

**Chapter 485****ZONING**

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**[HISTORY: Adopted by the Common Council of the City of Port Washington 2-2-1965; as amended through 2014 (§§ 20.01 to 20.34.200 and 20.34.220 to 20.34.320 of the 1984 Code). Subsequent amendments noted where applicable.]**

ARTICLE I  
**General Provisions**

**§ 485-1. Title.**

This chapter shall be known as the "Zoning Ordinance of the City of Port Washington."

**§ 485-2. Authority.**

This chapter is adopted pursuant to the authorization in § 62.23(7), Wis. Stats.

**§ 485-3. Purpose. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

The provisions of this chapter 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; and otherwise to provide for the healthy and prosperous growth of the community.

**§ 485-4. Scope.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to law; provided, however, that where this chapter 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 chapter shall govern.

**§ 485-5. (Reserved)<sup>1</sup>****§ 485-6. State, county and municipal lands and facilities.**

Unless specifically exempted by state statute, all state, county, City or other municipal lands or facilities within the jurisdiction of this chapter shall comply with this chapter and obtain all of its necessary permits. State agencies are required to comply if § 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 § 30.2022, Wis. Stats., applies.

**§ 485-7. Abrogation and greater restrictions. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- A. Abrogation. It is not the intent of this chapter 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 of such interference may be

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1. Editor's Note: Original § 20.01.060, Compliance - other permits, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

processed through the appeals procedure provided for in Article VIII of this chapter.

- B. Greater restrictions. Where this chapter permits a property to be placed in more than one zone, as in the case of overlay districts, the more restrictive regulations shall apply. Where this chapter regulates the same or similar items as contained in easements, covenants, or deed restrictions, and where this chapter imposes greater restrictions, the provisions of this chapter shall apply.



## ARTICLE II

**Interpretation and Definitions****§ 485-8. Interpretation. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

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

**§ 485-9. Warning and disclaimer of liability. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

In adopting this chapter 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 chapter, 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, 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 chapter to reduce traffic congestion and improve safety may still experience some levels of congestion and experience some accidents, and landscape requirements imposed to screen adverse views may still admit partial views. Therefore the City asserts that adoption and enforcement of this chapter does not create liability on the part of, or a cause of action against, the Council, its commissions, boards or employees for any damages that may result from reliance upon this chapter.

**§ 485-10. Definitions.<sup>2</sup>**

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

**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.

**APARTMENT HOUSE** — See "dwelling, multiple."

**BASEMENT** — A story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.

**BASE SETBACK AREA** — The land lying between the edge of the existing street right-of-way and the base setback line.

**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 § 485-58A.

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2. Editor's Note: The following definitions which appeared in this section were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II): "equal degree of encroachment," "Flood Insurance Study," "flood profile," "official letter of map amendment," "shorelands," "sign," "sign, directional," "sign, non-accessory" and "wetland alterations." See now Ch. 450, Floodplain Zoning, and Ch. 467, Shoreland-Wetland Zoning.

**BED-AND-BREAKFAST LODGING** — Any place of lodging that provides five or fewer rooms for rent, is the owner's personal residence and is occupied by the owner at the time of rental.

**BOARDINGHOUSE** — A building or premises where meals, or meals and lodging, are offered for compensation for five or more persons, but not more than 12 persons, and having no more than five 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 five sleeping rooms shall be deemed a hotel or motel. For purposes of this chapter, group homes shall be defined as boardinghouses.

**BUILDING** — Any structure used, designed or intended for all roofed shelter, enclosure, or protection of persons, animals or property.

**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.

**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 deckline of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

**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.

**CAMPING TRAILER** — A self-propelled or towable vehicle designed to travel over public highways and when parked to provide temporary living accommodations without hookup to water or sanitary sewer.

**CHANNEL** — Those floodlands normally occupied by a stream, lake bed, or other body of water under average annual high-water flow conditions while confined within generally well-established banks.

**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.

**COMPREHENSIVE PLAN** — The Master Plan adopted pursuant to § 62.23(3), Wis. Stats. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**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.

**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.

**COURT, OUTER** — A court extending to a street line or opening upon any front, side or rear yard.

**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.

**DWELLING, MULTIPLE** — A building or portion thereof designed for and occupied by two or more families, including two-family flats, apartment houses and apartment hotels.

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.

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.

DWELLING UNIT — A housekeeping unit designed and used for occupancy by a single individual or family.

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.

FACILITY — A place, building or structure designed, built or installed to serve a particular function, purpose or activity.**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

FAMILY — One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

FIRST FLOOR AREA — In residential structures, the total of all livable floor area which is not over any other livable floor area. Livable 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 chapter.

FLOOD — A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

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 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.

FLOOR AREA RATIO or FAR — 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., a FAR of 100% allows a floor area equal to the total area of the lot, a FAR 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.

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.

**GARAGE, PRIVATE ATTACHED** — A garage, the roof of which is attached to the principal building.

**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.

**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 for greasing, oiling, washing and minor repair of vehicles on the premises, but not including automatic car washing or any body repair facilities, or storage of vehicles for scrap or spare parts.

**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 designated by law to determine such an elevation.

**HEIGHT OF BUILDINGS, HOW MEASURED** — See "building, height of."

**HIGHWAY** — Same as "traffic artery."

**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.

**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.

**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 soundproofed.

**HOTEL** — A building in which lodging, with or without meals, is offered for compensation and which may have more than five sleeping rooms for this purpose, but not including kitchen facilities in individual rooms.

**HOUSE TRAILER** — See "mobile home" and "camping trailer."

**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.

**LEGAL NONCONFORMITY** — The zoning status of a structure or parcel of land which, or the use of which, though legal prior to the passage or amendment of this chapter, does not comply with one or more of the provisions of this chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**LODGING HOUSE** — A building where lodging only is provided for compensation and having not more than five sleeping rooms for this purpose.

**LOT** — A single parcel of contiguous land occupied or intended to be occupied by such structures and uses as permitted under this chapter, together with the open spaces required by this chapter, and abutting on a public street or officially approved way.

**LOT AREA** — The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfare.

**LOT LINES** — The lines bounding a lot as defined herein.

**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 one, five, two, and eight feet is four feet.)

**MOBILE HOME** — A structure, designed 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 hookup to water, sanitary sewer and electricity.

**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.

**MOTEL** — A building or series of buildings in which lodging only is offered for compensation and which may have more than five 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.

**NONCONFORMING LOT** — A lot which does not conform to the lot size regulations of the district in which it is located.

**NONCONFORMING 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.

**NONCONFORMING 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.

**NONCONFORMING USE OF STRUCTURE** — A use carried on within any building which use does not conform to the use or residential density regulations of the district in which it is located.

**OFFSET** — The shortest horizontal distance between any structure and a lot line, other than a street line.

**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 chapter, an off-street parking space shall be an area of no less than 160 square feet.

**OPEN SPACE** — An unoccupied space open to the sky on the same lot with the building and not used for parking or driveway purposes.

**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:

- A. Public: Facilities owned and operated by a governmental agency for limited or general use.
- B. Private commercial: Facilities owned and operated by an individual or group for profit as a business whether or not open to general public use.
- C. Private noncommercial 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.

D. Private residential: Facilities owned by an individual, located on the same or adjoining lot to his residence, and intended solely for the use of his family and guests.

**PRIMARY FLOOR AREA (PFA)** — 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, hallway and other accessory space which does not generate parking demand.

**PRIVATE CLUB OR LODGE** — A structure or grounds used for regular or periodic meetings or gatherings of a group of persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.

**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.

**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 a one-percent chance that the regional flood may occur or be exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent chance of occurrence.

**ROAD** — Synonymous with "street."

**ROOMING HOUSE** — Same as "lodging house."

**SETBACK** — The shortest horizontal distance between any structure and the base setback line. See § 485-58C.

**STORY** — That portion of a building between the surface of a floor and the surface of the floor next above it; if there is no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having 1/2 of its height above grade shall be deemed a story for purposes of height regulation.

**STREET** — A public or private right-of-way usually affording primary access to abutting property.

**STREET, FRONTAGE** — A street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property.

**STREET RIGHT-OF-WAY LINE** — A dividing line between a lot, tract or parcel of land and a contiguous street.

**STRUCTURAL ALTERATION** — Any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls.

**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.

**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.

**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 nine months.

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.

STRUCTURE, TEMPORARY — Any structure other than a permanent structure.

TOURIST HOME — A building in which lodging, with or without meals, is offered to transient guests for compensation and having no more than five sleeping rooms for this purpose with no cooking facilities in any such individual room or apartment.

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.

TRAILER CAMP — Any tract or parcel of land upon which two 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.

TRAILER, HOUSE — See "mobile home" and "camping trailer." **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

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.

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.

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.

VISION SETBACK — An unoccupied triangular space, at the street corner of a corner lot, as established by § 485-58G.

WAREHOUSING — The use of a building to store or keep in reserve raw materials, finished merchandise, or goods, before sale, distribution or shipment to retailers, wholesalers or contractors or to industrial, commercial, agricultural, institutional or professional businesses. "Warehousing" includes order processing, packing and shipping of such materials, finished merchandise or goods, but excludes storage or mini storage buildings or spaces therein offered for rent or lease to the general public. **[Added 5-4-2021 by Ord. No. 2021-6]**

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.

ARTICLE III  
**Administrative and Enforcement Officer**

**§ 485-11. Building Inspector designated.**

The Building Inspector is hereby designated as the administrative and enforcement officer for the provisions of this chapter. For such duties he may be provided with the assistance of such additional persons as the Common Council may direct.

**§ 485-12. Duties of Building Inspector. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

In the enforcement of said chapter the Building Inspector shall perform the following duties:

- A. Issue the necessary building permits and occupancy permits required by the provisions of this chapter, provided its provisions and those of the Building Code have been complied with.<sup>3</sup>
- B. Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.
- C. In case of any finding of a violation of a provision of this chapter, 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 Article VIII of this chapter 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.
- D. 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.
- E. Carry out such additional responsibilities as are hereinafter set forth by the provisions of this chapter.

**§ 485-13. Authority of Building Inspector.**

In the enforcement of said chapter, the Building Inspector shall have the power and authority for the following:

- A. At any reasonable time and for any proper purpose, to enter upon any public or private premises and make inspection thereof.
- B. Upon reasonable cause or question as to proper compliance, to revoke 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 chapter, such revocation to be in effect until reinstated by the Building Inspector or the Zoning Board of Appeals, or take any other action as directed by the Common Council to ensure compliance with or to prevent violation of this chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

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3. Editor's Note: See Ch. 159, Building Construction.



- C. In the name of the City and with the authorization and assistance of the City Attorney, to commence any legal proceedings necessary to enforce the provisions of this chapter, or the Building Code as applicable to this chapter, 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, the Building Inspector may seek authorization from the Common Council for such assistance. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

## ARTICLE IV

**Permits****§ 485-14. Building permits.**

- A. Required. No structure six 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 chapter and with the Building Code of the City of Port Washington.<sup>4</sup>
- 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.

**§ 485-15. Occupancy permits.**

- 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 permit has been issued certifying that any such building complies with the provisions of this chapter. A like permit shall be obtained before any legal nonconforming use is resumed, changed, extended or granted conditional use status. **[Amended 7-18-2023 by Ord. No. 2023-14]**
- 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 chapter, 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:
      - [1] The boundaries of the property involved.
      - [2] The location of the center line of any abutting streets.
      - [3] The location on 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.
      - [4] 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

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4. Editor's Note: See Ch. 159, Building Construction.

any defined drainageway.

- [5] The base or 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 Wisconsin Department of Natural Resources and of any floodplains as shown on the FEMA floodplain map for the City or where appropriate for an adjacent municipality.
- [6] Where an occupancy 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. **[Amended 7-18-2023 by Ord. No. 2023-14]**
- [7] Where an occupancy 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 occupancy permit shall be issued. **[Amended 7-18-2023 by Ord. No. 2023-14]**
- (c) Where a legal nonconforming use involves human use or occupancy, such use is to continue or resume, and connection is not required to be made to the public sewer system and facilities, a plan of the proposed system for sewage disposal, which shall be in compliance with all City ordinances and other governmental laws and regulations then applicable to such system. **[Amended 5-16-2023 by Ord. No. 2023-11]**
- (d) Where a legal nonconforming use involves human use or occupancy, such use is to continue or resume, and connection is not required to be made to the public water service and facilities, evidence satisfactory to the Building Inspector that a safe and adequate supply of pure water is available to be provided, and the location of any well for that purpose shall be shown on the map of the property. **[Amended 5-16-2023 by Ord. No. 2023-11]**
- (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 chapter, an occupancy permit shall be issued. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (4) For the purpose of defraying the cost of inspection and administrative processing, such application shall be accompanied by a fee in an amount established or revised from time to time by resolution of the Common Council, except that where a building permit is also required, this fee shall not be required. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

C. Expiration. If within 12 months of the date of application no occupancy 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 six months. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- D. Temporary permit. Pending the issuance of a regular permit, a temporary permit for nonresidential use may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this chapter to such a degree as to render it unsafe for the occupancy proposed.

ARTICLE V  
**Official Zoning Map**

**§ 485-16. Incorporation of Zoning Map.**

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 chapter, and all the notations, references and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by said map were all fully described herein.

**§ 485-17. 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.

**§ 485-18. (Reserved)<sup>5</sup>**

**§ 485-19. 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 Common 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.

**§ 485-20. Determination of boundaries.**

- A. 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 chapter.
- B. 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 center lines of streets, highways, railways, or alleys.

**§ 485-21. Identification of official regulations 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 chapter, under the following words: "This is to certify that this is the Official Zoning (Ordinance) (Map) referred to in § 485-21 of the City Zoning Ordinance, City of Port Washington, Ozaukee County, State of Wisconsin."

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5. Editor's Note: Original § 20.05.030, Effective date, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See § 485-24, Effective date.

ARTICLE VI  
**Changes and Amendments**

**§ 485-22. Authority to adopt amendments.**

Pursuant to the provisions of § 62.23(7), Wis. Stats., the Common 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 chapter or change the district boundaries.

**§ 485-23. Amendment procedure.**

- A. Initiation. A proposal to amend the text or change the district mapping of this chapter may be initiated by the Common Council on its own motion, by recommendation of the Plan Commission or by petition of one or more property owners.
- B. Filing of petition. A petition for change or amendment submitted by a private property owner shall be on a form provided by, and filed with, the Building Inspector. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- C. Data required. In addition to all information required on the petition form, the petitioner shall supply the following:
  - (1) A plot map drawn in triplicate to scale no smaller than 100 feet to the inch showing the land in question, 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.
  - (2) The names and addresses of the owners of all properties within 200 feet of any part of the land included in the proposed change.
  - (3) Any further information which may be required by the Plan Commission to facilitate the making of a comprehensive report to the Common Council.
- D. Referral.
  - (1) The Building Inspector shall transmit without delay one copy of such petition to the Plan Commission. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (2) The Plan Commission shall conduct a study and investigation and, where deemed desirable, an informal hearing and report its recommendation to the Common Council as promptly as possible.
- E. Official hearing. The Common Council shall hold a public hearing upon the petition in the manner provided by Article VII of this chapter.
- F. 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.
- G. Action.
  - (1) After such public hearing and no later than the second Council meeting following

receipt of the Plan Commission's recommendations, the Common Council shall act to approve, modify and approve, or disapprove the proposed change or amendment.

- (2) The Common 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.
  - (3) An approved change shall be by appropriate ordinance, and necessary changes in the Official Zoning Map or text shall be made promptly.
- H. 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 therefrom, 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 the Common Council vote on the change, such change shall require a favorable vote of 3/4 of the Common Council for passage.

**§ 485-24. Effective date of amendment.**

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

**§ 485-25. 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 § 66.0217, Wis. Stats.

- A. Temporary zoning. Pursuant to § 66.0217(8), Wis. Stats., the Common 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.
- B. 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 article.

ARTICLE VII  
**Public Hearings**

**§ 485-26. Notice required for public hearings.**

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 chapter in the manner hereinafter defined or as may be otherwise specifically designated elsewhere in this chapter.

**§ 485-27. Procedure for public hearing notice.**

- A. Posting and publishing. Except as may be otherwise herein specifically provided, such notice shall be given by a Class 2 notice under Ch. 985, Wis. Stats.
- B. Information. Such notices shall state the time and place of such public hearing and 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 Clerk's office. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- C. Petitions not involving zoning change. Where such hearing is required by the provisions of this chapter as a result of a request for other than a zoning change, such request shall be presented to the City Clerk in writing and shall be accompanied by a map or description clearly identifying the property involved. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- D. Informal hearing. Hearings not specifically required under the provisions of this chapter may be noticed as deemed appropriate by the body holding the hearing.



## ARTICLE VIII

**Appeals****§ 485-28. Right to appeal; filing fee.**

- A. 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 Zoning Board of Appeals as hereinafter established, provided such appeal shall be taken within a reasonable time, as provided by the rules of said Zoning Board of Appeals.
- B. Filing fee. Any appeal to the Zoning Board of Appeals shall be accompanied by a filing fee.

**§ 485-29. Zoning Board of Appeals.**

- A. Establishment. There shall be a Zoning Board of Appeals consisting of five members appointed by the Mayor, subject to confirmation by the Common Council, for terms of three years, except that of those members first appointed one shall serve for one year, two for two years and two for three years. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The Mayor shall appoint, for staggered terms of three years, two alternate members of such Board, in addition to the five members above provided for. Annually, the Mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first 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 second alternate shall so act only when the first 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 Zoning Board of Appeals shall serve at such compensation as is fixed by 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 Chairperson, and the Zoning Board of Appeals may designate such other officers and employ such employees as it feels necessary.
  - (4) The Zoning Board of Appeals shall adopt rules governing its procedure consistent with the terms of this chapter.
- C. Meetings. Meetings of the Board shall be held at the call of the Chairperson and at other times as the Board may determine. Such Chairperson, or in his absence the Acting Chairperson, 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 Zoning 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 chapter.
  - (2) To hear and decide special exceptions to the terms of this chapter upon which such Board is required to pass under this chapter.
  - (3) To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter 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 chapter, 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 chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, 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 chapter; 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 chapter.
- H. Required vote. The concurring vote of four 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 to pass under this chapter, or to effect any variation therefrom. The grounds of every such determination shall be stated.
- I. Further appeal. Any person or persons aggrieved by any decision of the Zoning Board of Appeals, or any taxpayer, or any officer, department, board or bureau of the City may appeal from a decision of the Zoning Board of Appeals within 30 days after the filing of the decision in the office of the Zoning Board of Appeals in the manner provided in § 62.23(7), Wis. Stats.

**§ 485-30. Appeal procedure.**

- A. Filing. A notice of appeal shall be filed with the officer from whom the appeal is taken and with the Zoning 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 the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning 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 a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the officer 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 Article VII of this chapter as well as to the parties in 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 Building Inspector shall mail such notice at least seven days before said hearing. Such notice, however, shall require only one publication in a newspaper of general circulation within said City which shall not be less than three days prior to the date of hearing. Any party may appear in person or by agent or by attorney representing him.  
**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- D. Decision. The Zoning 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 Zoning Board of Appeals is required to pass under the provisions of this chapter shall be presented by petition and public hearing held thereon as provided for appeals.

ARTICLE IX  
**Enforcement**

**§ 485-31. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

Any person, firm, company or corporation who or which violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of these provisions of this chapter shall be subject to a penalty as provided in § 1-4 of this Code. Each day that a violation is permitted to exist shall constitute a separate violation and be punished as such.

**§ 485-32. Enforcement by injunction.**

Compliance with the provisions of this chapter 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 chapter.

**§ 485-33. Declaration of nuisance.**

Any building erected, structurally altered, or placed on a lot or any use carried on in violation of the provisions of this chapter 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.

ARTICLE X  
**General Application of Regulations**

**§ 485-34. Establishment of districts.**

For the purpose of this chapter, the zoning district classifications listed under § 485-151 are hereby created and established.

**§ 485-35. Compliance required; prior permits.**

- 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 provision of open spaces shall be in compliance with the regulations established herein 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 chapter and the construction of which shall have been substantially started within six months from the date of such permit.
  - (2) Subsequently nonconforming. Any such use which does not conform to the regulations of the district in which it is located shall, however, subsequently be considered a legal nonconforming use.

**§ 485-36. Structures other than buildings.**

- A. Structures less than six inches in height. Structures not classified as buildings and less than six 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 chapter except as may be specifically otherwise provided.
- B. Structures six inches or more in height. Structures not classified as buildings and six 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 chapter except as may be specifically otherwise provided, such as in § 485-39D, F and G.

**§ 485-37. Underground buildings.**

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

ARTICLE XI  
**Accessory Uses and Structures**

**§ 485-38. General requirements for accessory uses and structures.**

- A. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located except as specifically otherwise provided.
- B. Any accessory use or structure not identified hereafter shall not be permitted unless approved by the Plan Commission.
- C. 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.
- D. 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.

**§ 485-39. Detached garages.**

- A. The primary use of the garage must be the required parking use.
- B. No garage or driveway shall be used to carry on any contracting or repair business.
- C. No more than one detached garage is permitted on a lot.
- D. A detached garage shall have a floor area not greater than 720 square feet with doors that will accommodate no more than three vehicles, except that, in lieu of a permitted accessory shed, a storage area not exceeding 150 square feet may be added on to a garage if the floor area of the garage, before such addition, does not exceed the 720 square feet maximum allowed.
- E. Subject to the maximum floor area limitation provided in Subsection D hereof, no detached garage shall have a floor area greater than 60% of the floor area of the principal building on the lot.
- F. Only one floor is permitted, and the slope of the roof of the garage need not match the slope of the roof of the principal structure. The attic space immediately below the roof of the garage may be used for purposes of a recreation room, a home office in which the space used is incidental to the primary residential use, or similar activities accessory to the principal residence, but excluding bathrooms. **[Amended 6-21-2022 by Ord. No. 2022-9]**
- G. 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.
- H. 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:

- (1) The existing driveway shall be removed and landscaped.
- (2) The garage door(s) shall be removed and the wall shall be remodeled to be compatible with the existing building.
- (3) Subsection H(1) and (2) shall be completed within one year of the date of issuance of the garage permit.
- (4) Any further remodeling of the interior shall require a separate permit.

**§ 485-40. Sheds.**

- A. No more than two accessory buildings shall be permitted on a lot.
- B. The maximum height of a shed shall be 15 feet.
- C. The maximum floor area of a shed shall be 150 square feet.
- D. 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.
- E. Sheds shall be constructed of solid common building materials or kits of premolded plastic-like materials commonly found in home improvement stores.
- F. Foundations are not required unless the shed is constructed of masonry materials.
- G. The shed shall be anchored to the ground to prevent uplift.

**§ 485-41. Fences.**

- A. 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.
- B. 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.
- C. 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.
- D. Fences shall be plumb and straight when fully erected.
- E. Fences are permitted to be erected up to the lot line.
- F. The maximum height of a fence, or any portion thereof, located within the setback area shall be four 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 feet in height, except that:
  - (1) An additional two inches of height shall be permitted to hold fencing materials above grade and to allow for slight variation in grades.
  - (2) An eight-inch step in the top of an eight-foot-long section of fencing shall be permitted to allow for sloped yards.

**§ 485-42. Other accessory structures.**

- A. Walks, patios, drives and purely decorative garden accessories such as manufactured ponds, fountains, statuary, etc., that are less than four feet in height are permitted in the setback and offset areas but in no event shall they be located closer than three feet to any lot line.
- B. Arbors or trellises used to cover or embellish an entryway that are less than seven feet in height shall be permitted in the setback and offset areas but in no event shall they be located closer than three feet to any lot line.
- C. 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.
- D. Retaining walls shall be permitted in the setback and offset areas, except that:
  - (1) Retaining walls shall not be closer than three feet to an abutting lot line.
  - (2) No individual wall shall exceed six feet in height, and a terrace of at least three feet in width shall be provided between any series of such walls.
- E. Attached antennas and satellite dishes six feet or less in height measured vertically from base to vertex, including all mounting hardware and related equipment, shall be permitted.
- F. Solar devices, windmills, and all antennas and satellite dishes and similar devices exceeding six 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.
- G. Any temporary structure serving as an accessory use may be permitted with the approval of the Plan Commission.

**§ 485-43. Special exceptions.**

- A. 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.
- 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 and discretion of the Commission, shall be necessary conditions of such special exception.



ARTICLE XII  
**Legal Nonconformity**

**§ 485-44. Continuation of existing use.**

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

**§ 485-45. Classification and regulation.**

For the purpose of administration such nonconformity shall be classified and regulated as follows:

A. Nonconforming 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, except where restoration is authorized by § 62.23(7)(hc), Wis. Stats. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

B. Nonconforming 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 nonconformity and provided further that such new use shall thereafter determine the degree of legal nonconformity.
- (3) Where any such use is discontinued for a period of 12 consecutive or for 18 accumulative months during any three-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 nonconforming.

C. Nonconforming lots.

- (1) No such lot shall be conveyed to a new owner except in conformity with the applicable provisions of Chapter 478, Subdivision of Land, of the City Code.
- (2) No building or occupancy permit shall be issued except in conformity with Article XVIII of this chapter. **[Amended at time of adoption of Code (see Ch. 1, General**

**Provisions, Art. II)]**

- (3) The size and shape of such lot shall not be altered in any way so as to increase the degree of nonconformity except with the approval of the Plan Commission.

**D. Nonconforming 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 nonconformity and provided that such new use shall thereafter determine the degree of legal nonconformity.
- (3) Where any such use is discontinued for a period of 12 consecutive or for 18 accumulative months during any three-year period, any future use of the land shall conform to the regulations of the district in which it is located.

**§ 485-46. Conditional use status.**

Subject to the provisions of Article XXIII of this chapter, any such legal nonconforming use may be reclassified as a conditional use.

**§ 485-47. Removal of hazards.**

Where, upon complaint of the Building Inspector, any nonconforming 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.

**§ 485-48. (Reserved)<sup>6</sup>**

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6. Editor's Note: Original § 20.12.050, Signs for existing businesses outside commercial districts, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE XIII  
**Basic Location Regulations**

**§ 485-49. Building must be on lot.**

Every building hereafter erected, structurally altered, or relocated shall be placed on a lot as herein defined.

**§ 485-50. One principal residence building per lot.**

Except as specifically otherwise provided herein for attached single-family dwellings, apartments, or planned development projects, only one principal residence building shall be permitted on a lot; provided, however, that the Zoning 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 this chapter 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.

**§ 485-51. 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.

**§ 485-52. 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 that such tract of land is at least 40,000 square feet in area, and provided further that 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 sixty-foot street reservation.

ARTICLE XIV  
**Uses Within Districts**

**§ 485-53. 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.

**§ 485-54. Uses classified.**

For the purpose of this chapter, 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 this chapter of the specific standards, regulations, or conditions necessary or appropriate to such permissibility, is not practical, but which may be permitted in the districts where listed subject to certain conditions and requirements as hereinafter specified.

**§ 485-55. 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.

**§ 485-56. Uses which become hazardous.**

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 Common Council consistent with reasonable technological and economic practicality.

ARTICLE XV  
**Building Location**

**§ 485-57. 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.

**§ 485-58. 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 center line of all public streets and ways as follows:

- (1) On all principal traffic arteries as designated in the Comprehensive Plan for the City of Port Washington, the base setback line shall be located at a distance from the center line of the street equal to 1/2 the width of the highway. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (2) On all other streets, which shall be designated as "local streets," the base setback line shall be located 30 feet from the center line of such street or 60 feet from the center point of a cul-de-sac unless specifically designated otherwise by action of the Common 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 Subsection B(1)(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.
  - (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.
  - (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 Subsections G and H.

- (2) Additions to existing structures which lack the required setback may be allowed if the addition is set back at a 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 chapter, the effect of the setback regulation shall not reduce the buildable width of such corner lot to less than 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 Subsections B and C 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 § 485-41, rural mailboxes, signs as permitted under the district regulations, structures other than buildings as regulated by § 485-40, underground buildings as regulated by § 485-37, and enclosed canopies for lighting and rain protection in conjunction with such uses as automobile sales lots or drive-in commercial facilities, provided that such canopy structures are approved by the Plan Commission, and those structures included in Subsection B(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 chapter 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 sector between any other intersecting streets, 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.
- 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, nor shall any plant material or natural growth be permitted which obscures safe vision of the approaches to the intersection.
- I. The requirements for vision setback shall not apply within the B-4 Central Business District.

#### **§ 485-59. 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 four feet on no more than two 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 local and State Building Codes 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (4) How measured. The offset shall be measured from the roofed or enclosed portion of a building, including overhanging eaves, except that the first two 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 chapter; however, garages classified as nonconforming 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 1 1/2 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.

#### **§ 485-60. 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 feet from the base setback line. Building support columns are exempt from this five-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 facade 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 regulations, but in no case less than 10 feet, plus one additional foot of offset for each story over three stories in height.



**§ 485-61. 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 chapter.

**§ 485-62. 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.

ARTICLE XVI  
**Height Regulations**

**§ 485-63. 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.

**§ 485-64. Exceptions to height regulations.**

Except as provided in § 485-66 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 the 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 Articles XXXI and XXXII, except that dish-style earth station satellite antennas shall not be installed on the roofs of residential or their accessory buildings nor be eligible for this height regulation exception nor that of § 485-65.

**§ 485-65. Increase in maximum height.**

The maximum height of any structure may be increased by no more than 10 feet, provided that all required offsets and setbacks are increased by one foot for each foot in excess of the height limit of the district in which located.

**§ 485-66. Maximum building heights in B-4 Central Business District.**

No building or structure erected or structurally altered within the B-4 Central Business District and for which a building permit is issued shall exceed a height of 35 feet. The height of such building or structure may be increased by special exception, upon petition to and recommendation of the Plan Commission, and upon the favorable two-thirds vote of all of the 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 § 485-91. In considering such petition for special exception, the Plan Commission and Common Council shall be guided by the standards contained in § 485-134 relating to site plan and design review and by the criteria contained in § 485-138 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 § 485-64 nor be eligible for the height increase permitted under § 485-65.

## ARTICLE XVII

**Building Size and Floor Area Regulations****§ 485-67. Minimum floor area and basement or utility area.**

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 usable residential floor area required per family on a single floor level.
- B. In any district which requires a minimum floor area for a principal building, if such building has an attached garage a portion of the garage area may be credited toward meeting the required minimum floor area; provided, however, that neither carports nor garages built at a basement level shall be so credited. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- C. In the case of any residential building which has more than a single floor level, the total of all livable floor area which is not over any other livable 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 livable 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 livable floor area may be unfinished floor space capable under the Building Code or this chapter below of being finished to livable floor area, provided that such unfinished area is in the second story of a two-story home as defined on the Regulations Chart (see Article XXXIV). In addition to requirements of the Building Code, such space shall meet the following requirements:
    - (a) Ceiling height shall be a minimum of seven feet two inches (86 inches). Sloped ceilings shall have an average height of at least six feet zero inches, with at least 50% of the area more than six feet zero inches.
    - (b) Wiring shall 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 the opening not more than four feet from the floor.
  - (2) In no case shall application of Subsection C above require that a total livable area in any particular district be larger than the largest required minimum floor area listed for that district under Article XXXIV.

- 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 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 11 feet and of kitchens six 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 12 square feet for each water closet and each tub and 10 square feet for each shower, lavatory or other sanitary plumbing fixture or equipment installed therein. The ceiling height of the required bathroom shall not be less than seven feet. Powder rooms or second baths are not subject to the above but shall have a minimum floor area of 14 square feet with a minimum dimension of three 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.

<b>Table 1</b> <b>Room Areas</b>		
<b>Category</b>	<b>Requirement (square feet)</b>	<b>Minimum Dimension (feet)</b>
Living room	160	11
Living room with dining space	180	—
Dining room	80	—
Kitchen: usable floor area	60	6
Bedroom	100	—
Other habitable rooms	70	—
Bathroom	See Subsection F(1) and (2)	—

**§ 485-68. Maximum permitted floor area.**

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

**§ 485-69. Measurement of floor area.**

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 seven feet, basements, attached garages, open porches, attics, public hallways, or storage areas. Basements and attics shall not be included in determining permitted FAR. 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 1/2 the length of the exposed wall at grade.

**§ 485-70. Increase in maximum permitted floor area ratio.**

The maximum permitted FAR may be increased as permitted by Article XX.

## ARTICLE XVIII

**Lot Size****§ 485-71. Minimum required lot area and width.**

No building shall be erected on a lot of less area or of minimum average width less than hereinafter specified by the regulations for the district in which such building is located.

**§ 485-72. Measurement of lot area.**

For the purpose of this chapter, 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.

**§ 485-73. Measurement of lot width.**

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 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.

**§ 485-74. Reduction of lot area.**

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.

**§ 485-75. Existing lot of record.**

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 chapter, such lot may be used for any purpose permitted in such district, subject to the regulations governing substandard lots set forth under Chapter 478, Subdivision of Land, of the Code 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 Zoning 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.

ARTICLE XIX  
**Residential Density and Open Space**

**§ 485-76. 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 Comprehensive 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 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 based 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: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (1) Single-family attached and multiple-family units: 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) 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, Article XXXIV.

**§ 485-77. Open space.**

- A. Minimum required. No building shall be erected, structurally altered or relocated on a lot so as to reduce the usable open area of such lot to less than that hereinafter specified by the regulations for that district.
- B. How measured. To be considered usable, 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.
- 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.

ARTICLE XX  
**Environmental Enhancement Incentive**

**§ 485-78. 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 or FAR 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 and efficient flow of traffic on nearby streets.

**§ 485-79. Maximum allowable incentive increases.**

The granting of increases in either allowable density or FAR 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 justify the maximum increase or a proportion thereof.

Type of Environmental Enhancement	Incentive	
	Business: Increase in FAR	Multiple-Family: Increase in Density
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 square feet of additional floor area for each square foot of plaza, mall, etc.	1 dwelling unit for each 500 square feet of plaza, mall, etc.
Recreational facilities intended for the free use of residents or patrons such as children's playgrounds, tennis courts, swimming and wading pools, etc.	2 square feet of additional floor area for each square foot of recreational area	1 dwelling unit for each 250 square feet of pool area or 500 square feet of other recreational area
Underground parking or underground truck service area	1 square foot of additional floor area for each square foot 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, flowerbeds, etc.	1 square foot of additional floor area for each square foot of landscaped area	Not to exceed 10% of the base allowance density



## ARTICLE XXI

**Planned Development Projects****§ 485-80. Development permitted in Planned Development Overlay District.**

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 with the district regulations as applicable to individual lots, subject to the regulations as hereinafter provided in Article XXXIV of this chapter.

**§ 485-81. Classification of planned development.**

- A. For the purpose of this chapter all planned development shall be classified as follows and be limited to parcels of not less than the size indicated:
- (1) Residential: 75,000 square feet.
  - (2) Commercial: 100,000 square feet.
  - (3) Industrial: 200,000 square feet.
  - (4) Mixed: 100,000 square feet.
- B. 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 chapter may be recommended by the Plan Commission and determined by the Common Council, based upon the criteria contained in § 485-84 applicable to the type of the project being proposed.

**§ 485-82. Application of regulations.**

- A. In addition to the uses permitted in the underlying district, any other use may be permitted as hereafter designated in § 485-176 consistent with the criteria established in § 485-84 following.
- B. Individual uses and structures in a Planned Development 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 § 485-84 following, and subject to such further requirements as are hereinafter specified under § 485-177.

**§ 485-83. Procedure for approval of planned development.**

- A. Petition. Petition may be made to the Common 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 article to such development. Such petition shall be accompanied by a fee in an amount established or revised from time to time by resolution of the Common Council and the following information: **[Amended at time of adoption of Code (see Ch. 1, General Provisions,**

**Art. II]**

- (1) A statement describing the general character of intended development along with such other pertinent information as may be necessary to make a determination that the contemplated arrangement or use makes it desirable to apply regulations and requirements differing from those ordinarily applicable under this chapter.
  - (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 Design 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 Design Review Board. Where the petitioner chooses to seek general approval of the land use and circulation pattern first, as mentioned in § 485-85B following, submittal of building plans to the Design 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 Common 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 Design Review Board, the Board shall also make its recommendation to the Common Council, basing its finding on the standards set forth in Article XXX of this chapter. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- C. Public hearing. Upon receipt of the Plan Commission's recommendations, the Common Council shall cause a public hearing to be held pursuant to Article VII of this chapter.

**§ 485-84. Basis for approval of planned development.**

The Plan Commission in making its recommendations and the Common Council in making its determination shall give consideration and satisfy themselves as to the following:

- A. That the proponents of the proposed development have demonstrated they intend 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 resell 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.
- B. That the proposed development is consistent in all respects with the spirit and intent of this chapter, is in conformity with the general plans for community development, and 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 justify the variation from the normal requirements of this chapter

through the application of the Planned Development Overlay District.

C. In the case of proposed residential developments:

- (1) 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 Comprehensive 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.
- (2) 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 Comprehensive Plan.
- (3) That the project will not create traffic or parking demand incompatible with that anticipated under the Comprehensive Plan.<sup>7</sup>
- (4) 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.
- (5) 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.
  - (a) 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 an open space easement over such open areas restricting the area 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 noncommercial 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 Common Council following approval of building, site and operational plans by the Plan Commission.
  - (b) The care and maintenance of such open space reservations shall be ensured either by establishment of an appropriate management organization for the project or by agreement with the municipality for establishment of a special service district for the project area on the basis of which the municipality shall provide the necessary maintenance service and levy the cost thereof as a special assessment on the tax bills of properties within the project area. In any case, the City shall have the right to carry out, and levy an assessment for the cost of, any maintenance which it feels necessary if it is not otherwise taken care of to the satisfaction of the City. The manner of assuring maintenance and assessing such cost to individual properties shall be determined prior to the approval of the final project plans and shall be included in the title to each property.

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7. Editor's Note: Original § 20.21.050, Subsection 3d, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. I, General Provisions, Art. II).

- (c) Ownership and tax liability of private open space reservation shall be established in a manner acceptable to the municipality and made a part of the conditions of the plan approval.

D. In the case of proposed commercial developments:

- (1) That the economic practicality of the proposed development can be justified on the basis of purchasing potential, competitive relationship and demonstrated tenant interest.
- (2) That the proposed development will be adequately serviced by off-street parking and truck service facilities.
- (3) That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an effect upon the general traffic pattern of the area incompatible with that anticipated under the Comprehensive Plan.
- (4) That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not creating an effect upon the property values of the surrounding neighborhood incompatible with that anticipated under the Comprehensive Plan.

E. In the case of proposed industrial developments:

- (1) That the operational character, physical plant arrangement and architectural design of buildings will be compatible with contemporary performance standards and industrial development design and will not produce an effect upon the property values of the surrounding neighborhood incompatible with that anticipated under the Comprehensive Plan.
- (2) 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.
- (3) 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 Comprehensive Plan.

F. In the case of mixed developments: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- (1) 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 Comprehensive Plan.
- (2) That the various types of uses conform to the general requirements, as hereinbefore set forth, applicable to projects of such use character.

**§ 485-85. Action on petition for planned development.**

- 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 Article XXIII of this chapter. Such plans, however, need not necessarily be completely detailed at the time of overlay zoning, provided they are of sufficient detail to satisfy the Plan Commission and Common 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, and 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 provisions of Article XXIII governing termination of the conditional grant shall apply to such group project development.

ARTICLE XXII  
**Engineering Regulations**

**§ 485-86. 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.

**§ 485-87. 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 floodproofing 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.

**§ 485-88. Drainage.**

- A. Adequate drainage required. No principal building shall be erected, structurally altered, or 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 three feet above the highest anticipated seasonal groundwater 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 watercourse 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 floor of said building is less than three feet above possible flood stage as determined by the City Engineer. **[Amended 7-18-2023 by Ord. No. 2023-14]**

**§ 485-89. Sanitation and water supply; preservation of topography. [Amended 5-16-2023 by Ord. No. 2023-11]**

- A. Except for legal nonconforming uses which existed before May 19, 2023, no principal building involving human use or occupancy shall be permitted on a lot unless provision is made and ensured for safe and adequate facilities for water supply and disposal of sewage by means of connection to the public water service and public sewer system.
- B. No outhouse or privy shall be hereafter erected.
- C. 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 in increasing any portion of the slope to a ratio greater than two horizontal to one vertical, within a distance of 20 feet from the property line, except where retaining walls are built pursuant to Article XI 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 of slippage of the material involved, and all slopes shall be protected against erosion.

ARTICLE XXIII  
Conditional Uses

**§ 485-90. Approval of Common Council required for conditional uses.**

- 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 Common Council and subject to the approval of the Council upon recommendation of the Plan Commission and to such other conditions as hereinafter designated. Legal nonconforming uses may also be permitted conditional grant status pursuant to §§ 485-46 and 485-91F of this chapter.
- B. Basis of approval. The Common Council, upon recommendation of the Plan Commission, shall base its 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 Article XIV.

**§ 485-91. Procedure for conditional use requests.**

- A. Petition. A request for conditional use grant shall be submitted in writing to the Director of Planning and Development 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: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (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 Common Council shall hold a public hearing thereon. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 feet.

- D. Determination. Following public hearing and necessary study and investigation by the Plan Commission, the Common Council shall as soon as practical render its decision in writing, and a copy shall be 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 and recording. When a conditional grant is approved, the building and occupancy 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 causes 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 Common Council following referral to the Plan Commission for recommendation and public hearing thereon. Such use shall thereafter be classified as a legal nonconforming use, except that where the action is due to failure to comply with the conditions of the conditional grant, the Common 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 Subsection A.
  - (2) The grant of conditional use in such case shall be based upon the existing conditions at the time; however, the Common 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 are 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 for initial review plus a deposit to be drawn on in amounts established or revised from time to time by resolution of the Common Council. The applicant will be billed for the actual costs of publication. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

#### **§ 485-92. Requirements for conditional uses.**

- 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 operational 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, and 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 of regulations. Requirements applicable to uses permitted by right or as accessory uses in any district by the regulations of this chapter 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.

## ARTICLE XXIV

**Parking and Loading Requirements****§ 485-93. Definitions.**

As used in this article, the following words and phrases shall have the following meanings:

**APPROVED** — When used in reference to an area, location, material, structure or use, means specifically permitted under the provisions of § 485-94 or 485-95 or, if subject to Plan Commission review under said sections or under this section, means authorized by official permission of the Plan Commission.

**BASE SETBACK AREA** — The land lying between the edge of the existing or proposed street right-of-way and the base setback line.

**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 § 485-58.

**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.

**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.

**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.

**GARAGE** — A structure or portion thereof, whether commercial, private or public, and whether attached to a building or detached, primarily used for the enclosed parking, rental, repair, servicing, shelter or storage of motor vehicles.

**LOADING SPACE** — An off-street space for the temporary parking of vehicles while engaged in loading or unloading goods, materials or merchandise.

**MOTOR TRUCK** — See "truck."

**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.

**PARKING SPACE (PARKING AREA)** — A designated location or area where a vehicle is parked.

**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.

**RECONSTRUCTED (RECONSTRUCTION)** — The act or result of removing and replacing a paved surface.

**SETBACK AREA** — The shortest required horizontal distance between any structure and the base setback line. (See § 485-58.)

**STREET RIGHT-OF-WAY LINE** — A dividing line between a lot, tract or parcel of land and a contiguous street.

**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 such yards.

**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.

**TEMPORARY STORAGE** — As applied to any vehicle or recreational vehicle, a period of time not exceeding 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 10 days thereafter before a recurrence of the temporary storage.

**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 Article II.

**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 pickup trucks.

**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.

**VEHICLE PARKING SPACE (VEHICLE PARKING AREA)** — An approved location or area where one or more vehicles can be parked.

**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 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 Article II.

**VEHICLE STORAGE SPACE (VEHICLE STORAGE AREA)** — An approved location or area where one or more vehicles can be stored.

**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.

#### **§ 485-94. 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 trade-offs 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 Subsection E(3), (4) and (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:

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 space per unit shall be required
Public assembly facilities providing for seated audiences (churches, theaters, 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**	

Use	Parking Space Requirements
Manufacturing, processing, fabrication and storage operations	1 space per 2,500 square feet of gross floor area
Wholesale business	1 space per 2,500 square feet of gross floor area
Warehouse	1 space per 5,000 square feet of gross floor area
Commercial office buildings**	3 spaces per 1,000 square feet of gross floor area
Retail stores**	3 spaces per 1,000 square feet of gross floor area
Customer service establishments**	3 spaces per 1,000 square feet of gross floor area
Restaurants, taverns, clubs, etc.**	1 space for every 100 square feet of GLA*
Planned shopping centers**	1 space for every 200 square feet of GLA*
Commercial recreation, indoor (other than theaters)**	1 space for every 200 square feet of GLA*
Outdoor recreational facilities**	As required by § 485-97C

**NOTES:**

- \* (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 permit. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (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 § 485-140 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 six-inch 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 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.

**§ 485-95. Single- and two-family residence zoning districts; CCM Central City Mixed 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 feet from all abutting lot lines.
  - (d) Driveways leading to a garage or carport facing the street shall be no more than two feet wider, on each side, than the vehicle garage door(s) being served, or no more than two feet wider, on each side, than the outermost surface of the posts which face the street and support the carport roof.
  - (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 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 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 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 subsection, "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 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 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 A(4)(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 recreational vehicle.
  - (d) Not more than two 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 substantial adverse effect on property values; nor interfere with the reasonable enjoyment of the surrounding properties.

ARTICLE XXV  
**Outdoor Recreational Facilities**

**§ 485-96. Classification of outdoor recreational facilities.**

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

- A. Public.
- B. Private commercial.
- C. Private noncommercial group.
- D. Private residential.

**§ 485-97. General requirements for outdoor recreational facilities.**

- A. Such uses shall be permitted in those districts and subject to those regulations as are hereinafter designated in this article and in the other sections of this chapter specifically applicable thereto.
- B. No such use shall be permitted in any case where it shall create a nuisance or 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 noncommercial 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.

**§ 485-98. 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 Article XXIII of this chapter.

**§ 485-99. Private commercial facilities.**

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.

**§ 485-100. Private noncommercial 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 Article XXIII of this chapter.
- 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.

**§ 485-101. 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 § 485-36 notwithstanding.
- B. The requirement for offset may be eliminated where the signed consent of the affected abutting property owner has been obtained.

**§ 485-102. 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 five 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 ensure 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 noncommercial group shall conform to the following:
  - (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.

ARTICLE XXVI  
**Extractive Operations**

**§ 485-103. Restrictions on extractive operations.**

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

- A. Extractive operations incident to or prerequisite 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.

**§ 485-104. Permit required.**

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

**§ 485-105. Application for permit.**

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

- A. A fee in an amount established or revised from time to time by resolution of the Common Council to defray the cost of notification and holding of public hearing and administrative processing. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. 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.
- C. 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.
- D. A topographic map of the area at a minimum contour interval of five feet extending beyond the site to the nearest public street or highway or to a minimum distance of 300 feet on all sides.

E. A restoration plan as hereinafter required.

**§ 485-106. Referral to Plan Commission and 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.

**§ 485-107. Criteria for review of extractive operation.**

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

- A. The effect of the proposed operation on drainage and water supply.
- B. The possibility of soil erosion as a result of the proposed operation.
- C. The degree and effect of dust and noise as a result of the proposed operation.
- D. The practical possibility of restoration of the site.
- E. The effect of the proposed operation on the natural beauty, character, tax base, land value and land uses in the area.

**§ 485-108. 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.

**§ 485-109. Restoration requirements.**

- A. In order to ensure 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.
  - (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 two 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.

**§ 485-110. Existing operations.**

- A. Permit. Within 60 days after the adoption of this article all existing extractive operations shall be required to register with the Director of Planning and Development, 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, § 485-111, where they can be reasonably applied under existing circumstances. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- B. Plan for restoration. There shall be required within one year after the adoption of this article the submission of a plan for restoration of the site of existing extractive operation as provided by § 485-109 where it can be reasonably applied under existing circumstances.
- C. Renewal permit. Within three years after the date of this article, 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 application in the case of a new operation under this article. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**§ 485-111. Operational requirements.**

- A. Fencing or other suitable barrier shall be erected and maintained around the site where in the determination of the Common 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 shall 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 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 one year after extractive operations have begun, and shall be done according to the recommendations of the Plan Commission.



ARTICLE XXVII

**House Trailers**

**§ 485-112. Permanent habitation prohibited.**

Except within an approved 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 three days of habitation.

**§ 485-113. Trailer camps. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

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.

ARTICLE XXVIII  
**Airport Safety Zone**

**§ 485-114. Maximum height.**

No building or object of natural growth located within two miles of the boundaries of any airport, landing field, or landing and takeoff 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.

**§ 485-115. Control of uses.**

No building or land located within two miles of the boundary of any airport, landing field, or landing and takeoff 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.

**§ 485-116. Density.**

No apartment, church, assembly hall or other type of building where people normally congregate is permitted within the area prescribed in § 485-115.

**§ 485-117. Exceptions.**

The aforesaid regulations shall not apply to growing field crops which are harvested at least once a year nor to fences not over five feet high. The provisions of this article shall not apply to landing areas that are designed and used exclusively for helicopters or similar vertical takeoff aircraft.

## ARTICLE XXIX

**Signs****§ 485-118. Purposes and intent.**

The purposes and intent of this article 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) Promoting a healthy and properly designed business environment.
  - (5) Protecting property values within the City.

**§ 485-119. Uniform application; variances and special exceptions.**

- A. The restrictions and limitations expressed in this article 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.

#### **§ 485-120. Definitions.**

When used in this article, the following words and phrases shall have the specific meaning as hereinafter defined, and any words not listed shall have the meaning defined by this chapter:<sup>8</sup>

**ABANDONED SIGN** — A sign that no longer correctly advertises an existing, bona fide business, lessor, product or activity conducted or available on the premises where the sign is displayed.

**ANIMATED SIGN** — A sign that creates an illusion of movement or motion, but excluding a flashing sign as defined in this section.

**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 or more faces, the area of all faces shall be include in determining the area, except that where two faces are placed back to back and the angle between the faces measures 45° or less, the total sign area shall be computed by measuring the square footage of a single face. When the angle between the sign faces measures greater than 45°, the total sign area shall be computed by adding the square footage of each face.

**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.

**BUILDING FRONT (FASCIA)** — That portion of a building that is parallel to or closely parallels the abutting street or public right-of-way.

**BULLETIN BOARD** — A sign not to exceed 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.

**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.

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8. Editor's Note: See § 485-10, Definitions.

**CHANGEABLE MESSAGE SIGN** — A reader board on which copy changes manually. **[Amended 12-21-2021 by Ord. No. 2021-21]**

**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.

**COPY** — The message, announcement, words, letters, numbers, pictures, art, decoration or other information displayed on a sign.

**CRAWL SIGN** — A sign in which the copy moves or crawls across the message area and/or creates an illusion of movement or motion.

**DEVELOPMENT SIGN** — A temporary sign designating and/or promoting the future use of a new commercial building, commercial development, residential development, or subdivision.

**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 square feet or extend higher than four feet above the immediate grade.

**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.

**ELECTION CAMPAIGN SIGN** — A sign which supports a candidate for public office or an issue on a referendum election ballot.

**ELECTRONIC MESSAGE CENTER (EMC)** — A sign that utilizes computer-generated messages or other electronic means of changing copy which may include symbols, figures, or other images displayed on a signboard. These signs include displays using incandescent lamps; light-emitting diodes (LEDs) which glow when a voltage is applied; liquid crystal displays (LCDs) comprised of liquids contained between filtering layers of glass or plastic and affected by electric current to reflect or transmit light from an external source; or a flipper matrix using an electromechanical dot matrix display technology. **[Amended 12-21-2021 by Ord. No. 2021-21]**

**ELECTRONIC MESSAGE SIGN** — A changeable message sign whose message is electrically activated or displayed such as with light bulbs or mechanical flip discs.

**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 changes 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.

**FRONTAGE** — The length of the property line of any one premises parallel to and along each public right-of-way it borders.

**GROUND-MOUNTED SIGN** — A permanent sign which is freestanding, 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 article.

**HEIGHT OF SIGN** — 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 curbline and the highest point on the sign or supporting structure.

**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.

**HOME OCCUPATION SIGN** — A sign associated with a home occupation as defined in this chapter.

**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.

**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.

**LENGTH OF LINEAR 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.

**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.

**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.

**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.

**MEMORIAL SIGNS AND PLAQUES** — A sign, plaque or tablet, not exceeding four square feet in area, containing the name of a building and/or date of erection which is 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.

**MONUMENT SIGN** — A sign that rests on, is supported by, or is attached to a base, which base is at least 18 inches above the immediate grade. **[Amended 12-21-2021 by Ord. No. 2021-21]**

**NONCONFORMING SIGN** — A sign that does not meet the requirements of this article.

**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.

**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.

**OPERATIONAL SIGN** — A sign that relates to the functional operation of the building, including but not limited to "Drive Through," "Rest Rooms" or "No Trespassing" signs.

**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.

**PORTABLE SIGN** — A sign not permanently affixed to the ground, building, or other structure and which may be easily moved from place to place.

**PROJECTING SIGN** — A sign, normally double-faced, which is attached to and projects from a structure or building facade.

**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.

**REAL ESTATE SIGN** — A temporary on-premises sign pertaining to the sale, lease or rental of land and/or buildings.

**RESIDENTIAL CONTRACTOR SIGN** — A sign in a residential district that identifies the company or contractor performing a service on the premises.

**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.

**RUMMAGE SALE SIGN** — A temporary sign advertising the sale of used household goods in residential districts.

**SANDWICH BOARD SIGN** — A portable, freestanding, temporary A-frame advertising sign only visible from two sides, consisting of two equal or approximately equal length boards or placards hinged or otherwise fastened at the top with no moving parts or lights.

**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.

**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.

**SIGN STRUCTURE** — Any device or material that supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers.

**TEMPORARY SIGN** — A sign intended to be used for a period not to exceed seven consecutive days with no more than four such occurrences per year, with a time interval of at least 30 days between occurrences, unless otherwise specified in this article.

**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.

**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.

**WINDOW SIGN** — A sign installed on the interior surface of a window.

**§ 485-121. 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 article.
- C. Banners, pennants, streamers, balloons, and other gas-filled figures, except as permitted in § 485-123N(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 § 485-123N(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 article.
- 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.

**§ 485-122. Existing nonconforming signs.**

Signs lawfully existing at the time of the adoption or amendment of this article may be continued



even though the use, size or location may not conform to the provisions of this article. 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 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 article, except where restoration is authorized by § 62.23(7)(hc), Wis. Stats. If restoration of a damaged sign is not completed within three months of the date damage occurred, such sign shall be removed or replaced in a manner as will conform to all specifications of this article. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 § 485-130 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 that 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 article.
- E. A nonconforming sign or sign structure shall be removed within 30 days of the date the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding 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 article.

**§ 485-123. Signs permitted in all districts without 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 20 square feet in area. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- B. Directional signs.
  - (1) A parking lot contiguous to the business may have directional signs, the display area of which does not exceed three square feet or extend higher than four feet above the existing natural grade at the base of the sign. The total directional signage shall not exceed 24 square feet, except as permitted in § 485-126 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 sign identifying the business. A permit is required for such business sign, and such sign shall be limited to 50% of the size and height of the signage as permitted for the business under § 485-125 of this article.
- C. Political message and election campaign signs.
- (1) Number. Except as provided in § 12.04, Wis. Stats., or as restricted in this Subsection C, any individual may place no more than one election campaign sign per candidate for office, and no more than one sign per referendum question to be voted upon, and no more than one 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 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 this chapter. 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. A political message or election campaign sign shall not be erected prior to the first day of an election campaign period and shall be removed on 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (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 10 feet from all lot lines. Flags in the Central City Mixed Zoning District shall be set back at least five feet from all lot lines. Flags hung from a building or structure are subject to the requirements in § 485-125C(5).
- E. Home occupation signs and professional office signs shall not exceed three square feet in area, shall be mounted flush against the dwelling, may not be illuminated and are limited to one such sign. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 article.
- 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 square feet, and the aggregate total area of all such signs cannot exceed 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 such signs:
  - (1) In residential zoning districts shall not exceed eight square feet in area and one sign per street frontage.
  - (2) In industrial or agricultural zoning districts shall not exceed 32 square feet in area and six feet in height.
  - (3) In business zoning districts shall not exceed 12 square feet in area.
  - (4) Shall be set back a minimum of five 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-foot setback. Signs shall not be located within the vision setback area or closer than 15 feet to a driveway.
  - (5) May be single- or double-faced.
  - (6) Shall not be illuminated.
  - (7) Shall be removed within seven days of sale or lease of the premises.
- K. Residential nameplates identifying the owners or occupants, provided that no more than two such signs are erected, each being less than two 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 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 § 485-119.
  - (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 inches in width and 48 inches 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 sign per business site shall be permitted.
  - (2) The sign shall be set back a minimum of five feet from all lot lines.
  - (3) The sign area shall not exceed 16 square feet.
  - (4) The sign shall not exceed five feet in height.
  - (5) The sign shall not be posted for more than 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 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 consecutive days per event and shall be limited to four 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 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 32 square feet in area, shall be erected not more than 14 days before the event and must be removed within three 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

square feet in area and must be removed within seven 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 grand opening sign not exceeding 32 square feet in area shall be allowed per business. The sign may be displayed for a maximum of 30 consecutive days.
  - (b) Banners. Special event banners shall be allowed for each business as follows:
    - [1] Banner size shall not exceed 32 square feet in area.
    - [2] Banners shall not be displayed for more than 14 consecutive days.
    - [3] Each individual business shall be limited to four banner events per year.
    - [4] There shall be no more than two 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 § 485-125C.

**§ 485-124. Signs permitted in all districts with 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 nonprofit organizations upon approval of the Plan Commission.
- C. Temporary construction and development signs.
  - (1) The size of the sign shall not exceed 32 square feet in area.
  - (2) No more than one sign of each type is permitted.
  - (3) The period of time the sign may remain is one year, which may be extended up to one 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.

**§ 485-125. Signs permitted in business, industrial, CCM and B-4 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 linear 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 C(4). The provisions of § 185-126 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 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 A.
- 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 A and, in addition, shall be subject to the following restrictions:
- (1) An industrial site of more than 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 § 485-126.
- 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 linear 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 foot back from the vertical plane formed by the curbline extended vertically.
    - (c) An awning or canopy sign shall not extend more than six 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 § 485-124N(4) for special events or promotions.
  - (3) Changeable copy signs (manual only). Changeable copy signs are permitted in any

business, Central City Mixed, or Public and Utility Zoning District as follows:  
**[Amended 12-21-2021 by 2021-21]**

- (a) The maximum size shall be 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 per business site.
- (4) Monument signs.
- (a) The maximum size of a monument sign shall be 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 40% of the total area of a monument sign.
  - (c) Landscaping shall be provided as required in § 485-130E.
  - (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 12 feet.
  - (g) Such signs may be double-faced.
  - (h) The sign face or display area, including its casing, shall not be wider than the sign support, monument, or base portion(s) of the sign structure. **[Added 6-18-2019 by Ord. No. 2019-8]**
- (5) Projecting signs fastened to, suspended from, or supported by a building:
- (a) Shall be limited to one sign per building facade.
  - (b) Shall not exceed, in total area, 1.0 square foot times the length of linear building front foot per business.
  - (c) Shall not extend more than six 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 feet above the adjoining sidewalk or more than 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 linear 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 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 20% of the total glazed front window area per business premises.
  - (a) Temporary window signs.
    - [1] Temporary window signs shall not be included in calculating the total permitted sign square footage.
    - [2] Temporary window signs 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.
    - [3] Temporary window signs shall not be illuminated.
    - [4] 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:
    - [1] Shall be included in calculating the total permitted sign square footage.
    - [2] 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.
    - [3] 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;
  - (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 statuary that are integrated with the principal building architecture or



business/corporate identity.

- E. Electronic message centers. Electronic message centers (EMCs) are permitted in the B-1 Office, B-2 Local Service Center Business, B-3 General Business, PUL Public and Utility Lands, and RS-4 Single Family Detached Residence Zoning Districts, provided that any such zoning district is not adjacent to the B-4 Central Business District, and subject to the following restrictions. As used in this subsection, "adjacent" shall mean lying near or close to or not widely separated, though the zoning districts may not touch. **[Added 12-21-2021 by Ord. No. 2021-21]**
- (1) Electronic message centers shall be part of a permanent monument sign only, and the size and area of the EMC shall be included in the calculation of the maximum allowable monument sign size and area. The maximum height of a monument sign which includes an EMC shall be six feet, and the maximum area of a monument sign which includes an EMC shall be 48 square feet. No more than one EMC shall be allowed per parcel of land.
  - (2) The maximum area of an electronic message center signboard in a permitted zoning district shall be 12 square feet per face, except in the RS-4 Single Family Detached Residence Zoning District, in which the maximum area of an EMC signboard shall be 10 square feet per face. No EMC sign in any permitted zoning district shall have more than two faces.
  - (3) Electronic message centers shall only display static messages or images. Messages or images displayed shall not contain moving, or the appearance of moving, text, images, transitions, animation, flashing or other distracting features.
  - (4) Electronic message center frames or images shall not contain or display a white or predominantly white background.
  - (5) No image or message shall change more than once every 10 seconds.
  - (6) Electronic message centers shall be equipped with a sensor or similar device that is programmed to automatically determine the ambient light level and adjust or dim the EMC signboard light level to not exceed a maximum brightness of 0.3 footcandle above ambient light conditions during both daylight and nighttime hours when measured from a distance of 150 or more feet from the EMC sign.
  - (7) For outdoor electronic message centers in districts zoned for any type of residential use, a light trespass limit of 0.1 footcandle above ambient light conditions shall be enforced when measured at the boundaries of the parcel on which the EMC sign is located.
  - (8) The electronic message center shall be programmed in such a manner that the display face(s) will turn dark and emit no light in case of a malfunction.
  - (9) Any electronic message center signboard integrated in a monument sign with a non-EMC-style sign face shall be positioned below such sign face.
- F. 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 or more supports are permitted. Ground-mounted signs with one support are prohibited.
  - (b) Ground-mounted signs may not exceed six feet in height.
  - (c) Ground-mounted signs may not exceed 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 § 485-130E.
- (2) B-4 Central Business Zoning District.
- (a) A monument sign may not exceed five feet in height. **[Amended 12-21-2021 by 2021-21]**
  - (b) A monument sign may not exceed 40 square feet in area. **[Amended 12-21-2021 by 2021-21]**
  - (c) Ground-mounted signs shall not extend over the property line or be located in the public right-of-way.

**§ 485-126. Signs for multi-tenant buildings and centers.**

- A. Definitions. For purposes of calculating the total sign area under this section, length of linear 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 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 linear front foot of the building or center. The total area of individual signs shall not exceed the maximum size specified in § 485-125C 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 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 facade. The Plan Commission may, in its discretion, permit an additional 25% sign area to the maximum sign area. The total area of individual signs shall not exceed the maximum size specified in § 485-125C for the specific type of sign proposed. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (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 this section, 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 tenants, each occupying 1/3 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.

**§ 485-127. Signs permitted in institutional and park districts.**

- A. 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:
  - (1) Private institutional and park name signs.
  - (2) Public institutional and park name signs, after review and recommendation by the Parks and Recreation Board. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- B. 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.

**§ 485-128. 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 article.
- B. Signs determined to be of historic significance by the Plan Commission shall be exempt from the restrictions in § 485-122 for existing nonconforming signs.
- C. Historic signs shall be maintained in good condition and repair.

**§ 485-129. General requirements for signs.**

- 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 article, except for those signs allowed without a permit under § 485-122 or 485-123.
- 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.

**§ 485-130. Sign standards.**

- A. Location.
  - (1) Except as provided in § 485-125D, no nonresidential sign shall be located nearer than 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-way as set forth in this chapter.
- (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 this article 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, noncorrosive 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.
- (6) Permanent signs that are professionally designed and/or manufactured and which meet the requirements and standards of this article 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 and 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 article, 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 60 footcandles when measured with a standard light meter held perpendicular to the sign face at a distance of 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 Article XXXII, 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 20 landscaping points shall be required for a sign up to four feet in width, and six additional landscaping points shall be required for each additional one foot of a width in excess of four 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 feet around the entire base of the sign or the sign face, whichever is greater.

ARTICLE XXX  
**Site Plan and Design Review**

**§ 485-131. Purpose; historic preservation.**

- A. In order that commercial, industrial, public and multifamily development within the City shall 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 § 62.23(7)(em), Wis. 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 or the State Register of Historic Places, or identified as potentially eligible to be listed on such national or state register, or listed on those certain inventories of historic places maintained by the City, namely the Intensive Survey Report (1998), as supplemented by the City of Port Washington, Wisconsin Architectural and Historical Intensive Survey Report (2022), as such registers, identification or inventories may be amended or supplemented 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 archaeological significance, including groups of properties designated by the Common Council as a historic district, shall be regulated as provided in §§ 485-131 through 485-135, inclusive. **[Amended 3-7-2023 by Ord. No. 2023-3]**
- C. Pursuant to § 62.23(7)(em), Historic preservation, Wis. Stats., in addition to the above requirements under Subsection 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 archaeological significance, including groups of property designated by the Council as an historic district, shall be regulated under this article. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (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 §§ 485-133 and 485-135 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 by the petitioner and the standards by which the place, structure, or object is to be administered under this section are also set forth, and further provided that 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.

**§ 485-132. Zoning districts affected.**

- A. 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 and OAG); industrial districts (I-1 and I-2); OIP Institutional and Public Service District; RM-1 Single- and Two-Family Residence District having dwellings of three or more units by a conditional use grant; multiple-family residential districts (RM-2, RM-3 and RM-4); dwellings of three 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.
- B. In the case of historic buildings, properties, places, structures, objects or landmarks described in or designated under § 485-131B 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 § 485-134C.
- C. In the case of historic buildings, properties, places, structures, objects or landmarks described in or designated under § 485-131B 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 § 485-134C.

**§ 485-133. 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 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.

**§ 485-134. Review standards; historic buildings, sites and structures.**

- 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 Articles XXXI and XXXII of this

chapter, as well as the type of materials, general form and proportions, windows, 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, windows, entrances 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 § 485-131B 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:
      - [1] 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.
      - [2] 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.

- [3] 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 article 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) Subsection 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 § 485-131B 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 § 485-131B 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:
  - [1] 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 article and to the objectives and design criteria of the historic preservation plan for said district.
  - [2] 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.
  - [3] 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 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 designated City officer under § 66.0413, Wis. 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 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 article.

#### **§ 485-135. Design Review Board.**

- A. Membership. The Design Review Board shall consist of five members, as follows: the City Engineer; one representative from the Police or Fire Department appointed by the Mayor and approved by the Plan Commission; and three persons appointed by the Mayor subject to confirmation by the Common Council, not more than one of whom may be a nonresident of the City. Of the three persons appointed by the Mayor subject to confirmation by the Common Council, one should be a graduate architect in the State of Wisconsin, another should have design, development or construction training or experience, and each of said three persons 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 the meetings of the Board. In the event of the Chairperson's absence, the Board members who are 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. **[Amended 6-6-2017 by Ord. No. 2017-5]**
- 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 § 485-131B 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 § 485-131B 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.
- D. Technical advice. The Design Review Board established by this article shall include two 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 facade alterations shall have terms of three years, except that, upon the first appointment, one technical advisor's term shall be for two years and the other technical advisor's term shall be for three years.

## ARTICLE XXXI

**Approval of Building, Site and Operational Plans****§ 485-136. 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.

**§ 485-137. 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.

**§ 485-138. Criteria for review of building, site and operational plans.**

In determining the acceptability of the building, site and operational plans, the Plan Commission shall take into consideration the following factors as well as any others it deems appropriate:

- A. The design and appearance of any structures, taking into consideration recommendations of the Design Review Board in those districts enumerated under § 485-132, and in those districts not so enumerated, the Commission shall follow the same standards as § 485-134.
- 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.

**§ 485-139. Form of submittal. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

Before issuing a building or an occupancy permit, the Building Inspector shall submit the necessary building, site and operational plans to the Plan Commission for its 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.

## ARTICLE XXXII

**Landscaping****§ 485-140. Purpose; applicability.**

This article is intended to promote compatible development; stabilize 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 article applies to commercial, industrial, institutional and multifamily residential development.

**§ 485-141. 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 wastewater 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 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.
- 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 article are necessary to safeguard the public health, safety and welfare.

**§ 485-142. Landscaping required; exemptions and modifications.**

- A. Landscaping required.

- (1) Landscaping is required in buffer yards, along the foundation of buildings, and in off-

street parking areas of all commercial, industrial, institutional and multifamily residential development. The area or length of each, as required in this article, shall be measured to determine the amount of landscaping required.

- (2) 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 article except those explicitly exempted below:
- (1) Additions to existing buildings which do not increase the total existing floor area by more than 10%.
  - (2) Additions to existing buildings which increase the total existing floor area between 11% and 50% shall conform to the landscaping standards specified in this article to the maximum extent 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 article up to 30%.
  - (3) Developed property or platted lots of record which are impacted by a subsequent right-of-way dedication may be developed without strict compliance with the requirements of this article, 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.
    - (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 article.
  - (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 article by not more than 50%.

**§ 485-143. Landscape plan; sureties; access easement.**

- A. Requirements for submission. To assure that the intent of the standards is 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 to 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 article. 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, do not require the services of a



professional.

- C. Landscape construction performance surety required.
- (1) 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.
  - (2) 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.
- 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 24 months. (See § 485-145F.)
- 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.

**§ 485-144. Contents of landscape plan; letter of completion; review fee.**

- A. Information to be provided. The landscape site plan shall contain information in accordance with the provisions provided in this article 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 rights-of-way, delineation of traffic vision corners (§ 485-58G and H), 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 shall maintain 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.
  - (3) A landscape planting plan developed by a recognized landscape professional at a scale of one inch equals 20 inches 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, and

storage areas and the detailed location of all plant materials drawn at 50% to 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 indicating the common and scientific names, quantity, size and condition of plant material at the time of planting.

<b>Exhibit I</b>	
<b>Plant Size/Unit of Measure</b>	
Trees	Caliper diameter at 4 inches 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: deciduous trees three inches in caliper; evergreen trees five feet in height; shrubs 36 inches in height; and ground cover 24 inches in diameter or in a five-gallon container.<sup>9</sup> **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (5) The location of all proposed berming indicating contours at one-foot intervals and percent of slope. The Plan Commission may, when necessary and appropriate, wave this requirement for landscape planting plans.
- (6) 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.
- (7) All landscaping plans must include a title block including the following information:
  - (a) North arrow.
  - (b) Scale one inch equals 40 feet.
  - (c) Name of developer.
  - (d) Address of project.
  - (e) Name of project.
  - (f) Date.
  - (g) Signature and name of landscape design professional.
  - (h) Space for revision dates.
  - (i) Sheet number.

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9. Editor's Note: Original § 20.31.100, Subsection A5, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. 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.
- C. Sealed letter of completion. Prior to the release of the owner's fiscal security, a sealed letter of completion shall be provided to the Division of Permits and Inspections 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- D. Optional review fee. For development projects over one acre in size the developer/owner shall be assessed a landscape plan review fee in an amount established or revised from time to time by resolution of the Common Council to be deposited with the City at the time of application to ensure compliance with this article. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- E. Minimum planting size of multi-stemmed plant material. The minimum planting size shall be:
  - (1) Trees and ornamental trees: seven feet to tip or as can be justified by the cultivar.
  - (2) Deciduous shrubs: 24 inches high or 18 inches to 24 inches in diameter.
  - (3) Evergreen shrubs: 24 inches high or 18 inches to 24 inches in diameter.

**§ 485-145. On-site landscaping and screening requirements.**

- A. General standards. The following standards apply to all industrial, commercial, utility or multifamily residential sites:
  - (1) No tree shall be located within five feet of a vehicular accessway, bike trail or public sidewalk or within 10 feet of a streetlight, stop sign, fire hydrant, street sign or directional sign.
  - (2) All landscaping material located within a vision triangle shall be 2.5 feet or less in height or have clearance of eight feet beneath the lowest branch or projection.
  - (3) No permanent impervious surfacing or subsurfacing 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.
- (1) Landscaping requirements are measured by points, the number of which is dependent upon the size of the development. A different number of points is 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.)
  - (2) 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.

<b>Table 1</b>		
<b>Landscaping Points and Minimum Installation Sizes</b>		
<b>Plant Category</b>	<b>Landscaping Points Per Plant</b>	<b>Minimum Permitted Installation Size</b>
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 square feet planted to a maximum of 5 points	≥ 18" mature height
Medium perennials and grasses	1/2 for every 10 square feet planted to a maximum of 5 points	< 18" mature height

Table 1		
Landscaping Points and Minimum Installation Sizes		
Plant Category	Landscaping Points Per Plant	Minimum Permitted Installation Size
Decorative fence	1 for every 5 linear feet in buffer areas adjacent to single-family and duplex development	Minimum 4.5' high

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

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	Ginkgo	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 (5 Landscaping Points)	
Botanical Name	Common Name	Botanical Name	Common Name
Betula sp.	Birch: River, Paper	Juniperus sp.	Juniper: Mountbatten, Red Cedar
Prunus sp.	Cherry: Choke, Pin	Thuja sp.	Arborvitae: Pyramidal, Techny
Salix sp.	Willow		

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

Low Deciduous Trees (10 Landscaping Points)		Tall Deciduous Shrubs (5 Landscaping Points)	
Botanical Name	Common Name	Botanical Name	Common Name
Malus sp.	Crabapple sp.	Viburnum sp.	Viburnum: Arrowwood, Wayfaringtree, Nannyberry

Medium Deciduous Shrubs (3 Landscaping Points)		Low Deciduous Shrubs (1 Landscaping Point)	
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		

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 25% but not more than 50% of the plant materials installed shall provide color on a year-round basis.

(1) Building foundations. Measured in linear feet.

- (a) The landscaping area for building foundation shall be located within 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 100 feet of building foundation perimeter, 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 linear feet of street frontage.

- (a) New developments and/or reconstruction of existing parking lots, where existing conditions allow, shall provide a twenty-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-foot deep planting area is to be provided along 2/3 the entire length of the parking lot which abuts a public or private roadway.
- (c) A minimum of four 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 Subsection D(2)(b) and (c), the following

minimum requirements may apply: the landscape screen shall be a minimum of four feet in height at installation, measured from the parking lot elevation. Up to one foot of the minimum four feet may be accomplished by crowning the plant bed.

- (e) For those existing situations where narrow street yards less than 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-foot street yard depth and comply with the following provisions:
  - [1] Parking lot street yard depths of 15 feet or greater shall provide for a minimum four-foot-wide lawn area on either side of a seven-foot-wide landscaped bed.
  - [2] Parking lot street yard depths 10 feet wide but less than 15 feet wide shall provide a four-foot-wide lawn area on the parking lot side of the street yard and a minimum six-foot-wide landscaped bed.
  - [3] Parking lot street yard depths five feet wide but less than 10 feet wide shall provide a minimum five-foot-wide landscaped bed.
- (f) For each 100 linear feet of street frontage of a lot abutting a private or public street right-of-way, 80 landscaping points shall be installed on a prorated basis and permanently maintained.
- (3) Side and rear lot buffer areas. In linear 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 100 feet of lot line, beginning at the front setback line, of a buffer area between like uses, 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 10 feet wide and shall be within 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 of 2.5 feet of maintained lawn. At least 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 100 feet of lot line, beginning at the front setback line, of a buffer area adjacent to single-family and duplex residential development, 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 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 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 article 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 inches.
    - (b) For every 20 parking spaces or 10,000 square feet of pavement (whichever yields the greater amount of landscaping) on a lot, 90 landscaping points shall be installed and permanently maintained. A minimum of 30% 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:
      - [1] Planting island between interior parking lanes shall be 10 feet wide and incorporate 2.5 feet of maintained lawn on each of the long sides for snow storage and a five-foot planting area in the middle.
      - [2] If pedestrian traffic crosses the planting area, the design shall provide for a defined paved walkway through the area.
  - (5) Undesignated area. Measured in square feet. All areas not described in Subsection D(1) to (4) of this section 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 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 13 groupings: tall deciduous trees, medium deciduous trees, low deciduous trees, tall evergreen trees, medium 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 above.)  
**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- F. Landscaping installation. All landscaping shall be installed within one 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 § 485-143 for future installation of the required landscaping.
- (1) Existing plant material which meets the requirements of this article 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 Subsections E, F, G and H of this section.
  - (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 article 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 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 and Zoning Enforcement 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 article. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 his, her 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 his, her or its agents, if any, of a subdivision, condominium, industrial, institutional, commercial or multifamily 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 article, the Director of Building Inspection and Zoning Enforcement shall issue a notice of violation and order to correct, cease and desist such violation. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 linear feet (e.g., 24 1/4 linear feet equals 25 linear feet) for the purpose of calculating required landscape points. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 two feet in vertical height.
  - (2) An earth berm exceeding two 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.
  - (3) All berms shall be constructed such that the width of the base of the berm shall be no less than six 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 months after planting.

#### **§ 485-146. Definitions.**

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

**BERM** — A mound of earth created for landscaping purposes.

**DECORATIVE FENCE** — Fencing made of wood, stone, or brick that is used as part of the landscaping of the buffer areas of a site.

**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.

**LANDSCAPING** — Changes in the natural features of a site by a recognized landscape design professional to make it more attractive.

**MAINTAINED LAWN** — Grass planted and maintained adjacent to landscaped areas of a site and mowed at regular intervals.

**PAVED AREAS** — Areas of a site covered in asphalt, brick, concrete or other impervious paving materials.

**PLANT MATERIALS** — Evergreen and deciduous trees and shrubs and perennials.

**SCREENING** — Hiding or obstructing noncompatible uses from single-family and duplex residential uses through the use of approved plant materials and decorative fencing.

## ARTICLE XXXIII

**General Interpretation of District Application****§ 485-147. Regulations made applicable to each district.**

The regulations as set forth in previous sections of this chapter are made specifically applicable to each individual district as hereinafter set forth in the individual district regulation summary or charts.

**§ 485-148. 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 Comprehensive Plan.

**§ 485-149. 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.

**§ 485-150. 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 chapter made applicable to the various districts is provided.<sup>10</sup> In the 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. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

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10. Editor's Note: The Regulations Chart is included as an attachment to this chapter.

ARTICLE XXXIV  
**List of Districts; Regulations Chart**

**§ 485-151. Districts enumerated. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

A. Basic districts.

R-1	Single Family Detached Residence
RS-1	Single Family Detached Residence
RS-2	Single Family Detached Residence
RS-3	Single Family Detached Residence
RS-4	Single Family Detached Residence
RS-5	Single and Two Family Residence
RS-6	Single- and Two-Family Residence
RM-1	Single and Two Family Residence
RM-2	Multiple Family (Garden Apartments and Townhouses)
RM-3	Multiple Family (Low-Rise Apartments)
RM-4	Multiple Family (Medium-Rise Apartments)
CCM	Multiple Family (Central City Mixed)
B-1	Office
B-2	Local Service Center Business
B-3	General Business
B-4	Central Business
BP	Business Park
I-1	Existing Industrial
I-2	Industrial Park
AG	Agricultural
SW	Shoreland-Wetlands
PUL	Public and Utility Lands

B. Overlay districts.

OOS	Office and Special Service
OIP	Institutional and Public Service
OPD	Planned Development
OHS	Highway Service
ODF	Density Factor
OAG	Arterial Gateway

ONP	Neighborhood Preservation
OCP	Conservation Protection
OLUT	Land Use Transition

**§ 485-152. Regulations Chart.**

The following chart identifies the development standards for each basic and overlay district.<sup>11</sup>

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11. Editor's Note: The Regulations Chart is included as an attachment to this chapter.

ARTICLE XXXV  
**District Regulations**

**§ 485-153. R-1 Single Family Detached Residence District.**

- 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 served by the public sewer system. **[Amended 5-16-2023 by Ord. No. 2023-11]**
- 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 § 485-98B.)
  - (3) Public utility transmission and distribution lines, poles, and other related accessories, provided that when a utility proposes a main intercity transmission facility, it 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 accessory. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (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 that 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 Article XXIX):
    - (a) A sign identifying the property or the name of the owner or occupant not in excess of six square feet in area.
    - (b) A "No Trespassing" or other similar sign and not in excess of six 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 two 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 Article XXIV.)
- (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 with surrounding residential area.
- (g) A nameplate not in excess of three square feet in area shall be permitted.
- (6) Home gardening and horticulture not involving commercial facilities for the sale 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 Article XXV.)
- (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, or private noncommercial group outdoor recreational facilities. (See Article XXV.)
- (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, and water and sewage treatment plants.

- (8) Bed-and-breakfast lodging, provided the property fronts upon a state highway.

**§ 485-154. RS-1 Single Family Detached Residence District.**

- 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 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.

**§ 485-155. RS-2 Single Family Detached Residence District.**

- 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 homes set individually on separate 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 use grant. Same as R-1 District.

**§ 485-156. RS-3 Single Family Detached Residence District.**

- 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 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.

**§ 485-157. RS-4 Single Family Detached Residence District.**

- 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.

**§ 485-158. RS-5 Single and Two Family Residence District.**

- 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 intercity transmission facility, it 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. The same as R-1 District, except Subsection C(2) (quarters for household employees) and Subsection C(3) (guest houses) 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-1 District, except Subsection D(1) (group outdoor recreational facilities) and Subsection D(7) (public utility installations) are not permitted as conditional uses in the RS-5 and RS-6 Districts.

**§ 485-159. RS-6 Single and Two Family Residence District.**

A. Statement of intent. This district provides for the same type and general density of residential development as the RS-3 District, but adds the permissibility of two-family dwellings on the same size lot.

B. Permitted uses by right. Same as RS-5.

C. Permitted accessory uses. Same as RS-5.

D. Permitted uses by conditional use grant. Same as RS-5. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**§ 485-160. RM-1 Single and Two Family Residence District.**

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 § 485-98B.)
- (3) Public utility transmission and distribution lines, poles, and other related accessories, provided that when a utility proposes a main intercity transmission facility, it 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.

- (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 accessory. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (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 Article XXIX):
  - (a) A sign identifying the property or the name of the owner or occupant not in excess of six square feet in area.
  - (b) A "No Trespassing" or other similar sign and not in excess of six 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 two 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 Article XXIV.)
  - (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 with surrounding residential area.

(g) A nameplate not in excess of three square feet in area shall be permitted.

- (6) Home gardening and horticulture not involving commercial facilities for the sale 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 Article XXV.)
- (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 noncommercial group outdoor recreational facilities. (See Article XXV.)
- (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, and water and sewage treatment plants.
- (8) Boardinghouses and lodging houses.
- (9) Multiple-family "walk-up" apartment houses of not fewer than two nor more than four dwelling units per structure nor more than two stories in height.
- (10) Single-family attached dwellings in row buildings of at least two but no more than four 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 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.

**§ 485-161. RM-2 Multiple Family (Garden Apartments and Townhouses) District.**

- 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 pedestrianways 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 with those residing nearby.
- B. Permitted uses by right.
- (1) Multiple-family apartment houses and attached single-family or row houses of not fewer than two nor more than eight dwelling units per structure nor more than three stories in height, subject to approval by the Plan Commission of building, site and operational plans (see Article XXXI). 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 Article XXXI 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 eight-unit structures were developed.
  - (2) Public parks and recreation areas, but not including facilities for organized athletics except as permitted conditional uses. (See Article XXV.)
  - (3) Public utility transmission and distribution lines, poles, and other accessories, provided that when a utility proposes a main intercity transmission facility, it 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 noncommercial group outdoor recreational facilities. (See Article XXV.)
  - (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 § 485-158.)

- (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 square feet, notwithstanding the provisions for 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.

**§ 485-162. RM-3 Multiple Family (Low-Rise Apartments) District.**

- 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 which will typically also be nearby requires a limitation on the height of buildings and the number of units per structure in the RM-3 District. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- B. Permitted uses by right.
  - (1) Multiple-family apartment houses not exceeding 12 units per structure nor more than three stories in height, subject to approval by the Plan Commission of building, site and operational plans. (See Article XXXI.) 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 Article XXXI 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, § 485-161B(2). **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - (3) Same as RM-2 District, § 485-161B(3). **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- 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 noncommercial group outdoor recreational facilities. (See Article XXV.)
  - (3) Service 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 they are intended solely to serve the occupants of the premises.

**§ 485-163. RM-4 Multiple Family (Medium-Rise Apartments) District.**

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 are 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 six stories in height, having at least 0.7 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 Article XXXI). The Plan Commission may approve apartment structures containing more than 36 units where it finds such structures would be compatible with the criteria of Article XXXI and with the spirit of the statement of intent of this district and of the basic intent of this chapter 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 Article XXV.)
- (3) Public utility transmission and distribution lines, poles, and other related accessories, provided that when a utility proposes a main intercity transmission facility, it 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 noncommercial group outdoor recreational facilities. (See Article XXV.)

D. Permitted uses by conditional grant. Any conditional use permitted in the RM-3 District.

**§ 485-164. CCM Multiple Family (Central City Mixed) District.**

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 nonresidential 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 § 485-98B.)
- (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 Article XXXI):
  - (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., boardinghouse, lodging house or tourist home, delicatessen, floral shop, funeral home, gift shop, interior design, restaurant, spa, beauty shop 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) Guest houses, 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 Article XXIV.)
  - (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 greenhouses in excess of 500 square feet in area which shall be prohibited.
  - (6) Private residential outdoor recreation facilities. (See Article XXV.)
  - (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 noncommercial group outdoor recreational facilities. (See Article XXV.)
  - (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, and water and sewage treatment plants.
  - (7) Multiple-family apartment houses constructed after August 18, 2005, that are greater than three units but not exceeding eight 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 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.

**§ 485-165. 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 the neighborhood and of the larger community area. Plan Commission approval of the building, site and operational 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 are subject to approval by the Plan Commission of building, site and operational plans (see Article XXXI):
  - (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 are subject to approval by the Plan Commission of building, site, and operational plans (see Article XXXI):
  - (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 use by not comprising cumulatively more than 30% of the floor area.
  - (2) Off-street parking or loading areas. (See Article XXIV.)
  - (3) Signs subject to the regulations of Article XXIX.
  - (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.

**§ 485-166. B-2 Local Service Center Business District.**

- 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 Article XXXI):
    - (a) Retail stores and shops.
    - (b) Community and customer service establishments, such as but not limited to the following:
      - [1] Business, professional, public service, banking, and savings and loan offices.
      - [2] Restaurants, taverns, theaters, bowling alleys, nightclubs and other indoor commercial entertainment facilities.
      - [3] Laundromats, coin-operated dry-cleaning establishments, and laundry or dry-cleaning pickup stations.
      - [4] Dental and medical clinics.
      - [5] 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 Article XXXI):
    - (a) Garages for storage of vehicles used in conjunction with the operation of the business.
    - (b) Off-street parking and loading areas. (See Article XXIV.)
    - (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 Article XXV.)
- (6) Experimental, testing and research laboratories.
- (7) Outdoor eating or drinking facilities.
- (8) Emergency homeless shelter, consisting of a building used to provide temporary residential accommodations for not more than 90 days, and simultaneously serving not more than 20 persons, including children, who due to unexpected, unforeseen, or unsafe circumstances have an immediate need for housing assistance. **[Added 2-15-2022 by Ord. No. 2022-3]**

**§ 485-167. 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 Article XXXI):
  - (a) General merchandising and wholesale establishments.
  - (b) Printing and publishing houses and related activities.
  - (c) Service establishments for automobiles, including body repair shops and new car sales lots, but not including the storage of junked or wrecked automobiles and parts. **[Amended 5-4-2021 by Ord. No. 2021-7]**
  - (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.

**§ 485-168. B-4 Central Business District.**

## A. Statement of intent. This district is intended to provide appropriate regulations to ensure 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 General Business District except as set forth in § 485-167B(2)(c) and (d). **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (2) The following are subject to approval by the Plan Commission of building, site and operational plans (see Article XXXI):
  - (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 noncommercial use would be in conflict with the continuity of business frontage as proposed in the downtown portion of the City's Comprehensive 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.

**§ 485-169. 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, or 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, or 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 Article XXXI of this chapter.

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-through 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 Article XXIX of this chapter.
- (3) Governmental and public services.

F. Prohibited uses.

- (1) Automobile wrecking yards, junkyards, 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-through 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 intercity transmission facility, the utility 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 mapped 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 40% of the lot area.

J. Building height. The maximum height of principal structures shall not exceed 35 feet unless otherwise allowed as part of a planned development agreement and overlay zoning pursuant to Article XXI of this chapter. The maximum height of accessory structures shall not exceed 30 feet.

K. Minimum building setback. All structures within the BP Business Park District shall be set

back 40 feet from the ultimate road right-of-way.

- L. Minimum building and parking offset. Building or structure offsets shall be a minimum of 25 feet 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 100 feet.
- M. Buffer area landscaping. Thirty feet of all offsets immediately adjacent to residential zoning districts shall be landscaped in the following manner: with a minimum of 120 points for every 100 linear feet of side or rear lot line; 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 linear feet of fencing. Said buffer area landscaping shall be in addition to that required under Article XXXII of this chapter.
- 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 Article XXIV of this chapter.
- Q. Minimum parking and driveway offset. No driveway shall be located closer than 20 feet to 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 100 feet.
- R. Minimum parking setback. No driveway (excluding the portion of driveway required for road access) or parking area shall be located closer than 25 feet to the ultimate road right-of-way.
- 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 Article XXXII of this chapter and Subsection M of this section.
- 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.

**§ 485-170. I-1 Existing Industrial District.**

- 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 Article XXXI):

(a) Manufacturing, assembly, fabrication, and processing plants and similar type industrial operations but not including any of the following:

[1] Manufacture of cement, lime, gypsum, plaster of paris, acid, explosives, fertilizers, or glue.

[2] Rendering plants, refineries, or tanneries.

[3] Stockyards or slaughterhouses.

[4] Junk or salvage yards.

[5] Storage of explosives except as incidental to a permitted use and storage of gasoline or petroleum in excess of 50,000 gallons.

[6] Extractive operations except as permitted by Article XXVI.

[7] 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 Article XXXI):

(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 Article XXIV.)

(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.

**§ 485-171. I-2 Industrial Park District.**

- 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 ensure 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 by right in the I-1 Existing Industrial Zoning District, except that no building used for warehousing in the I-2 Industrial Park Zoning District shall be less than 11,000 square feet in area. **[Amended 1-4-2022 by Ord. No. 2021-22]**
- 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. **[Amended 5-4-2021 by Ord. No. 2021-5]**
  - (1) Any use permitted by conditional grant in the I-1 District.
  - (2) The sale of used automobiles when accessory to a previously approved principal use of a building as an indoor storage facility; provided, however, that such sales are conducted entirely within the building and that there shall be no more than 12 such sales per calendar year. This conditional accessory use shall not be allowed if carried on in conjunction with a warehousing business. As used in this subsection, "automobile" means a usually four-wheeled land vehicle designed primarily for transportation of passengers rather than property, meant for traveling on a highway, and commonly self-propelled by an engine or motor, but excluding an all-terrain vehicle, moped, motor bicycle, motor bus, motorcycle, motor home, school bus, and

truck tractor, as said terms are defined in § 340.01, Wis. Stats.

**§ 485-172. 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, it 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.
  - (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 four 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 Article XXIX.
- 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.

**§ 485-173. SW Shoreland-Wetlands District.**

See Chapter 467, Shoreland-Wetland Zoning.

**§ 485-174. PUL Public and 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. The following are subject to approval by the Plan Commission of building, site and operational plans (see Article XXXI):
  - (1) Public schools, libraries, museums, auditoriums, art galleries, concert halls or similar facilities designed to serve the educational or cultural needs of the community.
  - (2) Public administrative offices and public service buildings, including fire and police stations.
  - (3) Public parks and recreational areas, but not including facilities for organized athletics except as a permitted conditional use.
  - (4) Public parking lots.
  - (5) 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.
  - (6) 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 the 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.

**§ 485-175. OOS Office and Special Service District.**

- A. Statement of intent. This district is intended to provide for individual 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 ensure 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 Article XXXI):
    - (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:
      - [1] Boardinghouse, lodging house, or tourist home.
      - [2] Delicatessen.
      - [3] Florist shop.

- [4] Funeral home.
- [5] Gift shop.
- [6] Interior decorator.
- [7] Tea room or restaurant not serving liquor.
- [8] Beauty shop and barbershop.

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 Article XXXI.)

D. Permitted uses by conditional grant.

- (1) Any conditional use permitted in the underlying basic district.
- (2) Dental and medical clinics.
- (3) Nursing and rest homes and homes for the aged.
- (4) Existing taverns and bars, or restaurants serving liquor.

**§ 485-176. OIP Institutional and Public Service District.**

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 ensure 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 Article XXXI):
  - (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 noncommercial group outdoor recreational facilities. (See Article XXV.)

(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 Article XXXI):
  - (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 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.

**§ 485-177. OPD Planned Development District.**

- A. Statement of intent. This district is intended to allow for greater freedom, imagination, and flexibility in the development of land while ensuring substantial compliance with the intent of the normal district regulations of this chapter. 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 regulations as to the manner in which permitted as provided in Article XXI.
- 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

## Article XXI.

## 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.

**§ 485-178. 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 ensure 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 Article XXXI):
  - (a) Motels.
  - (b) Restaurants not serving alcohol beverages.
  - (c) Tourist homes.
  - (d) Public and private noncommercial group outdoor recreational facilities. (See Article XXV.)
  - (e) Commercial entertainment facilities not serving alcohol 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. Any conditional use permitted in the underlying basic district.

**§ 485-179. ODF Density Factor District.**

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 overinflation 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 two 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 1,500 square feet per family nor the open space to less than 500 square feet per family.

**§ 485-180. OAG Arterial Gateway District.**

- A. Statement of intent. This overlay district is intended to provide for higher standards of design and site development along the high-visibility arterial gateways into the City.
- B. Applicability. This overlay district shall apply to all nonresidential properties having frontage on the following named streets and a base zoning of B-1, B-2 or B-3:
  - (1) State Highway 32 from the south City limits to Portview Drive.
  - (2) State Highway 32 from the north City limits to Norport Drive.
  - (3) State Highway 33 from the west City limits to County Highway LL.
  - (4) County Highway C from the south City limits to Western Avenue.
- C. Permitted uses by right. The following uses are permitted, subject to approval by the Plan Commission of the building, site and operational plans (see Article XXXI):
  - (1) Offices.
  - (2) Retail stores and shops.
  - (3) Community and customer service establishments.
  - (4) Commercial studios, display galleries, and vocational training schools.
  - (5) Public utility offices and installations with no outside storage.
  - (6) General merchandizing establishments.
  - (7) Printing and publishing houses and related activities.
  - (8) Any use which the Plan Commission determines to be consistent with the intent of this overlay district and compatible with and similar to the permitted uses by right set forth herein, at a meeting held pursuant to Subsection I hereof. **[Amended 4-18-2023 by Ord. No. 2023-8]**
- D. Permitted accessory uses.
  - (1) Any use normally accessory to a permitted principal use.
  - (2) All garbage and refuse containers shall be screened from view from streets and

adjacent sites by the use of walls, fences, or landscaping. **[Amended 7-18-2023 by Ord. No. 2023-14]**

E. Permitted uses by conditional grant. **[Amended 4-18-2023 by Ord. No. 2023-8]**

- (1) Restaurants, taverns, theaters, bowling alleys, nightclubs and other indoor commercial entertainment facilities, subject to Chapter 346 of the City Code regulating sexually oriented businesses.
- (2) Service establishments for automobiles, including body repair and new car sales, but excluding used car sales, provided that any outdoor display areas are appropriately landscaped with areas containing sod, native grasses, shrubs, bushes, and trees.
- (3) Lawn and garden centers, nurseries and greenhouses.
- (4) Boat sales and service operations.
- (5) Animal hospital or veterinary clinic.
- (6) Experimental, testing and research laboratories.
- (7) Private commercial outdoor recreational facilities.
- (8) Gas/service station or convenience store.
- (9) Outdoor eating and drinking facilities.
- (10) Hotels and motels.
- (11) Lodges and private clubs.

F. Prohibited uses and activities. **[Amended 7-18-2023 by Ord. No. 2023-14]**

- (1) Transportation terminals.
- (2) Commercial parking facilities.
- (3) Warehousing.
- (4) Trailer and/or truck rentals.
- (5) Check cashing stores.
- (6) Pawnshops.
- (7) Any uses that generate significant dust, odor, or noise.
- (8) Any uses not permitted by right, as an accessory use, or as a conditional use hereunder.

G. Setback and area requirements. As specified in the underlying district, except as follows:

- (1) Minimum open space shall be the greater of 30% or the amount specified in the underlying district.
- (2) Maximum floor area to lot ratio shall be the lesser of 60% or the amount specified in the underlying district.

- H. Miscellaneous requirements; relief from strict application. The following requirements shall also apply to properties within this overlay district. However, the City recognizes that due to unique site conditions or design limitations, strict application of these requirements may impede the maximum use of the proposed development. Therefore, in such cases the Plan Commission may, in its discretion, consider trade-offs within and among these requirements to facilitate development and increase the benefits to the City.
- (1) Predominant exterior building materials shall be durable materials that can be economically maintained and are of a high quality that will retain their appearance over time, such as, but not limited to, fiber-cement siding, wood lap siding, brick, stone, architectural pre-cast concrete, architectural panelized wall systems, or such other materials as may be approved. **[Amended 4-18-2023 by Ord. No. 2023-8]**
  - (2) Buildings shall be designed with consistent and/or compatible details on all sides visible from public rights-of-way.
  - (3) Prohibited exterior building materials include tilt-up concrete panel systems and metal panel systems.
  - (4) Garage and overhead doors shall be screened from view from public rights-of-way by the use of walls, fences, or landscaping.
  - (5) All on-site utilities shall be located underground.
  - (6) Ground-mounted mechanical equipment shall not be located in the front yard and shall be screened from view from public rights-of-way by the use of walls, fences, or landscaping.
  - (7) All roof-mounted mechanical equipment shall be screened to minimize visual impact from public rights-of-way, where such screening will be effective. Where screening will not be effective, the color of such equipment shall be the same as or complementary to the color of the building.
  - (8) To the extent practicable, parking shall not be in the front of a building but in the back.
- I. Administrative review. If an applicant submits a proposal for the use of a property which is not listed as a permitted use by right under Subsection C hereof, the City Planner shall review and give written notice of the proposal to the Plan Commission. A meeting of the Plan Commission shall be held as soon as practicable, upon prior public notice, to discuss such proposal and determine whether the proposed use is consistent with the intent of this overlay district, and compatible with and similar to the permitted uses by right set forth herein so as to be a permitted use by right. **[Amended 4-18-2023 by Ord. No. 2023-8]**

**§ 485-181. ONP Neighborhood Preservation 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 § 485-134. 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.

**§ 485-182. OCP Conservation Protection 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.
- (11) Wildlife and plant life preserves.

D. 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.

E. 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.

**§ 485-183. OLUT Land Use Transition District.**

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), Wis. Stats., 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 or reconstructed or other changes made only by conditional use approval.