

- (a) <sup>2</sup> The principal building housing the temporary use shall have been constructed prior to March 2, 2009.
- (b) The principal building housing the temporary use conforms to building code requirements for public occupancy and is adequately maintained to protect the health, safety and welfare of employees, customers and the general public, and shall conform to other regulations of the Town of Port Washington Municipal Code and this Chapter 340, or to federal, State of Wisconsin and Ozaukee County laws.
- (c) The proposed use will not have adverse effects upon adjacent properties, the character of the neighborhood, and the general health, safety and welfare of the general public.
- (d) The proposed use shall conform to the allowed uses within § 340-28, M-1 Industrial District.
- (e) The proposed use shall not require any building expansion, parking lot expansion, new or changed street access, adjacent street improvements, or any other off-site improvements. **[Amended 1-11-2012 by Ord. No. 2012-01]**

#### **§ 340-12. Reduction or joint use.**

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

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

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

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

The subdivision provisions of this chapter shall not apply to:

- A. A transfer of interest in land by will or pursuant to court order.
- B. A lease for a term not to exceed 10 years, mortgages or easements.

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2. Editor's Note: Former Subsection D(5)(a), regarding temporary uses being located only in the principal building on the property, was repealed 1-11-2012 by Ord. No. 2012-01. This ordinance also redesignated Subsection D(5)(b) through (f) as Subsection D(5)(a) through (e), respectively.

- C. The sale or exchange of parcels of land between owners of adjoining property if no additional lots are created and lots resulting are not reduced below the minimum sizes required by this chapter or the applicable laws or ordinances.

**§ 340-15. Land suitability.**

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

- A. Private sewer and water. In any district where public sewer service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site soil absorption sewage system or other appropriate means, designed in accordance with the Wisconsin Administrative Code.
- B. Street access required. No parcel shall hereafter be created or any building placed on a parcel which does not abut on a public street unless such parcel is in a residential district, has access by a permanent easement or road reservation to a public street, and does not conflict with plans for the future development of streets in the area. Where two parcels share the easement, the easement shall be 20 feet wide. Where three to five parcels share the easement, the easement shall be 30 feet wide. Where it is determined that there may be a need for a public street in the future, then a road reservation of 66 feet shall be shown on the certified survey map (CSM) or plat. No more than five parcels may be created with access provided by such easement or road reservation. **[Amended 11-13-2013 by Ord. No. 2013-06]**
- C. Existing unapproved private street. Subject to the approval of the Town Building Inspector, a building may be permitted on a parcel that does not abut on a public street. **[Amended 2-3-1999 by Ord. No. 99-2; 3-10-2004 by Ord. No. 2004-2; 11-3-2013 by Ord. No. 2013-061]**
- (1) In cases where there is, as of the effective date of this subsection, an existing unapproved private street and there are existing separate recorded parcels already created fronting upon said private street and provided further that, in such cases, the private street becomes legal access for those existing separate parcels to be served by said private street by satisfaction of all of the following terms and conditions:
- (a) The Town Building Inspector determines that one of the following is true regarding the subject parcel:

- [1] The subject parcel existed as a legal separate recorded parcel with a tax key number or parcel identification number as of the effective date of this subsection; or
  - [2] The subject parcel can be combined by certified survey map (CSM) with adjacent land into a larger parcel that conforms to the minimum lot area, lot dimensions, lot width, lot size, building location and building size of the zoning district in which it is located, provided that no smaller parcels are thereby created, and further provided that such CSM is approved and recorded pursuant to the required procedures of this chapter; or
  - [3] The subject parcel previously existed as described in Subsection C(1)(a)[1] but was combined by CSM as described in Subsection C(1)(a)[2].
- (b) The Town Building Inspector determines that the subject parcel is in a residential district.
  - (c) The Town Building Inspector determines that the subject parcel conforms to the minimum lot area, lot dimensions, lot width, lot sizes, building locations and building sizes of the zoning district in which it is located.
  - (d) The Town Building Inspector determines that the subject parcel has access by permanent easement on said private street to a public street.
  - (e) The Town Building Inspector determines that the ownership of the private street is clearly established.
- D. All structures shall be located on a lot. In residential districts, only one principal structure shall be located, erected, or moved onto a lot. The Plan Commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements or parking requirements or require a minimum separation distance between principal structures.
- E. No zoning permit shall be issued for a lot which abuts a street dedicated or reserved to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- F. Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards in the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.
- G. The following criteria apply:

- (1) All lands to be subdivided shall be at least two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, five feet above the elevation of the maximum flood on record.
- (2) No building sites shall be created which do not meet the standards as established in Ch. Comm 85, Wis. Adm. Code, and the Ozaukee County Community Health Code.

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

- A. It shall be unlawful to create a land division or construct or use any structure, land, or water in violation of any of the provisions of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the Town Board of Supervisors, the Building Inspector, the Town Plan Commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceed to enjoin a violation of this chapter. Any person, firm, company, corporation, owner, occupant, or other user of the premises who or which violates, disobeys, omits, neglects, resists, or refuses to comply with the enforcement of any provisions of this chapter shall be subject to a forfeiture of not less than \$5 and no more than \$2,000 and costs. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. No person shall build upon, divide, convey, record or place a monument on any land that is in violation of this chapter or the Wisconsin Statutes. Furthermore, no person shall be issued a zoning or building permit authorizing the building upon or improvement of any subdivision or replot within the jurisdiction of this chapter not of record as of the effective date of this chapter until the provisions and requirements of this chapter are fully met.

ARTICLE III  
**Zoning Districts**

**§ 340-17. Districts established; boundaries.**

- A. For the purpose of this chapter, the Town of Port Washington is hereby divided into the following zoning districts: [**Amended 8-16-2006 by Ord. No. 2006-3; 6-4-2007 by Ord. No. 2007-1-B; 12-7-2009 by Ord. No. 2009-08; 12-7-2009 by Ord. No. 2009-09; 11-7-2011 by Ord. No. 2011-06**]

- A-1** Exclusive Agricultural District
- A-2** General Agricultural District
- A-3** Agricultural Transition District
- ACS-1** Agricultural/Conservation Subdivision District
- R-1** Residential District
- R-2** Residential District

- R-3 Residential District
- B-1 Business District
- B-2 Neighborhood Business District
- TSD Town Square District
- BP-1 Business Park District
- BP-2 Transitional Business Park District
- M-1 Industrial District
- I-1 Institutional District
- P-1 Park and Recreation District
- PRD Planned Residential District Overlay
- PUD Planned Unit Development Overlay District
- KOD Knellsville Overlay Development Standards District

- B. Boundaries of these districts are hereby established as shown on the map titled "Zoning Map, Town of Port Washington, Ozaukee County, Wisconsin" which accompanies this chapter and is herein made a part of this chapter. Such boundaries shall be construed to follow corporate limits; United States Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended; and boundaries otherwise noted on the Zoning Map.
- C. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- D. See Article XIII, Administration and Enforcement.3

**§ 340-18. Zoning Map.**

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

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

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

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

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

B. Permitted uses.

- (1) All uses commonly classed as agriculture, horticulture, or forestry, including:

Apiculture (beekeeping)

Dairy farming

Floriculture

Grazing or pasturing

Livestock raising (except commercial feed lots and furr farms)

Orchards

Paddocks

Plant nurseries

Poultry raising (except commercial egg production)

Raising of grain grass, mints, and seed crops

Raising of tree fruits, nuts and berries

Sod farming

Vegetable raising

Viticulture

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

C. Permitted accessory uses.

- (1) Garages or carports.
- (2) Home occupations.
- (3) One temporary roadside stand for selected farm products produced on the premises and not exceeding 150 square feet in floor area according to the following:

- (a) Off-street parking for a minimum of four vehicles shall be provided.
  - (b) No such stand shall be permitted in a location where it would create a traffic hazard or nuisance.
  - (c) No such stand shall be closer than 50 feet to the existing street line or closer than 20 feet to any other lot line.
  - (d) One temporary sign, not to exceed 32 square feet in area, is allowed and shall be set back at least 10 feet from the road right-of-way.
- (4) Forest and game management.
  - (5) One single-family farm dwelling
- D. Conditional uses. See Article IV.
- E. Lot area and width. Farm dwellings or structures hereafter erected, moved, or structurally altered and related farm activities shall provide a contiguous area of not less than 35 acres, and no A-1 parcel shall be less than 660 feet in width.
- F. Farm building standards. [**Amended 8-4-2008 by Ord. No. 2008-011**]
- (1) General farm building height, or parts thereof, shall not exceed 100 feet in height.
  - (2) A single-family farm dwelling, or parts thereof, shall not exceed 42 feet in height. The total minimum floor area of a farm dwelling or other residential dwelling shall be 1,200 square feet with a minimum first floor area of 800 square feet.
- G. Yards.
- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.
  - (2) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
  - (3) There shall be a side yard on each side of the parcel not less than 25 feet in width.
  - (4) There shall be a rear yard of not less than 40 feet.
- H. No on-street parking will be allowed in an agricultural zoning district.
- I. Accessory structures (nonfarm). [**Added 8-4-2008 by Ord. No. 2008-01**]
- (1) General standards for accessory structures.
    - (a) Any accessory structure shall be located on a lot only with a principal structure.
    - (b) An accessory structure shall not be located closer than 10 feet to any principal structure, farm building or another accessory structure.

- (c) The combination of all accessory structure(s) on a lot shall not exceed 20% of the rear yard area.
  - (d) The combination of all accessory structure(s) on a lot shall not exceed 20% of the side yard area
  - (e) An accessory structure shall only be located in a rear or side yard. Where site conditions do not allow an accessory structure to be placed in a rear or side yard area, the Plan Commission may grant approval of an accessory structure in the street yard, where the applicant shows no other alternatives are available. If allowed in a street yard, the accessory structure shall conform with the street yard setback of the A-1 District.
  - (f) Only one accessory structure less than 151 square feet shall be located, erected or moved on a lot; and only one accessory structure over 151 square feet shall be located, erected or moved on a lot. The Plan Commission may permit more than one structure where more than one accessory structure is needed for the orderly development of the lot. If the Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, architectural design requirements and parking requirements or require additional minimum separation between structures.
  - (g) The use of an accessory structure shall be clearly customary and incidental to the principal use of the lot. No living quarters shall be permitted in an accessory structure.
  - (h) Accessory structure standards in the A-1 District shall not apply to farm buildings.
- (2) Standards for an accessory structure 150 square feet and smaller in size. These structures:
- (a) Shall not be located closer than 20 feet from any rear or side lot line.
  - (b) Shall comply with the minimum shore yard of 75 feet.
  - (c) Shall not exceed 15 feet in height.
- (<sup>3</sup>) Standards for an accessory structure between 150 square feet and 800 square feet in size. These structures:
- (a) Shall comply with the setbacks of the A-1 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 800 square feet and larger in size. These structures:
- (a) Shall require Plan Commission approval as a conditional use, pursuant to the procedures of Article IV.



- (b) Shall comply with the setbacks of the A-1 District.
- (c) Shall not exceed 35 feet in height.

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

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

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

**B.** Permitted uses.

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

**C.** Permitted accessory uses.

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

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

D. Conditional uses. See Article IV.

E. Lot size and minimum lot width.

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

F. Dwelling standards.

- (1) A single-family dwelling within the A-2 District shall have a minimum living area measured in square feet from the outside of exterior walls, excluding cellars, basements, open porches, breezeways, garages, and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, of 1,600 square feet with a minimum of 800 square feet being located on the first floor.
- (2) Each single-family dwelling shall have a garage that is a minimum of 400 square feet in area.

G. Building height. **Amended 8-4-2008 by Ord. No. 2008-011**

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

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

- I. Minimum building offset. No building or structure hereafter erected shall be placed closer than 25 feet to a side or rear lot line. Buildings or structures housing livestock shall not be erected closer than 50 feet to a side or rear lot line.
- J. Accessory structures. **[Added 8-4-2008 by Ord. No. 2008-011]**
- (1) General standards for accessory structures.
    - (a) Any accessory structure shall be located on a lot only with a principal structure.
    - (b) An accessory structure shall not be located closer than 10 feet to any principal structure, farm building or another accessory structure.
    - (c) The combination of all accessory structure(s) on a lot shall not exceed 20% of the rear yard area.
    - (d) The combination of all accessory structure(s) on a lot shall not exceed 20% of the side yard area.
    - (e) An accessory structure shall only be located in a rear or side yard. Where site conditions do not allow an accessory structure to be placed in a rear or side yard area, the Plan Commission may grant approval of an accessory structure in the street yard, where the applicant shows no other alternatives are available. If allowed in a street yard, the accessory structure shall conform with the street yard setback of the A-2 District.
    - (f) Only one accessory structure less than 151 square feet shall be located, erected or moved on a lot; and only one accessory structure over 151 square feet shall be located, erected or moved on a lot. The Plan Commission may permit more than one structure where more than one accessory structure is needed for the orderly development of the lot. If the Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, architectural design requirements and parking requirements or require additional minimum separation between structures.
    - (g) The use of an accessory structure shall be clearly customary and incidental to the principal use of the lot. No living quarters shall be permitted in an accessory structure.
  - (2) Standards for an accessory structure 150 square feet and smaller in size. These structures:
    - (a) Shall not be located closer than 20 feet from any rear or side lot line.
    - (b) Shall comply with the minimum shore yard of 75 feet.
    - (c) Shall not exceed 15 feet in height.
  - (3) Standards for an accessory structure between 150 square feet and 800 square feet in size. These structures:

- (a) Shall comply with the setbacks of the A-2 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 800 square feet and larger in size. These structures:
- (a) Shall require Plan Commission approval as a conditional use, pursuant to the procedures of Article IV.
  - (b) Shall comply with the setbacks of the A-2 District.
  - (c) Shall not exceed 35 feet in height.

**§ 340-20.1. A-3 Agricultural Transition District. [Added 12-7-2009 by Ord. No. 2009-081**

A. Intent. The A-3 Agricultural Transition District is intended to accommodate lots or parcels existing on December 7, 2009, within the A-1 Exclusive Agricultural District that do not conform to the minimum required lot or parcel size of 35 acres applicable to the A-1 Exclusive Agricultural District where rezoning will achieve one or more of the following:

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

B. Eligible property. The following categories of lots or parcels existing on December 7, 2009 are eligible for inclusion within the A-1 Exclusive Agricultural District:

- (1) Lots or parcels less than five acres in size.
  - (2) Developed lots or parcels between five and 35 acres in size with an existing single-family farm dwelling or a single-family detached dwelling, except for parcels five acres in size that were created via the farm consolidation standards of this Chapter 340.
  - (3) Undeveloped lots or parcels between five and 35 acres in size without any buildings or structures, with less than 330 feet of frontage along a public right-of-way.
- C. Limitations of A-3 zoning. Classification within the A-3 Agricultural Transition District shall be limited by the following:
- (1) No lot or parcel shall be divided to create lots or parcels to create eligibility for A-3 Exclusive Agricultural District zoning.
  - (2) A lot or parcel with A-3 Agricultural Transition District zoning shall not be further divided through either a subdivision, certified survey map, or a land transfer between adjoining properties unless the resulting lot or parcel is also rezoned to another zoning district under this Chapter 340 that conforms to the requested land division.
- D. Permitted uses.
- (1) Parcels five acres or less.
    - (a) Single-family dwelling.
    - (b) Essential services.
    - (c) Community living arrangements [§ 62.23(7)(i)2 to 10, Wis. Stats.].
  - (2) Parcels greater than five acres and less than 35 acres.
    - (a) Single-family dwelling.
    - (b) Farm dwelling.
    - (c) Community living arrangement [§ 62.23(7)(i)2 to 10, Wis. Stats.].
    - (d) All uses commonly classed as agriculture, horticulture, or forestry, including:
      - [1] Apiculture (beekeeping).
      - [2] Dairy farming.
      - [3] Floriculture.
      - [4] Grazing or pasturing.
      - [5] Livestock raising (except commercial feed lots and fur farms).
      - [6] Orchards.

- [7] Paddocks.
- [8] Plant nurseries.
- [9] Poultry raising (except commercial egg production).
- [10] Raising of grain grass, mints, and seed crops.
- [11] Raising of tree fruits, nuts and berries.
- [12] Sod farming.
- [13] Vegetable raising.
- [14] Viticulture.
- (e) General farm buildings, including barns, silos, sheds, and storage bins.
- (f) Services essential and integral to the operation of the farm.

E. Permitted accessory uses.

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

- [5] The home occupation shall not include the conducting of any retail or wholesale business on the premises.
  - [6] The home occupation shall not include outside storage of materials or other operational activity resulting in offensive noise, vibration, smoke, dust, odors, heat or glare which may create a nuisance or be otherwise incompatible with the surrounding residential area.
- (d) One temporary roadside stand for selected farm products produced on the premises and not exceeding 150 square feet in floor area according to the following:
- [1] Off-street parking for a minimum of four vehicles shall be provided.
  - [2] No such stand shall be permitted in a location where it would create a traffic hazard or nuisance.
  - [3] No such stand shall be closer than 50 feet to the existing street line or closer than 20 feet to any other lot line.
  - [4] One temporary sign, not to exceed 32 square feet in area, is allowed and shall be set back at least 10 feet from the road right-of-way.
- (e) Forest and game management.
- (f) Horse and accessory private stable or shelter, provided that the lot or parcel is a minimum of five acres in area and provided also that any such stable or shelter is located at least 100 feet from any existing adjoining residences. The Plan Commission may permit a maximum of three large domesticated animals on the first five acres of the lot or parcel and one additional domesticated animal for each additional two acres of lot or parcel area.
- F. Conditional uses. Only the following enumerated conditional uses may be allowed within the A-3 Agriculture Transition District.
- (1) Parcels greater than five acres and less than 35 acres.
    - (a) Housing for farm laborers and for seasonal and migratory farm workers.
    - (b) Commercial raising, propagation, boarding, or butchering of animals, such as mink, rabbits, foxes, goats, and pigs, and the hatching, raising, fattening, or butchering of the same.
    - (c) Veterinary services intended to service farm animals, provided that all principal uses and structures are located not less than 200 feet from a residential district.
    - (d) Creameries and condenseries; agricultural warehousing; contract sorting, grading, and packaging of fruits and vegetables; corn shelling, hay baling, and threshing services; grist mill services; horticultural services; and poultry hatching services.

- (e) Boat and recreation vehicle storage when the storage is in a completely enclosed structure which is at least 10 years old.
- (f) Commercial agricultural uses including:
  - [1] Commercial hatcheries.
  - [2] Commercial greenhouses.
  - [3] Animal kennels.
  - [4] Parks, forest preserves, and recreational areas.
  - [5] Horse riding academies and boarding stables.
  - [6] Private utilities.
  - [7] Raising of fir-bearing animals.
  - [8] Stock raising.
  - [9] Commercial dairy.
- (2) Parcels greater than one acre. **[Added 5-11-2011 by Ord. No. 2011-03]** (a) Home industries, subject to Article IV, § 340-38K.

#### G. Lot area and width.

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

#### H. Building height and area.

- (1) The height of any dwelling unit shall not exceed 42 feet.
- (2) The total minimum floor area of a farm dwelling or other residential dwelling shall be 1,200 square feet with a minimum first floor area of 800 square feet.
- (3) All single-family dwellings shall have a garage that is a minimum of 400 square feet in area.
- (4) The height of farm structures shall not exceed 60 feet.

#### I. Yards.



- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.

(1)\*\*

- (2) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (3) There shall be a side yard on each side of the parcel not less than 25 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.
- (5) No on-street parking will be allowed in an agricultural zoning district.

J. New single-family dwelling construction.

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

**§ 340-20.2. ACS-1 Agricultural/Conservation Subdivision District. [Added 12-7-2009 by Ord. No. 2009-091**

A. Location. An Agricultural Conservation Subdivision may be allowed by the Town within the area designated as Mixed Agriculture/Conservation Subdivision in the Comprehensive Plan 2035.

B. Intent. The intent of the ACS-1 Agricultural/Conservation Subdivision District is to allow a limited amount of residential subdivision lots to be developed while maintaining and preserving significant natural open space areas and prime agricultural lands historically utilized for crop production and the raising of livestock within an area designated as "Mixed Agricultural/Conservation" within the Comprehensive Plan 2035 for the Town of Port Washington. This district is further intended to assist the economic feasibility of existing farming operations by allowing carefully planned condensed residential development to preserve the rural Town character and to:

- (1) Prohibit residential development of a single-family home on a minimum of 35 acres, effectively removing agriculturally productive farmlands.
- (2) Preserve environmentally sensitive lands such as primary environmental corridors, secondary environmental corridors, wetlands, woodlands, and steep slopes through permanent preservation of open space and natural resources with housing concentrated on portions of the proposed subdivision site that have lower quality natural features.
- (3) Preserve productive farmland for continued agricultural operations.
- (4) Provide design flexibility and efficiency for residential development while preserving continued agriculture and open space.

C. Definitions. For the purposes of this § 340-20.2, the following definitions apply:

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

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

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

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

**(1) Overall conservation subdivision.**

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

**(2) Residential lot.**

**(a) Lot area and width.**

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

- [2] Residential lot width shall be a minimum of 100 feet at the building setback line.
  - [3] All residential lots shall be of sufficient size to accommodate an on-site sewerage system in accordance with the Ozaukee County Department of Planning, Resources, and Land Management Sanitation Regulations.
- (b) All residential lots created through the conservation subdivision shall abut a public right-of-way of local jurisdiction.
  - (c) If an area of the conservation subdivision is designated as "common open space," all residential lots created through a conservation subdivision design shall have physical access to the common open space via abutting residential lot, public right-of-way, or dedicated walking path.
  - (d) The final plat and recorded deed restriction(s) of a conservation subdivision approved by the Town of Port Washington shall include a provision that states: "Those who purchase residential lots have been made aware of, and understand, the agricultural conservation area may be used for active agricultural purposes, which may cause dust, noise, lights, and odors typically associated with farming operations."
- (3) Conservation lot.
- (a) The conservation lot can be utilized in one of the three following scenarios:
    - [1] Conservation lot consisting of a farmstead.
    - [2] Conservation lot with productive agricultural use.
    - [3] Conservation lot consisting of two or more platted lots that:
      - [a] Preserve natural areas by a homeowners' association or under similar fractional ownership where each residential lot owner shall have an equal undivided interest in the conservation lot; or
      - [b] Promote productive agricultural or open space use.
  - (b) Deed restrictions shall be presented to the Town for approval prior to their recording and shall include provisions satisfactory to the Town that they:
    - [1] Restrict all further development, except agricultural buildings essential to farming operations.
    - [2] Allow farm consolidation of existing farmstead on conservation lot pursuant to farm consolidation standards of this Chapter 340.
    - [3] Designate common open space, if identified, which shall be owned and maintained by a homeowner's association or similar fractional ownership where each residential lot owner shall have an equal undivided interest and identified as such in the recorded deed restriction(s).

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

**E. Approval process.**

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

**F. Use standards.**

**(1) Permitted uses.****(a) Residential lot.**

- [1] Single-family dwellings.
- [2] Essential services.
- [3] Farmstead.
- [4] Community living arrangements [§ 62.23(7)(i)2 to 10, Wis. Stats.].

**(b) Conservation lot.**

- [1] Farmstead.
- [2] All uses commonly classed as aviculture, horticulture, or forestry, including:
  - [a] Orchards.
  - [b] Plant nurseries.
  - [c] Raising of grain grass, mints, and seed crops.
  - [d] Raising of tree fruits, nuts and berries.
  - [e] Sod farming.
  - [f] Vegetable raising.
  - [g] Viticulture.
  - [h] General farm buildings, including barns, silos, sheds, and storage bins.
  - [i] Services essential and integral to the operation of the farm.

[<sup>3</sup>] Permanent open space.

**(2) Permitted accessory uses.****(a) Residential lot.**

- [1] Private garages and carports.
- [2] Home occupations.
- [3] Gardening, tool and storage sheds incidental to the residential use.

**(b) Conservation lot.**

- [1] Private garages and carports associated with existing farmstead.
- [2] Home occupations within existing farmstead.

- [3] One temporary roadside stand for selected farm products produced on the premises and not exceeding 150 square feet in floor area according to the following:
- [a] Off-street parking for a minimum of four vehicles shall be provided.
  - [b] No such stand shall be permitted in a location where it would create a traffic hazard or nuisance for the residential uses.
  - [c] No such stand shall be closer than 50 feet to the existing street center line or residential use, or closer than 20 feet to any other lot line.
  - [d] One temporary sign, not to exceed 32 square feet in area, is allowed and shall be set back at least 10 feet from the road right-of-way.
- (3) Conditional uses.
- (a) Residential lot.
    - [1] See Article IV.
  - (b) Conservation lot.
    - [1] Dairy farming.
    - [2] Grazing or pasturing.
    - [3] Livestock raising (except commercial feed lots and fur farms).
    - [4] Home industries, subject to Article IV, § 340-38K. **[Added 5-11-2011 by Ord. No. 2011-03]**
- (4) Raising of chickens in accordance with the following: **[Added 2-7-2011 by Ord. No. 2011-02]**
- (a) All residential lots are permitted to keep up to five chickens.
  - (b) Residential lots equal to or greater than 32,670 square feet (3/4 acre) are permitted to keep up to 25 chickens with appropriate license from the Town of Port Washington.
    - [1] Any person raising more than five chickens shall obtain an annual license prior to January 1 of each year, or within 30 days of acquiring the chickens.
    - [2] The yearly license commences January 1 and expires on the following December 1.
    - [3] The license application and fee shall be provided to the Town Treasurer.

- [4] The Treasurer or other authorized individual shall collect the fee and shall assess and collect a late fee from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to obtain a license within 30 days of acquiring the chickens. All late fees received or collected shall be paid into the local treasury.
  - [5] The applicant for a license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner or operator. Notification is not required for renewal of a license.
  - [6] The Zoning Administrator may revoke a license if there are three or more violations within any six-month period of any ordinance regulating the keeping of domestic poultry in the Town of Port Washington.
- (c) No person shall keep any rooster.
  - (d) Slaughtering/butchering chickens is not permitted.
  - (e) All chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
  - (f) Enclosures (fenced or covered) used for raising chickens shall not be located in the street yard.
  - (g) Enclosures (fenced or covered) shall not be located within the side or rear yard setback.
  - (h) All chicken feed shall be stored in rodent- pest-proof containers.
  - (i) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at any property line.
  - (j) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

#### G. Building height and area.

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

#### H. Yards.

- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.
- (2) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.



- (3) There shall be a side yard on each side of the residential lot not less than 20 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.
- (5) ACS-1 residential lots (or uses) adjacent to a B-1 or M-1 lot (or use) shall include a buffer that conforms to the landscaping and fencing regulations in § 340-59 along any side of a lot abutting a residential district.

I. Accessory structures for residential lots.

(1) General standards for accessory structures.

- (a) Any accessory structure shall be located on a lot only with a principal structure.
- (b) An accessory structure shall not be located closer than 10 feet to any principal structure, or another accessory structure.
- (c) The combination of all accessory structure(s) on a lot shall not exceed 20% of the rear yard area.
- (d) The combination of all accessory structure(s) on a lot shall not exceed 20% of the side yard area.
- (e) An accessory structure shall only be located in a rear or side yard. Where site conditions do not allow an accessory structure to be placed in a rear or side yard area, the Plan Commission may grant approval of an accessory structure in the street yard, where the applicant shows no other alternatives are available. If allowed in a street yard, the accessory structure shall conform with the street yard setback of the ACS-1 District.
- (f) Only one accessory structure less than 151 square feet shall be located, erected or moved on a lot; and only one accessory structure over 151 square feet shall be located, erected or moved on a lot. The Plan Commission may permit more than one structure where more than one accessory structure is needed for the orderly development of the lot. If the Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, architectural design requirements and parking requirements or require additional minimum separation between structures.
- (g) The use of an accessory structure shall be clearly customary and incidental to the principal use of the lot. No living quarters shall be permitted in an accessory structure.

(2) Standards for an accessory structure 150 square feet and smaller in size. These structures:

- (a) Shall not be located closer than 20 feet from any rear or side lot line.
- (b) Shall comply with the minimum shore yard of 75 feet.

- (c) Shall not exceed 15 feet in height.
- (3) Standards for an accessory structure between 150 square feet and 800 square feet in size. These structures:
- (a) Shall comply with the setbacks of the ACS-1 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 800 square feet and larger in size. These structures:
- (a) Shall require Plan Commission approval as a conditional use, pursuant to the procedures of Article IV.
  - (b) Shall comply with the setbacks of the ACS-1 District.
  - (c) Shall not exceed 35 feet in height.

#### **§ 340-21. R-1 Residential District.**

The R-1 Residential District is intended to provide for lakeshore single-family development, at densities not to exceed 0.75 dwelling unit per net acre, served by on-site soil absorption sanitary sewerage systems or other appropriate means and private wells.

##### A. Permitted uses.

- (1) Single-family dwellings.
- (2) Essential services.
- (3) Community living arrangements [§ 62.23(7)(i)2 to 10, Wis. Stats.].

##### B. Permitted accessory uses.

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Home occupations.
- (4) Raising of chickens in accordance with the following: **[Added 2-7-2011 by Ord. No. 2011-02]**
  - (a) All residential lots are permitted to keep up to five chickens.
  - (b) Residential lots equal to or greater than 32,670 square feet (3/4 acre) are permitted to keep up to 25 chickens with appropriate license from the Town of Port Washington.

[1] Any person raising more than five chickens shall obtain an annual license prior to January 1 of each year, or within 30 days of acquiring the chickens.

- [2] The yearly license commences January 1 and expires on the following December 1.
  - [3] The license application and fee shall be provided to the Town Treasurer.
  - [4] The Treasurer or other authorized individual shall collect the fee and shall assess and collect a late fee from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to obtain a license within 30 days of acquiring the chickens. All late fees received or collected shall be paid into the local treasury.
  - [5] The applicant for a license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner or operator. Notification is not required for renewal of a license.
  - [6] The Zoning Administrator may revoke a license if there are three or more violations within any six-month period of any ordinance regulating the keeping of domestic poultry in the Town of Port Washington.
- (c) No person shall keep any rooster.
  - (d) Slaughtering/butchering chickens is not permitted.
  - (e) All chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
  - (0 Enclosures (fenced or covered) used for raising chickens shall not be located in the street yard.
  - (g) Enclosures (fenced or covered) shall not be located within the side or rear yard setback.
  - (h) All chicken feed shall be stored in rodent-/pest-proof containers.
  - (i) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at any property line.
  - (j) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.
- C. Conditional uses. See Article IV.
- D. Lot area and width. Lots shall have a minimum area of 1 1/2 acre and shall not be less than 140 feet in width.
- E. Dwelling standards.
- (1) Single-family dwellings within the R-1 District shall have a minimum living area measured in square feet from the outside of exterior walls, excluding cellars, basements, open porches, breezeways, garages, and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, in accordance with the following:

- (a) First floor: 800 square feet minimum.
- (b) Total living area: 2,000 square feet minimum.

- (2) Each single-family dwelling shall have a garage that is a minimum of 400 square feet in area.

F. Building height. No buildings or parts of buildings shall exceed 42 feet in height.  
**[Amended 8-4-2008 by Ord. No. 2008-01]**

G. Yards.

- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.
- (2) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (3) There shall be a side yard on each side of the parcel not less than 25 feet in width.
- (4) When a new R-1 residential lot (or use) is created adjacent to a B-1 or M-1 lot (or use) there shall be a buffer on that lot that conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district. **[Added 8-5-1999 by Ord. No. 99-6]**

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

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

feet shall be located, erected or moved on a lot. The Plan Commission may permit more than one structure where more than one accessory structure is needed for the orderly development of the lot. If the Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, architectural design requirements and parking requirements or require additional minimum separation between structures.

- (g) The use of an accessory structure shall be clearly customary and incidental to the principal use of the lot. No living quarters shall be permitted in an accessory structure.
- (2) Standards for an accessory structure 150 square feet and smaller in size. These structures:
- (a) Shall not be located closer than 20 feet from any rear or side lot line.
  - (b) Shall comply with the minimum shore yard of 75 feet.
  - (c) Shall not exceed 15 feet in height.
- (3) Standards for an accessory structure between 150 square feet and 800 square feet in size. These structures:
- (a) Shall comply with the setbacks of the R-1 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 800 square feet and larger in size. These structures:
- (a) Shall require Plan Commission approval as a conditional use, pursuant to the procedures of Article IV.
  - (b) Shall comply with the setbacks of the R-1 District.
  - (c) Shall not exceed 25 feet in height.

**§ 340-21.1. R-3 Residential District. [Added 11-7-2011 by Ord. No. 2011-06]**

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

A. Permitted uses.

- (1) Single-family dwellings.
- (2) Essential services.

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

B. Permitted accessory uses.

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Home occupations.

C. Conditional uses. See Article IV.

- D. Lot area and width. Lots shall have a minimum area of 3/4 acre and shall not be less than 110 feet in width.

E. Dwelling standards.

- (1) Single-family dwellings within the R-3 District shall have a minimum living area measured in square feet from the outside of exterior walls, excluding cellars, basements, open porches, breezeways, garages, and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, in accordance with the following:

- (a) First floor: 800 square feet minimum.
- (b) Total living area: 1,200 square feet minimum.

- (2) Each single-family dwelling shall have a garage that is a minimum of 400 square feet in area.

- F. Building height. No buildings or parts of buildings shall exceed 42 feet in height.

G. Yards.

- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.
- (2) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (3) There shall be a side yard on each side of the parcel not less than 15 feet in width.
- (4) When a new R-3 residential lot (or use) is created adjacent to a B-1 or M-1 lot (or use) there shall be a buffer on that lot that conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district.

H. Accessory structures.

- (1) General standards for accessory structures.
  - (a) Any accessory structure shall be located on a lot only with a principal structure.

- (b) An accessory structure shall not be located closer than 10 feet to any principal structure, or another accessory structure.
  - (c) The combination of all accessory structure(s) on a lot shall not exceed 20% of the rear yard area.
  - (d) The combination of all accessory structure(s) on a lot shall not exceed 20% of the side yard area.
  - (e) An accessory structure shall only be located in a rear or side yard. Where site conditions do not allow an accessory structure to be placed in a rear or side yard area, the Plan Commission may grant approval of an accessory structure in the street yard, where the applicant shows no other alternatives are available. If allowed in a street yard, the accessory structure shall conform to the street yard setback of the R-3 District. However, where lots abut Lake Michigan, one accessory structure shall be allowed in the street yard without Plan Commission approval, subject to compliance with all other accessory structure standards.
  - (f) Only one accessory structure less than 151 square feet shall be located, erected or moved on a lot; and only one accessory structure over 151 square feet shall be located, erected or moved on a lot. The Plan Commission may permit more than one structure where more than one accessory structure is needed for the orderly development of the lot. If the Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, architectural design requirements and parking requirements or require additional minimum separation between structures.
  - (g) The use of an accessory structure shall be clearly customary and incidental to the principal use of the lot. No living quarters shall be permitted in an accessory structure.
- (2) Standards for an accessory structure 150 square feet and smaller in size. These structures:
- (a) Shall not be located closer than 20 feet from any rear or side lot line.
  - (b) Shall comply with the minimum shore yard of 75 feet.
  - (c) Shall not exceed 15 feet in height.
- (<sup>3</sup>) Standards for an accessory structure between 150 square feet and 800 square feet in size. These structures:
- (a) Shall comply with the setbacks of the R-3 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 800 square feet and larger in size. These structures:

- (a) Shall require Plan Commission approval as a conditional use, pursuant to the procedures of Article IV.
- (b) Shall comply with the setbacks of the R-3 District.
- (c) Shall not exceed 25 feet in height.

**§ 340-22. R-2 Residential District.**

The R-2 Residential District is intended to provide for single-family development, at densities not to exceed one dwelling unit per net acre, served by on-site soil absorption sanitary sewerage systems or other appropriate means and private wells. Areas placed in this district by means of rezoning should be adjacent to an R-2 District or not be less than 20 acres.

A. Permitted uses.

- (1) Single-family dwellings.
- (2) Essential services.
- (3) Community living arrangements [§ 62.23(7)(i)2 to 10, Wis. Stats.].

B. Permitted accessory uses.

- (1) Private garages and carports.
- (2) Gardening, tool and storage sheds incidental to the residential use.
- (3) Home occupations as specified herein.
- (4) Raising of chickens in accordance with the following: **[Added 2-7-2011 by Ord. No. 2011-021**
  - (a) All residential lots are permitted to keep up to five chickens.
  - (b) Residential lots equal to or greater than 32,670 square feet (3/4 acre) are permitted to keep up to 25 chickens with appropriate license from the Town of Port Washington.
    - [1] Any person raising more than five chickens shall obtain an annual license prior to January 1 of each year, or within 30 days of acquiring the chickens.
    - [2] The yearly license commences January 1 and expires on the following December 1.
    - [3] The license application and fee shall be provided to the Town Treasurer.
    - [4] The Treasurer or other authorized individual shall collect the fee and shall assess and collect a late fee from every owner of chickens, if the owner fails to obtain a license prior to April 1 of each year, or fails to



obtain a license within 30 days of acquiring the chickens. All late fees received or collected shall be paid into the local treasury.

[5] The applicant for a license notifies all residents of the property and the owner or operator of the property if the applicant is not the owner or operator. Notification is not required for renewal of a license.

[6] The Zoning Administrator may revoke a license if there are three or more violations within any six-month period of any ordinance regulating the keeping of domestic poultry in the Town of Port Washington.

- (c) No person shall keep any rooster.
- (d) Slaughtering/butchering chickens is not permitted.
- (e) All chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
- (f) Enclosures (fenced or covered) used for raising chickens shall not be located in the street yard.
- (g) Enclosures (fenced or covered) shall not be located within the side or rear yard setback.
- (h) All chicken feed shall be stored in rodent- pest-proof containers.
- (i) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at any property line.
- (j) Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

C. Conditional uses. See Article IV.

D. Lot area and width. Lots shall have a minimum area of one acre and shall not be less than 120 feet in width.

E. Dwelling standards

- (1) A single-family dwelling within the R-2 District shall have a minimum living area measured in square feet from the outside of exterior walls, excluding cellars, basements, open porches, breezeways, garages, and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, in accordance with the following:
  - (a) First floor: 800 square feet minimum.
  - (b) Total living area: 1,200 square feet minimum.
- (2) Each single-family dwelling shall have a garage that is a minimum of 400 square feet in area.

F. Building height. No building or parts of a building shall exceed 42 feet in height. [**Amended 8-4-2008 by Ord. No. 2008-011**]

G. Yards.

- (1) A minimum street yard (setback) of 50 feet from the highway or road right-of-way shall be required.
- (2) A minimum shore yard of 75 feet from the high-water elevation of any navigable water shall be required.
- (3) There shall be a side yard on each side of the parcel not less than 20 feet in width.
- (4) There shall be a rear yard of not less than 40 feet.
- (5) When a new R-2 residential lot (or use) is created adjacent to a B-1 or M-1 lot (or use) there shall be a buffer on that lot that conforms to the landscaping and fencing regulations in § 340-59 along any side abutting a residential district. [**Added 8-5-1999 by Ord. No. 99-6**]

H. Accessory structures. [**Added 8-4-2008 by Ord. No. 2008-011**]

- (1) General standards for accessory structures.
  - (a) Any accessory structure shall be located on a lot only with a principal structure.
  - (b) An accessory structure shall not be located closer than 10 feet to any principal structure, or another accessory structure.
  - (c) The combination of all accessory structure(s) on a lot shall not exceed 20% of the rear yard area.
  - (d) The combination of all accessory structure(s) on a lot shall not exceed 20% of the side yard area.
  - (e) An accessory structure shall only be located in a rear or side yard. Where site conditions do not allow an accessory structure to be placed in a rear or side yard area, the Plan Commission may grant approval of an accessory structure in the street yard, where the applicant shows no other alternatives are available. If allowed in a street yard, the accessory structure shall conform with the street yard setback of the R-2 District.
  - (f) Only one accessory structure less than 151 square feet shall be located, erected or moved on a lot; and only one accessory structure over 151 square feet shall be located, erected or moved on a lot. The Plan Commission may permit more than one structure where more than one accessory structure is needed for the orderly development of the lot. If the Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, architectural design requirements and parking requirements or require additional minimum separation between structures.

- (g) The use of an accessory structure shall be clearly customary and incidental to the principal use of the lot. No living quarters shall be permitted in an accessory structure.
- (2) Standards for an accessory structure 150 square feet and smaller in size. These structures:
  - (a) Shall not be located closer than 20 feet from any rear or side lot line.
  - (b) Shall comply with the minimum shore yard of 75 feet.
  - (c) Shall not exceed 15 feet in height.
- (3) Standards for an accessory structure between 150 square feet and 800 square feet in size. These structures:
  - (a) Shall comply with the setbacks of the R-2 District.
  - (b) Shall not exceed 25 feet in height.
- (4) Standards for an accessory structure 800 square feet and larger in size. The structures:
  - (a) Shall require Plan Commission approval as a conditional use, pursuant to the procedures of Article IV.
  - (b) Shall comply with the setbacks of the R-2 District.
  - (c) Shall not exceed 35 feet in height.

**§ 340-23. B-1 Business District.**

The **B-1** Business District is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer services which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.

A. Permitted uses.

- (1) Retail stores and shops which supply convenience and specialized goods and services, including but not limited to groceries, meats, dairy products, baked goods or other convenience goods, dry goods, and notions.
- (2) Business and professional offices.
- (3) Dental and medical clinics.
- (4) Finance insurance, real estate, banks, savings and loan associations and security brokers.
- (5) Bowling alleys.
- (6) Restaurants and taverns.

- (7) Personal and professional service establishments which perform services on premises, including but not limited to repair shop, tailor shop, beauty parlor, barbershop, photographic studio, dry cleaner, and laundry.
- (8) Self-storage business.
- (9) Public or private schools, colleges, and universities.
- (10) Child day-care facilities licensed under § 48.48, Wis. Stats.
- (11) Churches.
- (12) Hospitals, sanitariums, nursing homes, public clinics, libraries, museums, and art galleries.
- (13) Lodges.
- (14) Public administrative offices and public service buildings, including fire and police stations.