nomination are set forth

20.30.000 SITE PLAN AND DESIGN REVIEW

by the petitioner and the standards by which the place, structure, or object are to be administered under this section are also set forth and further provided written consent shall have been obtained from the owner for individual properties being individually nominated, and from a two-thirds majority of owners for properties being nominated for district status. In cases where district status is involved, the petitioners shall identify any individual properties which best epitomize the character of the district. Such leader properties shall not be included in the district without the consent of the current owner. Once the district is created, any current or subsequent owner of a leader property may become part of the district upon written request to the Council.

20.30.020 ZONING DISTRICTS AFFECTED. The Director of Planning and Development shall refer to the Design Review Board an application for a building permit in any case involving all new development or construction, or the complete redesign or remodeling of the exterior appearance of an existing building located in any of the following districts: Commercial Districts (B-1, B-2, B-3, B-4, BP, OOS, OHS, OPD, OAG); Industrial Districts (I-1 and I-2); OIP Institutional and Public Service Districts; RM-1 Single and Two Family Residence Districts having dwellings of three (3) or more units by a conditional use grant; Multiple Family Residential Districts (RM-2, RM-3, RM-4); dwellings of three (3) or more units in the CCM Multiple Family (Central City Mixed) District; and buildings in any district subject to OCP Conservation Protection Overlay or ONP Neighborhood Preservation Overlay.

In the case of historic buildings, properties, places, structures, objects or landmarks described in or designated under Section 20.30.010 B. which are located in a zoning district other than a residential district, the plans for any proposed erection, construction, reconstruction, alteration, conversion or maintenance affecting the same shall be referred to the Design Review Board for its review and recommendation, and for review and action by the Plan Commission, as provided in Section 20.30.040C.

In the case of historic buildings, properties, places, structures, objects or landmarks described in or designated under Section 20.30.010 B. which are located in any zoning district, or in the case of buildings in any zoning district subject to ONP Neighborhood Preservation Overlay, an application for a razing permit shall be referred to the Design Review Board for its review and recommendation, and for review and action by the Plan Commission, including issuance of a Certificate of Appropriateness, as provided in Section 20.30.040C.

20.30.030 DESIGN REVIEW BOARD ACTION.

Action by the Design Review Board shall take the form of advisory recommendations to the Plan Commission. Upon receipt of a plan referral from the Director of Planning and Development, or upon receipt of a referral from the Building Inspector relating to an application for a razing permit, the Chairperson shall convene the Board so as to render its advice to the Plan Commission in time for Commission consideration at its regular meeting, pursuant to consent agenda, unless the referral occurs less than three weeks prior to such

20.30.000 SITE PLAN AND DESIGN REVIEW

meeting date, in which case the Board may make its report for the next following Plan Commission Meeting. The Chairperson shall invite the permit applicant to the Board meeting to observe its deliberations and recommendations.

20.30.040 REVIEW STANDARDS; REGULATION OF CONSTRUCTION, RECONSTRUCTION ALTERATION AND RAZING OF HISTORIC BUILDINGS AND STRUCTURES; PROCEDURES; APPEALS.

- A. The Design Review Board shall render its advice as to the appropriateness of the proposed site plan with respect to the requirements established in Chapter 20.31.000 of the Zoning Ordinance, as well as the type of materials, general form and proportions, window, entrances and colors of buildings or structures in relation to these criteria:
1. The building or structure is not of such unorthodox or abnormal character in relation to the surroundings as to be unsightly or offensive to generally accepted taste.
 2. The building is not so identical with those adjoining as to create excessive monotony and drabness. In applying this criteria to attached or row buildings, to apartment groupings, or commercial shopping centers, the overall composition and aesthetic effect shall be considered.
 3. The building shall not have any exposed facade that is finished, including choice of materials, so as to be aesthetically incompatible with the other facades.
- B. All Other Areas Except Historic Areas: In those districts where the Plan Commission has not adopted an architectural theme, the Board shall render its advice as to the appropriateness of the proposed use and type of materials, general form and building proportions, window entrance and sign treatment and colors, in relation to these criteria:
1. The building or structure is not of such unorthodox or abnormal character in relation to the surroundings as to be unsightly or offensive to generally accepted taste.
 2. The building is not so identical with those adjoining as to create excessive monotony and drabness. In applying this criteria to attached or row buildings, to apartment groupings, or commercial shopping centers, the overall composition and aesthetic effect shall be considered.
 3. The building will not have any exposed facade that is finished, including choice of materials, so as to be aesthetically incompatible with the other facades.
- C. Regulation of Historic Buildings, Sites, Structures, etc.

1. Erection, Construction, Reconstruction, Alteration, Conversion or Maintenance.
No owner or person in charge of a historic building, property, place, site, structure, object or landmark described in or designated under Section 20.30.010 B. which is located in a zoning district other than a residential district shall erect, construct, reconstruct, alter or convert all or any part of the exterior of the same or construct any improvement upon the same or cause or permit any such work to be performed upon the same unless the Design Review Board has made its recommendations, and the Plan Commission has approved the plans for such work. Also, unless the Plan Commission has granted such approval, the Building Inspector shall not issue a permit for any such work.
 - a. In reviewing and/or approving such proposed erection, construction, reconstruction, alteration or conversion the Design Review Board and Plan Commission shall use the following criteria:
 - i. In the case of a designated historic building, structure or site, whether the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done.
 - ii. In the case of the construction of a new improvement to or upon a historic building, structure or site, or within a historic district, whether the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district.
 - iii. In the case of any property located in a historic district, whether the proposed erection, construction, reconstruction, exterior alteration or conversion does not conform to the purpose and intent of this Section and to the objectives and design criteria of the historic preservation plan for said district.
 - b. Ordinary maintenance and repairs may be undertaken without the review and recommendation of the Design Review Board and approval of the Plan Commission provided that the work involves repairs to existing features of a historic building, structure or site or the replacement of elements of a historic building or structure with pieces identical in appearance, and provided that the work does not change the exterior appearance of the building, structure or site and does not require the issuance of a building permit.
 - c. Section 20.30.040 C. 1. a. hereof shall not apply to the proposed erection, construction, reconstruction, alteration or conversion of a historic building, property, place, site, structure, object or landmark

described in or designated under Section 20.30.010 B. which is located in a residential zoning district.

2. Razing. No owner or person in charge of a historic building, property, place, site, structure, object or landmark described in or designated under Section 20.30.010 B. which is located in any zoning district shall raze the same, or cause the same to be razed, unless such person has applied for a razing permit and a Certificate of Appropriateness, the Design Review Board has made its review and recommendations, and the Plan Commission has approved such work, including the issuance of a Certificate of Appropriateness. Also, unless such Certificate has been issued by the Plan Commission, the Building Inspector shall not issue a permit for any such work.
 - a. In reviewing and/or approving such proposed razing the Design Review Board and Plan Commission shall use the following criteria:
 - i. In the case of any property located in a historic district, whether the proposed demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district.
 - ii. Whether the building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state.
 - iii. In the case of a request for the demolition of a deteriorated building or structure, whether any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
 - b. If the Plan Commission determines that the application for a Certificate of Appropriateness is consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The Plan Commission shall make this decision within forty-five (45) days of the date of filing of the application.
 - c. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City for the demolition work. A razing, building or other city permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed demolition work.
 - d. Nothing in this Section shall be deemed to abrogate or limit the authority of the Common Council, Building Inspector or other

20.30.000 SITE PLAN AND DESIGN REVIEW

designated City officer under § 66.0413, Stats. to order the owner of a building which is old, dilapidated or out of repair and consequently dangerous, unsafe, unsanitary or otherwise unfit for human habitation to raze or repair the building, or the City's right to commence and prosecute a court action to obtain an order determining that the building constitutes a public nuisance, or for any other relief.

3. Appeals. Should the Plan Commission fail to approve the proposed work or fail to issue a Certificate of Appropriateness for the proposed demolition due to the failure of the plan or proposal to conform to the above standards, the applicant may appeal such decision to the Zoning Board of Appeals within thirty (30) days thereof. In addition, if the Plan Commission fails to issue a Certificate of Appropriateness, the Common Council shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the standards set forth in this ordinance.

20.30.050 DESIGN REVIEW BOARD.

- A. Membership. The Design Review Board shall consist of the City Engineer, one representative from the Police and Fire Department appointed by the Mayor and approved by the Plan Commission, and two citizen members appointed by the Mayor, subject to confirmation by the Common Council. One citizen member should be a graduate architect in the State of Wisconsin, and the other citizen member should have design, development or construction experience. Each citizen member shall serve a term of three years. The members of the Board shall, at its regular May meeting, elect one member to act as Chairperson for a term of one year, or until a successor is duly elected. The Chairperson shall preside over all meetings of the Board. In the event of the Chairperson's absence, members of the Board present shall select a member to preside over the meeting. The Director of Planning and Development shall be responsible for processing applications, agendas and minutes for the Board, and for presenting the recommendations of the Board to the Plan Commission.
- B.. Duties and Powers. The Board shall have the duty and authority to review and provide recommendations to the Plan Commission regarding all building, site and operational plans; conditional uses; conditional use grants; planned unit developments; the razing of historic buildings, properties, places, structures, objects or landmarks described in or designated under Section 20.30.010 B. which are located in any zoning district; and the proposed erection, construction, reconstruction, alteration, conversion or maintenance of historic buildings, properties, places, structures, objects or landmarks described in or designated under Section 20.30.010 B. which are located in a zoning district other than a residential district.
- C. Records: The Board shall keep records of all its proceedings and its recommendations shall be stated in writing for submittal to the Plan Commission and the permit applicant.

20.30.000 **SITE PLAN AND DESIGN REVIEW**

- D. Technical Advice: The Design Review Board established by this ordinance shall include two (2) technical advisors appointed by the Mayor subject to confirmation by the Common Council to provide advice to the Plan Commission on issues related to historical preservation and the downtown Main Street program.

- E. Term of Office: Technical advisors to the Design Review Board advising that Board for purposes of historic preservation and downtown building façade alterations shall have terms of three (3) years except that, upon the first appointment, one technical advisor’s term shall be for two (2) years and the other technical advisor’s term shall be for three (3) years.

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

20.31.010 WHERE REQUIRED. In the case of certain uses, the character of which could have substantial adverse effect upon the surrounding environment and general character of the City, by reason of the appearance of the structures, arrangement or use of the land, such uses if required by the district regulations as a qualifying condition to their permissibility shall submit for approval by the Plan Commission, their proposed building, site, and operational plans.

20.31.020 USE BY RIGHT NOT INFRINGED. Such required approval shall be limited solely to reasonable compliance with design, locational, and operational requirements and shall not involve the basic permissibility of the use where such use is permitted as a Use By Right.

20.31.030 CRITERIA. In determining the acceptability of the building, site or operational plans, the Plan Commission shall take into consideration the following factors as well as any others they deem appropriate:

- A. The design and appearance of any structures, taking into consideration recommendations of the Design Review Board in those Districts enumerated under Section 20.30.020 and in those districts not so enumerated, the Commission shall follow the same standards as Section 20.30.040.
- B. The relationship of structures and uses to each other and to the site, with particular consideration of traffic flow, access, screening of parking and storage areas, and general appearance.
- C. The character of the operation in terms of its impact upon traffic facilities, sewage disposal, water supply, and environmental character with particular consideration of the control of any possible noise, dust, odor or other undesirable operating characteristic.

20.31.040 FORM OF SUBMITTAL. Before issuing a Building or an Occupancy and Zoning Use permit, the Building Inspector shall submit the necessary building, site and operational plans to the Plan Commission for their consideration. Such plans shall be in reasonable detail to enable the Commission to properly evaluate them and shall specifically include the following:

- A. A site plan of the property accurately dimensioned, showing the location of all-existing and proposed structures and uses.
- B. General building plans including either elevations or perspective drawings showing the exterior appearance.
- C. A statement describing the basic operational characteristics of the proposed use.

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

20.31.050 LANDSCAPING.

20.31.060 PURPOSE. This section is intended to promote compatible development; stabilized property values; foster the attractiveness and functional utility of the community as a place to live and work; preserve the character and quality of the built and natural environment by maintaining the integrity of those areas which have a discernible character; protect certain public and private investments in the area; and raise the level of community expectations for the quality of its environment. This section applies to commercial, industrial, institutional and multi-family residential development.

20.31.070 FINDINGS. The Common Council finds that:

- A. Trees and shrubs are proven producers of oxygen, a necessary element for human survival.
- B. Trees and shrubs transpire considerable amounts of water each day and thereby purify the air;
- C. Trees and shrubs have an important role in neutralizing waste water passing through the ground from the surface to groundwater tables and lower aquifers;
- D. Trees and shrubs, through their root system, stabilize the groundwater tables and play an important and effective part in soil conservation, erosion control and flood control.
- E. Trees and shrubs are in an invaluable physical, aesthetic and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare and breaking the monotony of human developments on the land, particularly parking areas;
- F. Trees and shrubs have an important impact on the desirability of land and therefore on property values;
- G. Screening can lessen the visual pollution that may otherwise occur within an urbanized area. Even minimum landscaping can provide an impression of separation of spaces, and more extensive landscaping can focus attention onto the landscape elements and away from the less attractive elements of certain sites.
- H. Screening can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening;

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS

- I. Landscaping can preserve and enhance the unique identity of the City of Port Washington and preserve the economic base attracted to the City by such factors;
- J. The provisions of this ordinance are necessary to safeguard the public health, safety and welfare.

20.31.080 APPLICABILITY.

- A. Landscaping Required: Landscaping is required in buffer yards, along the foundation of buildings, and in off-street parking areas of all Commercial, Industrial, Institutional and Multi-family Residential Development. The area or length of each, as required in this Ordinance, shall be measured to determine the amount of landscaping required.

Parkway street trees are required in all zoning districts per the City's adopted street tree policy.

- B. Exemptions and Modifications: All development shall meet the provisions of this section of the Zoning Ordinance except those explicitly exempted below:
 - 1. Additions to existing buildings which do not increase the total existing floor area by more than ten (10) percent.
 - 2. Additions to existing buildings which increase the total existing floor area between eleven (11) and fifty (50) percent shall conform to the landscaping standards specified in this section of the Zoning Ordinance to the maximum extend possible. If insufficient area or dimensions exist to meet the required amount of landscaping, the Plan Commission may reduce the standards set forth in this section up to thirty (30) percent.
 - 3. Developed property or platted lots or record which are impacted by a subsequent right-of-way dedication may be developed without strict compliance with the requirements of this section, with the following provisions:
 - a). Improvements (structures or related facilities) which are proposed on the remainder of the platted lot after dedication has occurred, may be constructed subsequent to the approval by the Plan Commission of a modified landscape plan reflecting the impact of the right-to-way dedication.

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

- b). Improvements on developed property which are lost through the dedication of right-of-way may be replaced elsewhere on the remaining lot and only the area contained within the new limits of construction for the recaptured improvements shall be required to comply with the requirements of this section.
- 4. If, in a particular case, the site or new development conditions should warrant, the Plan Commission may in its discretion reduce the standards and requirements set forth in this landscaping ordinance by not more than fifty percent (50%).

20.31.90 GENERAL PLAN REQUIREMENT.

- A. Requirements for Submission: To assure that the intent of the standards are accomplished, applicants are required to submit to the Plan Commission for approval a landscape plan developed by a recognized landscape design professional, and following installation, a written certification that all the required landscape materials have been installed in substantial conformance with the plans as approved by the Plan Commission. In addition, applicants shall submit an installation and maintenance security deposit with the City to assure full compliance with the landscaping and maintenance requirements.
- B. Certification of Compliance: A landscape design professional must certify in writing that the plan is complete, accurate and in compliance with the requirements of this ordinance. The requirement that such plans and specifications be certified by a landscape design professional may be waived for minor alterations and improvements which, in the sole discretion of the Director of Planning and Development, does not require the services of a professional.
- C. Landscape Construction Performance Surety Required: At the time of final execution of a Development Agreement or prior to the issuance of a building permit by the City, the owner is required to provide landscape construction sureties either by bond, certificate of deposit or letter of credit with the City to ensure that the owner is in full compliance with the approved landscape and maintenance plan.

The amount of surety required shall reflect the cost of required landscaping to ensure that such landscaping is installed. A financial surety in an amount equal to the full cost of landscape installation shall be included, as a segregated line item, as part of the letter of credit required by the City grading permit. Should the City have to provide for full compliance, the applicant will then forfeit the surety deposit?

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

- D. Maintenance Compliance Surety or Letter of Credit: A financial surety in the amount of \$10 per landscape point shall be deposited with the City at the time of application for a building permit and shall remain in force for twenty-four (24) months.[See Section 6(f)]

- E. Temporary Access Easement and License: The owner shall grant a two year temporary access easement and license to the City or its contracted agent to enter upon the land for the purpose of installing the required landscaping and/or for maintenance compliance in the event that such landscaping is not in place by the date specified in the agreement or maintained in a healthy condition during the two year time frame.

20.31.100 PROCEDURES.

- A. Information to be Provided: The Landscape Site Plan shall contain information in accordance with the provisions provided in this section and with the City's minimum requirements for site plan information. The Landscape Site Plan submitted for approval must contain the following:
 - 1. The Landscape Site Plan shall show the location and dimensions of all existing and proposed structures, project boundary lines, parking lots, drives, roadways and right-of-way, delineation of traffic vision corners [Chapter 20.15.020 (6)(7)], sidewalks, bicycle paths, signs, refuse disposal areas, bicycle parking areas, architectural features, utility equipment, utility easements and lines (above and below ground), conservation easements, and lighting. All existing or proposed sewer manholes and water main valves and hydrants must be shown, and the landscape design maintains clear access avoiding any conflict with said manholes, water main valves and hydrants.

 - 2. The Landscape Site Plan shall show the location of all existing and proposed vegetation and shall be submitted with a plant schedule and/or plant list with the common and scientific names, quantity and size at planting (See Exhibit I). Where applicable, root ball condition and spacing of shrubs shall either be included on the plant list/schedule or indicated on the Plan; or

 - 3. Landscape Planting Plan developed by a recognized landscape professional at a scale of 1" = 20" or larger, as the Plan Commission deems necessary, may be submitted or be required to be submitted by the Plan Commission, showing the location of all buildings, architectural features, parking lots, walkways, paths, storage areas and the detailed location of all plant materials drawn at 50-70% of mature size and shall include all site features within the area detailed. The Planting Plan shall also be submitted with a plant schedule/plant list

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

indicating the common and scientific names, quantity, size and condition of plant material at the time of planting.

EXHIBIT I

| PLANT SIZE/UNIT OF MEASURE | |
|----------------------------|--|
| TREES: | Caliper Diameter at 4” above the root crown or graft; or height to tip |
| EVERGREENS: | Diameter or Height to Tip |
| SHRUBS: | Height to Tip |
| GROUND COVER: | Diameter or Container Size |

4. All existing vegetation which is equal to or exceeds the following sizes must be inventoried and shown on the plan: 1) Deciduous trees 3” in caliper or greater; 2) Evergreen trees five (5) feet high or greater and 3) Shrubs 36” high or greater.
5. All existing vegetation which is equal to or exceeds the following sizes must be inventoried and shown on the plan: 1) Deciduous trees 2” to 3” caliper or greater, 2) Evergreen trees 5” high or greater, and 3) Shrubs in five (5) gallon containers or 24:” – 36” high.
6. The location of all proposed berming indicating contours at one (1) foot intervals and percent of slope. The Plan Commission may, when necessary and appropriate, waive this requirement for Landscape Planting Plans.
7. Detail sections and/or elevations of all proposed architectural features, walls lighting standards, water features, etc. This requirement is not necessary for Landscape Planting Plans.
8. All landscaping plans must include a Title Block including the following information:
 - a). North Arrow
 - b). Scale 1 inch = 40 feet
 - c). Name of Developer
 - d). Address of Project
 - e). Name of Project

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

- f). Date
- g). Signature and name of Landscape Design Professional
- h). Space for Revision Dates
- i). Sheet Number

- A. No Further Approvals Required: Landscape plans approved by the Plan Commission as part of a development site plan shall not require further approval by other city agencies if the approved landscape plan meets all the requirements of this Chapter.
- B. Sealed Letter of Completion: Prior to the release of the owner's fiscal security, a sealed letter of completion shall be provided to the Inspection Department from a registered engineer, architect or landscape architect representing the development, which letter shall verify that the project has been implemented in accordance with City approved plans and is in full compliance with this Chapter.
- C. Optional Review Fee: For development projects over 1 acre in size the developer/owner shall be assessed a landscape plan review fee of \$25.00 plus \$5.00 per acre to be deposited with the City at the time of application to insure compliance with the Landscaping Ordinance.
- D. Minimum Planting Size of Multi-Stemmed Plant Material: The minimum planting size shall be:

| | |
|-----------------------------|--|
| Trees and Ornamental Trees: | 7' to tip or as can be justified by the cultivar |
| Deciduous Shrubs: | 24" high or 18"-24" in diameter |
| Evergreen Shrubs: | 24" high or 18"-24" in diameter |

20.31.110 ON-SITE LANDSCAPING AND SCREENING REQUIREMENTS.

- A. General Standards: The following standards apply to all industrial, commercial, utility or multi-family residential sites:
 - 1. No tree shall be located within five (5) feet of a vehicular access way, bike trail or public sidewalk or within ten (10) feet of a street light, stop sign, fire hydrant, street sign or directional sign.
 - 2. All landscaping material located within a vision triangle shall be two and one-half (2.5) feet or less in height or have clearance of eight (8) feet beneath the lowest branch or projection.

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

3. No permanent impervious surfacing or sub-surfacing shall be located around the base of any tree or shrub which may impede growth of said plant.
 4. Existing trees should be retained to the greatest extent possible and protected during the course of development.
 5. The Plan Commission shall maintain and periodically update a listing of acceptable plants in accordance with the Classification of Plants found in Table 2.
 6. The Plan Commission shall maintain and periodically update a list of banned and not recommended plant materials.
- B. Categories of On-Site Landscaping Requirements: On-site landscaping shall be required of all developments in the City of Port Washington. The areas on-site landscaping requirements are for:
1. Building Foundations
 2. Parking Lot Street Yard
 3. Side and Rear Yard Buffer Areas
 4. Paved Areas
 5. Undesignated Areas
- C. Landscaping Point System and Minimum Installation Sizes for Multi-stemmed Plant Materials: Landscaping requirements are measured by “points”, the number of which is dependent upon the size of the development. A different number of points are awarded for each plant, depending upon its typical growth rate, its mature height, and whether it is a deciduous or evergreen species. A minimum installation size is required for each of these plant categories (See Table 1 below).

The Classification of Plants is a baseline and is not to be considered a complete list of recommended and acceptable plants. The City of Port Washington recognizes that in horticulture and in landscape nursery operations, recently introduced and newly developed cultivars of existing tree and shrub species are regularly being offered into the landscaping trade and will fit into the Classification categories below.

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

| TABLE 1. LANDSCAPING POINTS AND MINIMUM INSTALLATION SIZES | | |
|---|---|--|
| Plant Category | Landscaping Points Per Plant | Minimum Permitted Installation Size |
| Tall Deciduous Tree | 30 | 2" to 3" Caliper |
| Medium Deciduous Tree | 15 | 6' Tall or 2" Caliper |
| Low Deciduous Tree | 10 | 4' Tall |
| Tall Evergreen Tree | 30 | 6' Tall |
| Medium Evergreen Tree | 20 | 4' Tall |
| Low Evergreen Tree | 5 | 3' Tall |
| Tall Deciduous Shrub | 5 | 36" Tall |
| Medium Deciduous Shrub | 3 | 24" Tall |
| Low Deciduous Shrub | 1 | 18" Tall |
| Medium Evergreen Shrub | 5 | 18" Tall/Wide |
| Low Evergreen Shrub | 3 | 12" Tall/Wide |
| Tall Perennials and Grasses | 1 for every 20 sq. ft. planted to a maximum of 5 pts. | ≥ 18" Mature Height |
| Medium Perennials Grasses | ½ for every 10 sq. ft. planted to a maximum of 5 pts. | < 18" Mature Height |
| Decorative Fence | 1 pt. For every 5 lineal feet in buffer areas adjacent to single family and duplex development. | Minimum 4.5 Ft. High |

Source: The City of Port Washington Department of Planning and Development based on A Guide to Selection Landscape Plants for Wisconsin, Hasselkus, UW-Ext. Publication: A2865

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

TABLE 2: CLASSIFICATION OF PLANTS

| TALL DECIDUOUS TREES (30 Landscaping Points) | | MEDIUM EVERGREEN TREES (20 Landscaping Points) | |
|---|---------------------------------------|---|------------------------|
| Botanical Name | Common Name | Botanical Name | Common Name |
| Acer saccharum | Sugar Maple | Abies concolor | White Fir |
| Ginkgo biloba | Ginko | Pinus sp. | Pine: Red, White, Scot |
| Quercus sp. | Oak: Red, White, Pin | Tsuga Canadensis | Canada Hemlock |
| Acer sp. | Maple: Red, Silver, Norway | Thuja occidentalis | American Arborvitae |
| Fraxinus sp. | Ash: White Green | | |
| Gleditsia triacanthos | Honeylocust | | |
| Populus grandidentata | Bigtooth Aspen | | |
| Tilia sp. | Linden: Basswood, Littleleaf, Redmond | | |

| MEDIUM DECIDUOUS TREES (15 Landscaping Points) | | LOW EVERGREEN TREES (12 Landscaping Points) | |
|---|---------------------|--|--------------------------------|
| Botanical Name | Common Name | Botanical Name | Common Name |
| Betula sp. | Birch: River, Paper | Juniperus sp. | Juniper: Mountbatten, Redcedar |
| Prunus sp. | Cherry: Choke, Pin | Thuja sp. | Arborvitae: Pyramidal, Techny |
| Salix sp. | Willow | | |

**20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING
LANDSCAPING AND OPERATIONAL PLANS**

TABLE 2 CON'T CLASSIFICATION OF PLANTS

| LOW DECIDUOUS TREES (10 Landscaping Points) | | TALL DECIDUOUS SHRUBS (5 Landscaping Points) | |
|--|---|---|---|
| Botanical Name | Common Name | Botanical Name | Common Name |
| Amelanchier sp. | Birch: River, Paper | Cornus sp. | Dogwood: Grey, Pagoda |
| Crataegus sp. | Hawthorn: Cockspur, Downy, Washington | Syringa sp. | Lilac: Chinese, Hyacinth |
| Malus sp. | Carbapple sp. | Viburnum sp. | Viburnum: Arrowwood, Wayfaringtree, Nannyberry |

| MEDIUM DECIDUOUS SHRUBS (3 Landscaping Points) | | LOW DECIDUOUS SHRUBS (1 Landscaping Points) | |
|---|--------------------------------------|--|-------------------------------|
| Botanical Name | Common Name | Botanical Name | Common Name |
| Corylus Americana | American Filbert Hazelnut | Berberis thunbergii | Japanese Barberry |
| Cotoneaster sp. | Cotoneaster | Spiraea sp. | Spirea: Froebel, Showmound |
| Forsythia sp. | Forsythia: Border, Early, Weeping | | |
| Rosa sp. | Rose: Virginia, Rugosa | | |

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

D. Methods of Measurement of Landscaping Requirements for Landscaping Areas: A minimum number of landscaping points is required for the landscaping areas listed below based upon the methods of measurement for each area. Except as otherwise required, at least twenty-five percent (25%) but not more than fifty percent (50%) of the plant materials installed shall provide color on a year-round basis.

1. BUILDING FOUNDATIONS: Measured in lineal feet.

- a. The landscaping area for building foundation shall be located within twenty (20) feet of the building foundation. This landscaping shall not be located in the areas designated as parking lot street yards, buffer areas or paved areas.
- b. For each one hundred (100) feet of building foundation perimeter, eighty (80) landscaping points shall be installed on a prorated basis and shall be permanently maintained.
- c. A visual screen shall be required for all external appurtenances, (e.g. HVAC/utility boxes, etc.)

2. PARKING LOT STREET YARDS: Measured in lineal feet of street frontage.

- a. New developments and/or reconstruction of existing parking lots where existing conditions allow, shall provide a twenty (20) foot wide parking lot street yard between the street right-of-way and the building setback line on all public and private streets.
- b. Within the parking lot street yard, a minimum fifteen (15) foot deep planting area is to be provided along two-thirds (2/3) the entire length of the parking lot which abuts a public or private roadway.
- c. A minimum of four (4) feet of maintained lawn shall be provided on both the street side and the interior side of the parking lot street yard so as not to interfere with use of the sidewalks and to provide for snow storage.
- d. Where it is not feasible to comply with Section (6) (f) 2 and 3, the following minimum requirements may apply: the landscape screen shall be a minimum of four (4) feet in height at installation, measured from the parking lot elevation. Up to

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

one (1) feet of the minimum four (4) feet maybe accomplished by crowning the plant bed.

- e. For those existing situation where narrow street yards less than twenty (20) feet abut a parking lot, approval of the Plan shall be based on the site's physical limitations, be contingent on Plan Commission approval of a reduction of the twenty-five (25) feet street yard depth and comply with the following provisions:
 - i. Parking lot street yard depths of fifteen (15) feet or greater shall provide for a minimum four (4) foot wide lawn area on either side of a seven (7) foot wide landscaped bed.
 - ii. Parking lot street yard depths ten (10) feet wide but less than fifteen (15) feet wide shall provide a four (4) foot wide lawn area on the parking lot side of the street yard and a minimum six (6) foot wide landscaped bed.
 - iii. Parking lot street yard depths five (5) feet wide but less than ten (10) feet wide shall provide a minimum five (5) feet wide landscaped bed.
- f. For each one hundred (100) lineal feet of street frontage, of a lot abutting a private or public street right-of-way, eighty (80) landscaping points shall be installed on a prorated basis and permanently maintained.

3. **SIDE AND REAR LOT BUFFER AREAS** in lineal feet measured along the lot line. Every new development shall provide a buffer area the entire length of the side and back property lines with sufficient screening to shield adjacent properties from any adverse external effects of that development and/or to shield the development from the negative impacts of adjacent uses, street or railroads.

- a. Buffer Areas Between the Same or Compatible Uses: For each one hundred (100) feet of lot line, beginning at the front setback line, of a buffer area between like uses, eighty (80) landscaping points shall be installed on a prorated basis and shall be permanently maintained. The buffer area may contain plant materials only or be a combination of plant materials and decorative fencing. The buffer area shall be a minimum of ten (10) feet wide and shall be within twenty (20) feet of the lot line excluding areas along street rights-of-way. In addition, the interior side of the buffer area shall be planted with a minimum

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

of 2.5 feet of maintained lawn. At least fifty percent (50%) of the plant materials shall provide color on a year-round basis.

- b. Buffer Areas Adjacent to Single Family and Duplex Residential Development: For each one hundred (100) feet of lot line, beginning at the front setback line, of a buffer area adjacent to single-family and duplex residential development, one hundred twenty (120) landscaping points shall be installed on a prorated basis and shall be permanently maintained. The landscaping in such buffer area shall be in the form of a solid hedge or a hedge/decorative fence combination, and shall be not less than 4.5 feet in height. The buffer area shall be a minimum of twenty (20) feet wide measured from the lot line, excluding areas along street rights-of-way. In addition, the interior side of the buffer area shall be planted with a minimum of 2.5 feet of maintained lawn. Not more than fifty percent (50%) of the points allocated to plant materials shall consist of deciduous shrubs.
4. PAVED AREAS – Measured in square footage of pavement areas. Paved areas on lots developed after the effective date of this ordinance shall be required to be landscaped according to the following standards.
- a. All landscaping areas within paved areas shall be separated by a continuous concrete curb at a minimum height of four (4) inches.
 - b. For every twenty (20) parking spaces or 10,000 square feet of pavement (whichever yields the greater amount of landscaping) on a lot, ninety (90) landscaping points shall be installed and permanently maintained. A minimum of thirty (30) percent of all points shall be devoted to shade trees.
 - c. Parking islands, which meet the following requirements, may be used to meet the landscape requirements for paved areas.
 - i. Planting island between interior parking lanes shall be ten (10) feet wide and incorporate 2.5 feet of maintained lawn of each of the long side for snow storage and a five (5) foot planting area in the middle.
 - ii. If pedestrian traffic crosses the planting area, the design shall provide for a defined paved walkway through the area.

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

5. UNDESIGNATED AREA measured in square feet. All areas not described in Subsections 20.31.110 4.i.–iv. of this ordinance shall be classified as undesignated areas. Undesignated areas of less than 5,000 square feet shall consist of maintained lawn and shall not require additional landscaping. Undesignated areas of 5,000 square feet or more shall require installation of eighty (80) landscaping points for every 5,000 square feet on a prorated basis, which shall be permanently maintained.

- E. Plant Classification: Plant materials are classified into the following thirteen groupings: Tall deciduous trees, Medium deciduous trees, Low deciduous trees, Tall evergreen trees, Low evergreen trees, Tall deciduous shrubs, Medium deciduous shrubs, Low deciduous shrubs, Medium evergreen shrubs, Low evergreen shrubs, Tall perennials and grasses and Medium perennials and grasses. (See Table 2 below).

- F. Landscaping Installation: All landscaping shall be installed within 1 year of occupancy and planted in sound workmanlike manner and according to accepted good planting procedures with quality plant materials. The City shall inspect all landscaping and no final certificate of occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided or the appropriate surety is established in compliance with Section 17.13(4) for future installation of the required landscaping.
 1. Existing plant material which meets the requirements of this ordinance and which will be preserved in good health and in a viable condition on the subject property when development is completed may be counted towards the landscape requirements in (6)(e)(f)(g)(h) of this ordinance.
 2. All remaining open space on a developed lot shall be planted and maintained in lawn, unless such lawn is already fully established.
 3. The exact placement of plant materials, fencing and berms as recommended or required by this ordinance to be installed, shall be the decision of the property owner except that the following requirements shall be met:
 - a. Evergreen shrubs shall be planted in cluster to maximize their chances for survival.
 - b. Where a combination of plant materials, fencing and berms is used, the fencing and berms shall be located toward the interior

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS

of the subject property and the plant material shall be located toward the exterior of the subject property.

- c. In no event shall landscaping material be selected and/or located in a manner that results in the creation of a safety or visibility hazard.
4. Upon completion of landscaping installation, written certification shall be provided by a landscape design professional to the Director of Building Inspection verifying that the landscaping has been installed in accordance with the landscape plans approved by the City, and in full compliance with the provisions of this ordinance.
- G. Landscaping Maintenance: All landscaping areas shall be provided with a readily available water supply, shall be maintained in good condition so as to present a healthy, neat and orderly appearance, and shall be kept free from refuse and debris. The property owner, tenant and/or their or its agents, if any, shall be jointly and severally responsible for the maintenance of all landscaping areas and for the prompt replacement of approved landscape elements. The property owner, developer and/or their or its agents, if any, of a subdivision, condominium, industrial, institutional, commercial or multi-family residential site shall be jointly and severally responsible for the prompt replacement of any landscape elements which are dead or damaged beyond repair. No subsequent changes to any structures or to the site shall be approved for a developed property until the landscaping on the site is completely installed and maintained in accordance with the landscape plans approved by the City. If any landscaping area or landscape elements are not maintained or replaced in accordance with this ordinance, the Director of Building Inspection shall issue a notice of violation and order to correct, cease and desist such violation.
- H. Calculating Required Landscaping: All areas and distances on which point calculations are based shall be rounded up to the nearest whole number of square feet or lineal feet (e.g. 24¼ lineal feet = 26 lineal feet for the purpose of calculating required landscape points.)
- I. Berm Requirements: The construction of earth berms may be permitted in parking lot street yards subject to the following:
1. The berm shall not exceed 2 feet in vertical height.
 2. An earth berm exceeding 2 feet in vertical height shall be permitted only after approval of the Plan Commission as to the height and location and landscaping of the berm.

20.31.000 APPROVAL OF BUILDING, SITE (INCLUDING LANDSCAPING AND OPERATIONAL PLANS)

3. All berms shall be constructed such that the width of the base of the berm shall be no less than six (6) times the vertical height of a berm. The vertical height of a berm shall be measured from an average of the existing ground grades on either side of the berm.
4. A cover growth of City approved plant mulching materials containing no noxious weeds shall be immediately established over the entire berm to prevent erosion or unsightly conditions.
5. In addition to a cover growth of plant material, all berms will have landscape planting spaced randomly to help visually break up the continuous line of the berm.
6. Ground cover used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and provide reasonably complete coverage within three (3) months after planting.

20.31.120 DEFINITIONS.

- A. Plant Materials: Evergreen and deciduous trees and shrubs and perennials.
- B. Maintained Lawn: Grass planted and maintained adjacent to landscaped areas of a site and mowed at regular intervals.
- C. Screening: Hiding or obstructing non-compatible uses from single family and duplex residential uses through the use of approved plant materials and decorative fencing.
- D. Landscaping: Changes in the natural features of a site by a recognized landscape design professional to make it more attractive.
- E. Landscape Design Professional: One who has the academic credentials in landscape design, landscape architecture, horticulture, or a related field, professional landscaping experience or a combination thereof.
- F. Decorative Fence: Fencing made of wood, stone, or brick that is used as part of the landscaping of the buffer areas of a site.
- G. Paved Areas: Areas of a site covered in asphalt, brick, concrete or other impervious paving materials.
- H. Berm: A mound of earth created for landscaping purposes.

20.32.000

GENERAL INTERPRETATION OF DISTRICT APPLICATION

20.32.010 REGULATIONS MADE APPLICABLE TO EACH DISTRICT. The regulations as set forth in previous sections of this Ordinance are made specifically applicable to each individual district as hereinafter set forth in the Individual District Regulation Summary or Charts.

20.32.020 BASIC DISTRICTS. All property in the City has been placed in one of the basic districts created for the purpose of establishing the general pattern of intended land use consistent with the General Plan for Comprehensive Development.

20.32.030 OVERLAY DISTRICTS. Overlay or “floating” districts are also established which provide for the possibility of superimposing upon a basic district certain additional permissive uses and regulatory standards applicable thereto without disturbing the underlying basic district regulations. The basic intent is similar to that upon which conditional use grants are premised and in effect represents the granting of specifically defined special use rights in specifically defined areas.

20.32.040 FORMAT OF INDIVIDUAL DISTRICT REGULATION SUMMARY.

- A. For convenience and readability, the uses as permitted in each district and the supplementary regulations thereto are presented in a summary tabular form consisting of the following:
 - 1. A statement of intent interpreting the intended purpose of the specific district classification.
 - 2. A list of permitted uses.
 - 3. Special regulations which apply to that district.
- B. A summary tabulation of the specific numeric requirements of the provisions of this Ordinance made applicable to the various district. In case of an Overlay district, the requirements listed apply to the uses permitted by virtue of the overlay and do not alter the application of the underlying district regulations to the uses permitted therein.

20.33.010 DISTRICTS LISTEDA. Basic Districts

1. R-1 Single Family Detached Residence
2. RS-1 Single Family Detached Residence
3. RS-2 Single Family Detached Residence
4. RS-3 Single Family Detached Residence
5. RS-4 Single Family Detached Residence
6. RS-5 Single Family Detached Residence
7. RS-6 Single and Two Family Residence
8. RM-1 Single and Two Family Residence
9. RM-2 Multiple Family (Garden Apartments & Townhouses)
10. RM-3 Multiple Family (Low Rise Apartments)
11. RM-4 Multiple Family (Medium Rise Apartments)
12. CCM Multiple Family (Central City Mixed)
13. B-1 Office District
14. B-2 Local Service Center Business
15. B-3 General Business
16. B-4 Central Business District
17. BP Business Park
18. I-1 Existing Industrial
19. I-2 Industrial Park
20. AG Agriculture
21. SW Shoreland-Wetlands
22. PUL Public and Utility Lands

B. Overlay Districts

1. OOS Office and Special Service
2. OIP Institutional and Public Service
3. OPD Planned Development
4. OHS Highway Service
5. ODF Density Factor
6. OAG Arterial Gateway District
7. ONP Neighborhood Preservation
8. OCP Conservation Protection

33.020 REGULATIONS CHART

- A. Regulation Chart. The following chart identifies the development standards for each basic and overlay district.

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.

20.34.000 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

20.34.080 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.

20.34.000

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.

20.34.240 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.

2. Lumber Yards;
 3. General warehousing, including boat storage;
 4. Temporary signs and ground banners;
 5. Outdoor storage of merchandise;
 6. Freestanding signs over 20 feet in height, as measured from the top of curb or center of roadway if no curb;
 7. Freestanding and ground signs in excess of 75 square feet; and
 8. Experimental, testing and research laboratories.
- G. Setback and Area Requirements.
1. As specified in underlying district, except as follows:
 - a. Minimum Open Space shall be the greater of 30 percent or the amount specified in the underlying district; or
 - 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.
1. All on-site utilities shall be underground;
 2. Buildings shall be primarily brick or decorative block construction, subject to review and approval by the Design Review Board. Pre-engineered metal buildings are prohibited;
 3. Parking shall be in the rear except as permitted by the Plan Commission; and
 - a. All garbage and refuse containers shall be screened from view from streets and adjacent sites.

20.34.310 ONP NEIGHBORHOOD PRESERVATION OVERLAY 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.

20.35.010 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.

20.35.020 FINDING OF FACT

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

20.35.030 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

25.35.040 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance of the City of Port Washington, Wisconsin.

20.35.050 GENERAL PROVISIONS(1) Areas to be Regulated

This ordinance regulates all areas that would be covered by the regional flood or base flood.

Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(2) Official Maps & Revisions

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Port Washington Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Department of Planning & Development, City of Port Washington. If more than one map or revision is referenced, the most current approved information shall apply.

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- (a) Flood Insurance Rate MAP (FIRM), parcel number 5589C0117, 0118F, 0119F, 0136F, 0138F and 0181F, dated June 4, 2007, with corresponding profiles that are based on the Flood Insurance Study FIS dated June 4, 2007.

Approved by: The DNR and FEMA

(3) Establishment of Districts

The regional floodplain areas are divided into four districts as follows:

- (a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (b) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

- (c) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
- (d) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(4) Locating Floodplain Boundaries

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to Sections 20.35.350 – 20.35.370. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a permit, or building or site plan approval, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to Section 20.35.310(3) and the criteria in (a) and (b) below.

- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to Section 20.35.360(6).

(5) Removal of Lands from Floodplain

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Sections 20.35.350 – 20.35.370.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(6) Compliance

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(7) 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 s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(8) Abrogation and Greater Restrictions

- (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; or s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another 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. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) Interpretation

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the 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.

(10) Warning and Disclaimer of Liability

The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) Severability

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

(12) Annexed Areas for Cities and Villages

The Ozaukee County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(13) General Development Standards

The community shall review all applications for permits or approvals to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks)

20.35.000 FLOODPLAINS

shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

20.35.060 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

20.35.070 HYDRAULIC AND HYDROLOGIC ANALYSES

- (1) Except as allowed in sub. (3) below, no floodplain development shall:
 - (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - (b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (2) The zoning administrator shall deny permits or approvals if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.
- (3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sections 20.35.350 – 20.35.370.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

20.35.080 WATERCOURSE ALTERATIONS

No permit or building or site plan approval to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

20.35.090 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Sections 20.35.350 – 20.35.370.

20.35.100 PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health and Family Services.
- (2) Building and site plan approvals for the campground are issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground are such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from

the floodplain for a minimum of 24 hours.

- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Sections 20.35.110 – 20.35.150 or Sections 20.35.160 – 20.35.190 for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

20.35.110 FLOODWAY DISTRICT (FW)

20.35.120 APPLICABILITY

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Section 20.35.210(4).

20.35.130 PERMITTED USES

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

- they are not prohibited by any other ordinance;
 - they meet the standards in Sections 20.35.140 and 20.35.150; and
 - all permits, approvals or certificates have been issued according to Section 20.35.290:
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Section 20.35.140(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with Sections 20.35.140 and 20.35.150.
- (5) Extraction of sand, gravel or other materials that comply with Section 20.35.140(4).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.
- (7) Public utilities, streets and bridges that comply with Section 20.35.140(3).

20.35.140 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

- (1) General
 - (a) Any development in floodway areas shall comply with Sections 20.35.060 - 20.35.100 and have a low flood damage potential.
 - (b) Applicants shall provide the following data to determine the effects of the proposal according to Section 20.35.070:
 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 2. An analysis calculating the effects of this proposal on regional flood height.
 - (c) The zoning administrator shall deny the application for a permit or building or site plan approval if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) Structures

Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit or building and site plan approval if the structures comply with the following criteria:

- (a) The structures are not designed for human habitation and do not have a high flood damage potential;
- (b) The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;
- (c) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
- (d) The structures have all service facilities at or above the flood protection elevation.

(3) Public Utilities, Streets and Bridges

Public utilities, streets and bridges may be allowed by permit or building and site plan approval, if:

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of Section 20.35.070.

(4) Fills or Deposition of Materials

Fills or deposition of materials may be allowed by permit or building and site plan approval, if:

- (a) The requirements of Section 20.35.070 are met;
- (b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;

20.35.000

FLOODPLAINS

- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (d) The fill is not classified as a solid or hazardous material.

20.35.150 PROHIBITED USES

All uses not listed as permitted uses in Section 20.35.130 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) Any public or private wells which are used to obtain portable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

20.35.160 FLOODFRINGE DISTRICT (FF)

20.35.170 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Section 20.35.210(4).

20.35.180 PERMITTED USES

Any structure, land use, or development is allowed in the floodfringe district if the standards in Section 20.35.190 are met, the use is not prohibited by this or any other ordinance or regulation and all permits, building and site plan approvals, or certificates specified in Section 20.35.290 have been issued.

20.35.190 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

Section 20.35.070 shall apply in addition to the following requirements according to the use requested.

(1) Residential Uses

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;

- (a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical and the Zoning Board of Appeals grants a variance;
- (b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
- (d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event;
or

2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) Accessory Structures or Uses

An accessory structure or use not connected to a principal structure shall be constructed with its lowest floor at or above the regional flood elevation, subject to flood velocities of no more than two feet per second, and shall meet all the provisions of Sections 20.35.190 (1).

(3) Commercial Uses

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of Section 20.35.190(1). Subject to the requirements of sub. (6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) Manufacturing and Industrial Uses

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in Section 20.35.330. Subject to the requirements of sub. (5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) Storage of Materials

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Section 20.35.330. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) Public Utilities, Streets and Bridges

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- (a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may

only be permitted or approved if they are floodproofed in compliance with Section 20.35.330 to the flood protection elevation;

- (b) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) Sewage Systems

All on-site sewage disposal systems shall be floodproofed, pursuant to Section 20.35.330, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

(8) Wells

All wells shall be floodproofed, pursuant to Section 20.35.330, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) Solid Waste Disposal Sites

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) Deposition of Materials

Any deposited material must meet all the provisions of this ordinance.

(11) Manufactured Homes

Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval of and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

- (a) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. have the lowest floor elevated to the flood protection elevation; and
 - 2. be anchored so they do not float, collapse or move laterally during a flood.
- (b) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes

shall meet the residential development standards for the floodfringe in Section 20.35.190(1).

(12) Mobile Recreational Vehicles

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Sections 20.35.190(11)(a) and (b). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

20.35.200 OTHER FLOODPLAIN DISTRICTS

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

20.35.210 GENERAL FLOODPLAIN DISTRICT (GFP)

(1) Applicability

The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

(2) Permitted Uses

Pursuant to Section 20.35.210(4), it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (Section 20.35.130) and floodfringe areas (Section 20.35.180) are allowed within the general floodplain district, according to the standards of Section 20.35.210(3), provided that all permits, building and site plan approvals, or certificates required under Section 20.35.290 have been issued.

(3) Standards for Development in the General Floodplain District

Sections 20.35.110 – 20.35.150 apply to floodway areas, and Sections 20.35.160 – 20.35.190 apply to floodfringe areas. The rest of this ordinance applies to either district.

(4) Determining Floodway and Floodfringe Limits

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - 1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - 2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - 3. Profile showing the slope of the bottom of the channel or flow line of the stream;
 - 4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (c) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Section 20.35.290(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

20.35.220 FLOOD STORAGE DISTRICT

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(1) Applicability

The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(2) Permitted Uses

Any use or development which occurs in a flood storage district must meet the applicable requirements in Section 20.35.190.

(3) Standards For Development In Flood Storage Districts

- (a) Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a foot in the height of the regional flood.
- (b) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (c) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without flood plain storage, as per Section 20.35.360 of this ordinance.
- (d) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

20.35.230 NONCONFORMING USES**20.35.240 GENERAL**(1) Applicability

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- (a) No modifications or additions to a nonconforming use or structure shall be permitted or approved unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted or approved, and the percentage of the structure's total current value those modifications represent;

- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 20.35.190(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e) Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted or approved in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.

- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with Section 20.35.140(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with Section 20.35.330 are used.

20.35.250 FLOODWAY AREAS

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (a) Has been granted a permit, building and site plan approval, or variance which meets all ordinance requirements;
 - (b) Meets the requirements of Section 20.35.240;
 - (c) Will not increase the obstruction to flood flows or regional flood height;
and

- (d) Any addition to the existing structure shall be floodproofed, pursuant to Section 20.35.330, by means other than the use of fill, to the flood protection elevation.
- (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood resistant materials;
 - 3. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevations; and
 - 4. The use must be limited to parking or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

20.35.260 FLOODFRINGE AREAS

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit, building and site plan approval, or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Section 20.35.190, except where Section 20.35.260(2) is applicable.
- (2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the

Zoning Board of Appeals, using the procedures established in Section 20.35.310, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted or approved if:

- (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, will not be installed;
 - (d) Flood depths will not exceed two feet;
 - (e) Flood velocities will not exceed two feet per second; and
 - (f) The structure will not be used for storage of materials as described in Section 20.35.190(6).
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
- (a) Meets all other regulations and will be granted by permit, building and site plan approvals, or variance;
 - (b) Does not exceed 60 square feet in area; and
 - (c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

20.35.270 FLOOD STORAGE AREAS

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in Section 20.35.220(3) are met.

20.35.280 ADMINISTRATION

Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

20.35.290 ZONING ADMINISTRATOR

- (1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
 - (a) Advise applicants of the ordinance provisions, assist in preparing applications for permits, building and site plan approvals, and appeals, and assure that the regional flood elevation for the proposed development is shown on all applications.
 - (b) Issue permits, approvals and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 - (c) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (d) Keep records of all official actions such as:
 1. All permits and approvals issued, inspections made, and work approved;
 2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 4. All substantial damage assessment reports for floodplain structures.
 - (e) Submit copies of the following items to the Department Regional office:
 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available from DNR at: <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>

- (f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- (g) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) Building and Site Plan Approval

Building and site plan approval shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

- (a) General Information
 1. Name and address of the applicant, property owner and contractor;
 2. Legal description, proposed use, and whether it is new construction or a modification;
- (b) Site Development Plan

A site plan drawn to scale shall be submitted with the application form and shall contain:

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary high-water mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;

4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Sections 20.35.110 – 20.35.150 or Sections 20.35.160 – 20.35.190 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Section 20.35.070. This may include any of the information noted in Sections 20.35.140(1).

(c) Data Requirements to Analyze Developments

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
 - a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 - b. A map showing location and details of vehicular access to lands outside the floodplain; and
 - c. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(d) Expiration

All approvals issued under the authority of this ordinance shall expire one (1) year after issuance.

(3) Certificate of Compliance

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit or approval is required, subject to the following provisions:

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (b) Application for such certificate shall be concurrent with the application for a permit or building and site plan approval;
- (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (d) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit or approvals issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of Section 20.35.330.

(4) Other Permits

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

20.35.300 ZONING AGENCY

(1) The City Plan Commission shall:

- (a) oversee the functions of the office of the zoning administrator; and

- (b) review and advise the governing body on all proposed amendments to this ordinance, maps and text.
- (2) The City Plan Commission shall not
- (a) grant variances to the terms of the ordinance in place of action by the Zoning Board of Appeals; or
 - (b) amend the text or zoning maps in place of official action by the governing body.

20.35.310 ZONING BOARD OF APPEALS

The Zoning Board of Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(1) Powers and Duties

The Zoning Board of Appeals shall:

- (a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) Appeals to the Board

- (a) Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

- (b) Notice and Hearing for Appeals Including Variances
 - 1. Notice - The Zoning Board of Appeals shall:
 - a. Fix a reasonable time for the hearing;
 - b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 - c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
 - 2. Hearing - Any party may appear in person or by agent. The Board shall:
 - a. Resolve boundary disputes according to Section 20.35.310(3).
 - b. Decide variance applications according to Section 20.35.310(4).
 - c. Decide appeals of denials of permits or building and site plan approvals according to Section 20.35.320.
- (c) Decision: The final decision regarding the appeal or variance application shall:
 - 1. Be made within a reasonable time;
 - 2. Be sent to the Department Regional office within 10 days of the decision;
 - 3. Be a written determination signed by the chairman or secretary of the Zoning Board of Appeals;
 - 4. State the specific facts which are the basis for the Board's decision;
 - 5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) Boundary Disputes

The following procedure shall be used by the Zoning Board of Appeals in hearing disputes concerning floodplain district boundaries:

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Sections 20.35.350 – 20.35.370.

(4) Variance

- (a) The Zoning Board of Appeals may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 3. The variance is not contrary to the public interest; and
 4. The variance is consistent with the purpose of this ordinance in Section 20.35.030.
- (b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
 1. The variance may not cause any increase in the regional flood elevation;

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (c) A variance shall not:
1. Grant, extend or increase any use prohibited in the zoning district.
 2. Be granted for a hardship based solely on an economic gain or loss.
 3. Be granted for a hardship which is self-created.
 4. Damage the rights or property values of other persons in the area.
 5. Allow actions without the amendments to this ordinance or map(s) required in Section 20.35.360.
 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted the Zoning Board of Appeals shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

20.35.320 TO REVIEW APPEALS OF DENIALS OF PERMITS OR APPROVALS

- (1) The Plan Commission (Section 20.35.300) or Zoning Board of Appeals shall review all data related to the appeal. This may include:
 - (a) Permit application data listed in Section 20.35.290(2).
 - (b) Floodway/floodfringe determination data in Section 20.35.210(4).

20.35.000**FLOODPLAINS**

- (c) Data listed in Section 20.35.140(1)(b)2. where the applicant has not submitted this information to the zoning administrator.
 - (d) Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits or approvals the Zoning Board of Appeals shall:
- (a) Follow the procedures of Section 20.35.310;
 - (b) Consider zoning agency recommendations; and
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Zoning Board of Appeals shall:
- (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

20.35.330 FLOODPROOFING

- (1) No permit, approval or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
- (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement; and

20.35.000

FLOODPLAINS

- (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
 - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
 - (b) Adding mass or weight to prevent flotation.
 - (c) Placing essential utilities above the flood protection elevation.
 - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
 - (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

20.35.340 PUBLIC INFORMATION

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

20.35.350 AMENDMENTS

20.35.360 GENERAL

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.

20.35.000

FLOODPLAINS

- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA web site - www.fema.gov - for the map change fee schedule.

20.35.370 PROCEDURES

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by Sections 20.35.210(4) and 20.35.290(2).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning

administrator's visual on-site inspections and other available information.
(See Section 20.35.050(4).)

20.35.380 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$50.00 and not more than \$500.00, together with a taxable cost 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 may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

20.35.390 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and is not discretionary.

- (1) "A-ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A-Zones. The A-Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (5) "BUILDING" - See STRUCTURE.
- (6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this ordinance.

- (7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- (9) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- (10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- (12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- (13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- (14) "DEVELOPMENT" - Any artificial 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 alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- (15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- (17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before

- the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- (18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- (20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
- The overflow or rise of inland waters,
 - The rapid accumulation or runoff of surface waters from any source,
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seethe, or by some similarly unusual event.
- (22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- (23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones

- and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- (32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

- (34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- (36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (38) "HISTORIC STRUCTURE" - Any structure that is either:
- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation

- of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently tow able by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- (43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (44) "NAVD" or "North American Vertical Datum" - Elevations referenced to mean sea level datum, 1988 adjustment;
- (45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- (46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (47) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

- (48) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (49) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in Section 20.35.050(2), which has been approved by the Department and FEMA.
- (51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- (52) "ORDINARY HIGHWATER MARK" - 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.
- (53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (54) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (55) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (57) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

- (58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (59) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- (61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- (62) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (63) "VARIANCE" - An authorization by the zoning board of appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (64) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, approvals, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

- (65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- (66) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (67) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.