

**CHAPTER 490
ZONING**

**ARTICLE 1
GENERAL PROVISIONS**

490-01 Title

This chapter shall be known as “Zoning” and may be referred to herein as “this chapter” or the “City’s zoning coderegulations.”

490-02 Authority

This chapter is adopted under the authority granted under § 62.23, Wis. Stats., as amended, and other provisions referenced in other parts of this chapter.

490-03 Jurisdiction

This chapter applies to the area within the corporate limits of the City of Port Washington, the boundary of which may change over time through annexations and detachments.^[1]

Editorial notes:

[1] An annexation removes land from a town and adds it to a city or village. A detachment removes land from a city or village and adds it to a town or to another city or village.

490-04 Legislative findings

A. General findings. The Common Council makes the following legislative findings:

- (1) The Common Council adopted a comprehensive plan pursuant to § 66.1001, Wis. Stats., and has made various amendments since then.
- (2) This chapter is intended to be consistent with the overall intent of the City’s comprehensive plan, as may be amended.

B. Other findings. Other legislative findings are included in various articles, divisions, and sections of this chapter as may be appropriate.

490-05 Purpose

A. General purpose. This chapter promotes the public health, safety, and welfare and is intended to:

- (1) implement the goals, objectives, and policies of the City’s comprehensive plan to the greatest extent practicable;
- (2) encourage the most appropriate use of land throughout the City;
- (3) conserve the value of buildings;
- (4) establish clear and consistent standards, regulations, and procedures for the review of proposed development as may be regulated by this chapter;
- (5) establish minimum standards for the use or development of land within the City; and
- (6) avoid sprawl.

B. Specific purposes. Consistent with § 62.23 (7)(c), Wis. Stats., this chapter is also intended to:

- (1) secure safety from fire, panic, and other dangers;
- (2) promote health and general welfare;

- (3) provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;
- (4) encourage the protection of groundwater resources;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population;
- (7) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
- (8) preserve burial sites, as defined in § 157.70 (1)(b), Wis. Stats.

C. Other purposes. Other purposes may be included in various articles, divisions, and sections as may be appropriate.

490-06 Re-enactment and repeal

This chapter carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters which the Common Council adopted under authority of state law prior to the effective date of this chapter. This chapter is not intended to repeal those regulations in their entirety, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced, unless explicitly surrendered by specific provisions of this chapter. If a provision in the regulations which were in effect on the date this chapter became effective is not specifically carried forward in this chapter, such provision is repealed. As to the effect of this section on existing land uses refer to Article 26.

490-07 Compliance

- A. Generally.** Except as specifically provided, the provisions of this chapter apply to all development within the City of Port Washington. No development shall be undertaken without the prior authorizations required by this chapter and other applicable rules and regulations of the City of Port Washington.
- B. Exception for a previously granted permit or other approval.** If a permit or other approval has been previously granted and the authorized work, in whole or in part, is no longer allowed under the current zoning regulations, the holder of the permit is authorized to establish the use or undertake the authorized work within one year of the date of the approval. If the authorized work does not commence within that time period and continue in good faith to completion, such permit or other approval shall lapse and be null and void without any further action by the City.
- C. Exception for the establishment of a use, structure, or building not requiring authorization.** If prior to the adoption of this chapter, or amendment thereto, a lawful land use, structure, or building is actively being established that did not require a permit or other approval under the zoning regulations in effect at that time, said work may continue to completion even when such land use, structure, or building (1) now requires a permit or other authorization under this chapter, (2) is being developed contrary to this chapter, or (3) is otherwise prohibited under this chapter. If such work does not continue in good faith to completion, any work must thereafter conform to this chapter.

490-08 Liability

The City of Port Washington and its officials, agencies, employees, agents, and assigns are not liable for any flood damage, sanitation problems, structural damage, or other damages or loss of property value that may occur as a result of reliance upon and conformance with this chapter.

490-09 Severability

- A.** If any section, clause, provision, or portion of this chapter is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected by such ruling.

- B. If any application of this chapter to a particular structure or parcel is determined to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not apply to any other structure or parcel not specifically included in the ruling.

490-10 Relationship of this chapter to other regulations

In addition to meeting the requirements contained in this chapter, development must comply with all applicable regulations of federal and state agencies. In all cases, the strictest of the applicable provisions apply.

490-11 Relationship of this chapter to private agreements

This chapter is not intended to repeal, abrogate, annul, impair, or interfere with any easement, covenant, deed restriction, or other private agreement governing land development. However, when this chapter imposes a greater restriction than the aforementioned, the provisions of this chapter apply.

490-12 Additional local regulations

In addition to meeting the regulations contained in this chapter, development must comply with all applicable regulations in the municipal code, including the following and any amendments thereto:

- (1) Chapter 133 – Alcohol Beverages
- (2) Chapter 137 – Amusements
- (3) Chapter 155 – Building Construction
- (4) Chapter 224 – Fire Prevention and Protection
- (5) Chapter 320 – Property Maintenance
- (6) Chapter 342 – Sewers and Sewage Disposal
- (7) Chapter 346 – Sexually Oriented Businesses
- (8) Chapter 370 – Streets and Sidewalks
- (9) Chapter 440 – Administrative, Filing and Development Review Fees
- (10) Chapter 455 – Impact Fees
- (11) Chapter 473 – Stormwater Management
- (12) Chapter 478 – Subdivision of Land

In all cases, the strictest of the applicable provisions shall apply.

490-13 No defense to nuisance action

Compliance with the standards and requirements in this chapter does not constitute an absolute defense to an action to abate a public or private nuisance.

490-14 Applicability to public entities

This chapter applies to all publicly-owned land to the fullest extent allowed by state and federal law. When a public entity undertakes any development that is exempted by state or federal law from this chapter, in whole or in part, it is strongly encouraged to meet the provisions of this chapter.

490-15 Relief from other provisions

Nothing in these provisions shall relieve any person from satisfying any condition or requirement associated with a previous approval issued under this chapter, or any local, state, or federal law or requirement.

490-16 Applicability to projects under the purview of the Public Service Commission

This chapter applies to projects under the purview of the Wisconsin Public Service Commission (PSC) to the fullest extent allowed by state law.^[1] The Plan Commission and/or the Common Council may submit a written request to the PSC outlining those standards and/or requirements of this chapter that the PSC should impose as conditions of project approval, if approval is to be granted.

Editorial notes:

[1] See § 196.491(3)(i), Wis. Stats., and also American Transmission Co., LLC v. Dane County, 2009 WI App. 126

490-17 Repeal of conflicting provisions

All other ordinances or parts of ordinances of the City that are inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are repealed.

490-18 Copyright protection

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