

Zoning Code

Chapters 9 & 10

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CHAPTER 9 ZONING PROVISIONS

9.01 AUTHORITY

This Ordinance is adopted under the authority granted by Wis. Stat. § 60.61, 60.62, 62.23 and 66.0103 and Chapter 91 of the Wisconsin Statutes and amendments thereto. The Board of Supervisors of the Town of Lyndon, Wisconsin, does ordain as follows:

9.02 TITLE

This Ordinance shall be known as, referred to as, and cited as the “ZONING ORDINANCE FOR TOWN OF LYNDON, WISCONSIN” and hereinafter referred to as the “Ordinance”.

9.03 PURPOSE

The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the Town of Lyndon.

9.04 INTENT

- A. It is the general intent of this Ordinance to:
1. Stabilize and protect property values and the tax base.
 2. Recognize the needs of agricultural, forestry, industry, residence, recreation, and business in future growth.
 3. Encourage the appropriate use of land and conservation of natural resources.
 4. Encourage the wise use, conservation, development, and protection of the Town of Lyndon water, soil, wetland, woodland, and wildlife resources and attain a balance between land uses and the ability of the natural resource base to support and sustain such uses.
 5. Preserve natural growth, cover, and promote the natural beauty of the Town of Lyndon.
 6. Provide adequate public facilities and utilities.
 7. Promote the safety and efficiency of streets, highways, and other transportation systems.
 8. Promote adequate light, air, sanitation, drainage, and open space.
 9. Regulate the use of structures, lands, and waters outside of shoreland areas.
 10. Regulate lot coverage, population density and distribution, and the location and size of structures outside of shoreland areas.
 11. Prohibit uses or structures incompatible with natural characteristics, existing development or intended development within or adjacent to a zoning district.
 12. Implement those municipal, county, watershed, or regional comprehensive plans or their components adopted by the Town of Lyndon. Additionally, it is intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.
- B. Additionally, it is intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.

9.05 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

9.06 INTERPRETATION

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

9.07 SEVERABILITY AND NON-LIABILITY

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

If any application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

The Town of Lyndon does not guarantee, warrant, or represent that any soils listed as being unsuited for specific uses are the only unsuitable soils and hereby asserts that there is no liability on the part of the Board of Supervisors, its agencies, or employees for any flood damages, sanitation problems, or structural damages that may occur as a result of reliance upon and conformance with this Ordinance.

9.08 REPEAL OF CONFLICTING AND EARLIER ORDINANCES

All other Ordinances or part of Ordinances of the Town of Lyndon inconsistent or in conflict with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

9.09 ADOPTION AND EFFECTIVE DATE

This Ordinance shall be effective after a recommendation by the Plan Commission, a public hearing and adoption by the Town Board of Lyndon, and publication or posting as provided by law.

9.10 INTRODUCTION

The proper regulation of certain structures, lands, and waters only through the use of the zoning districts contained within this Ordinance is neither feasible nor adequate. Therefore, the restrictions and regulations contained in this Ordinance which shall be applied in addition to the district regulations and are necessary to accomplish the intent of this Ordinance.

9.11 JURISDICTION

The provisions of this Ordinance shall apply to all structures, land, water, and air within the unincorporated areas of the Town of Lyndon, Sheboygan County, Wisconsin.

9.12 COMPLIANCE

No structure, land, water, or air shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a building permit, except minor structures as defined in a subsequent chapter of this ordinance, and full compliance with the provisions of this Ordinance and all other applicable local, county, and state regulations.

Nothing herein contained shall require any changes in plans, construction, size, or designated use of any building, or part thereof, for which a building permit has been issued before the effective date of this Ordinance and the construction of which shall have been started within 6 months from the date of such permit.

The Town Board or its designee shall accept all applications, issue or deny all building permits, investigate all complaints, give notice of violations, and enforce the provisions of this Ordinance.

All violations of this Ordinance shall be reported to the Town Board who shall bring action to enforce the provisions of this Ordinance.

9.13 VIOLATIONS

It shall be unlawful to construct, develop, or use any structure, or to develop or use any land, water, or air in violation of any of the provisions of this Ordinance. In case of any violation, the Town Board, and municipality, or any owner of real estate within the district affected who may be specifically damaged by such violation may institute the appropriate action or proceeding to enjoin a violation of this Ordinance.

9.14 PENALTIES

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance or any order of the Town Board issued in accordance with this Ordinance, or resists enforcement, shall, upon conviction thereof, forfeit not more than \$500.00 for each offense, except as otherwise specified, together with the costs of prosecution and, in default of payment for such forfeiture, shall be imprisoned in the County Jail of Sheboygan County until such forfeiture and costs are paid, but not to exceed 30 days. Each day a violation continues to exist shall constitute a separate offense.

9.15 CHANGES AND AMENDMENTS

- A. Authority:
Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by ordinance, change the district boundaries or amend or supplement the regulations established by this Ordinance in accordance with the provisions of the Wisconsin

Statutes. Such change or amendment shall require the review and recommendation of the Plan Commission in writing to the Town Board.

B. Initiation:

A petition for change or amendment may be made by any property owner in the area to be affected by the change or amendment, by the Town Board, or by the Town Plan Commission.

C. Petition:

Petitions for rezoning areas zoned for exclusive agricultural use will be considered only after findings are made based upon consideration of the following:

1. Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.
2. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them.
3. The land proposed for rezoning is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas.

The DATCP (Department of Agriculture, Trade and Consumer Protection) shall be notified of all rezonings of land into or out of the farmland preservation zoning district.

Petition for change to the district boundaries or amendments to the regulation shall be filed with the Town Clerk, and describe the premises to be rezoned or the regulations to be amended, listing the reasons justifying the petition and specifying the proposed use and have attached the following:

1. Petitioner's name, address, phone number, and interest in property (owner, broker, etc.)
2. Existing and proposed zoning district.
3. Proposed use (a statement of the type, extent, area, etc., of any development project.)
4. Owner's names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.
5. Compatibility with adjacent lands, (a statement of land uses and impact of zoning change).
6. Legal description of the property to be rezoned.
7. Plat plan or survey plat property to be rezoned (show location, dimensions, zoning of adjacent properties, existing uses, and buildings of adjacent properties, all drawn to scale).
8. Additional information as may be requested or waived by the Plan Commission.
9. Fee receipt of payment from the applicant as specified in the Fee Schedule.

D. Hearing:

The Town Board shall, after publishing a Class II notice under Chapter 985 of the Wisconsin Statutes, hold a public hearing upon each petition, listing the time, place, and the changes or amendments proposed. The Town Board shall also give at least 10 days prior written notice to the clerk of any municipality with 1,000 feet of any land to be affected by the proposed change or amendment.

E. Board Action:

Following such hearing and after careful consideration of the Town Plan Commission recommendations, the Town Board shall vote on the passage of the proposed changes or amendments. The Town Plan Commission recommendations may only be over ruled by the majority vote of the Town of Lyndon Board membership present and voting on the proposed changes or amendments.

F. Protest and Hearings:

In the event of a protest against such change or amendment, duly signed and acknowledged by the owners of 20 percent or more either of the areas of the land included in such proposed change or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet there from, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the members of the Town Board.

9.16 SANITARY REGULATIONS

No private water supply or sewage disposal system, or part thereof, shall be located, installed, moved, reconstructed, extended, enlarged, converted, substantially altered, or its use changed without a County Sanitary Permit and without full compliance with the SANITARY ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN. No building permit shall be issued until a safe and adequate sewage disposal system is assured and a Sanitary Permit is issued. Any future subdivisions adjacent to public sewer system must join onto this system.

9.17 USE REGULATIONS

Only the following uses and their essential services may be allowed in any district.

- A. Principal Uses Specified for a District: (Only 1 principal dwelling structure shall be located, erected, or moved onto a lot except as permitted under planned unit development districts and provisions.
- B. Accessory Uses and Structures are permitted in any district, but not until their principal structure is present or under construction—except in the “A” districts, where accessory uses and structures are allowed without the presence of a principal use or structure. Uses accessory to residential district developments shall not involve the conduct of any business, trade, or industry except for home and professional occupations as defined herein.
- C. Conditional Uses and their accessory uses shall be permitted in specified districts after review, public hearing, and approval by the Town Board in accordance with procedures and standards established in Chapter 9, Section 24 – Conditional Uses of this Ordinance.
- D. Uses Not Specified in this Ordinance may be recommended by the Plan Commission to the Town Board.
- E. Temporary Uses such as real estate, sales, field offices, shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Town Board, after recommendation by the Plan Commission, as provided for in this Ordinance.

9.18 GENERAL SITE RESTRICTIONS

No land shall be used or primary building structure erected when the land is held unsuitable for such use or structure by the Plan Commission by reason of flooding; concentrated runoff; inadequate drainage; adverse soil or rock formation; unfavorable topography, impermeability, high shrink-swell potential or low bearing strength of soils; erosion susceptibility; or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and/or general welfare of Town of Lyndon. The Plan Commission, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Plan Commission may affirm, modify, or withdraw its determination of suitability.

- A. All principal structures shall be located on a lot; only one primary dwelling structure shall be located, erected, or moved onto a lot except as permitted under planned unit development districts and provision.
- B. A building permit may not be issued for any lot that abuts a public street if the street is not dedicated to its full-proposed width and the lot is located on the side of the street which has not been dedicated. A permit may be issued if the lot is on the side of the street which has been dedicated.
- C. Where culverts are required, culvert to be installed before equipment moves in for new home sites, or any other construction.

9.19 NONCONFORMING USES, STRUCTURES, AND LOTS

- A. Existing Nonconforming Uses:
The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform to the provisions of this Ordinance, except that:
 - 1. Only that portion of the land or water in actual use may be so continued, and the nonconforming use may not be extended, enlarged, reconstructed, substituted, or moved, except when required to do so by law or order, or so as to comply with other provisions of this Ordinance.
 - 2. Total structural repairs or alterations to a structure which is part of a nonconforming use shall not during its life exceed 50 percent of the assessed value of the structure unless permanently changed to a conforming use.
 - 3. Substitution of new equipment may be permitted by the Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use or structure with the neighboring uses.
 - 4. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water, shall conform to the provisions of this Ordinance.
 - 5. When a structure which is part of a nonconforming use is damaged by fire, explosion, flood, or other calamity, to the extent of more than 50 percent of its current assessed value, it shall not be restored except so as to comply with the provisions of this ordinance.

6. Once a nonconforming use or structure has been changed or altered so as to comply with the provisions of this Ordinance, it shall not revert back to a nonconforming use or structure. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board.

B. Existing Nonconforming Structures:

The use of a structure existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform with the established building setback line along arterial streets and highways, or the yard, height, parking, loading, access, and lot area provisions of this Ordinance.

1. Additions and enlargements to existing nonconforming structures are permitted and shall conform with the established building setback lines along arterial streets and highways and the yard, height, parking, loading, and access provisions of this Ordinance. The provisions of this Section with respect to additions or enlargements are applicable only if the lot or parcel conforms with the existing County Sanitary Ordinance or is serviced by a public sanitary sewer.
2. An existing nonconforming structure which is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation may be restored to the size and use that it had immediately before the damage or destruction occurred. The restored size may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable state or federal requirements.
3. Existing nonconforming structures may be moved and insofar as is practicable shall conform with the established building setback lines along arterial streets or highways and the yard, height, parking, loading, and access provisions of this Ordinance. The provisions of this Section, with respect to moving, are applicable only if the lot or parcel conforms with the existing sanitary code requirements or is serviced by public sanitary sewer.

C. Changes and Substitutions:

Once a nonconforming use has been changed to a conforming use or a substandard structure has been altered so as to comply with the yard, height, parking, loading, and access provision of this Ordinance, it shall not refer back to a nonconforming use or substandard structure. Once the Board of Appeals has permitted the substitution of a more restrictive nonconforming use for the existing nonconforming use, the prior existing use shall lose its status as a legal nonconforming use and the substituted use shall become subject to all the conditions required by the Board.

D. Existing Vacant Substandard Lots:

In any residential or agricultural district, a single-family residence and its accessory structures may be erected on any vacant legal lot or parcel of record in the County Register of Deeds Office before the effective date of the original exclusive agricultural zoning ordinance adoption.

Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Ordinance. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:

LOT	WIDTH	Minimum 50 feet (public sewerage) Minimum 80 feet (private sanitary system)
	AREA	Minimum 5,000 square feet (public sewerage) 16,000 square feet (septic system)
BUILDING		
PRINCIPAL	HEIGHT	Maximum 35 feet
YARD	STREET	Minimum 25 feet from lot line; the second street yard on corner lots shall be not less than 10 feet from lot line
	REAR	Minimum 25 feet from lot line
	SIDE	Minimum 10 feet

- E. Lots Impacted by Public Right-of-Way Purchase(s):
 Any lot that would become nonconforming due to lacking sufficient acreage to meet the minimum lot size requirement for its particular zoning district shall remain a conforming lot in that district if the cause of said lack is due to a public right-of-way purchase(s) by the State of Wisconsin, Sheboygan County, or the Town of Lyndon.
- F. Variances:
 Variances may be permitted only as specified in other Sections of this Ordinance.

Amended: 9.12.2012

9.20 DEFINITIONS

For the purpose of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not discretionary.

Accessory Use or Structure:

A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

Acreage:

For the purposes of calculating residential density and meeting minimum lot size requirements, the acreage of a parcel or lot shall be the acreage listed in the Sheboygan County tax parcel database on the date the landowner presents a certified survey map for approval or applies for a building permit.

Adult Family Home:

A State of Wisconsin licensed or certified place where three (3) or four (4) adults reside and receive care, treatment or services that are above the level of room and board and that may include up to seven (7) hours per week of nursing care per resident. Adult family homes are further defined in Wis. Stat. § 50.01(1).

Agricultural Use:

Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446 (d); and vegetable raising.

Airport, Public:

Any airport, which complies with the definition, contained in Wis. Stat. § 114.013(3), or any airport which serves or offers to serve any common carriers engaged in air transport.

Alley:

A special public right-of-way affording only secondary access to abutting properties.

Animal Unit:

An animal unit is the equivalent of 1,000 pounds of live animal weight. Thus, a dairy cow weighing 1,400 pounds would be 1.4 units, a 1,000 pound horse would be 1.0 unit, a 300 pound hog would be 0.3 units, a 4 pound chicken 0.004 units. Total animal units would be the combined total of all farm animals on the site during any time period.

1. The total acreage of the farm or hobby farm excludes 20,000 square feet (just under one-half acre) as the “house area.”
2. Any part of the farm or hobby farm that is marsh, creek, steep-sloped, or in any way a sensitive area may not be used to calculate the acreage to determine the number of animal units allowed.

Note: The table below is from a Wisconsin Department of Agriculture, Trade and Consumer Protection worksheet (April, 2006). The mink numbers are from Chapter 63 - Animal Manure and Nutrient Management, Taylor County, WI (August, 2014).

	Livestock Type	Animal Unit Factor	Animal Units For Proposed Facility	
<i>Example – Milking & Dry Cows</i>			<i>1.4 x</i>	<i>800 = 1120 AU</i>
Dairy	Milking and Dry Cows	1.4	1.4 x	=
	Heifers (800 lbs. to 1200 lbs.)	1.1	1.1 x	=
Cattle	Heifers (400 lbs. to 800 lbs.)	0.6	0.6 x	=
	Calves (up to 400 lbs.)	0.2	0.2 x	=
Beef	Steers or Cows (600 lbs. to market)	1.0	1.0 x	=
	Calves (under 600 lbs.)	0.5	0.5 x	=
	Bulls (each)	1.4	1.4 x	=
Swine	Pigs (55 lbs. to market)	0.4	0.4 x	=
	Pigs (up to 55 lbs.)	0.1	0.1 x	=
	Sows (each)	0.4	0.4 x	=
	Boars (each)	0.5	0.5 x	=
Poultry	Layers (each)	0.01	0.01 x	=
	Broilers (each)	0.005	0.005 x	=
	Broilers – continuous overflow watering	0.01	0.01 x	=
	Layers or Broilers – liquid manure system	0.033	0.033 x	=
	Ducks – wet lot (each)	0.2	0.2 x	=
	Ducks – dry lot (each)	0.01	0.01 x	=
	Turkeys (each)	0.018	0.018 x	=
	Sheep (each)	0.1	0.1 x	=
	Goats (each)	0.1	0.1 x	=
	Mink (adults)	0.011	0.011 x	=
	Mink (kits)	0.0053	0.0053 x	=
	Horse	1.0	1.0 x	=

(To calculate the maximum number of animals allowed without a conditional use permit, first determine the number of acres of a particular farm or hobby farm owned within the Town of Lyndon, subtract any “house area” or “sensitive area” acreage, and multiply by 1. Then divide that number by the “animal unit factor” listed in the table to obtain the maximum number of animals allowed without a CUP.)

Area, Net Developable:

Those lands within a development parcel remaining after the deletion of floodlands, wetlands, lands densely covered with trees and shrub growth on slopes of 12 percent or greater, and all lands having slopes of 20 percent or greater.

Arterial Street:

A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as arterial streets, highways, and parkways.

Automobile Salvage Yard:

Any premises on which more than 1 self-propelled vehicle, not in running or operating condition, is stored in the open.

Basement:

That portion of any structure located partly below the average adjoining lot grade.

Boardinghouse:

A building other than a hotel or restaurant where meals or lodging are regularly furnished by pre-arrangement for compensation for 4 or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

Building Lot Area:

The portion of a lot remaining after required yards have been provided.

Building:

Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials.

Building, Detached:

A principal building surrounded by open space on the same lot.

Building, Principal:

A building in which the principal use of the lot on which it is located is conducted.

Building Area:

The total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Building Height:

The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs, to the mean height level between the eaves and ridges of gable, gambrel, hip, and pitch roofs, or to the decline of mansard roofs.

Building Line:

A line between which and any street line, no buildings or parts of buildings may be erected, altered, or maintained except as otherwise provided for in this Ordinance.

Bulkhead Line:

A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Wis. Stat. § 30.11, and which allows complete filling on the landward side except where such filling is prohibited by the floodway provisions of this Ordinance.

Business:

An occupation, employment, or enterprise which occupies time, attention, labor, and materials or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.

Car Washes:

Any facility used for the washing of vehicles requiring the installation of special equipment or machinery and plumbing affixed to or affixed separate of a structure. Said facility shall be installed in such a manner as not to cause spray or runoff water to encroach upon any adjoining properties.

Carport:

A structure having a roof, with or without supporting walls, posts, or columns, used, designed, or intended to be used for the protection or shelter of private motor vehicles. For the purpose of this Ordinance, a carport shall be considered to be the equivalent of a garage.

Centralized Sanitary Sewerage System:

A system designed to collect, convey, and treat sanitary and other wastes from a number of individual waste sources and which operates a sewage treatment facility approved by the Department of Natural Resources. A septic tank, whether serving one or several waste sources, is not a sewage treatment facility. Any sewerage system served by a septic tank shall not, therefore, be termed or classified as a centralized sanitary sewerage system. Such centralized sanitary sewerage systems may be public or privately owned and operated, but in every case is subject to the rules and regulations of the Department of Natural Resources.

Clinic:

An establishment for the medical examination and treatment of patients, but without provision for keeping such patients overnight on the premises. For the purposes of this Ordinance, a doctor's or dentist's office in his own home, when it complies with the requirements of this Ordinance relating to such offices, shall not be considered a clinic, but any doctor's or dentist's office which is not a part of his own home, or the office of 2 or more doctors or dentists, whether in a residence or not, shall be considered a clinic.

Clothing Repair Shops:

Shops where clothing is repaired, such as shoe repair shops, seamstress shops, tailor shops, shoe shine shops, clothes pressing shops, but none employing over 5 persons.

Clothing Stores:

Retail stores where clothing is sold, such as department, dry goods, and shoe stores, dress hosiery, and millinery shops.

Club:

An association of persons for some common purpose but not including groups organized primarily to render a service which is customarily carried on as a business.

Commercial Feed Lot and Production:

A feedlot, dairy farm or other operation where 500 animal units or more are—or will be—fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period.

Common Ownership:

Ownership of land by the same individual, married couple, joint tenants, or tenants in common. For example, a parcel owned by John Smith is considered to be in common ownership with a parcel owned by John & Mary Smith,

husband and wife. A parcel owned by John Smith is not considered to be in common ownership with a corporation, LLC, partnership, estate, or trust in which John Smith has an interest.

Community Based Residential/Retirement Facility:

A facility containing dwelling units for individuals who are 1) retired and living independently, or 2) physically or mentally impaired and receiving part-time care or treatment above the level of room and board. Such facilities may include centralized dining, some communal space, transportation services, and social activities. Note: Adult family homes, day care homes, nursing homes, clinics, substance abuse rehabilitation centers, hospitals, and hospice care facilities are not community based residential/retirement facilities for purposes of this Ordinance.

Conditional Uses:

Uses of a special nature as to make impractical their predetermination as a principal use in a district.

Conservation Standards:

Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide prepared by the USDA Natural Resources Conservation Service for Sheboygan County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation plan.

Consistent with Agricultural Use:

Further or does not contradict any of the following activities conducted for the purpose of producing an income or livelihood: crop or forage production; keeping livestock; beekeeping; nursery, sod, or Christmas tree production; floriculture; aquaculture; fur farming; forest management; enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program; any other use that DATCP, by rule, identifies as an agricultural use.

Contiguous:

Parcels that adjoin, are not divided by a public road, and are not separated by the boundary of a subdivision plat or certified survey map. (Parcels are not contiguous if they meet only at a single point.) (Subdivision lots and/or lots created by certified survey map are contiguous if joined by recorded merger language.)

Day Care Home:

An occupied residence in which a qualified person or persons residing in the dwelling provides care for 4 to 8 children or adults.

Drain:

A surface ditch or underground tile line constructed for the purpose of lowering the water table so that land may be farmed or used for other purposes.

Drain Tile Laying:

The placement of tile for the purpose of removing excess waters from the soil, either for agricultural purposes or for the removal of waters around building foundations.

Dwelling:

A building designed or used as separate living quarters, with cooking, sleeping, and sanitary facilities provided for the exclusive use of maintaining a household, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

Dwelling Unit:

A group of rooms constituting all or part of a dwelling which are arranged, designed, used, or intended for use exclusively as living quarters for one family.

Earth Moving:

Any process which physically alters the existing topography by means of mechanical or hydraulic equipment and despoiling the soils of vegetative cover so as to make the same soil susceptible to erosion.

Efficiency:

A dwelling unit consisting of one principal room with no separate sleeping rooms.

Egg Production, Commercial:

An animal confinement facility used or designed for the raising of poultry for egg production having a capacity of 10 or more animal units.

Emergency Shelter:

Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare, fire, flood, windstorm, riots, and invasions.

Erosion:

The process by which the ground surface is worn away by action of wind or water.

Essential Services:

Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam water, sanitary sewerage; storm water drainage, and communication systems; and accessories thereto, such as poles, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including TV or radio transmission towers.

Excavation:

The act by which soil, earth, sand, gravel, rock, or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed, and shall include the resulting conditions.

Expressway:

A divided arterial street or highway with full or partial control of access and with or without grade separated intersections.

Family:

Any number of persons related by blood, adoption, or marriage, or not to exceed four persons not so related, living together in one dwelling as a single housekeeping entity.

Farm:

All land under common ownership within the Town of Lyndon that is primarily devoted to agricultural use.

Farm Consolidation:

The combination of two or more farms to create a smaller number of farms.

Farm Direct Markets:

Within the A-4 district, the activity of selling agricultural products directly to the public under circumstances that do not qualify as a Roadside Stand. Farm direct markets (FDMs) are allowed only if a Conditional Use Permit has been obtained, and if the following requirements are met:

1. The FDM is deemed to be incidental to the agricultural use of the parcel.
2. The owner(s) of the parcel are the owner(s) and principal operator(s) of the FDM.
3. No additional permanent structure in excess of 1,600 square feet of floor area is built for use by the FDM.
4. The FDM involves only the sale of farm products raised or produced in Wisconsin.
5. Not less than 75 percent of the display area of the FDM must be devoted to the display and sale of farm products raised or produced on the premises.
6. The FDM may not offer for sale any processed or prepared foods intended for consumption on the premises.
7. The FDM activity may not employ on the premises more than four persons who do not reside on the parcel, except for relative of the owner(s) of the FDM.

Before issuance of a Conditional Use Permit, the Town may consider all other factors it deems relevant to its decision, including by way of illustration but not limitation the adequacy of existing driveways for anticipated traffic and whether driveway upgrades would take tillable agricultural land out of production; anticipated congestion on public roads, and the safety impact of customers of the FDM applicant accessing the applicant's property from the adjacent public roads; whether the applicant's proposal would require installation of plumbing and/or wastewater disposal systems; the environmental impacts of the proposed FDM; and the impact on the quality of life of the immediate neighbors of the applicant.

Farmland Preservation Zoning (FPZ) District:

Areas zoned A-1, A-1-RZ, A-1-S, or A-PR in the Town of Lyndon, Sheboygan County, Wisconsin.

Farm Residence:

Any of the following structures that is located on a farm:

- A. A single-family residence that is the only residential structure on the farm or is occupied by any of the following:
 1. An owner or operator of the farm.
 2. A parent or child of an owner or operator of the farm.
 3. An individual who earns more than 50 percent of his or her gross income from the farm.
- B. A migrant labor camp that is certified under Wis. Stat. § 103.92.

Floor Area – Business, Commercial and Industrial Buildings:

For the purpose of determining off-street parking and off-street loading requirements: The sum of the gross horizontal areas of several floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space, such as counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining

off-street parking spaces shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

Floor Area – Gross:

The sum of the gross horizontal areas of all floors measured in square feet, not including the basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building includes elevator shafts and stairwells at each floor, floor space used for mechanical equipment, (except equipment—open or closed—located on a roof or in a basement), penthouses, attic space having headroom of 7 feet, 10 inches or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses.

Freeway:

An expressway with full control of access and with fully grade separated intersections.

Frontage:

The smallest dimension of a lot abutting a public street measured along the street line.

Fur Farm:

Any property comprising land or buildings or both, used for the purpose of raising or harboring fur-bearing animals including those defined in Wis. Stat. § 29.01 (3) (c), and also including chinchillas and other fur bearing animals, if any, whether the animals are kept for breeding or slaughtering or pelting purposes.

Garage, Private:

An accessory building or accessory portion of the main building, used or designed, or intended to be used for the storage of private motor vehicles. See also CARPORT.

Garage, Public:

Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing, or public parking of motor vehicles.

Gift Stores:

Retail stores where items such as art, antiques, jewelry, books, and notions are sold.

Grade:

The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure on its lot.

Grading:

Any stripping, excavating, filling, stockpiling, or any combination thereof, including the land in its excavated or filled condition.

Ground Sign:

Any sign placed upon or supported by the ground independently of buildings or structures on the property. Signs attached to trees, poles, or accessory buildings shall be considered ground signs.

Hardware Stores:

Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

Home Occupations:

Any occupation for gain or support that conforms to the standards listed in Chapter 9, Section 26 – Home Occupations of this Ordinance and is subordinate to the residential use.

Hospice Care Facility:

A licensed facility providing palliative and supportive medical and health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a home-like setting.

Hospital:

An institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

Hotel:

A building where rooms, with or without meals, are supplied to the transient public or to anyone who may apply, for compensation.

Interchange:

A grade separated intersection with 1 or more turning lanes for travel between intersection legs.

Joint Extraterritorial Zoning Committee:

Any zoning committee established in accordance with Wis. Stat. § 62.23(7) (a), Chapter 241, Laws of 1963.

Kennel:

The use of land, with related buildings or structures, for the commercial breeding, rearing, or boarding of more than 4 dogs.

Laboratory:

A place where scientific experiments and research are carried on, or where drugs, chemicals, etc., are made or tested for purity or strength.

Livestock:

Bovine animals, swine, poultry, sheep, and goats.

Living Rooms:

All rooms within a dwelling except closets, foyers, storage areas, utility rooms, and bathrooms.

Loading Areas:

A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to public street or alley.

Lodging House:

A building other than a hotel, where lodging is provided for compensation, for 5 or more persons not members of a family.

Lot:

A parcel or tract of land having a minimum of 66 feet of road frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use, and sufficient in size to meet the width, frontage, area, yard, parking area, and other open space provisions of the district in which it is zoned.

Lot, Corner:

A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Lot, Interior:

A lot situated on a single street which is bounded by adjacent lots along each of its other lines.

Lot, Irregular:

An irregular lot is any lot that is not rectangular, has an asymmetric shape, or an unusual number of sides whether that's three or more than four. Other examples include truncated lots, cul de sacs or fan-shaped lots, and battle-axe or hatchet/flag-shaped lots.

Lot, Substandard:

A parcel of land held in separate ownership having frontage on a public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the width, area, yard, off-street parking areas, or other open space provisions of the district in which it is zoned.

Lot, Through:

A lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

Lot, Coverage:

The area under a roof and enclosed by the exterior permanent walls.

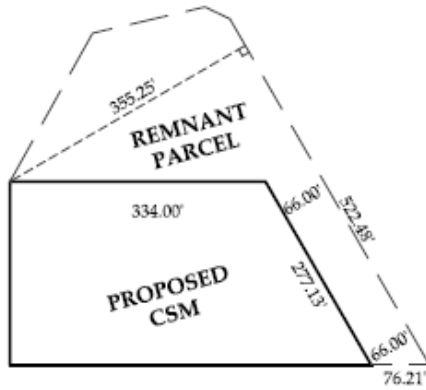
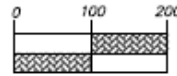
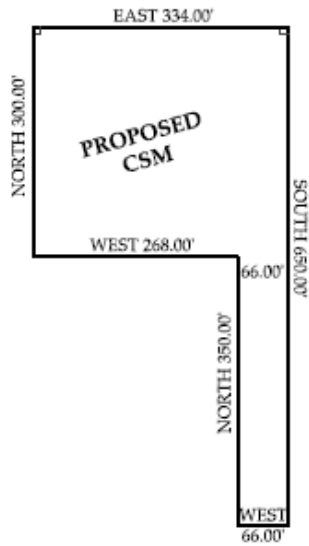
Lot Lines and Area:

The peripheral boundaries of a parcel of land and the total area lying within such boundaries, but not including any area occupied by the waters of a navigable, duly recorded lake, river, or stream.

Lot Width:

The width of a parcel of land measured at the rear of the specified street yard. In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). *See diagram next page.*

Flag Lots - Exhibit



Machine Shops:

Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair and overhaul shops.

Minor Structures:

Any small, movable accessory erection or construction, such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four feet in height with value under \$1,000 including labor (what the labor would be if a contractor did the work).

Mobile Home:

A readily transportable structure constructed prior to June 25, 1976, intended for human habitation, which by its inherent design may be moved from site to site as necessary, which may have an oversized width for normal traffic allowances and thereby require a special travel permit from state or county highway officials, and which may have its undercarriage removed to facilitate a better location on a slab, piers, or foundation.

Mobile Home Lot:

A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

Mobile Home Park:

A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. The term mobile home park does not include sales lots on which unoccupied mobile homes or trailers, whether new or used, are parked for the purposes of inspection and sale.

Modular Home:

A structure which is partially preassembled at a manufacturing plant and placed together on a lot or parcel as a dwelling unit or units. Also called prefabricated or precut homes. For the purpose of this Ordinance, modular homes must meet the requirements of all applicable state and local building codes.

Motor Home/Travel Trailer:

Motor home and travel trailer parked on private property may be used as temporary living quarters for 30 days. The occupancy time may be extended by obtaining an occupancy permit from the Town Board. A written plan for disposal of sewage must be presented before an extended occupancy permit will be granted.

Motel:

A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

Nonconforming Use:

Any land or water lawfully used or occupied at the time of the effective date of this Ordinance which does not conform to the regulations of this Ordinance or amendments thereto pertaining to uses.

Nursing Home:

A building or institution for the care of children, the aged, the infirm, the sick, or a place of rest for those suffering bodily disorder, provided the same shall comply with the further definitions and with the regulations contained in Chapter H 32 of the rules of the Department of Health and Social Services. Nursing homes shall not include facilities for surgical care or for treatment of sickness or injuries.

Outdoor Furnace:

Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.

Paddock:

An enclosed area used for pasturing or exercising animals.

Parcel:

A "tax parcel" as identified in the current records of the Sheboygan County Treasurer's Office. To be buildable, a parcel must meet the definition of a lot as defined in this Ordinance.

Parcel Remnant:

Subsequent to the residential development, rezoning, and/or division of a property, the portion of said property that would remain if the full residential density was attained. (For example, if a landowner split 20 acres off from an 50-acre tract of A-1, leaving 30 acres of A-1, the A-1 remnant would be 10 acres.)

Park, Amusement:

An area, publicly or privately owned, containing amusement and recreation facilities and devices, whether operated for profit or not.

Park, Public:

An area owned by the state, county or a municipality within the county, operated for the convenience and recreation of the public, and containing such facilities as the owning municipality shall see fit.

Parking Lot:

A structure or premises containing 10 or more parking spaces open to the public for rent or a fee.

Parking Space:

A graded and surfaced area of not less than 180 square feet (9 feet by 20 feet) in area either enclosed or open for the parking of a motor vehicle, having adequate ingress or egress to a public street or alley.

Parties in Interest:

Includes all abutting property owners, all property owners within 200 feet, and all property owners of opposite frontages.

Party Wall:

A wall containing no opening which extends from the elevation of building footings to the elevation of the other surface of the roof or above and which separates contiguous buildings but is in joint use for each building.

Patio:

A terrace extending not more than 6 inches above the average level of the ground at its margins, provided that no fixed walls or roof shall be erected on or over any patio or similar structure that is located in a required yard. Patios must comply with all setback requirements for the lot.

Person:

Except when otherwise indicated by the context, the word "person" shall include the plural, or a company, firm, corporation, or partnership.

Pets, Household:

Animals commonly found in residences as pets such as dogs, cats, songbirds, and other small animals, providing that they are not raised or reared for commercial resale or as a source of staple supplement. Household pets shall not include horses, chickens, cows, goats, sheep, hogs, or other animals not commonly found in residences.

Pond:

An excavated area for water retention having more than 100 square feet of surface area. A pond is to be considered a structure under the terms of this Ordinance.

Principal Structure:

The structure on a lot where the principal use, as permitted on such lot by the regulation of the district in which it is located, is carried out. For example, the residence is the principal structure in the A-1-S, A-2, A-3, A-5, and "R" Zoning Districts.

Principal Use:

The main or primary use of land, water or structures as distinguished from a subordinate or accessory use. For example, the principal use in "R" Zoning Districts is occupying the residence, while a subordinate use would be a home occupation. Only one principal use is allowed on a lot. Note: Although a principal use such as an office building, a shopping center, a multi-family dwelling, or a planned unit development (PUD) contains what would appear to be multiple principal uses, there is actually only a single principal use, which in these examples is the distinct use known as an *office building*, a *shopping center*, a *multi-family dwelling* or a *planned unit development*.

Professional Home Offices:

Residences of doctors of medicine, practitioners, dentists, clergymen, architects, lawyers, professional engineers, registered land surveyors, artists, teachers, authors, musicians, or other recognized professions used to conduct their professions where the office does not exceed half the area of only one floor of the residence and only one nonresident person is employed.

Recreational Camp:

An area containing 1 or more permanent buildings used occasionally or periodically for the accommodation of members of associations or groups for recreational purposes.

Rendering Plant:

A plant for reduction of dead animals or slaughtered animals not suitable for human consumption, to by-products such as hide, skin, grease, bones, glue, and soap, and for the storage of such by-products.

Residence:

A dwelling, as defined in Section 9.20 of this Ordinance.

Residence, Multiple-Family:

A dwelling that contains three or more dwelling units.

Residence, Single-Family:

A dwelling that contains one dwelling unit either attached, semi-attached, or detached, not including mobile homes.

Residence, Two-Family (duplex):

A dwelling that contains two dwelling units.

Riding Stable:

A building or premises used for the rent or lease of horses or animals for riding.

Roadside Stand:

A structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed, and to be used solely for the sale of farm products produced on the premises (or adjoining premises).

Rooming House:

See LODGING HOUSE.

Sediment:

Soils or other surface materials transported by wind or surface water as a product of erosion.

Service Station:

Any building, structure, premises, or other place used for the dispensing, sale, or offering for sale of any motor fuel or oils, having pumps and storage tanks; also where battery, tire, and similar services are rendered but not including the conduct of a public garage used for the repair or storage of motor vehicles.

Setbacks:

The linear distance between a front, side, and rear lot line or recorded easement and a building or other structure located on such lot. A setback shall be measured at a right angle from each lot line from which a setback is required and it shall be measured to the nearest line of the building or other structure for which a setback is required.

Shorelands:

Those lands lying within the following distances: 1,000 feet from the ordinary high water mark of navigable lakes, ponds, and flowages, 300 feet from the ordinary high water mark of navigable streams, or to the landward side of the floodplain, whichever is greater.

Signs:

Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which is used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street or highway.

Slaughterhouse:

Any building or premises used for the killing or dressing of cattle, sheep, swine, goats, horses, or poultry, and the storage, freezing, and curing of meat and preparation of meat products.

Smoke Unit:

The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

Solar Energy System (SES):

A device, array of devices, or structural design feature used for the collection, storage, and/or distribution of solar energy for space heating or cooling, lighting, electric generation, or water heating. This ordinance categorizes a facility with an electrical generation capability of 100 MW (megawatts) or more as a large-scale SES; a facility with a capability of less than 100 MW but more than 30 kW (kilowatts) as a mid-scale SES; and a facility with a capability of 30 kW or less as a small-scale SES. A large- or mid-scale SES may encompass multiple, non-contiguous parcels, within different zoning districts, if owned or leased by a single developing entity. (This definition is not intended to include ground or wall mounted solar powered light fixtures, solar powered electric fences, or similar solar devices.)

Stable:

A building having stalls or compartments.

Story:

That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.

Story Half:

A story, which is situated on a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

Street:

A public right-of-way not less than 50 feet wide providing primary access to abutting properties.

Structural Alterations:

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Structure:

Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment, excepting utility lines and appurtenances. Driveways, ponds, paths and trails that have been blacktopped and earthen berms more than three feet high, three feet wide and 50 feet long shall also be considered structures under this ordinance.

Substance Abuse Rehabilitation Center:

A facility, with or without temporary living quarters, that offers detoxification, treatment, and therapy to persons struggling with drug or alcohol addiction.

Substandard Structure:

Any structure conforming in respect to use but not in respect to the frontage width, height, area, yard, parking, loading, or distance requirements of the district in which it is zoned.

Super-Majority Vote of Approval:

A vote of approval by at least four of the 5 members of the Town of Lyndon Board of Supervisors, except in those instances when, due to conflict of interest, one or more members does not vote; in such instances an approving vote of at least three of the four members voting, or three of the three members voting, is required.

Tract:

All contiguous land under a common ownership and within the same zoning district. To be buildable, a tract must meet the definition of a lot as defined in this Ordinance.

Turning Lanes:

An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Use:

The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Use, Accessory:

A subordinate use on the same lot which is incidental and customary in connection with the principal use.

Utilities:

Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

Vision Clearance:

An unoccupied triangular space at the intersection of highways or streets with other highways or streets or the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersection highway, street, or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from their intersection as specified in this Ordinance.

Yard:

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

Yard, Front:

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Also called street yard. Corner lots shall have two such yards.

Yard, Rear:

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

Yard, Side:

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and line parallel thereto through the nearest point of the principal street.

9.21 SIGNS

A. Permit Required

No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered unless in conformity with this section. Signs shall also meet applicable structural requirements of local and state building codes.

B. Types of Signs Allowed in All Districts Without a Sign Permit

Signs for on-premises activities are allowed in all zoning districts, without a sign permit, subject to the following regulations for each premises. If a sign does not meet these regulations, the owner of the property (and the owner of the proposed sign) must apply to the Plan Commission for a sign permit, and demonstrate why the size and location of the requested sign would not negatively affect the aesthetic quality of the Town, nor be a traffic and public safety hazard.

1. Signs over show windows or doors of a business establishment displaying the name and occupation of the proprietor, not more than two feet high and 10 feet long.
2. If a property is used for agricultural purposes, two signs of not more than 30 square feet of display area each.
3. If a property is offered to the public for sale, rental or lease, one sign not to exceed 32 square feet per side during such time as the property is offered for such sale, rental or lease.
4. One name, occupation, and warning signs of not more than 8 square feet.
5. No more than two directory signs indicating the direction and distance to a single cottage, resident, recreation facility or business not to exceed two square feet in display area.
6. Memorial signs and tablets indicating the names of buildings and date of erection.
7. Official signs, such as traffic control, parking restrictions, information, directions, and notices.
8. One temporary sign or banner up to 32 square feet per side is allowed for a period not exceeding 30 consecutive days, nor more than 60 days in a calendar year.

C. Types of Signs Allowed in All Business and Industrial Districts with a Sign Permit:

Signs are allowed in the Business and Industrial Districts subject to the following regulations.

1. Wall signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface, shall not exceed 500 square feet in area for any premise, and shall not exceed 20 feet above the mean centerline street grade. If there is more than one business located on the property one sign per business shall be allowed.
2. Projecting signs fastened to, suspended from, or supported by structures shall not exceed 100 square feet in area on all sides for any one premises; shall not extend more than 6 feet in any required yard; shall not exceed 20 feet above the mean centerline street grade; and shall not be less than 10 feet above a private sidewalk or 15 feet above a driveway or any alley.
3. On-premises ground signs limited to one sign for each business, that advertise the business name, services offered, or products sold on the premises shall not exceed 20 feet in height; shall meet all yard requirements for the district in which it is located; shall not exceed 100 square feet on one side or 200 square feet on all sides for any one premises. The Town Board may grant conditional use permits to erect additional signs.
4. Roof signs shall not exceed 25 feet above the roof, shall meet all the yard and height requirements for the district in which it is located, and shall not exceed 200 square feet on all sides for any one premises.

5. Combinations of any of the above signs shall meet all the requirements for the individual sign.
- D. Home Business Signs Allowed in Residential Districts with a Sign Permit:
In the Residential Districts, signs of not more than 32 square feet per side (64 square feet total) are allowed to advertise a home business, provided a sign permit is obtained from the Plan Commission.
- E. Political Message Signs:
1. During election campaign periods, any individual may place a sign containing a political message upon residential property owned or occupied by that individual, and the provisions of this section restricting the size, shape, or placement shall not apply, provided all of the following:
 - a. the sign is not prohibited by Wis. Stat. § 12.03 or 12.035, as amended
 - b. the property owner received no compensation for placing the sign
 - c. signs do not exceed 11 square feet per sign face
 2. Definitions; in this section:
 - a. "Election campaign period" means:
 1. 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 paper were papers to be required, and ending on the day of the election
 2. 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
 - b. "Political message" means a message intended for a political purpose of 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.
 - c. "Residential property" means property occupied or suitable to be occupied for residential purposes and property abutting that property for which the owner or renter is responsible for the maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential property" means only the portion of the property occupied or suitable to be occupied for residential purposes.
- F. Signage and Safety:
Shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic safety or directional signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be lighted in such a way as to cause glare or impair driver visibility upon public ways.
- G. Existing Signs:
Signs lawfully existing at the time of the adoption or amendment of this section may be continued although the use, size, or location does not conform to the provisions hereof. However, such signs shall be deemed a nonconforming structure, and the provisions of the Zoning Ordinance related to nonconforming structures shall apply.
- H. Transferability of Sign Permits:
All sign permits are not transferable to a new landowner or business owner unless specifically stated otherwise in the permit at the time of issuance.
- I. Enforcement and Penalties:

Failure to comply with the terms of this section will result in a forfeiture of \$50 per each day the violation continues, plus the costs of prosecution.

- J. Severability:
Should any portion of this Ordinance or the affected municipal code section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.
- K. Effective Date: This Ordinance shall take effect the day after publication or posting.
Enacted on: January 11, 2017.

9.22 MOBILE TOWER SITING REGULATIONS (NEW 02/2022)

- A. Title:
This ordinance is entitled the Town of Lyndon Mobile Tower Siting Permit Ordinance.
- B. Purpose:
The purpose of this ordinance is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- C. Authority:
The town board has the specific authority under ss. 66.0404, Wis. Stats., to adopt and enforce this ordinance.
- D. Adoption of an Ordinance:
This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.
- E. Definitions:
 1. "Antenna" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.
 2. "Application" means an application for a permit under this section to engage in an activity specified in sub. (2) (a) or a class 2 collocation.
 3. "Building permit" means a permit issued by a political subdivision that authorizes an applicant to conduct construction activity that is consistent with the political subdivision's building code.
 4. "Class 1 collocation" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

5. "Class 2 collocation" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
6. "Collocation" means class 1 or class 2 collocation or both.
7. "Distributed antenna system" means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.
8. "Equipment compound" means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.
9. "Existing structure" means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.
10. "Fall zone" means the area over which a mobile support structure is designed to collapse.
11. "Mobile service" has the meaning given in [47 USC 153](#) (33).
12. "Mobile service facility" means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.
13. "Mobile service provider" means a person who provides mobile service.
14. "Mobile service support structure" means a freestanding structure that is designed to support a mobile service facility.
15. "Permit" means a permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:
 - a. A class 1 collocation.
 - b. A class 2 collocation.
 - c. The construction of a mobile service support structure.
16. "Political subdivision" means a city, village, town, or county
17. "Public utility" has the meaning given in s. [196.01 \(5\)](#).
18. "Search ring" means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.
19. "Substantial modification" means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:
 - a. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
 - b. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
 - c. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
 - d. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.
20. "Support structure" means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.
21. "Support structure" means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

22. "Utility pole" means a structure owned or operated by an alternative telecommunications utility, as defined in s. [196.01 \(1d\)](#); public utility, as defined in s. [196.01 \(5\)](#); telecommunications utility, as defined in s. [196.01 \(10\)](#); political subdivision; or cooperative association organized under ch. [185](#); and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in s. [182.017 \(1g\) \(cq\)](#); for video service, as defined in s. [66.0420 \(2\) \(y\)](#); for electricity; or to provide light.

F. Siting and Construction of Any New Mobile Service Support Structure and Facilities:

1. Application Process:
 - a. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the town obtainable with this permit.
2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. A permit application will be provided by the town upon request to any applicant.
4. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
5. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - b. Make a final decision whether to approve or disapprove the application.

- c. Notify the applicant, in writing, of its final decision.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
 6. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.
 7. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
 8. The fee for the permit is \$3,000.
- G. Class 1 Collocation:
Application Process:
1. A town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the town obtainable with this permit.
 2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
 - e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 3. A permit application will be provided by the town upon request to any applicant.
 4. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

5. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
 - a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
 - b. Make a final decision whether to approve or disapprove the application.
 - c. Notify the applicant, in writing, of its final decision.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision
 6. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.
 7. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
 8. The fee for the permit is \$3,000.
- H. Class 2 Collocation:
Application Process
1. A town zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the town but still requires the issuance of the town permit.
 2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information.
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 3. A permit application will be provided by the town upon request to any applicant.
 4. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
 5. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
 6. Within 45 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45 day period:
 - a. Make a final decision whether to approve or disapprove the application.
 - b. Notify the applicant, in writing, of its final decision.
 - c. If the application is approved, issue the applicant the relevant permit.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

7. The fee for the permit is \$500.

I. Penalty Provisions:

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$1,000 nor more than \$6,000, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

J. Severability:

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

9.23 EARTH STATION DISH ANTENNAS

- A. Ground-mounted and building-mounted earth station dish antennas are permitted as accessory uses provided that all applicable requirements of this Ordinance are met.
- B. Earth station dish antennas shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of non-combustible and corrosive-resistant materials.
- C. Earth station dish antennas shall be filtered and/or shielded so as to prevent the emission or reflection of electro-magnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- D. Ground-mounted dish antennas shall meet the height requirements for accessory structures in the zoning district in which they are located. Service wires for earth station dish antennas shall be buried or 15 feet or more overhead. Building-mounted dish antennas shall not exceed the maximum height regulation of the zoning district in which they are located. No building-mounted earth station dish antennas shall be permitted unless they are designed for that purpose.
- E. Ground-mounted earth station dish antennas shall meet all setback and yard requirements for accessory structures in the district in which they are located and are permitted in the rear yard only in residential districts provided that they shall be no closer than 8 feet to the principal structure and any rear lot line, nor occupy more than 20 percent of the rear yard area. Ground-mounted earth station dish antennas are permitted in the side and rear yards in commercial, industrial and public/institutional zoning districts provided that they shall be no closer than 8 feet to the principal structure, shall not occupy more than 50 percent of a side yard nor 75 percent of a rear yard area, and shall be no closer than 8 feet to any side or rear lot line nor eight feet to any alley line. Building

mounted earth station dish antennas shall not exceed setback and yard requirements of the zoning district in which it is located.

- F. Not more than one earth station dish antenna shall be permitted on a lot or parcel in a residential zoning district.
- G. The installation of an earth station dish antenna shall require a building permit. The property owner shall submit, to the zoning administrator, or to the Town Board in the absence of a zoning administrator, plans which indicate the appearance, proposed location, and installation method of the dish antenna. Earth station dish antennas shall be located and screened to minimize their visual impact on surrounding properties. If a property owner in a residential zoning district proposes a building-mounted antenna location in which the antenna would be visible from the front lot line, that property owner must demonstrate that reception would not be possible from a less conspicuous location. The property owner in a residential zoning district who proposes a building-mounted antenna must also submit a plan for screening the antenna from surrounding properties whenever such screening can be accomplished in a manner that is appropriate to the architecture of the building. The zoning administrator shall refer to the Plan Commission any plans which do not clearly meet the requirements of this section.
- H. All earth station dish antennas, and the construction and installation thereof, shall conform to applicable city building code and electrical code regulations and requirements. Prior to the issuance of a building permit for a building-mounted earth station dish antenna, the applicant shall submit a plan or document prepared by the registered professional engineer which certifies that the proposed dish antenna installation is structurally sound.
- I. Any earth station dish antenna existing on the date of adoption of this ordinance, which does not conform to these regulations, shall be brought into conformance within one year of the date of adoption of this ordinance.

9.24 CONDITIONAL USES

- A. Application: Application for conditional use permits shall be made in duplicate to the Town Board on forms furnished by its Clerk and shall include the following where pertinent and necessary for proper review as determined by the Plan Commission.
 - 1. Name and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
 - 2. Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structures; proposed operation or use of the structure or site; number of employees, and the zoning district within which the subject site lies.
 - 3. Plat of survey prepared by a land surveyor registered in Wisconsin or other map drawn to scale and approved by the County Planner showing the location, property boundaries, dimensions, elevations, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas, and driveways; existing highway access restrictions; existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site; soil mapping unit lines; mean and

historic high water lines on or within 40 feet of the subject premises, and existing and proposed landscaping.

4. Additional information as may be required or waived by the Town Board such as ground surface elevations, basements and first floor elevations, utility elevations, historic and probable future floodwater elevations, flood proofing measures, soil type, slope, and boundaries, and plans for proposed structures giving dimensions and elevations pertinent to its effects on flood flows.
 5. Fee receipt from the Town Clerk in the amount stated on Fee Schedule.
- B. Review and Approval of Conditional Uses: The Town Plan Commission shall review the site either by on-site inspection or by viewing appropriate maps, photos and documents of existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effects of the proposed use, structure, operation, and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat, and shall make a recommendation to the Town Board.

The Town Board may authorize the issuance of a conditional use permit after review and public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town of Lyndon and its communities.

Conditions, such as landscaping, type of construction, construction commencement and completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, street dedication, certified survey maps, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, highway access restrictions, increased yards, or additional parking may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

Compliance with other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided elsewhere in this Ordinance.

- C. Earth and Water Movements:
Earth movements not related to farming activity involving a site disturbance in excess of one acre, such as stream course changing, waterway construction or enlargement, channel clearing, removal of stream or lake bed materials, dredging, lagooning, and the installation of soil and water conservation structures are conditional uses and may be permitted in any zoning district.

The Town Board may request a review of each such earth or water movement by the Department of Natural Resources, the Natural Resources Conservation Service or other appropriate agency, and await their recommendations before taking final action, but not to exceed 60 days.

- D. Agricultural and Related Uses Outside Farmland Preservation Zoning:

(Note: See A-1, A-1-RZ, A-1-S, and A-PR Sections for allowable conditional uses in those districts.)

Except where specifically allowed as a permitted use, the following agricultural and related uses shall be conditional uses and may be allowed as specified. In approving or disapproving the location of a conditional use, the Town Board shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this Ordinance set forth in Sections of this Ordinance elsewhere and upon the particular land use problems related to development of the site or sites as proposed.

1. Housing for migratory or seasonal farm workers in the A-2 and A-3 Districts
2. Livestock raising in the A-2, A-3, A-5, and A-6 Districts that exceeds one animal unit per acre on tracts less than 20 acres
3. Livestock sales barns in the A-3 and A-4 Districts
4. Animal hospitals, shelters, kennels in A-2, A-3, A-5, A-6, and Conservancy Districts and the Business Districts provided that the lot area is not less than 5 acres and further provided that, if animals are to be housed outside, there is a minimum building separation of 1,000 feet from the nearest neighboring residential structure existing at the time of the issuance of a zoning permit
5. Veterinarian services in the A-2 and A-2-HD Districts
6. Raising, propagating, or boarding of the following that exceeds one animal unit per acre on tracts less than 20 acres: fur-bearing animals (e.g., mink, rabbit, and fox), equine animals, bison, farm-raised deer, captive game birds, ratites, or camelids; and dogs in the A-2 and A-3 Districts
7. Egg production in the A-2 and A-3 Districts
8. Land restoration in A-2, A-2-HD, A-3, A-5, A-6, and Conservancy Districts when conducted in accordance with the appropriate Natural Resources Conservation Service standards
9. Solar energy systems (SES) mid-scale in A-2, A-2-HD, A-3 and A-4 Districts
10. Farm Direct Markets: Within the A-4 district, the activity of selling agricultural products directly to the public under circumstances that do not qualify as a Roadside Stand. Farm direct markets (FDMs) are allowed only if a Conditional Use Permit has been obtained, and if the following requirements are met:
 - a. the FDM is deemed to be incidental to the agricultural use of the parcel
 - b. the owner(s) of the parcel are the owner(s) and principal operator(s) of the FDM
 - c. no additional permanent structure in excess of 1600 square feet of floor area is built for use by the FDM
 - d. the FDM involves only the sale of farm products raised or produced in Wisconsin
 - e. not less than 75 percent of the display area of the FDM must be devoted to the display and sale of farm products raised or produced on the premise
 - f. the FDM may not offer for sale any processed or prepared foods intended for consumption on the premises
 - g. the FDM activity may not employ on the premises more than four persons who do not reside on the parcel, except for relative of the owner(s) of the FDM

E. Mineral Extraction and Related Uses:

All conditional uses listed for the M-3 District shall be subject to the following regulations and such other regulations as the Town Board may deem appropriate after viewing the site or sites and considering evidence presented at the hearing. Applicants are responsible for complying with all state and county regulations. See subsection E.3.

1. Plat of Survey: Submittal of a plat of survey showing, as appropriate, the data and information set forth in Sections elsewhere in this Ordinance, topographic data (minimum 5-foot contour interval), existing natural resource base data, the locations of existing and proposed access roads, and the depth of existing and proposed excavations.

2. Operations Plan: Submittal of an operations plan, including at least a description of the operational methods proposed to be used; a list of equipment, machinery, and structures to be used and constructed; a description of the source, quantity, and disposition of water to be used; a description of proposed noise and dust control procedures; and proposed hours of operation.
3. Restoration Plan: Submittal of a restoration plan, including at least proposed contours (minimum 5-foot contour interval), type of fill, depth of restored topsoil, planting or reforestation, and timing and completion data. Non-metallic mining area must be returned to agricultural use.
4. Sureties: The applicant shall furnish sureties to enable the Town Board to carry out the restoration plan in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the town Board, and the form and type of such sureties shall be approved by the Town Board.
5. Permit Renewal: Any conditional use permit issued for a use permitted in this Section shall be in effect for a specified time period, but not to exceed two years. Such permit may be renewed upon application for successive periods not to exceed two years each. Modifications or additional conditions may be imposed upon application for renewal.

F. Public and Semi-Public Uses:

Except where specifically allowed as a permitted use, the following public and semi-public uses shall be conditional uses and may be allowed as specified. In approving or disapproving the location of a conditional use, the Town Board shall view the proposed site or sites and shall consider such evidence as may be presented at the public hearing bearing upon the general purpose and intent of this Ordinance set forth in Sections elsewhere in this Ordinance, and upon the particular land use problems related to development of the site or sites as proposed.

1. Airports, airstrips, and landing fields A-2, A-3, and A-4, and the Park (P) and Business (B) Districts, provided the site area is not less than 20 acres, and must be agriculturally related. Airports, airstrips, and landing fields in A-1 and A-1-RZ if they qualify under Wis. Stat. § 91.46(4).
2. Colleges, universities, hospitals, sanitariums, religious, charitable, penal, and correctional institutions, cemeteries and crematories in the Park (P) and Business (B) Districts provided all principal structures and uses are not less than 50 feet from any lot line.
3. Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, in all districts, but only in A-1, A-1-RZ, and A-1-S if they qualify under Wis. Stat. § 91.46(5).
4. Public, parochial, and private elementary and secondary schools and churches in all Residential, Business, Agricultural, and Park Districts, provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any lot line. If located in A-1, A-1-RZ, or A-1-S, these uses must qualify under Wis. Stat. § 91.46(5).
5. Public passenger transportation terminals such as heliports, bus and rail depots, except airports, airstrips, and landing fields, in the Business (B) Districts, provided all principal structures and uses are not less than 100 feet from any Residential District boundary.
6. Utilities in all districts provided all principal structures and uses are not less than 50 feet from any Residential District lot line. If located in A-1, A-1-RZ, A-1-S, or A-PR, these uses must qualify under Wis. Stat. § 91.46(5).

G. Recreational and Related Uses:

Except where specifically allowed as a permitted use, the following recreational and related uses shall be conditional uses and may be allowed as specified. In approving or disapproving the location of a conditional use, the Town Board shall view the proposed site or sites and shall consider such

evidence as may be presented at the public hearing bearing upon the general purpose and intent of this Ordinance and upon the particular problems related to development of the site or sites as proposed.

Due to the potential impact on residences, recreational and related uses in this subsection that are specified for A-2, P-1, and C-2 are allowable only if the following conditions are met, in addition to any other applicable conditions. The recreational or related use must be compatible with nearby residential uses; that is, noises, activities, traffic, and similar factors must not negatively impact the ability of residents to enjoy their residential property

1. Amusement activities such as fairgrounds, roller skating rinks, go-cart tracks, race tracks, and recreation centers in P-1 and all Business Districts except B-4
2. Archery ranges, golf driving ranges, firearm ranges, sports fields, polo fields, and outdoor paintball in A-2, P-1 and all Business Districts except B-4
3. Commercial recreation facilities such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, Turkish baths, skating rinks, and theaters in all Business Districts
4. Cultural activities, such as aquariums, art galleries, botanical gardens, arboreta, historic and monument sites, libraries, museums, planetarium, and zoos in all Business Districts
5. Golf courses and country clubs in all Residential Districts, Business Districts, A-2, C-2 and P-1
6. Recreational clubs (e.g. hunting, fishing, model airplane, go-carting, etc.) in A-2, P-1 and all Business Districts
7. Public assembly uses, such as amphitheaters, arenas, field houses, gymnasiums, natatoriums, auditoriums, exhibition halls, music halls, legitimate theaters, motion picture theaters, and stadiums in all Business Districts except B-4
8. Public or private campgrounds in A-2, P-1 and C-2

H. Residential and Related Uses:

Except where specifically allowed as a permitted use, the following residential and quasi-residential uses shall be conditional uses and may be allowed as specified:

1. Fraternities, lodges, and meeting structures of a non-commercial nature in all Business Districts, provided all principal structures and uses are not less than 25 feet from any lot line
2. Home occupations and professional offices in all Residential Districts, not to exceed more than 25 percent of the floor area
3. Single-family residences in the B District
4. Planned residential development in the R-1, R-2, and R-3 Districts, provided that no planned development shall be approved which includes residential uses not allowed as a permitted use in the given district. The district regulations may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that allowed for the district in which it is located. The following provisions shall be complied with:

Development:	Area	Minimum 5 acres
Lot	Area	Minimum of 2/3 of the minimum lot area for the district in which located; minimum 3,000 square feet for attached single-family residences

	Width	Minimum of 2/3 of the minimum lot width for the district in which located; minimum 20 feet for attached single-family residences
Building:	Height	Maximum 35 feet
Setbacks	Street	Minimum 20 feet
	Rear	Minimum 50 feet
	Side	Minimum 20 feet from street right-of-way lines, exterior property lines of the development, and other buildings

5. Rest homes, nursing homes, homes for the aged, clinics, and children’s nurseries or day care centers in the R-3, P-1, and all Business Districts, provided all principal structures and uses are not less than 50 feet from any lot line

I. Resource Disposal Uses:

All operations listed as conditional uses listed in the M-4 District shall be subject to the following regulations and such other regulations, as the Town Board may deem appropriate after viewing the site or sites and considering evidence presented at the hearing:

1. Uses to comply with Wisconsin Administrative Code, County Code of Ordinances, and other applicable laws. All processing and disposal operations must be conducted in strict accordance with the provisions of Chapter NR 151, Wisconsin Administrative Code; the SANITARY ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN, and any other applicable laws.
2. Plat of Survey: Applicants shall submit a plat of survey showing, as appropriate, the data and information set forth in this Ordinance, topographic data (minimum 2-foot contour interval), existing natural resource base data, the locations of existing and proposed access roads, and the depth of existing and proposed excavations and fills.
3. Operations Plan: All applicants shall submit an operations plan that shall include at least a description of the operational methods proposed to be used; a list of equipment, machinery, and structures to be used and constructed; a description of the source, quantity, and disposition of water to be used; a description of proposed noise, rodent, and dust control procedures; and proposed hours of operation.
4. Restoration Plan: All applicants shall submit a restoration plan showing at least proposed contours (minimum 2-foot contour interval), type of fill, depth of restored topsoil, planting or reforestation, and timing and completion dates.
5. Sureties: The applicant shall furnish sureties to enable the Town Board to carry out the restoration plan in the event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the town Board, and the form and type of such sureties shall be approved by the Town Board.

9.25 BOARD OF APPEALS

- A. **Establishment:** A Board of Appeals shall be appointed by the Town Board chairperson, subject to confirmation by the Town Board of supervisors, as specified in Wis. Stat. § 62.23 (7)(e), as amended. The Board of Appeals may make special exceptions to the terms of this Zoning Ordinance and shall hear appeals, as provided in subsection E.
- B. **Independent Body Politic:** The Board of Appeals shall be an independent body politic for all purposes, including, without limitation, for the purposes of Wis. Stat. § 801.11 (4)(a)(7), as amended.
- C. **Membership:**
1. **Number:** The Board of Appeals shall consist of 5 members.
 2. **Qualifications:** Members of the Board of Appeals shall be residents of the Town who have attained the age of majority, but shall not be any Town supervisor or plan commissioner, or Town employee whose duties include any act from which an appeal to the Board of Appeals shall exist pursuant to Wis. Stat. § 62.23 (e).
 3. **Terms:** Terms shall be three years, except that of those 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, in the same manner as appointments for full terms.
 4. **Chairperson:** The Town Board chairperson shall appoint a member to serve as chairperson of the Board of Appeals.
 5. **Removal:** The members shall be removable by the Town Board for cause upon written charges and upon public hearing.
 6. **Alternate Members:** The Town Board Chairperson may appoint, for staggered terms of three years, two alternate members of such board, subject to confirmation by the Town Board, in addition to the 5 members above provided for. Annually, the Town Board chairperson shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.
 7. **Secretary:** The Board of Appeals shall elect a secretary, who shall be a person to receive appeals and applications for variances and to receive service notice and other of process on behalf of the Board of Appeals. The Town Clerk shall be the recording secretary of the Board of Appeals and shall serve ex officio without special compensation.
 8. **Oath:** All members shall take official oaths in accordance with Wis. Stat. § 19.01 within 10 days of receiving notice of their appointment. The term of a member who fails or refuses to take said oath shall be deemed vacant and shall be filled as provided in subsection C.3.
- D. **Organization:**
1. **Rules:** The Board of Appeals shall adopt rules in accordance with the provisions of this Zoning Ordinance.
 2. **Office:** The office of the Board of Appeals shall be the office of the Town.

3. Meetings: Meetings of the Board of Appeals shall be held at the call of the chair and at such other times as the Board of Appeals may determine, and shall be conducted pursuant to the open meeting and notice provisions of subchapter V of Chapter 19 of the Wisconsin Statutes. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses.
 4. Minutes: The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indication such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.
 5. Custodian: The Town Clerk shall be legal custodian of the records of the Board of Appeals and shall comply with subchapter II of Chapter 19 of the Wisconsin Statutes.
 6. Appropriations: The Town Board shall appropriate funds to carry out the duties of the Board of Appeals, and the Board of Appeals shall have the authority to expend, under regular procedures, all sums appropriated to it for the purpose and activities authorized herein.
 7. Compensation: Members of the Board of Appeals shall receive such compensation as the Town Board shall determine from time to time.
 8. Assistance: The Board of Appeals may request, and shall be provided, assistance from other Town officers, departments, commissions, and boards.
- E. Powers: The Board of Appeals shall have the following powers:
1. Appeals of Administrative Errors: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or in the enforcement of Wis. Stat. § 62.23, as applicable to the Town pursuant to Wis. Stat. § 61.35 and 60.62, or of any ordinance adopted pursuant thereto, including, without limitation, this Zoning Ordinance;
 2. Variations: To authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Zoning Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. Use variations are not permitted and shall not be granted.
 3. Public Utilities: To permit upon appeal in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of this Zoning Ordinance, a building or premises to be erected or used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.
- F. Appeals and Applications:
1. Standing: Appeals to the board of appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of the Town affected by, any decision of the administrative officer.
 2. Limitation: Appeals shall be taken within 30 days after the date of written notice of the decision, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof.
 3. Submissions: Appeals and applications for variations shall include the following submissions:
 - a. names and addresses of all appellants or applicants
 - b. street address, legal description, and tax key number of the affected lands
 - c. names and address of all owners of all lands included in the appeal or variance application and all lands lying within 100 feet of lands included in the appeal or variance application

- d. a statement of the decision from which the appeal is taken, and the sections of the Zoning Ordinance upon which the appeal or application for variance is based
- e. in the case of an application for a variance, the practical difficulty or unnecessary hardship upon which the application is based and a plat of survey prepared by a Wisconsin registered surveyor or licensed engineer depicting that part of the affected property for which the variance is sought
- f. additional information required in writing by the Board of Appeals or that the appellant or variance applicant believes is material and relevant

G. Hearings:

- 1. Conduct of Public Hearing: The chairperson of the Board of Appeals shall place all witnesses under oath. The Board of Appeals shall hear all relevant evidence presented for and against the application. The chairperson of the Board of Appeals may rule on admission of evidence and examination of witnesses.
- 2. Legal Counsel: The Board of Appeals may engage legal counsel to advise it respecting any appeal or application for variance. An attorney serving as legal counsel to the Town at the time of the decision appealed from, or who shall have advised the administrative officer who made the decision, shall not serve as legal counsel to the Board of Appeals respecting such appeal.
- 3. Appearances: Recommendations: The appellant or applicant may appear in person, by agent, or by attorney. In any action involving a property listed in the National Register of Historic Places or the Wisconsin Register of Historic Places, as defined in Wis. Stat. § 44.31(4), as amended, the Board of Appeals shall consider any suggested alternatives or recommended decision submitted by the Plan Commission, or, if one exists, by a landmarks commission.
- 4. Adjournment: A hearing may be adjourned from time-to-time, upon affirmative vote of a majority of the members present.

H. Decisions:

- 1. Time: On or before 30 days after conclusion of hearings, the Board of Appeals shall decide appeals and applications for variance, shall file its written decision in the office of the Board of Appeals, and shall deliver by registered United States mail, return receipt requested, its decision, signed by all participating members of the Board of Appeals, to the appellant or applicant and the officer from whom the appeal is taken.
- 2. Action: In exercising the powers set forth in subsection E, the Board of Appeals may, in conformity with the provisions of such section, 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 issue or permit.
- 3. Vote: The concurring vote of four members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to effect any variation in the Zoning Ordinance. The grounds of every such determination shall be stated either in a written record of the hearing or in a separate written decision.

I. Review:

Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board, or bureau of the municipality, may, within 30 days after the filing of the decision in the office of the Board of Appeals, commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from,

but may, on application, on notice to the Board of Appeals and on due cause shown, grant a restraining order. The Board of Appeals shall not be required to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

9.26 HOME OCCUPATIONS

Any home occupation that is customarily incidental to the principal use of a building as a residence shall be permitted in any dwelling unit.

A. Standards:

In addition to all of the standards applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following standards:

1. No person other than a member of the immediate family occupying such dwelling unit shall be employed—not to exceed four persons annually in A-1, A-1-RZ, or A-1-S.
2. No stock in trade (except articles produced by the members of the immediate family residing on the premises) shall be displayed or sold on the premises. Stock in trade may not occupy more than 25 percent of usable floor space.
3. No alteration of the principal building shall be made which changes the character thereof as a residence.
4. No more than 25 percent of the area of one story of a single-family residence nor more than 20 percent of the area of any other dwelling unit shall be devoted to the home occupation, provided, however, that rooms rented are not subject to this limitation.
5. No extensive mechanical or electrical equipment other than normal domestic or household equipment shall be used.
6. The home occupation shall be conducted entirely within the principal residential building, or in a permitted private garage accessory thereto.
7. There shall be no outside storage of equipment or materials used in the home occupation.
8. No signs shall be permitted other than those permitted by the applicable regulations in Chapter 9, Section 21 – Signs of this Ordinance.

B. Particular Occupations Permitted:

Customary home occupations include, but are not limited to, the following list of occupations provided, however, that each listed occupation shall be subject to the requirements of Chapter 9, Section 24 – Conditional Uses of this Ordinance as well as to any limitations specifically imposed on such occupation by subsection 3 of this Definition.

1. Dressmakers, seamstresses, and tailors
2. Music teachers, provided that the instruction shall be limited to one pupil at a time except for occasional groups
3. Artists, sculptors, and authors
4. Physicians, dentists, and other licensed medical practitioners
5. Lawyers, architects, engineers, realtors, insurance agents, brokers, and members of similar professions

6. Ministers, rabbis, and priests
 7. The letting for hire of not more than two rooms for residential use only and for not more than four persons, none of whom is a transient
 8. Franchise businesses operated from home by a person acting as an agent for a company that distributes brand name products; signs are permitted as allowed for other home occupations
- C. Particular Occupations Prohibited:
Permitted home occupations shall not in any event be deemed to include:
1. Barber shops, unless specifically permitted by the district regulations
 2. Beauty parlors, unless specifically permitted by the district regulations
 3. Dancing schools
 4. Funeral homes
 5. Nursery schools
 6. Restaurants
 7. Tourist homes
 8. Renting of trailers
 9. Clinics or hospitals
 10. Repair shops or service establishments
 11. Animal kennels or hospitals, or stables

9.27 SOLAR ENERGY SYSTEMS (SES)

- A. Applicability:
The standards in this Section apply only to mid-scale solar energy systems as described in subsection C below.
- B. Purpose:
There are hereby established standards for certain solar energy systems that will provide for the construction and operation of said systems. All regulations contained herein are adopted to preserve and protect public health and safety.
- C. Types of Solar Energy Systems and Permits Required:
1. Large-scale SES (100 MW or more): Must be approved by the Wisconsin Public Service Commission. Such systems are allowed only in the A-1, A-1-RZ, A-1-S, A-PR, B-1, B-2, M-3, and M-4 districts and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. The Town may require a conditional use permit and/or developer's agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats.
 2. Mid-scale SES (less than 100 MW but greater than 30 kW): Are subject to the conditional use permit conditions set forth in Section 9.24 of this Ordinance and the requirements set forth in subsection D below, the Town's building permit requirements, the County's applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed by conditional use only in the A-1, A-1-RZ, A-1-S, A-PR, A-2, A-2-HD, A-3, A-4, B-1, B-2, M-3, and M-4 districts.
 3. Small-scale SES (30 kW or less): Are considered to be accessory uses and are permitted uses in all districts except H-1. Such systems are allowed whether or not a principal structure exists on the parcel. Applicable permits from the Town are required, and a Sheboygan County Shoreland/Floodplain Zoning permit may also be required, if applicable.
- D. Requirements for Mid-Scale Solar Energy Systems:
1. Any mid-scale SES hereafter established, altered, or enlarged shall be subject to the following requirements unless less restrictive requirements are specifically granted by the Plan Commission in the conditional use permit.
 - a. Location: No portion of a large- or mid-scale SES shall occupy any parcel that lies within one-quarter mile of the corporate boundary of the villages of Cascade or Waldo existing at the time of application for said SES, unless approved by the Town Board after receiving convincing evidence that said SES will not impede the planned growth of Cascade or Waldo.
 - b. Setbacks: Any portion of the SES shall not encroach within 20 feet of any property line, non-navigable waterway ordinary high-water mark, easement, well, or septic field. Setbacks from roadways are 75 feet from the center line of Town and County Roads, and 75 feet from the right-of-way on State Roads. The project design shall be such that aboveground project components (excluding fences and access roads) shall not be closer than 200 feet to any nonparticipating landowner residential structure.
 - c. Height restrictions: Ground mounted components of a SES shall not exceed 15 feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening. Roof-mounted components shall not exceed a zoning district's height limit by more than 5 feet.

- d. Glare: The SES, including reflectors, shall be positioned so that glare does not create unsafe conditions for travelers or nuisances for neighboring properties.
 - e. Sound: The SES project's inverters, substations, motors, and other noise emitting equipment collectively shall not exceed the Public Service Commission mandated maximum nighttime sound level that is applicable to a 100 MW system or larger at the walls of the noise sensitive receptor, which shall include as a minimum the residence on any non-participating property. To ensure noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in any pre- or post-construction sound analysis.
 - f. Construction hours: Hours of construction shall be between 6:00 a.m. and 7:00 p.m., Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. on Sunday.
 - g. Installer: All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.
 - h. Foundation: A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate.
 - i. Screening: A SES shall be appropriately buffered and screened from public view by the system owner or representative. Any structure or vegetation under the control of a neighboring property owner, however, that interferes with the function of a SES is considered to be a private nuisance per Section 844.22, Wis. Stats.
 - j. Town road rights-of-way: The construction, operation, and decommissioning of a SES shall not adversely impact transportation infrastructure within road rights-of-way in the Town of Lyndon or nearby municipalities. Prior to the issuance of any permits for an SES project, and following project completion, a Pavement Surface Evaluation and Rating (PASER) survey of roadways likely to be affected by the project, as identified by the Town of Lyndon, shall be conducted by an independent, qualified entity, at the expense of the applicant. The Town of Lyndon and any other affected municipalities shall be compensated for any damages resulting from activities related to the project, with the compensation determined by the Sheboygan County Transportation Department.
 - k. Code compliance: A SES shall comply with all applicable local, state, and federal regulatory codes, including the State of Wisconsin electrical and plumbing codes and the National Electrical Code.
 - l. Power and communication lines: Power and communication lines running between banks of ground mounted solar panels to nearby electrical substations, or interconnections with or between structures, shall be buried underground.
 - m. Orderly development: Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.
 - n. Decommissioning: When decommissioning of a SES is required, all equipment, whether above the ground surface or below, shall be totally removed and properly recycled or disposed of. A bond, letter of credit, or an escrow account is required for all SES with a nameplate rating of 1 MW or greater to ensure proper decommissioning. The Town of Lyndon shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company.
2. In addition to the application submittal requirements of Section 9.24 of this Ordinance, the application for a SES conditional use permit shall include the following:
 - a. Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the

- electrical grid, and any agreements with public utilities with regard to connecting to their systems.
- b. Site layout, including the location of property lines, structures, SES; as well as the total extent of system movements, and the interconnection points with the electrical grid.
 - c. Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
 - d. Surrounding property uses, including distances to any adjacent nonparticipating landowner residential structures.
 - e. Percentage of land coverage by the SES when panels are in the position that has the largest horizontal area.
 - f. A decommissioning plan that outlines the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of a SES must occur in the event the SES is not in use for 12 consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established and cost estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Lyndon to have suitable expertise or experience. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Plan Commission shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and properties within the Town. The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or if the SES is not in use for 12 consecutive months. Decommissioning shall be completed within 9 months from the start of decommissioning activities.

9.28 GENERAL PROVISIONS

Reimbursement of Costs:

Costs of any legal, engineering, or other professional fees incurred by the Town regarding a Conditional Use Application, Performance Standards, or any other standards related to the administration of this Ordinance shall be paid to the Town by the applicant before issuance of associated permits. A decision by the Town Board to decline to issue a permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection. Further, after the issuance of a permit, any such fees incurred by the Town for the purpose of verifying compliance with Ordinance standards shall likewise be reimbursed by the applicant or subsequent property owner within 60 days of notice by the Town.

9.29 PERFORMANCE STANDARDS

A. Compliance:

The Town of Lyndon Zoning Ordinance allows specific uses in specified districts, and the following performance standards are intended to limit, restrict, and/or prohibit any harmful effects of those uses outside their property or district. No structure, land, or water shall hereafter be used except in compliance with applicable district regulations and the performance standards listed in this Section, which apply to all permitted and conditional uses.

1. Noise:
 - a. Shall be muffled or otherwise controlled so as not to become objectionable to neighboring properties due to intensity, intermittence, duration, beat frequency, impulse/periodic character, or shrillness. Noise from temporary construction, demolition, and vehicles that enter and leave the subject parcel are exempt from this standard.
 - b. Sirens, whistles, and bells that are maintained and utilized solely to serve a public purpose are not to be enjoined under these performance standards.
2. Exterior lighting:
 - a. Shall be located, oriented, and shielded – and of an intensity so as to illuminate only the building or lot without adversely affecting activity on neighboring properties or traffic on roadways.
 - b. Shall not exceed a total maximum height of 25 feet.
 - c. Shall be aimed downward and directed away from nearby residential areas.
 - d. Shall not flash, pulsate, nor impair or hinder vision on roadways or neighboring properties.
3. Air pollution: No activity shall substantially contribute to exceeding local, State, or Federal air pollution standards or emit fly ash, dust, fumes, vapors, mists, or gases in such quantities as to endanger the health or condition of persons, animals, vegetation, or other forms of property.
4. Glare: No activity shall emit glare, flickers, or concentrated light (e.g., lasers) that is visible outside its property. (Exceptions may be allowed for certain uses in the “B” and “M” Districts.) All operations producing intense glare shall be conducted within a completely enclosed building.
5. Heat, humidity: Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of 5 degrees Fahrenheit on another property.
6. Liquid or solid wastes: No activity shall discharge at any point onto any land or water or public sewer any materials of such nature, quantity, noxiousness, toxicity, or temperature that can contaminate, pollute, or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing public utilities, or can injure or damage persons or property.
7. Electrical disturbance, electromagnetic, or radio frequency interference: No activity shall create any electrical disturbance that adversely affects any operations of equipment other than those of the creator of such disturbance, or cause, create or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.
8. Odors: No activity shall emit odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthy outside its property. When providing for odor measurement and control, the Town may use as a guide Section NR 429.03 of the Wisconsin Administrative Code. Agriculture odors associated

- with normal agricultural activities are exempted from this subsection, except those odors created by the use of Center Pivot Waste Distribution Systems and Traveling Gun Waste Distribution Systems, the use of which is prohibited in all zoning districts except A-1, A-1-RZ, A-1-S, and A-PR.
9. Vibration: With the exception of allowable activities in the “B” or “M” zoning districts, no activity shall emit vibrations that are discernible without instruments outside the property. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject parcel are exempt from this standard.
 10. Fire or explosive hazards: All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All such materials shall be manufactured, utilized, processed, and stored only in completely enclosed structures that have incombustible exterior walls and an automatic fire extinguishing system.
 11. Landscaping: Any dead or damaged trees that pose a danger to the public shall be removed in a timely manner.
 12. Water quality:
 - a. No activity shall store or allow the discharge of any treated, untreated, or inadequately treated liquid or substance in such a quantity, noxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating of debris, oil, scum, color, odor, taste, or be harmful to human, animal, plant, or aquatic life.
 - b. In addition, no activity shall withdraw water or discharge liquid or substance so as to exceed or contribute toward the exceeding of the minimum standard set in Chapter NR 102 of the Wisconsin Administrative Code for all navigable waters.

B. Applicability of Nuisance Ordinance:

A violation of this Section that is so flagrant as to constitute a potential nuisance may be the subject of a nuisance action brought by the Town of Lyndon.

CHAPTER 10 ZONING

10.01 ZONING DISTRICTS

A. Establishment:

For the purpose of this Ordinance, the Town of Lyndon, Sheboygan County, Wisconsin, outside of the limits of incorporated villages and cities, is hereby divided into the following zoning districts, namely:

- A-1 Exclusive Agricultural District
- A-1-RZ Exclusive Agricultural District (Rezoned from A-2)
- A-1-S Exclusive Agricultural District (Small-Scale)
- A-PR Agricultural Parcel Remnants District
- A-2 Agricultural Land District
- A-2-HD Agricultural Land District (Higher Density)
- A-3 Agricultural Land Transitional District
- A-4 Agricultural Related Manufacturing, Warehousing, and Marketing District
- A-5 Agricultural Living District
- A-6 Agricultural Estate Land District (no properties to be added to this district after January 1, 2018)
- B-1 Light Industrial Business District
- B-2 Heavy Industrial Business District
- B-3 Highway Commercial Business District
- B-4 Neighborhood Business District
- C-1 Lowland Conservancy District
- C-2 Upland Conservancy District
- M-3 Mineral Extraction District
- M-4 Resource Disposal District
- P-1 Recreational Park District
- R-1 Single-Family Residence District (unsewered)
- R-2 Single-Family Residence District (sewered)
- R-3 Multiple-Family Residence District (sewered or unsewered), prior to January 1, 2017
- R-5 Lakeshore Residential District
- R-6 Planned Mobile Home Park Residence District (no properties to be added to this district after January 1, 2018)
- PUD Planned Unit Development Overlay District

The boundaries of these districts are hereby established as shown on a map entitled, "ZONING MAP, TOWN OF LYNDON, WISCONSIN", which is maintained in the office of the Town Clerk and incorporated as part of this ordinance by reference as though full set forth herein. All notations and references shown on the Zoning Map are as much a part of this Ordinance as those specifically described herein. Boundaries shall be construed to follow: Corporate limits, U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way, or such lines extended; and lines identifying boundaries of natural resources areas as shown by changes in vegetation, slope, and other natural resource base features, unless otherwise noted on

the Zoning Map. All notations, references, and other information shown upon the said Zoning Map shall be as much a part of this Ordinance as if the matter and things set forth by the said map were fully described herein.

- B. Zoning Map:
The official copy of the Zoning Map shall be adopted as part of this Ordinance and shall be available to the public in the Office of the Town Clerk. The Clerk shall, from time to time, update the Zoning Map as is necessary to reflect changes in zoning district boundaries effective under Chapter 9, Section 15 – Changes and Amendments of this Ordinance.
- C. Procedure for Rezoning:
 - 1. Fill out petition (application) and file with the Town Clerk. A petition shall include payment of an administrative petition fee as set forth in the fee schedule. The petition shall not be considered complete until this fee is paid. This process should be completed 21 days prior to the hearing date.
 - 2. Petition shall be presented to the Plan Commission for review and recommendation to the Town Board.
 - 3. Town Board conducts the Public Hearing and renders a decision.
- D. Procedure for Variance:
Contact Plan Commission
- E. Procedure for Conditional Use Permit:
Same procedure as rezoning.

10.02 FARMLAND PRESERVATION ZONING (FPZ)

- A. Purposes
Farmland Preservation Zoning in the Town of Lyndon includes the A-1, A-1-RZ, A-1-S, and A-PR Districts. The purposes of the FPZ are to preserve productive agricultural land for food and fiber production; preserve productive farms by preventing land use conflicts between incompatible uses and controlling public services; maintain a viable agricultural base to support agricultural processing and service industries; reduce costs of providing services to scattered, nonfarm uses; pace and shape urban growth; implement the policies of the Sheboygan County Farmland Preservation Plan; and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Chapter 91 of the Wisconsin Statutes. To comply with the Farmland Preservation Law, only agricultural uses and uses consistent with agricultural use (either permitted or conditional uses) are allowed. All structures and improvements shall be consistent with agricultural use.
- B. Density
Residential density under the Town’s Farmland Preservation Zoning is 1 residence allowed for every 20 acres of contiguous A-1 and/or A-1-RZ land under common ownership. A landowner with 40 vacant, contiguous A-1 and/or A-1-RZ acres, for example, can manage the property in a variety of ways (see the “yield” table below), but there could not be more than two residences in any

development scenario for the 40 acres. This is ensured by the proper use of the non-developable A-PR designation for property remnants.

To determine the allowable residential yield for a particular tract of A-1 and/or A-1-RZ land, start with the total A-1 and/or A-1-RZ acreage of the tract, divide by 20, and subtract 1 for each existing residential footprint. Whenever a new residence and/or a land division is proposed, all or part of any remaining land shall be simultaneously rezoned to A-PR to prevent exceeding the density in the future. (The landowner also has the option of voluntarily making the A-PR larger than required, if desired, to lower the density.)

RESIDENTIAL YIELD OF VARIOUS A-1 TRACTS			
SIZE / TYPE OF A-1 TRACT	EXAMPLE A	EXAMPLE B	EXAMPLE C
35 contiguous acres with 1 existing residence	If no land division, then the yield remains 1 residence.	Divide into one 5-acre A-1-S lot with the existing residence, and one 30-acre A-PR parcel with 0 residences.	Divide into one 20-acre A-1 lot with the existing residence, and one 15-acre A-PR parcel with 0 residences.
40 contiguous acres with 1 existing residence	If no land division, then the yield remains 1 residence.	Divide into one 15-acre A-1-S lot with the existing residence, and one vacant 25-acre lot of which 20 acres is A-1 and 5 acres is A-PR. Could build 1 residence on the vacant A-1 land.	Divide into one 20-acre A-1 lot with the existing residence, and one vacant 20-acre A-1 lot. Could build 1 residence on the vacant A-1 land.
Vacant, contiguous 40 acres	If no land division, then the yield could stay 0 residences or become 1 residence.	Divide into one vacant 10-acre A-1-S lot, and one vacant 30-acre lot of which 20 acres is A-1 and 10 acres is A-PR. Could build 1 residence on the A-1-S lot and 1 residence on the A-1 land.	Divide into one vacant 5-acre A-1-S lot, one vacant 10-acre A-1-S lot, and one 25-acre A-PR parcel. Could build 1 residence on each A-1-S lot.
Vacant, contiguous 88 acres	If no land division, then the yield could stay 0 residences or become 1 residence.	Divide into four 20-acre A-1 lots with 0-4 residences total, and one 8-acre A-PR parcel with 0 residences.	Divide into two 10-acre A-1-S lots, one 40-acre A-1 lot, and one 28-acre A-PR parcel. Could build 1 residence on each A-1-S lot and 1 residence on the A-1 lot; could build 1 more residence on the A-1 lot if it is further divided.

Note 1: The table does not show all possible options. A-1-RZ could also be substituted for A-1.

Note 2: Although one residence can be built on a vacant A-1-S lot, such a lot can remain undeveloped.

Nevertheless, once an A-1-S lot is created, one residence is subtracted from the yield calculation.

Note 3: Whether a residence is considered a farm residence or a nonfarm residence is irrelevant to the calculation of yield.

C. Reporting

By March 1st of each year, the Town shall report to DATCP and Sheboygan County the total acres rezoned out of the Town's Farmland Preservation Zoning District during the preceding year and a map that clearly shows the location of those acres.

10.03 A-1 EXCLUSIVE AGRICULTURAL DISTRICT

A-1 land uses in this district are restricted to agricultural uses and uses that are consistent with agricultural use as defined in Wis. Stat. § 91.46. Residents of this district recognize that the area is primarily agriculturally oriented and accept those environmental conditions customarily associated with farming.

A. Purpose:

1. Preserve larger tracts of productive agricultural land for food and fiber production
2. Preserve productive farms by preventing land use conflicts between incompatible uses
3. Maintain a viable agricultural base to support agricultural processing and service industries
4. Prevent conflicts between incompatible uses
5. Reduce costs of providing services to scattered, non-farm uses
6. Pace and shape urban growth
7. Implement the provisions of the County Agricultural Farmland Preservation Plan when adopted and periodically revised
8. Comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Chapter 91 of the Wisconsin Statutes
9. As a matter of policy, it is the intent of this Ordinance to implement the goals and objectives of the Town's Comprehensive Plan regarding the preservation of productive agricultural lands.

B. Lands Included:

The A-1 District is generally intended to apply to lands in productive farm operations including:

1. Lands historically exhibiting high crop yield or capable of such yields
2. Lands that have demonstrated to be productive for dairying, livestock raising, and other lands that are integral parts of such farm operations
3. Land used for the production of specialty crops such as cranberries, mint, sod, fruits, and vegetables

A. Permitted Uses in A-1:

1. Accessory uses, meaning any of the following land uses on a farm:
 - a. a building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use
 - b. an activity or business operation that is an integral part of, or incidental to, an agricultural use
 - c. a business, activity, or enterprise, whether or not associated with an agricultural use, that meets the standards of a home occupation in Chapter 9, Section 26 – Home Occupations
 - d. Greenhouses
 - e. paddocks and stables
 - f. roadside stands
 - g. Solar energy systems (SES) small-scale
2. Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:
 - a. apiculture (beekeeping)
 - b. aquaculture
 - c. dairying
 - d. floriculture (cultivation of ornamental flowering plants)
 - e. forest and game management

- f. raising of fur-bearing animals, with a maximum of one animal unit per acre
 - g. grazing
 - h. livestock raising
 - i. orchards
 - j. owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836
 - k. participating in the milk production termination program in 7 USC 1446 (d)
 - l. placing land in federal programs in return for payment in kind
 - m. plant nurseries
 - n. raising of equine animals, bison, farm-raised deer, captive game birds, ratites (e.g., ostrich), or camelids, with a maximum of one animal unit per acre
 - o. raising of grain, grass, mint, and seed crops
 - p. raising of tree fruits, nuts and berries
 - q. sod farming or tree production
 - r. vegetable raising
 - s. viticulture (grape growing)
- 3. Transportation, utility, communication, or other use that is required by state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use
 - 4. Gas and electric utility uses not requiring authorization under Wis. Stat. § 196.491
 - 5. Undeveloped natural resource and open space areas, including equestrian trails, and nature trails and walks
 - 6. Any residence existing prior to January 1, 2014, regardless of whether an occupant meets the criteria listed under “farm residence” in Section 9.20 - Definitions. (Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt as a permitted use, provided that the rebuilt residence occupies the same general footprint or an alternate site that does not impair agricultural uses to any greater degree than the original residence.)
- C. Conditional Uses in A-1:
See Chapter 9, Section 24 – Conditional Uses for application, review and approval procedures for conditional uses. The following conditional uses are governed by Chapter 91.46 of the Wisconsin Statutes
- 1. Agriculture related uses (e.g., an agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes)
 - 2. Single-family residences built after January 1, 2014 that meet the standards in subsections a., b., and c., as well as other applicable requirements of this Ordinance
 - a. The location and size of a proposed residential lot and, for a new residence, the location of the residence on that residential lot, will not do any of the following:
 - 1. convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a residential lot or residence
 - 2. significantly impair or limit the current or future agricultural use of other protected farmland.
 - b. The conditional use application shall include a color aerial photo, no more than two years old, and of sufficient size and resolution to determine whether lands have been under agricultural use, along with a brief written statement describing how the proposed lot and/or residence will not do either of subsection a.[1] or [2].

c. Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt without a renewal of the conditional use permit, provided that the rebuilt residence occupies the same general footprint. A new conditional use permit will be required if an alternate site is desired; the alternate site must not impair agricultural uses to any greater degree than the original residence.

3. Residential clusters that qualify under Wis. Stat. § 91.46(3)
4. Transportation, communications, pipeline, electric transmission, utility, or drainage uses that qualify under Wis. Stat. § 91.46(4)
5. Governmental, institutional, religious, or nonprofit community uses, other than uses covered by Wis. Stat. § 91.46(1)(f), that qualify under Wis. Stat. § 91.46(5)
6. Housing for migratory or seasonal farm workers
7. Livestock sales barns
8. Animal hospitals, shelters, and kennels that qualify under Wis. Stat. § 91.01(1)(d), provided that the lot area is not less than 5 acres and further provided that, if animals are to be housed outside, there is a minimum building separation of 1,000 feet from the nearest neighboring residential structure existing at the time of the issuance of zoning permit
9. Raising, propagating, or boarding of the following that exceeds one animal unit per acre: fur-bearing animals (e.g., mink, rabbit, and fox), equine animals, bison, farm-raised deer, captive game birds, ratites, or camelids; and dogs if in compliance with 91.01(1)(d)
10. Land restoration when conducted in accordance with the appropriate Natural Resources Conservation Service Standards; if related to nonmetallic mineral extraction site restoration, must comply with Wis. Stat. § 91.46(6)(f)
11. A lease for oil or natural gas exploration and extraction that is licensed by the department of natural resources under subch. II of ch. 295
12. Non-metallic mineral extraction that qualifies under Wis. Stat. § 91.46(6)
13. A migrant labor camp certified under Wis. Stat. § 103.92
14. Solar energy systems (SES) mid-scale
15. Solar energy systems (SES) large-scale

D. Area, Height, and Setback Requirements:

Lot:	Size	Minimum 20 acres, having a minimum of 66' road frontage
Residence:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 100 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads
Other Structures:	Height	Maximum 2 times their distance from nearest lot line
Setbacks	Rear	Minimum 25 feet if not used for housing animals, minimum 100 feet if used for housing animals
	Side	Minimum 20 feet if not used for housing animals, 100 feet if used for housing animals
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way on State Roads

E. Rezoning A-1 Land out of Farmland Preservation Zoning (FPZ):

The Town may not rezone A-1 land out of FPZ unless prior to the rezoning the Town finds all of the following, after a public hearing:

1. The rezoned land is better suited for a use not allowed in FPZ.
2. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
3. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under Chapter 91 of the Wisconsin Statutes, which is in effect at the time of the rezoning.
4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

10.04 A-1-RZ EXCLUSIVE AGRICULTURAL DISTRICT (REZONED FROM A-2)

A-1-RZ land uses in this district are restricted to agricultural uses and uses that are consistent with agricultural use as defined in Wis. Stat. § 91.46. Residents of this district recognize that the area is primarily agriculturally oriented and accept those environmental conditions customarily associated with farming.

- A. Purpose: The A-1-RZ District promotes the same purposes as the A-1 District.
This district was created to enable the Town to use its Zoning Map to track which A-2 properties have been rezoned to A-1 under the Town’s voluntary Density Transfer Credits program. Such properties are designated “A-1-RZ” rather than A-1 to ensure they are not rezoned back to A-2 at some point in the future, which would undermine the objective of the program. However, in order to promote the continued usability and value of Density Transfer Credits as contemplated upon creation of the program, rezonings from A-2 to A-1-RZ are to be conditioned on the Town maintaining at least through 2038 the developmental densities of the A-2-HD Zoning District (see s. 10.08) initially created on [date] as part of the Density Transfer Credit program. Any change to the density or repeal of the program will allow the landowner who earned a Certificate by rezoning acreage from A-2 to A-1 to have that acreage restored to A-2 if desired and without having to pay a rezoning fee.
- B. Lands Included: The A-1-RZ District includes productive agricultural lands, formerly zoned A-2, that were deemed suitable to be converted into Farmland Preservation Zoning.
- C. Permitted Uses: Permitted uses in A-1-RZ are the same as in the A-1 District.
- D. Conditional Uses: Conditional uses in A-1-RZ are the same as in the A-1 District.
- E. Area, Height, and Setback Requirements: These requirements are the same as in the A-1 District.
- F. Rezoning A-1-RZ Land out of Farmland Preservation Zoning (FPZ):
 - 1. The property may not be rezoned to a district outside the FPZ unless approved by a super-majority vote of the Town Board. If the super-majority vote of approval is not met, the application is considered denied.
 - 2. The Town may not rezone A-1-RZ land out of the FPZ unless prior to the rezoning the Town finds all of the following, after a public hearing:
 - a. the rezoned land is better suited for a use not allowed in FPZ
 - b. the rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning
 - c. the rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under Chapter 91 of the Wisconsin Statutes, which is in effect at the time of the rezoning
 - d. the rezoning will not substantially impair or limit current or future agricultural use of other protected farmland

10.05 A-1-S EXCLUSIVE AGRICULTURAL DISTRICT (SMALL-SCALE)

A-1-S land uses in this district are restricted to agricultural uses and uses that are consistent with agricultural use as defined in Wis. Stat. § 91.46. Residents of this district recognize that the area is primarily agriculturally oriented and accept those environmental conditions customarily associated with farming.

A. Purpose:

1. Preserve smaller tracts of productive agricultural land for food and fiber production
2. Preserve productive farms by preventing land use conflicts between incompatible uses
3. Maintain a viable agricultural base to support agricultural processing and service industries
4. Prevent conflicts between incompatible uses
5. Reduce costs of providing services to scattered, non-farm uses
6. Pace and shape urban growth
7. Implement the provisions of the County Farmland Preservation Plan when adopted and periodically revised
8. Comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Chapter 91 of the Wisconsin Statutes
9. As a matter of policy, it is the intent of this Ordinance to implement the goals and objectives of the Town's Comprehensive Plan regarding the preservation of productive agricultural lands.

B. Lands Included:

1. The A-1-S District is generally intended to apply to lands in productive farm operations including
2. Lands best suited for truck farming, horse farming, hobby farming, orchards, niche farming, organics, and similar agricultural-related farming activities
3. Lands that have demonstrated to be productive for dairying, livestock raising, and other lands that are integral parts of such farm operations
4. Land used for the production of specialty crops such as cranberries, mint, sod, fruits, and vegetables

C. Permitted Uses:

1. Accessory uses, meaning any of the following land uses on a farm:
 - a. a building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
 - b. an activity or business operation that is an integral part of, or incidental to, an agricultural use
 - c. a business, activity, or enterprise, whether or not associated with an agricultural use, that meets the standards of a home occupation in Chapter 9, Section 26 – Home Occupations
 - d. Greenhouses
 - e. paddocks and stables (if more than 10 horses a Conditional Use Permit is required)
 - f. roadside stands
 - g. Solar energy systems (SES) small-scale
2. Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:
 - a. apiculture (beekeeping)
 - b. aquaculture
 - c. dairying
 - d. raising of fur-bearing animals, with a maximum of one animal unit per acre

- e. floriculture (cultivation of ornamental flowering plants)
 - f. forest and game management
 - g. grazing
 - h. livestock raising, with a maximum of one animal unit per acre
 - i. orchards
 - j. owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836
 - k. participating in the milk production termination program in 7 USC 1446 (d)
 - l. placing land in federal programs in return for payment in kind
 - m. plant nurseries
 - n. raising of equine animals, bison, farm-raised deer, captive game birds, ratites (e.g., ostrich), or camelids, with a maximum of one animal unit per acre
 - o. raising of grain, grass, mint, and seed crops
 - p. raising of tree fruits, nuts and berries
 - q. sod farming or tree production
 - r. vegetable raising
 - s. viticulture (grape growing)
- 3. Transportation, utility, communication, or other use that is required by state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use
 - 4. Gas and electric utility uses not requiring authorization under Wis. Stat. § 196.491
 - 5. Undeveloped natural resource and open space areas, including equestrian trails, and nature trails and walks
 - 6. Any residence existing prior to January 1, 2014, regardless of occupancy. (Note: Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt as a permitted use, provided that the rebuilt residence occupies the same general footprint or an alternate site that does not impair agricultural uses to any greater degree than the original residence.)
- D. Conditional Uses:
- 1. See Chapter 9, Section 24 for application, review and approval procedures for conditional uses. The following conditional uses are governed by Wis. Stat. § 91.46.
 - 2. Agriculture related uses. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes
 - 3. Single-family residences built after January 1, 2014 that meet the standards in subsections (a), (b), and (c), as well as other applicable requirements of this Ordinance
 - a. The location and size of the proposed residential lot and, for a new residence, the location of the residence on that residential lot, will not do any of the following:
 - 1. convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a residential lot or residence
 - 2. significantly impair or limit the current or future agricultural use of other protected farmland
 - b. The conditional use application shall include a color aerial photo, no more than two years old, and of sufficient size and resolution to determine whether lands have been under agricultural use, along with a brief written statement describing how the proposed lot and/or residence will not do either of subsection a.[1] or [2].

- c. Any such residence damaged or destroyed by fire, wind, or similar causes may be rebuilt without a renewal of the conditional use permit, provided that the rebuilt residence occupies the same general footprint. A new conditional use permit will be required if an alternate site is desired; the alternate site must not impair agricultural uses to any greater degree than the original residence.
- 4. Residential clusters that qualify under Wis. Stat. § 91.46(3)
- 5. Transportation, communications, pipeline, electric transmission, utility, or drainage uses that qualify under Wis. Stat. § 91.46(4)
- 6. Governmental, institutional, religious, or nonprofit community uses, other than uses covered by Wis. Stat. § 91.46(1)(f), that qualify under Wis. Stat. § 91.46(5)
- 7. Housing for migratory or seasonal farm workers
- 8. Livestock raising that exceeds one animal unit per acre
- 9. Livestock sales barns
- 10. Animal hospitals, shelters, and kennels that qualify under Wis. Stat. § 91.01(1)(d), provided that the lot area is not less than 5 acres and further provided that, if animals are to be housed outside, there is a minimum building separation of 1,000 feet from the nearest neighboring residential structure existing at the time of the issuance of zoning permit
- 11. Raising, propagating, or boarding of the following that exceeds one animal unit per acre: fur-bearing animals (e.g., mink, rabbit, and fox), equine animals, bison, farm-raised deer, captive game birds, ratites, or camelids; and dogs if in compliance with 91.01(1)(d)
- 12. Land restoration when conducted in accordance with the appropriate Natural Resources Conservation Service Standards; if related to nonmetallic mineral extraction site restoration, must comply with Wis. Stat. § 91.46(6)(f)
- 13. A lease for oil or natural gas exploration and extraction that is licensed by the department of natural resources under subch. II of ch. 295
- 14. Non-metallic mineral extraction that qualifies under Wis. Stat. § 91.46(6)
- 15. A migrant labor camp certified under Wis. Stat. § 103.92
- 16. Solar energy systems (SES) mid-scale
- 17. Solar energy systems (SES) large-scale

E. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 3 acres; Maximum 19.99 acres, having a minimum of 66' road frontage
	Width	Minimum 200 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Residence:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 100 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads
Other Structures:	Height	Maximum 2 times their distance from nearest lot line

Setbacks	Rear	Minimum 25 feet if not used for housing animals; minimum 100 feet if used for housing animals
	Side	Minimum 20 feet if not used for housing animals; 100 feet if used for housing animals
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

F. Development of A-1-S Lots:

1. Only one residence is allowed on an A-1-S lot, and an A-1-S lot may not be divided unless a rezoning to A-PR occurs for all lots in excess of one lot.
2. To facilitate the preservation of continuous areas of protected farmland, the Town encourages the clustering of residences.

G. Rezoning A-1-S Land out of Farmland Preservation Zoning (FPZ):

The Town may not rezone A-1-S land out of FPZ unless prior to the rezoning the Town finds all of the following, after a public hearing:

1. The rezoned land is better suited for a use not allowed in FPZ.
2. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
3. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

10.06 A-PR AGRICULTURAL PARCEL REMNANTS DISTRICT

A-PR land uses in this district are restricted to agricultural uses and uses that are consistent with agricultural use as defined in Wis. Stat. § 91.46. Lands in this district are not intended to be rezoned for development, except in rare cases.

A. Purpose:

1. Preserve parcel remnants that remain worthy of farmland or open space preservation and provide a mechanism for regulating residential density within Farmland Preservation Zoning.
2. Preserve productive farms by preventing land use conflicts between incompatible uses
3. Maintain a viable agricultural base to support agricultural processing and service industries
4. Prevent conflicts between incompatible uses
5. Reduce costs of providing services to scattered, non-farm uses
6. Pace and shape urban growth
7. Implement the provisions of the County Farmland Preservation Plan when adopted and periodically revised
8. Comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Chapter 91 of the Wisconsin Statutes
9. As a matter of policy, it is the intent of this Ordinance to implement the goals and objectives of the Town's Comprehensive Plan regarding the preservation of productive agricultural lands.

B. Lands Included:

The A-PR District is generally intended to apply to lands in productive farm operations including that are especially suited for crop production, dairying, livestock raising, and similar farm operations.

C. Permitted Uses:

All uses permitted in the A-1 District, except that no residence is allowed on A-PR zoned land; further, no buildings are allowed on A-PR land except for 1) accessory buildings that are part of an agricultural use, or 2) accessory buildings existing prior to the development or land division that creates the A-PR land, or Solar energy systems (SES) small-scale.

D. Conditional Uses:

See Chapter 9, Section 24 – Conditional Uses for application, review, and approval procedures for conditional uses.

1. Transportation, communications, pipeline, electric transmission, utility, or drainage uses that qualify under Wis. Stat. § 91.46(4)
2. Land restoration when conducted in accordance with the appropriate Natural Resources Conservation Service Standards; if related to nonmetallic mineral extraction site restoration, must comply with Wis. Stat. § 91.46(6)(f)
3. Non-metallic mineral extraction that qualifies under Wis. Stat. § 91.46(6)
4. Solar energy systems (SES) mid-scale
5. Solar energy systems (SES) large-scale

E. Area, Height, and Setback Requirements:

Lot:	Area	No minimum
	Width	Minimum 66 feet
Structures:	Height	Maximum 2 times their distance from nearest lot line
Setbacks	Rear	Minimum 25 feet if not used for housing animals; minimum 100 feet if used for housing animals
	Side	Minimum 20 feet if not used for housing animals; 100 feet if used for housing animals
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

F. Delineating A-PR Land on a Property:

1. A landowner may locate A-PR land on his/her property wherever the landowner wishes, subject to the restrictions of this Ordinance. The Town Plan Commission may require a plat of survey to accurately locate the district boundaries on the Town Zoning Map.
2. Subject to the restrictions of this Ordinance, the landowner reserves the right to relocate the boundary of any A-PR on the landowner's A-1 and/or A-1-S property at any time by submitting an application and fee payment for rezoning with the Town Clerk. The Town Plan Commission may require a plat of survey to accurately locate the revised district boundary on the Town Zoning Map.
3. A landowner who wishes to exceed the allowable density of his/her tract may make a private agreement with the owner of qualifying A-1 and/or A-1-S land elsewhere in the Town of Lyndon to allocate the required amount of such land (20 acres per proposed residence) on said second owner's tract for rezoning to A-PR. If the rezonings are approved, the residential yields on each owners' tracts shall be adjusted accordingly.
 - a. Said second owner and the first landowner may be the same person.
 - b. Any A-1 remnant of less than 20 acres remaining after said allocation must also be rezoned to A-PR.

G. Rezoning A-PR Land; Super-Majority Vote of Approval Required:

A-PR land may not be rezoned to any other district unless the rezoning meets the minimum standards of the proposed district and is approved by a super-majority vote of the Town Board.

H. Rezoning A-PR Land out of Farmland Preservation Zoning (FPZ):

Per Wis. Stat. § 91.48(1), the Town may not rezone A-PR land out of FPZ unless prior to the rezoning the Town finds all of the following, after a public hearing:

1. The rezoned land is better suited for a use not allowed in FPZ.
2. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.

3. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under Chapter 91 of the Wisconsin Statutes, which is in effect at the time of the rezoning.
4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
5. The rezoning meets the requirements of subsection

10.07 A-2 AGRICULTURAL LAND DISTRICT

Land uses in this district shall be consistent with agricultural use. Residents of the Agricultural Districts recognize that the area is primarily agriculturally oriented and accept those environmental conditions customarily associated with farming. The A-2 District is not intended to be certified as an exclusive agricultural zoning district for tax credit purposes under Chapter 91 of the Wisconsin Statutes.

- A. Purpose:
The primary purpose of the A-2 District is to maintain, preserve, and enhance agricultural land historically utilized for crop production but which are not included within the A-1 Agricultural Land District.
- B. Lands Included:
Lands included are those generally best suited for small farm uses, including truck farming, hobby farming, orchards, and similar agricultural related farming activities.
- C. Permitted Uses:
 1. Single-family residences
 2. Apiculture (beekeeping)
 3. Aquaculture
 4. Dairying
 5. Equestrian trails
 6. Raising of fur-bearing animals, with a maximum of one animal unit per acre
 7. Floriculture (cultivation of ornamental flowering plants)
 8. Forest and game management
 9. Gas and electric utility uses not requiring authorization under Wis. Stat. § 196.491
 10. Grazing
 11. Greenhouses
 12. Livestock raising, with a maximum of one animal unit per acre on tracts less than 20 acres
 13. Natural trails and walks
 14. Orchards
 15. Owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836.
 16. Paddocks
 17. Participating in the milk production termination program under 7 USC 1446 (d)
 18. Placing land in federal programs in return for payment in kind
 19. Plant nurseries
 20. Raising of equine animals, bison, farm-raised deer, captive game birds, ratites (e.g., ostrich), or camelids, with a maximum of one animal unit per acre
 21. Raising of grain, grass, mint, and seed crops

- 22. Raising of tree fruits, nuts and berries
- 23. Roadside stands
- 24. Sod farming or tree production
- 25. Stables
- 26. Vegetable raising
- 27. Viticulture (grape growing)
- 28. Solar energy systems (SES) small-scale

D. Conditional Uses:

See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in A-2, as well as application, review, and approval procedures.

E. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 5 acres, having a minimum of 66' road frontage
	Width	Minimum 200 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Residence:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 100 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads
Other Structures:	Height	Maximum 2 times their distance from nearest lot line
Setbacks	Rear	Minimum 25 feet if not used for housing animals; minimum 100 feet if used for housing animals
	Side	Minimum 20 feet if not used for housing animals; 100 feet if used for housing animals
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.08 A-2-HD AGRICULTURAL LAND DISTRICT (HIGHER DENSITY)

Land uses in this district shall be consistent with agricultural use. Residents of the Agricultural Districts recognize that the area is primarily agriculturally oriented and accept those environmental conditions customarily associate with farming. The A-2-HD District is not intended to be certified as an exclusive agricultural zoning district for tax credit purposes under Chapter 91 of the Wisconsin Statutes.

- A. Purpose:
 The primary purpose of the A-2-HD District is to maintain, preserve, and enhance agricultural land historically utilized for crop production but which are not included within the A-1 Agricultural Land District. In addition, the A-2-HD District is intended to provide land for higher density rural residential development than would otherwise be allowed.
- B. Lands Included:
 Lands included are those formerly A-2 lands that were eligible to be rezoned to a higher density district due to the associated rezoning of other A-2 lands to A-1-RZ as part of the Town’s Density Transfer Credit program.
- C. Permitted Uses:
 Permitted uses in A-2-HD are the same as in the A-2 District.
- D. Conditional Uses:
 See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in A-2-HD, as well as application, review, and approval procedures.
- E. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 3 acres, having a minimum of 66’ road frontage
	Width	Minimum 200 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Residence:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 100 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads
Other Structures:	Height	Maximum 2 times their distance from nearest lot line
Setbacks	Rear	Minimum 25 feet if not used for housing animals; minimum 100 feet if used for housing animals
	Side	Minimum 20 feet if not used for housing animals; 100 feet if used for housing animals
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.09 A-3 AGRICULTURAL LAND TRANSITIONAL DISTRICT

A. Purpose:

The primary purposes of the A-3 District are:

1. Provide for the orderly transition of agricultural land into other uses in areas planned for eventual urban expansion, if so desired by the landowner
2. Defer urban development until the appropriate local governmental bodies determine that adequate public services and facilities can be provided at a reasonable cost
3. Ensure that urban development is compatible with local land use plans and policies
4. Strive to provide periodic review to determine whether all or part of the land should be transferred to another zoning district. Recommended opportunities for such review include:
 - a. upon completion or revision of a County Farmland Preservation Plan or Municipal Comprehensive Plan that affects land in the district
 - b. upon extension of public services, such as sewer and water, necessary to serve urban development

B. Lands Included:

The A-3 District is generally intended to apply to land located adjacent to the incorporated municipalities or urbanized areas where such lands are predominantly in agricultural or related open space uses but where conversion to nonagricultural use is expected to occur in the foreseeable future. Land indicated as transitional areas in the Town's Comprehensive Plan and similar lands are to be included.

C. Permitted Uses:

1. Single-family residences
2. Apiculture (beekeeping)
3. Aquaculture
4. Dairying
5. Equestrian trails
6. Raising of fur-bearing animals, with a maximum of one animal unit per acre
7. Floriculture (cultivation of ornamental flowering plants)
8. Forest and game management
9. Gas and electric utility uses not requiring authorization under Wis. Stat. § 196.491.
10. Grazing
11. Greenhouses
12. Livestock raising, with a maximum of one animal unit per acre on tracts less than 20 acres
13. Natural trails and walks
14. Orchards
15. Owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836
16. Paddocks
17. Participating in the milk production termination program under 7 USC 1446 (d)
18. Placing land in federal programs in return for payment in kind
19. Plant nurseries
20. Raising of equine animals, bison, farm-raised deer, captive game birds, ratites (e.g., ostrich), or camelids, with a maximum of one animal unit per acre

- 21. Raising of grain, grass, mint and seed crops
- 22. Raising of tree fruits, nuts and berries
- 23. Roadside stands
- 24. Sod farming or tree production
- 25. Stables
- 26. Vegetable raising
- 27. Viticulture (grape growing)
- 28. Solar energy systems (SES) small-scale

D. Conditional Uses:

See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in A-3, as well as application, review, and approval procedures.

E. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 2.0 acres, having a minimum of 66’ road frontage
Residential Density:		Minimum 20 acres per residence
Residence:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 100 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads
Other Structures:	Height	Maximum 2 times their distance from nearest lot lines
Setbacks	Rear	Minimum 25 feet if not used for housing animals; minimum 100 feet if used for housing animals
	Side	Minimum 20 feet if not used for housing animals; 100 feet if used for housing animals
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of -way of State Roads

10.10 A-4 AGRICULTURAL RELATED MANUFACTURING, WAREHOUSING, AND MARKETING DISTRICT

- A. Purpose:
The primary purpose of the A-4 District is to provide for the proper location and regulation of manufacturing, warehousing, storage, and related industrial and marketing activities that are dependent upon or are closely allied with the agricultural industry.
- B. Lands Included:
Lands included are those generally best suited for businesses and activities that directly support agriculture and the agricultural industry.
- C. Permitted Uses:
1. Veterinarian services
 2. Solar energy systems (SES) small-scale
- D. Conditional Uses, but are not necessarily limited to:
1. Blending and preparing of flour
 2. Canning of fruits, vegetables, preserves, jams and jellies
 3. Canning of specialty foods
 4. Coffee roasting and production of coffee products
 5. Compost production
 6. Contract sorting, grading and packaging services for fruits and vegetables
 7. Corn shelling, hay baling and threshing services
 8. Direct farm markets
 9. Drying and dehydrating fruit and vegetables
 10. Fertilizer production, sales, storage, mixing and blending
 11. Fluid milk processing
 12. Fruit and vegetable picking, vegetable sauces and seasoning, and salad dressing preparation
 13. Grain elevators and bulk storage of feed grain
 14. Grist mill services
 15. Horticultural services
 16. Livestock sales facilities
 17. Malt production
 18. Meat packing
 19. Milling of rice
 20. Milling of soybean oil
 21. Milling of vegetable oil
 22. Poultry and small game dressing and packaging, providing that all operations be conducted within an enclosed building
 23. Poultry hatchery services
 24. Preparation of cereal
 25. Preparation of feed for animals and fowl
 26. Production of animal and marine fat and oil
 27. Production of chocolate and cocoa products
 28. Production of condensed and evaporated milk
 29. Production of creamery butter

- 30. Production of flour and other grain mill products
- 31. Production of frozen fruit, fruit juices, vegetables and other specialties
- 32. Production of natural and processed cheese
- 33. Production of sausages and other meat products, providing that all operations be conducted within an enclosed building
- 34. Production of shortening, table oils, and other edible fats and oils
- 35. Production of wine, beer, and spirits
- 36. Sales of farm and landscape implements and related equipment
- 37. Sugar processing and production
- 38. Transportation related activities primarily preserving the basic agricultural history
- 39. Wet milling of corn
- 40. Solar energy systems (SES) mid-scale

E. Area, Height, and Setback Requirements:

Lot:	Size	Minimum sufficient area for the principal structure, accessory buildings, and septic system, all required yards, and off street parking as required by this Ordinance, having a minimum of 66' road frontage
Building:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 75 feet
	Side	Minimum 75 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.11 A-5 AGRICULTURAL LIVING DISTRICT

- A. Purpose:
 The primary purpose of the A-5 District is to maintain, preserve and enhance agricultural lands historically utilized for crop production but which are not included within the A-1 or A-2 Districts.

- B. Lands Included:
 Lands included are those outside Farmland Preservation Zoning generally best suited for smaller farm uses, including truck farming, horse farming, hobby farming, orchards and similar agricultural related farming activities.

- C. Permitted Uses:
 All permitted uses allowed in the A-2 District.

- D. Conditional Uses:
 See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in A-5, as well as application, review, and approval procedures.

- E. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 2 acres, having a minimum of 66’ road frontage
	Width	Minimum 200 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Residence:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 100 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads and 75 feet from right-of-way of State Roads
Other structures:	Height	Maximum 2 times their distance from nearest lot line
Setbacks	Rear	Minimum 25 feet if not used for housing animals, 100 feet if used for housing animals
	Side	Minimum 20 feet if not used for housing animals, 100 feet if used for housing animals
	Street	Minimum 75 feet from center line of Town and County Roads and 75 feet from right-of-way of State Roads

10.12 A-6 AGRICULTURAL ESTATE LAND DISTRICT

- A. Intent:
 The intent of the A-6 Agricultural Estate Land District was to preserve the spirit of the A-1 Agricultural Land District. When any A-1 parcel of real estate became a nonconforming parcel, that parcel was supposed to be rezoned to A-6 by default.

- B. Purpose:
 The primary purpose of the A-6 Agricultural Estate Land District is to maintain, preserve, and enhance agricultural lands utilized for crop production but which are not included within the A-1 Agricultural Land District and which are generally best suited for smaller farm units including truck farming, horse farming, hobby farming, orchards, and other similar agricultural related farming activities. No property within the Town may be rezoned to A-6 Agricultural Estate Land District after January 1, 2018.

- C. Permitted Uses:
 All permitted uses allowed in the A-2 District.

- D. Conditional Uses:
 See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in A-6, as well as application, review, and approval procedures.

- E. Area, Height, and Setback Requirements:

Lot:	Area	Minimum sufficient area for the principal structure, accessory buildings, and septic system, all required setbacks, and off street parking as required by this Ordinance, having a minimum of 66’ road frontage
Buildings:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 75 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads and 75 feet from right-of-way of State Roads

10.13 B-1 LIGHT INDUSTRIAL BUSINESS DISTRICT

A. Statement of Intent:

This district is intended to provide space for a widely diversified range of commercial uses including those retail or service uses with a wholesale aspect and those businesses not suited to the B-3 or B-4 districts, including those with limited outdoor product storage or display.

1. Site Characteristics: The uses to be located in this district traditionally need individually owned sites near other major commercial activity and facing or near important traffic arterioles, but relying much less upon interchange of customers between adjacent uses as found among B-3 and B-4 uses. The establishment of business access to principal arterial roads is to be discouraged in favor of using secondary access points and frontage roads when possible.
2. Site Regulations: While this district is intended to be quite broad in its permissiveness within the general range of commercial enterprise, the potential is so high among some of the allowable uses for creating a damaging image for their neighborhood, especially where outside storage/display is involved, it is necessary for the Town Board of Supervisors to be especially vigilant in exercising its power of approval of building, site, and operational plans.
3. Performance Standards: All uses allowed in this district are subject to the Performance Standards listed in Section 9.29.

B. Permitted Principal Uses:

1. Any permitted conditional use in the B-3 and B-4 District.
2. Any retail or service uses involving outside storage or display of product which are otherwise prohibited in the B-3 and B-4 districts, for example automobile sales, building supply stores and yards, excluding, however, such uses as contractor equipment storage yards because the service provided is entirely off-site.
3. Automotive upholstery shops
4. Bakeries
5. Caterers
6. Confectioneries
7. General merchandising and wholesaling establishments
8. Solar energy systems (SES) small-scale

C. Permitted Accessory Uses:

Any accessory uses, including signs, as permitted in the B-3 and B-4 districts, as well as any others customarily associated with the permitted uses of this district.

D. Conditional Uses:

1. Retail or service uses involving related indoor manufacturing, cabinet shops, heating and cooling equipment sales and service with on-site duct work fabrication, where the manufacturing floor area does not exceed 5,000 square feet; see B-2 District for floor areas over 5,000 square feet
2. Automotive repairs and body work
3. Commercial bakeries
4. Commercial greenhouses
5. Distributors
6. Farm machinery plants
7. Manufacture and bottling of non-alcoholic beverages

8. Manufacture, fabrication, processing, packaging, and packing of confections; cosmetics, electrical appliances; food, except fish and fish products, meat and meat products, cabbage, vegetables, and pea vining; instruments; jewelry; pharmaceutical; tobacco; and toiletries
9. Manufacturing of electronic products and components
10. Manufacturing and/or assembling from substances such as wood, cork, glass, leather, fur, plastic, felt, ceramics, precious metals, and other textiles
11. Printing, publishing, and binding plants
12. Research laboratories
13. Warehouses and storage yards, not including scrap or junkyards
14. Solar energy systems (SES) mid-scale
15. Solar energy systems (SES) mid-scale

See Chapter 9, Section 24 – Conditional Uses for additional listings of conditional uses in B-1, as well as application, review, and approval procedures.

E. Uses Not Provided For:

Whenever in any zone a use is neither specifically nor generally permitted nor denied and an application shall be made for such a use for a building or use permit, the Town Board of Supervisors shall determine whether the permit shall be issued. It shall be issued if the use is generally of the same nature as permitted uses and shall be denied if it is not so similar.

F. Area, Height, and Setback Requirements:

Lot:	Area	Minimum, sufficient area for the principal structure and its accessory buildings, off street parking and loading areas required by the Ordinance and all required yards. In addition, in all areas not serviced by a municipal sanitary sewage system, the lot area shall comply with the requirements of this Ordinance, having a minimum of 66' road frontage
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 50 feet
	Side	Minimum 50 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.14 B-2 HEAVY INDUSTRIAL BUSINESS DISTRICT

A. Statement of Intent:

This district is intended to provide for all industrial uses which would not violate the standards of this Ordinance. In the context of this district industrial is intended to mean those activities which make or add value to goods through various manufacturing processes.

1. **Related Functions:** This district also provides for warehousing and transportation activities, both as ancillary activities of manufacturing, and as independent facilities and services. Warehousing is also intended to encompass inside or outside storage of raw materials or finished goods, as well as of equipment used on or off the premises.
2. **Industrial Service Functions:** Retail and service functions providing direct service to industry are also permitted, as well as those having extensive outside storage which are not industrial or serving industry but which are also permitted in this district on the basis of visual and functional impact compatibility rather than similarity of use.
3. **Performance Standards:** All uses allowed in this district are subject to the Performance Standards listed in Section 9.29.

B. Permitted Principal Uses:

1. Manufacturing, assembly, fabrication, and processing operations, including related materials, storage, and warehousing
2. Transportation terminals, including trucking and railroading, and related transportation services such as overnight lodging, restaurants, vehicle fuel sales, service and wash facilities oriented to trucks
3. General warehousing
4. Retail and service uses requiring extensive outside storage or display, such as lumber and building supply yards, contractor equipment and materials storage yards but excluding motor vehicle salvage yards
5. Commercial uses that are oriented to serve industrial functions
6. Public utility offices, yards, installation, substations, and transmission and distribution facilities except that when a utility proposes a main inter-city transmission facility, they shall give notice to the Town Clerk of such intention and of the date of the hearing before the public service commission having jurisdiction, and before starting construction shall file with the Town Clerk mapped description thereof

C. Permitted Accessory Uses:

1. Office, storage, power, and water supply and other such uses normally ancillary to the permitted principal uses
2. Sufficient off-street parking and loading facilities, including garages and terminal docks
3. Signs as regulated in Chapter 9, Section 21 – Signs of this Ordinance
4. Any other accessory use normally ancillary to the permitted principal use
5. Solar energy systems (SES) small-scale

D. Conditional Uses:

1. Uses, which at the time of zoning permit application, are questionable as to compliance with one or more of the standards of this Ordinance, which applicants agree to a grant for specific time

period as provided for under this Ordinance in order to allow for site-specific testing of the questionable standard

2. Farm machinery plants
3. Manufacture and bottling of non-alcoholic beverages
4. Manufacture, fabrication, processing, packaging and packing of confection; cosmetics; electrical appliances; food, except fish and fish products, meat, and meat products, cabbage, vegetables, and pea vining; instruments; jewelry; pharmaceutical; tobacco; and toiletries
5. Manufacturing and/or assembling from substances such as wood, cork, glass, leather, fur, plastic, felt, ceramics, precious metals, and other textiles
6. Manufacturing of electronic products and components
7. Solar energy systems (SES) mid-scale
8. Solar energy systems (SES) large-scale

See Chapter 9, Section 24 – Conditional Uses for additional listings of conditional uses in B-2, as well as application, review, and approval procedures.

E. Uses Not Provided For:

Whenever in any zone a use is neither specifically nor generally permitted or denied and an application shall be made for such a use for a building or use permit, the Town Board of Supervisors shall determine whether the permit shall be issued. It shall be issued if the use is generally of the same nature as permitted uses and shall be denied if it is not so similar.

F. Area, Height, and Setback Requirements:

Lot:	Area	Minimum, sufficient area for the principal structure and its accessory buildings, off street parking and loading areas required by the Ordinance and all required yards. In addition, in all areas not serviced by a municipal sanitary sewage system, the lot area shall comply with the requirements of this Ordinance, having a minimum of 66' road frontage
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 50 feet
	Side	Minimum 50 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.15 B-3 HIGHWAY COMMERCIAL BUSINESS DISTRICT

A. Statement of Intent:

This district is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, offices, and service establishments serving the needs of the community area. The size and location of such districts shall be based upon evidence of community need, of adequate customer potential, and of satisfactory relationship to the arterial highway system and other related facilities. The impact on adjacent residential uses because of traffic, size of buildings, hours of operation, and the need for some arrangement of the uses within the district with respect to compatibility and interchange of customer traffic, will require Town Board of Supervisors approval of specific development plans. This district is also intended to provide space where office, retail, and customer service uses may be mixed with 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.

1. Limitations: Uses which depend upon a substantial amount of outdoor storage of their product such as building supply yards, motor vehicle equipment sales and service, or which present other types of characteristics such as an outdoor theater, trucking terminal, motor vehicle body repair, and similar uses, tend to be incompatible with the retail shopping center and office developments which form the core of the permitted uses of this district. Consequently such uses are prohibited as uses of right of this district.
2. Performance Standards: All uses allowed in this district are subject to the Performance Standards listed in Section 9.29.

B. Permitted Principal Uses:

1. Retail stores and shops on individual sites or grouped into shopping centers, but involving only incidental outdoor storage of goods or display of merchandise. Examples of stores and shops would be clothing and apparel, florists, gifts, hardware, ice cream, soda fountains, soft drink stands, music, optical, photographic supplies, second-hand, shoes, and sporting goods.
2. Clinics
3. Painting studios
4. Community and customer service establishments including financial services, consumer item repairs including motor vehicle service, eating and drinking establishments, overnight lodging, indoor commercial recreation such as bowling alleys, physical fitness salons, theaters
5. Offices for the professions, businesses and utilities, studios, clinics
6. Automobile drive-through facilities provided the service rendered or product sold is provided to each customer while they remain in or near their car and provided on or a few vehicles at a time are served as contrasted with an outdoor theater where all customers are served at once
7. 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:

1. Off-street parking or loading areas
2. Signs subject to the regulations of Chapter 9, Section 21 – Signs of this Ordinance

3. Any accessory uses permitted in the B-1 through B-4 districts, as well as any others customarily associated with the permitted uses of this district, but excluding those involving outside storage or display
 4. Incidental service uses such as product or service display areas, warehousing and repair service, customer or employee services including restaurants, cafeterias, day care facilities, studios or instructional areas, provided that these uses are accessory or subordinate to the principal office use by not comprising cumulatively more than 30 percent of the floor area
 5. Solar energy systems (SES) small-scale
- D. Conditional Uses:
1. Uses, which at the time of zoning permit application are questionable as to compliance with one or more of the standards of this Ordinance, which agree to a grant for specific time period as provided in this Ordinance in order to allow for site-specific testing of the questionable standard
 2. Clinics
 3. Clothing and apparel stores
 4. Clubs and lodges
 5. Drugstores
 6. Florists
 7. Gift stores
 8. Grocery stores
 9. Hardware stores
 10. Ice cream stores, soda fountains, and soft drink stands
 11. Music stores
 12. Optical stores
 13. Packaged beverage stores
 14. Photographic supply stores
 15. Restaurants
 16. Second-hand stores
 17. Self-service and pick up laundry and dry cleaning establishments
 18. Shoe stores
 19. Sporting goods stores
 20. Tobacco stores
 21. Building material sales and storage
 22. Cleaning, pressing and dyeing
 23. Food lockers
 24. Machinery sales
 25. Painting studios
 26. Radio and television broadcasting stations and electric equipment
 27. Wholesale outlets
 28. Road maintenance shop, storage buildings, and solid waste collection center
 29. Bars and taverns
 30. Automobile and truck rental services
 31. Hotels, motels, and tourist courts
 32. Public parking lots
 33. Churches
 34. Schools
 35. Arcades
 36. Funeral homes

See Chapter 9, Section 24 – Conditional Uses for additional listings of conditional uses in B-3, as well as application, review, and approval procedures.

E. Special Regulations:

1. The Town Board of Supervisors shall not approve building plans that do not treat all exterior walls of all structures permitted herein with acceptable materials that present an equally finished façade to all sides.
2. Necessary loading docks and enclosed waste storage awaiting pickup shall be especially well treated in terms of site placement and landscape and other suitable screening.

F. Uses Not Provided For:

Whenever in any zone, a use is neither specifically or generally permitted or denied and an application shall be made for such a use for a building or use permit, the Town Board of Supervisors shall determine whether the permit shall be issued. It shall be issued if the use is generally of the same nature as permitted uses and shall be denied if it is not so similar.

G. Area, Height, and Setback Requirements:

Lot:	Area	Minimum, sufficient area for the principal structure and its accessory building off street parking and loading areas required by the Ordinance and all required yards, having a minimum of 66' road frontage. In addition, in all areas not serviced by a municipal sanitary sewage system, the lot area shall comply with the requirements of this Ordinance.
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 50 feet
	Side	Minimum 50 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.17 C-1 LOWLAND CONSERVANCY DISTRICT

A. Purpose:

The primary purpose of the C-1 Lowland Conservancy District is to preserve, protect, and enhance the lakes, streams, swamps, marshes, bogs, and other wetlands in the Town of Lyndon. The proper regulations of these areas will serve to maintain and improve ground water and surface water quality; prevent flood damage; protect fish and wildlife habitat; prohibit the location of structures on soils which are generally not suitable for such use; protect natural watersheds; and protect the water based recreation and open space resources of the Town of Lyndon. This District recognizes that undisturbed wetlands serve as natural purifiers of surface waters and as protective buffers at the land-water interface.

B. Lands Included:

The C-1 Lowland Conservancy District shall include certain areas delineated as swamp, marshes, bogs, wetlands, and/or floodplain on the Sheboygan County shoreland-wetland district map and/or Sheboygan County floodplain zoning map, as described in Chapters 72 and 73 of the Sheboygan County Code of Ordinances, as well as those shoreland and wetland areas identified as being of local concern.

C. Permitted Uses:

The following uses are permitted in the C-1 Lowland Conservancy District provided that such uses are conducted in accordance with sound conservation practices as established by the Natural Resources Conservation Service and do not involve dumping or filling; extension of cultivated areas; mineral, soil, or peat removal; or any other activity that would substantially disturb or impair the natural fauna, flora, watercourses, water regimen, or topography.

1. Dugout ponds and level ditches
2. Flood overflow and movement of water
3. Forestry and game management
4. Hiking trails
5. Hunting, fishing, wildlife preserves, and other historic/scientific areas
6. Navigation
7. Non-residential buildings used solely in conjunction with the raising of waterfowl, fish, and other lowland animal or crops
8. Park and recreation areas, not including the location or erection of buildings or structures
9. Wild crop harvesting, including marsh hay, moss, ferns, wild rice, berries, fruit, nuts, and seeds
10. Solar energy systems (SES) small-scale

D. Conditional Uses:

The following uses may be conditionally permitted except that issuance of a "Shoreland/Floodplain Zoning Permit" (pursuant to Chapters 72 and 73 of the Sheboygan County Code of Ordinances) and/or Department of Natural Resources Permits (pursuant to Wis. Stat. § 30.11, 30.12, 30.19, 30.195, and 31.05) may be required.

1. Cranberry bogs
2. Piers and docks
3. Removal of peat or topsoil
4. Special crop farming
5. Utilities such as communication, gas, and transmission lines

See Chapter 9, Section 24 – Conditional Uses for additional listings of conditional uses in C-1, as well as application, review, and approval procedures.

E. Area, Height, and Setback Requirements:

None; no buildings or structures permitted except as provided under Chapter 9, Section 25 – Board of Appeals of this Ordinance by special exception.

10.18 C-2 UPLAND CONSERVANCY DISTRICT

A. Purpose:

The primary purpose of this District is to preserve, protect, enhance, and restore all significant woodlands, related scenic areas, sub marginal farmlands and abandoned mineral extraction lands within the Town of Lyndon. Regulations of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the Township, while seeking to assure the preservation and protection of areas of significant topography, natural watersheds, ground and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to the environmental quality of the Township.

B. Permitted Uses:

The following uses are permitted in the C-2 Upland Conservancy District:

1. Farming and related agricultural uses when conducted in accordance with the Natural Resources Conservation
2. Service standards
3. Forest and game management
4. Forest preservation
5. Hunting and fishing clubs
6. Parks and recreation areas
7. Stables
8. Single-family detached residences
9. Solar energy systems (SES) small-scale

C. Conditional Uses:

See Chapter 9, Section 24 – Conditional Uses for additional listings of conditional uses in C-2, as well as application, review, and approval procedures.

D. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 5 acres, having a minimum of 66’ road frontage
	Width	Minimum 200 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Residence:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 100 feet
	Side	Minimum 20 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right –of-way of State Roads
Other Structures:	Height	Maximum 2 times the distance from the nearest lot line
Setbacks	Rear	Minimum 25 feet

	Side	Minimum 20 feet if the structure is not to be used for the housing of animals; 100 feet if the structure is to be used for the housing of animals
	Street	Minimum of 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.19 H-1 HISTORIC PRESERVATION

A. Historic Preservation:

That part of Cedar Lane Road between County Road V and County Road N located in Sections 17 and 18, Township 14 North, Range 21 East, Sheboygan County, Wisconsin, for the purpose of promoting the health, safety and general welfare of the community, is designated a historic place because of its special character, historic interest and other significant value for the purpose of preserving the place and its significant characteristics, according to Wis. Stat. § 60.64. Solar Energy Systems (SES) are not allowed at all in the H-1 Historic Preservation District.

B. Conditions:

That part of Cedar Lane Road described above shall be subject to the following conditions:

1. Maintenance: That part of Cedar Lane Road described above shall be maintained by the Town of Lyndon in the manner in which it was maintained historically.
2. Bridge: The bridge on that part of Cedar Lane Road described above shall have a maximum load limit of 5 tons.
3. Drives: No new private drives or private roads intended for residential access to that part of Cedar Lane Road described above shall be permitted. No existing private drive or private road with access to that part of Cedar Lane Road described above shall be converted to residential use.
4. Structures: No structures shall be permitted within 200 feet of the edge of the right-of-way of that part of Cedar Lane Road described above.
5. Recreation: That part of Cedar Lane Road described above shall be available for recreational use during winter months in which, historically, snow is not removed from the road.

10.20 M-3 MINERAL EXTRACTION DISTRICT

A. Purpose:

The primary purpose of this district is to provide for and regulate commercial extraction, processing, stockpiling, and transporting of geological resources as long-term transitional uses. The intent of these regulations is to minimize potential adverse effects (including but not limited to noise, dust, flash, vibration, traffic, groundwater depletion, sinkholes, and physical appearance) of these uses on surrounding lands while operations are active and, to the maximum extent practicable, restore the site after operations have ceased.

B. Permitted Uses:

1. Processing of topsoil
2. Solar energy systems (SES) small-scale

C. Conditional Uses:

1. Aggregated or ready-mixes plant
2. Clay, ceramic, and refractor mineral mining
3. Crushed and broken stone quarrying
4. Mixing of asphalt
5. Non-metallic mining services
6. Sand and gravel quarrying
7. Washing, refining, or processing of rock, slate, gravel, sand, or minerals
8. Extension of any existing uses as listed above
9. Solar energy systems (SES) mid-scale
10. Solar energy systems (SES) large-scale

See Chapter 9, Section 24 – Conditional Uses for additional listings of conditional uses in M-3, as well as application, review, and approval procedures.

D. Area, Height, and Setback Requirements:

All excavations shall be at least 200 feet from the right-of-way of any public or approved private street or property line. All accessories such as offices, parking areas, and stockpiles, shall be at least 100 feet from any right-of-way or property line. Exceptions to these conditions may be granted upon recommendation of Plan Commission and approval of Town Board.

10.21 M-4 RESOURCES DISPOSAL DISTRICT

A. Purpose:

The primary purpose of this district is to provide sites for total solid waste disposal needs, in compatibility with adjacent use districts.

B. Permitted Uses:

1. Grazing of livestock
2. Solar energy systems (SES) small-scale

C. Conditional Uses:

1. Incinerators
2. Resource recovery plants
3. Sanitary landfill operations
4. Other resource landfill operations
5. Solar energy systems (SES) mid-scale
6. Solar energy systems (SES) large-scale

See Chapter 9, Section 24 – Conditional Uses for additional listings of conditional uses in M-4, as well as application, review, and approval procedures.

D. Area, Height, and Setback Requirements:

All operations shall be at least 200 feet from right-of-way of any public or approved private street or property line.

10.22 P-1 RECREATIONAL PARK DISTRICT

- A. Purpose:
 The purpose of this district is to preserve lands in a natural state for recreational uses or allocate lands for development of recreational uses.
- B. Permitted Uses:
1. Boat rentals and boat access sites
 2. Forest reserves
 3. Golf courses and country clubs
 4. Gymnasiums and athletic clubs
 5. Ice skating rinks
 6. Parks, general recreation
 7. Parks, leisure and ornamental
 8. Picnic grounds
 9. Play lots and tot lots
 10. Playfields and athletic fields
 11. Playgrounds
 12. Municipal buildings
 13. Solar energy systems (SES) small-scale
- C. Conditional Uses:
 See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in P-1, as well as application, review, and approval procedures.
- D. Area, Height, and Setback Requirements:

Lot:	Area	Minimum, sufficient area for the principal structures and its accessory buildings, off-street parking and loading, sewer and water systems, and all required yards, having a minimum of 66’ road frontage
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 50 feet
	Side	Minimum 50 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.23 R-1 SINGLE-FAMILY RESIDENCE DISTRICT (UNSEWERED)

- A. Purpose:
 The purpose of this district is to designate areas outside of Farmland Preservation Zoning for single-family residences on land without public sewers.

- B. Permitted Uses:
 1. Single-family detached residences on lots not served by public sanitary sewers
 2. Home occupations, provided all the requirements in Chapter 9, Section 26 – Home Occupations are met
 3. Solar energy systems (SES) small-scale

- C. Conditional Uses:
 See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in R-1, as well as application, review, and approval procedures.

- D. Area, Height, and Setback Requirements:

Lot:	Area	Each building hereafter erected or structurally altered shall provide a lot area of not less than two acres (87,120 square feet) and no such lot shall be less than 100 feet in width, having a minimum of 66’ road frontage. Except all lots of record at the time of passage of this Ordinance having a lot area of less than two acres (87,120 square feet), but more than 12,000 square feet may be permitted by the Town Board, and all lots under 12,000 square feet regardless of width size must be serviced by a common sewage facility. Where a common sewage facility is not available, a satisfactory percolation test is required before any building will be permitted.
	Width	* In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Street	Minimum 75 feet from center line of Town and County Roads, and 75 feet from right-of-way of State Roads

10.24 R-2 SINGLE-FAMILY RESIDENCE DISTRICT (SEWERED)

A. Purpose:

The purpose of this district is to designate areas outside Farmland Preservation Zoning for single-family residences on land served by public sewers or shared on-site sewage disposal systems.

B. Permitted Uses:

1. Single-family detached residences on lots served by public sanitary sewers
2. Home occupations, provided all the requirements in Chapter 9, Section 26 – Home Occupations are met
3. Solar energy systems (SES) small-scale

C. Conditional Uses:

See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in R-2, as well as application, review, and approval procedures.

D. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 12,000 square feet, having a minimum of 66' road frontage
	Width	Minimum 80 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Street	Minimum 30 feet from the right-of-way

10.25 R-3 MULTIPLE-FAMILY RESIDENCE DISTRICT (SEWERED AND UNSEWERED)

- A. Purpose:
 The purpose of this district is to regulate lots with existing multiple-family residences. This district is not to be used for any new multiple-family uses after January 1, 2017. Existing multiple-family uses may continue; however, if a multiple-family use is discontinued for a period of twelve months, the multiple-family use may not be reinstated.

- B. Permitted Uses:
 1. Single-family residences
 2. Home occupations, provided all the requirements in Chapter 9, Section 26 – Home Occupations are met
 3. Solar energy systems (SES) small-scale

- C. Conditional Uses:
 See Chapter 9, Section 24 – Conditional Uses for listings of conditional uses in R-3, as well as application, review, and approval procedures.

- D. Area, Height, and Setback Requirements:

Multiple-Family Density		Maximum 6 dwelling units per net residential acre
	Lot (Sewered)	Width and area of all lots to be determined, having a minimum of 66’ road frontage
	Lot (Unsewered)	Width and area of all lots to be determined, having a minimum of 66’ road frontage
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Street	Minimum 75 feet from centerline of Town and County Roads, and 75 feet from right-of-way of State Roads
Lot Coverage		No more than 50 percent of the area of an interior lot or more than 60 percent of a corner lot shall be occupied by a residential building with its accessories

10.26 R-5 LAKESHORE RESIDENCE DISTRICT

- A. Purpose:
 The purpose of this district is to protect designated riparian lands, while allowing limited, environmentally sensitive development.

- B. Boundaries of District:
 The boundaries of the Lakeshore Residence District shall be the boundaries of the Town of Lyndon Sanitary District No. 1, also known as the Lake Ellen Sanitary District.

- C. Permitted Uses:
 In such district, no building or premises shall hereafter be erected or structurally altered, unless otherwise provided in this Ordinance, except for one or more of the following uses:
 - 1. Single-family residences
 - 2. Home occupations, provided all the requirements in Chapter 9, Section 26 – Home Occupations are met
 - 3. Public recreational, and Community center buildings and grounds
 - 4. General farming, except farms operated for disposal of garbage, rubbish, offal, or sewerage
 - 5. Solar energy systems (SES) small-scale

- D. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 10,000 square feet , having a minimum of 66' road frontage
	Width	Minimum 65 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.
Building:	Height	Maximum 35 feet
Setbacks	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Street	Minimum 30 feet from the right-of-way

- 1. Lots that do not meet the standards in subsection D are considered conforming to this district's dimensional requirements if said lots existed and were developed prior to January 1, 2017.
- 2. A legally-created lot or parcel that met minimum area and minimum average width requirements when created but does not meet current lot size requirements may be used as a building site if all of the following apply:
 - a. the substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one parcel
 - b. the substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel

- c. the substandard lot or parcel is developed to comply with all other Town Zoning and County Shoreland Ordinance requirements

E. Sheboygan County Shoreland and Sanitary Ordinances Apply:

The Sheboygan County Shoreland and Sanitary Ordinances are adopted by reference herein and shall be complied with in this district.

10.27 R-6 PLANNED MOBILE HOME PARK RESIDENCE DISTRICT

No property within the Town may be rezoned to R-6 Planned Mobile Home Park Residence District after January 1, 2018.

A. Permitted Uses:

- 1. Single-family detached residences
- 2. Home occupations, provided all the requirements in Chapter 9, Section 26 are met
- 3. Solar energy systems (SES) small-scale

B. Conditional Uses:

- 1. Mobile home dwellings
- 2. Play lots and tot lots

The above Conditional Uses are subject to the provisions established in Chapter 9, Section 24 – Conditional Uses and Chapter 12, Section 6 – General Requirements for Design and Improvements of this Ordinance.

C. Development Density:

There shall be a maximum of 5 dwelling units per net developable acre.

D. Sewerage Requirements:

All mobile home park developments must be served either by a public sanitary sewerage system owned, operated, and maintained by a county, city, village, town, town sanitary district, town utility district, or metropolitan sewerage district, or by a private sanitary sewerage system, including a sewage treatment plant approved by the Department of Natural Resources. NO new mobile home park development and no expansion of an existing mobile home park development shall be approved where such development is to be served by an on-site septic tank soil absorption sewage disposal system, whether publicly or privately owned, operated, and maintained.

E. Area, Height, and Setback Requirements:

Site Development	Area	Minimum 10 acres, having a minimum of 66' road frontage
	Width	Minimum 450 feet * In the case of irregularly-shaped lots having four (4) or more sides, the lot width shall be the sum of the length of two (2) lines, drawn perpendicular to one (1) side line at the widest and narrowest portions of the lot, divided by two (2). See Section 9.20 Definitions, Lot Width, for diagram of calculation.

	Open Space	Minimum 20 percent of development area exclusive or required yards and access drives
Building:	Height	Maximum 35 feet
Setbacks:	Rear	Minimum 20 feet
	Side	Minimum 15 feet
	Street	Minimum 20 feet from the road right-of-way line

10.28 PUD RESIDENTIAL PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

- A. Purpose:
 1. The PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD Planned Unit Development Overlay District will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements as set forth in the underlying basic zoning district.
 2. The unified and planned development of a site in a single, partnership, or corporate ownership or control or in common ownership under the Condominium Ownership Act set forth in Chapter 703 of the Wisconsin Statutes may be permitted by the Town upon specific petition under this Section and after public hearing, with such development encompassing one or more principal uses or structures and related accessory uses or structures when all applicable regulations and standards as set forth in the Zoning Ordinance have been met.

- B. Permitted Uses:
 Any use itemized as a permitted or principal use in any section of the Zoning Ordinance that defines a basic use district or other overlay district, including Solar energy systems (SES) small-scale.

- C. Permitted Accessory Uses:
 Any accessory use, itemized as an accessory use in any section of the Zoning Ordinance that defines a basic use district or other overlay district.

- D. Conditional Uses:
 Any conditional use, itemized as a conditional use in any section of the Zoning Ordinance that defines a basic use district or other overlay district.

- E. Minimum Area Requirements:
 Areas designated as PUD Planned Unit Development Overlay Districts shall be under single or corporate ownership or control and shall contain a minimum development area of:

Principal Uses	Minimum area of PUD
Residential PUD	2 acres
Commercial PUD	2 acres
Industrial PUD	10 acres

- F. Density Requirements:

The density of dwelling units shall not exceed the average density in the underlying basic residential district and the density of buildings shall not exceed the average density in the underlying basic commercial or industrial district, which would have been permitted if the PUD Planned Unit Development Overlay District regulations had not been utilized.

G. Dimensions:

The total of lot dimensions required by the underlying basic use district may be modified in order to make use of special topographic features of the site or to provide common open space area.

H. Building Height:

Buildings in a PUD Planned Unit Development Overlay District shall not exceed the height permitted in the underlying basic use district.

I. Setback and Yards:

1. Structures in a PUD Planned Unit Development District shall be a minimum of 25 feet from any public or private street right-of-way, from any lot or parcel boundary, and from any non-navigable pond or lake.
2. No principal structures shall be located closer than 20 feet to another structure. In the case of row houses, no dimension shall be more than 160 feet in any direction.

J. Private Driveways and Roads:

1. A 66 foot wide right-of-way for each private driveway or road in a PUD Planned Unit Development Overlay District shall be reserved in perpetuity for laying out by the Town for public highway purposes pursuant to Chapter 80 of the Wisconsin Statutes (2001), as amended, without award for damages.
2. Each private driveway or road in a PUD Planned Unit Development Overlay District that provides access to two or more residential, commercial or industrial structures shall be constructed with a cleared road surface of not less than 20 feet in width and an overhead clearance of not less than 14 feet.
3. Each private driveway or road that in a PUD Planned Unit Development Overlay District provides access to one residential; commercial or industrial structure shall be constructed with a cleared road surface of not less than 12 feet in width and an overhead clearance of not less than 14 feet.

K. Authority:

The provisions of Chapter 9, Section 18 – General Site Restrictions of this Zoning Ordinance shall apply, except that in the event provisions of said Section 1 are inconsistent with this Section, then the provisions of this Section shall apply.

L. Fees:

1. Administrative Petition Fee. A petition shall include payment of an administrative petition fee as set forth in the fee schedule. The petition shall not be considered complete until this fee is paid. The Town shall refund the fee if the petitioner withdraws its petition in writing, delivered to the Town Clerk on or before 10 calendar days of date of filing, less all expenses incurred by the Town of Lyndon. That portion of the review fee not used shall be returned to the petitioner within 20 calendar days following receipt by the Town of written notice of withdrawal.
2. Professional Review Fee. A petitioner shall pay all reasonable and customary professional fees, including without limitation, engineer and attorney fees, estimated by the Town as necessary to review the petition and advise the Plan Commission and Town Board. The review fee shall be

paid in full prior to the start of construction. That portion of the review fee not used shall be returned to the petitioner within 20 days of the Town Board's decision.

M. Procedure:

1. Pre-petition Conference. Prior to official submittal of the petition for approval of the designation of a PUD Planned Unit Development Overlay District, the owner or his agent making such petition shall meet with the Town Plan Commission to discuss the scope and proposed nature of the contemplated development. The Plan Commission may waive this requirement, in its sole discretion, at the request of the owner or his agent.
2. The Petition. Following the pre-petition conference, the owner or his agent may file a petition with the Town Clerk for an amendment to the Town's zoning district map designating and adding a PUD Planned Unit Development Overlay District to the underlying basic use or other overlay zoning district(s) thereby permitting the application of the provisions of this Section to the designated area. The Town Clerk shall promptly transmit the petition to the Plan Commission. Such petition shall be accompanied by a fee as required under Chapter 9, Section 15 – Changes and Amendments, as well as the following information:
 - a. a statement which sets forth the relationship of the proposed PUD Planned Unit Development Overlay District to the Town's adopted Comprehensive Plan or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD Planned Unit Development Overlay District, including the following information:
 1. total area to be included in the PUD Planned Unit Development Overlay District, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development
 2. all submissions required for land division pursuant to Chapters 71.14, 71.15 and 71.25 of the Sheboygan County Subdivision Ordinance
 3. a general summary of the construction costs of structures and site improvement costs, including landscaping and special features
 4. copies of the articles of incorporation and bylaws of the owners' or members' association, any other covenants or restrictions proposed or recorded against the property, and, in the case of a condominium, the proposed condominium plat and declaration
 5. any proposed departures from the standards of development as set forth in this Zoning Ordinance or the Sheboygan County Subdivision Ordinance
 6. the expected date of commencement of physical development as set forth in the proposal and also an outline of any planned development staging or expansion
 - b. a general development plan which shall include the following:
 1. a description of the relationship between uses of the lands included in the proposed PUD Planned Unit Development Overlay District and all contiguous properties, including without limitation, current uses of the contiguous lands, the proposed discharge and receipt of storm water and proposed easements for ingress, egress and utilities
 2. a description of proposed public and private roads, driveways, and parking facilities
 3. architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures
 4. maps of existing topography on the site with contours at no greater than 2-foot intervals National Geodetic Vertical Elevation, depicting all navigable waters of and wetlands

regulated by the laws of the United States and the State of Wisconsin, and all shorelands and floodplains regulated by the Shoreland Zoning Ordinance of Sheboygan County

- c. site plan data, which shall include the following:
 1. site plans drawn to a recognized engineering or architectural scale with the name of the project note
 2. done colored rendering of the site and landscaping plans
 3. owner's and/or developer's name and address noted
 4. architect's and or/ engineer's name and address noted
 5. date of plan submittal
 6. scale of drawing, site size (area in square feet or acres), and building area and coverage noted on plan
 7. existing and proposed topography shown at a minimum 2-foot contour interval at National Geodetic Vertical Datum, indication proposed rough and finish grades on a grading plan and location of improvements
 8. a soils map
 9. the size, arrangement, and location of all building sites. In lieu of exact building lines, the site plans may denote building envelopes describing the outer limits of building sites
 10. architectural plan, pursuant to subsection M.2.d.
 11. all building and yard setback lines and distances between buildings or building envelopes indicated
 12. where applicable, both the 100-year recurrence interval floodplain and floodway indicated
 13. all drives, curb cuts, and both ingress and egress locations indicated
 14. the proposed location of all signage to be placed on the site
 15. the location and type of all outdoor lighting proposed to illuminate the site
 16. total number of exterior and interior parking spaces noted
 17. existing and proposed public and private road names indicated
 18. existing and proposed public and private road rights-of-way and/or reservations and widths
 19. all existing and proposed easements on the subject property
 20. north arrow
 21. existing and general location of proposed sanitary sewers, storm sewers, water mains and fire hydrants (existing and proposed) and proposed electrical service easements. In addition, all locations for the proposed connections to such utilities should be indicated on the site plan
 22. any proposed storm water management facilities, including drainage ways, pipes and detention/retention areas
 23. locate existing trees
 24. location, extent, and type of proposed landscaping and landscape plantings as well as any proposed buffer areas for adjoining properties
 25. location of pedestrian sidewalks and walkways
 26. location of institutional, recreational, and open space areas and areas reserved or dedicated for public or resident uses, including schools, parks, and drainage ways
 27. a graphic outline of any development staging or expansion that is planned if the development abuts an existing or planned arterial or collector street or highway, as identified on the Town's Comprehensive Plan or component thereof, all driveway

locations of all adjoining property within 200 feet of the subject property shall be indicated on the site plan

28. written project summary including operational information, building schedule, and estimate of project value including all site improvement costs
29. other data, which may be required by either the Town Plan Commission or the Town Board to review the site plan

d. architectural data, which shall include the following:

1. architectural plans, elevations, sketches and color perspective renderings illustrating the design and character of all proposed structures; said elevations and perspective renderings shall indicate the location and placement of all auxiliary building equipment such as heating, ventilating, and/or air conditioning equipment; the drawings are to be drawn to a recognized architectural scale with the name of the project noted
2. owner's and/or developer's name and address noted
3. architect's, designer's, and or engineer's name and address noted
4. date of submittal of plans
5. scale of drawings, noted on each drawing
6. type, size, and location of all structures, with all building dimensions shown
7. height of all structures
8. site plan, pursuant to subsection M.2.b.
9. samples of exterior materials and their colors
10. additional information and data which may be required by the Plan Commission may include the following upon request:
 - a. photographs from the site of adjacent neighboring structures
 - b. detailed drawings of decorative elements of the building(s) or structure(s)
 - c. sectional building or site drawings

e. deferral of architectural data submission

The Town Board may, by resolution and upon the request of the owner or his agent, defer submission of the architectural data specified in subsection M.2.d. In the event of such deferral, the owner or his agent shall submit said architectural data pursuant to subsection S.4.

N. Notice of Complete Petition:

1. Upon receipt of a petition, the Plan Commission shall provide the petitioner with a dated receipt. Within 10 working days of receipt of a petition, the Plan Commission shall review the petition and determine if the petition meets the submission requirements. The Town Board, at its next regular meeting, shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the petition.
2. If the Plan commission determines the petition is complete, the Plan Commission shall notify the petitioner in writing of this determination and require the petitioner to provide a sufficient number of copies of the petition to the Plan Commission.
3. If the Plan Commission determines the petition is incomplete, the Plan Commission shall notify the petitioner in writing, specifying the additional materials or information required to complete the petition.
4. If the Plan Commission determines the petition is complete, the Plan Commission shall notify all abutters to the site as shown on, the Assessor's records, by first-class mail, on or before 7 days before the first Plan Commission meeting under Subsection O that a petition has been accepted.

This notice shall contain a brief description of the proposed activity and the name of the petitioner, give the location of a copy of the petition available for inspection, and provide the date, time, and place of the Plan Commission meeting at which the petition will be considered. Failure on any part of any abutter to receive such notice shall not be grounds for delay of any consideration of the petition nor denial of the project.

O. Plan Commission Review and Recommendation:

The Plan Commission, at its next regular meeting not fewer than 7 days after the Town Clerk mails notice to abutters, allowing customary time for public notice of said meeting and distribution of the application to the plan commissioners, shall review all petitions and the site, including without limitation, storm water drainage, soils, vegetation, surface waters, topography, nearby land and water uses that may be affected by the proposed Project: traffic conditions on public highways serving the site, and any other factors consistent with the requirements of this Zoning Ordinance and bearing on the public health, welfare, safety or property values. Based upon said review, the Plan Commission shall make a recommendation to the Town Board. The Plan Commission may add any additional conditions or restrictions that it may deem necessary or appropriate to promote the spirit and intent of this Zoning Ordinance and the purpose of this Ordinance.

P. Public Hearing:

On or before 30 days of the review and recommendation by the Plan Commission, a public hearing shall be held before the Town Board pursuant to the provisions of Chapter 9, Section 15 – Changes and Amendments.

1. Each person wishing to speak or otherwise present evidence at said hearing shall identify himself or herself by name, residence address, any principal he or she represents, and whether he or she will be compensated by or on behalf of the principal; provide a copy of all documents and things upon which he or she relies to the keeper of the record.
2. A record shall be kept by a court reporter, including a transcript of proceedings and a copy of all documents or things presented. The court reporter shall file a complete original and two complete copies with the Town Clerk on or before 14 days after said hearing, or at such earlier time as the Town Board may determine.

Q. Town Board Action:

At its next regular meeting following said public hearing, the Town Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. Town Board action shall be consistent with the requirements of the Zoning Ordinance in the interests of the public health, welfare, safety, and property values. However, if the Town Board has a waiting list of applications that would prevent the Town Board from making a decision within the required time period, then a decision on the application shall be upon agreement between the applicant and the Town Board.

R. Standards of Review:

1. The petition for the proposed PUD Planned Unit Development Overlay District shall state that the petitioner intends to begin the physical development of the designated PUD Planned Unit Development Overlay District within 9 months following the approval of the petition for a PUD Planned Unit Development Overlay District and that the development will be carried out on or before December 31 of the second year following approval of the petition, excluding the year of approval.

2. The proposed PUD Planned Unit Development Overlay District shall be consistent in all respects to the purpose of the subsection A and to the spirit and intent of this Zoning Ordinance, is in conformity with the Comprehensive Plan or component plans thereof for community development, would be consistent with the general welfare and economic prosperity of the Town and the immediate neighborhood, and that the benefits and improved design of the resultant development justifies the establishment of a PUD Planned Unit Development Overlay District.
3. In the case of any proposed PUD Planned Unit Development Overlay District:
 - a. The proposed site shall be provided with adequate and sufficient drainage facilities for the receipt and discharge of storm water. The Plan Commission and the Town Board may use for guidance Chapter NR 151, Wis. Admin., as amended.
 - b. The proposed site shall be safely accessible from and to public roads that are adequate to carry the traffic reasonably expected to be generated by the proposed development, applying traffic engineering principles. The Plan Commission or the Town Board may require that a petitioner obtain a traffic engineering report from a designated traffic engineer.
 - c. No undue constraint or burden will be imposed by the proposed development on public services and facilities, including, without limitation, fire and police protection, schools, parks and recreation areas, street maintenance, and maintenance of public areas. The Plan Commission or Town Board may require that a petitioner obtain a written statement from the provider of such public, services, facilities or protection that the proposed site plan meets said standards.
 - d. The petitioner has obtained all required permits required by the Shoreland Zoning Ordinance of Sheboygan county and for proposed discharges from the site to navigable waters and wetlands regulated by the laws of the United States and the State of Wisconsin. The Plan Commission or the Town Board may require that the petitioner obtain written determination from the appropriate regulatory authority of navigability of any water; delineation of any wetland; and written determination of the applicability of any laws of the United States and the State of Wisconsin to such waters or wetlands.
 - e. Centralized public water and sewer facilities shall be provided and permitted pursuant to the laws of the State of Wisconsin.
 - f. The entire tract or parcel of land to be included in a PUD Planned Unit Development Overlay District shall be held under single ownership or if there is more than one owner, the petition for such PUD Planned Unit Development Overlay District shall be considered as one tract, lot, or parcel, and the legal description must define said PUD Planned Unit Development Overlay District as a single parcel, lot or tract and be so recorded with the Register of Deeds for Sheboygan County.
 - g. The proposed development shall conform to the following architectural review principles, criteria, and review guidelines:
 1. The relative proportion of a building to its neighboring existing buildings, to pedestrians or observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing building are remodeled or altered.
 2. The visual continuity of roofs and their contributing elements (parapet walls, coping, cornices, etc.) shall be maintained in building development or redevelopment.
 3. Material selection for architectural design shall be based upon the prevailing material already used on existing buildings in the area. No building shall be permitted where any exposed façade is constructed or faced with a finished material which is aesthetically incompatible with other building facades in the area and which presents an unattractive appearance to the public and surrounding properties.

4. Since the selection of building colors has a significant aesthetic and visual impact upon the public and neighboring properties, color shall be selected in general harmony with the existing neighborhood buildings.
5. No building shall be sited in a manner that would unnecessarily destroy or substantially damage the beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in the area or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
4. In the case of proposed residential PUD Planned Unit Development Overlay Districts:
 - a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to reception space, and coordination with overall plans for the neighborhood.
 - b. The total net residential density within the PUD Planned Unit Development Overlay District will be the average density permitted in the underlying basic use district.
 - c. Provision has been made for the installation of adequate public or shared facilities and the continuing maintenance and operation of such facilities.
 - d. The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding public streets, and the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - e. Off-street parking facilities will be adequate to avoid parking by residents and guests on the public or private streets within the proposed development.
 - f. Provision has been made for adequate, continuing fire and police protection.
 - g. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.
5. In the case of proposed commercial PUD Planned Unit Development Districts:
 - a. The economic practicality of the proposed development can be justified.
 - b. Off-street parking and truck service facilities will adequately serve the proposed development.
 - c. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas.
 - d. The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding public streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - e. The architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood
6. In the case of proposed industrial PUD Planned Unit Development Overlay Districts:
 - a. The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standard and industrial development design and will not result in adverse effect upon the property values of the surrounding neighborhood.
 - b. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas.

- c. The proposed development will include adequate provision for off street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
 - d. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
7. In the case of mixed use PUD Planned Unit Development Overlay Districts:
- a. The proposed mixture of uses produces a unified composite that is compatible within the underlying zoning districts and which, as a total development entity, is compatible with the surrounding neighborhood.
 - b. The various types of uses conform to the general requirements as herein before set forth, applicable to project of such use and character.
- S. Disposition of the Petition:
- 1. General Approval. After the public hearing and due consideration, the Town Board shall either deny the rezoning petition for a PUD Planned Unit Development Overlay District, approve the petition as submitted, or approve the petition as modified by additional conditions and restrictions. The approval of the petition shall be based upon the building, site, and operational plans for the development and shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses. Building permits may only be issued upon obtaining general approval of the petition for rezoning for a PUD Planned Unit Development Overlay District. The Town Board shall not approve any petition unless it finds by a preponderance of the evidence after viewing the site plan and/or architectural plans that the intent and purpose of this Zoning Ordinance have been complied with. The findings of the Town Board shall be indicated in the minutes of its meeting and shall be a public record. Plans shall be stamped approved, conditionally approved, or denied and signed and dated by the Town Chairperson and retained as a permanent record by the Town Clerk. The approved preliminary plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings.
 - 2. Detailed Approval. Plans submitted for detailed approval shall be precise and contain all items required by the Plan Commission or Town Board. Detailed approval of the plans for each stage of development shall be required before building permits will be issued for the construction of the structures that are included in the plans for that stage of development.
 - 3. Standard Conditions of Approval. The following standard conditions of approval shall be a part of any approval or conditional approval issued by the Town Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Town Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:
 - a. letter of credit in the amount of all public improvements shall be submitted before such approval is granted.
 - b. Permittee shall indemnify, hold harmless, and defend the Town against any and all demands; claims; suits; alternative dispute resolution proceedings under Wis. Stat. § 802.12, as amended from time to time; arbitration awards; or orders or judgments of a court for compensation for injury to person or damage to property of others arising from the negligent or intentional acts of permittee, its employees, agents, independent contractors or materials suppliers committed during construction or operation of the subject property or the violation of any applicable statute or ordinance.
 - c. Prior to commencement of construction of the subject property, the permittee shall obtain comprehensive general liability and property damage insurance, as follows, and file certificates thereof with the Town Clerk.

1. Coverage shall protect the permittee and any contractor during the performance of work covered by the permit from claims for damages for personal injury, including accidental death as well as claims for property damages, which may arise from operation under the permit, whether such operations be by the permittee or by any contractor or by anyone directly or indirectly employed by either of them in such manner as to impose liability on Town and the amounts of such insurance shall be subject to the following limits:

<u>Worker's Compensation</u>	<u>Statutory</u>	
Employer's Liability		
Accident	\$100,000	Each Accident
Disease	\$100,000	Each Employee
Disease	\$500,000	Policy Limit
Bodily Injury		
	\$500,000	Per Person
	\$500,000	Per Occurrence
	\$500,000	Aggregate
	\$5,000	Medical Per Person
Property Damage		
	\$250,000	Per Occurrence
	\$250,000	Aggregate
Excess Liability (Umbrella)		
General Aggregate	\$1,000,000	
Each Occurrence	\$1,000,000	

2. The certificate of insurance shall contain a 10 day notice of cancellation shall name the Town as an additional insured.
 4. Changes or Additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Town Clerk and if, in the opinion of the Town Clerk, upon consultation with the Town Board, such change or addition constitutes a substantial alteration of the original plan, the provisions of subsection M – Procedure through subsection S – Disposition of the Petition, inclusive, shall pertain, and the Town Clerk shall determine and collect appropriate fees pursuant to subsection L – Fees. If the Town Clerk determines such change or addition does not constitute a substantial alteration of the original plan, then such change or addition shall be either approved or denied by the Plan Commission, subject to appeal to the Town Board by any person adversely. Written notice of an appeal shall be filed with the Town Clerk within 30 days of the decision. The notice of appeal shall clearly state the reasons for the appeal.
- T. Inspection and Fee:
 The Town shall have the right, at its sole option, to inspect the subject property as necessary and on prior written notice to the permittee. The Town may employ professional services and charge a review fee as provided in subsection L.2.; provided, however, the permittee shall pay the fee prior to said inspection, as a condition of continuation of said permit.
- U. Appeals:

Any person aggrieved by a decision of the Town Clerk or the Town Board under this ordinance may appeal the decision to the Board of Appeals, as provided by Wis. Stat. § 60.65 (5) and 59.694, as amended, and Chapter 9, Section 25 – Board of Appeals of the Zoning Ordinance. Written notice of an appeal shall be filed with the Board of Appeals within 30 days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

V. Penalties:

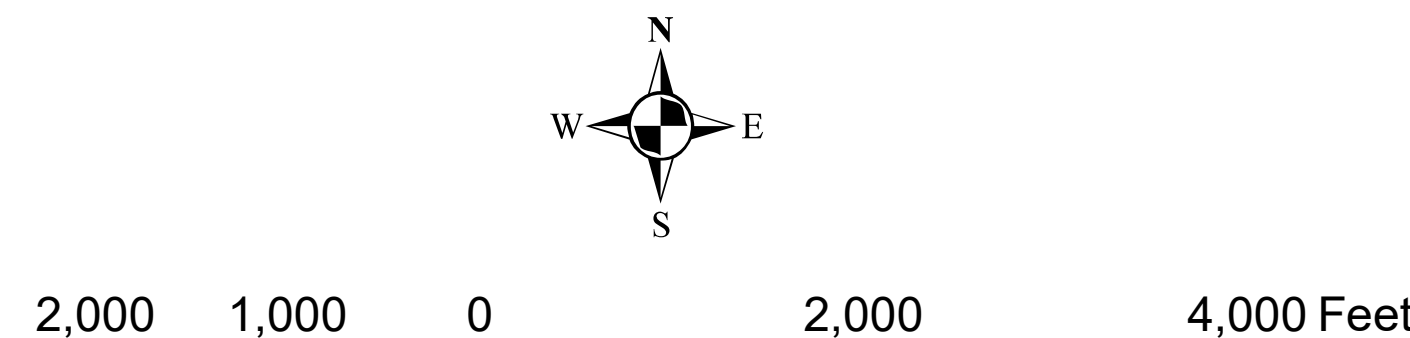
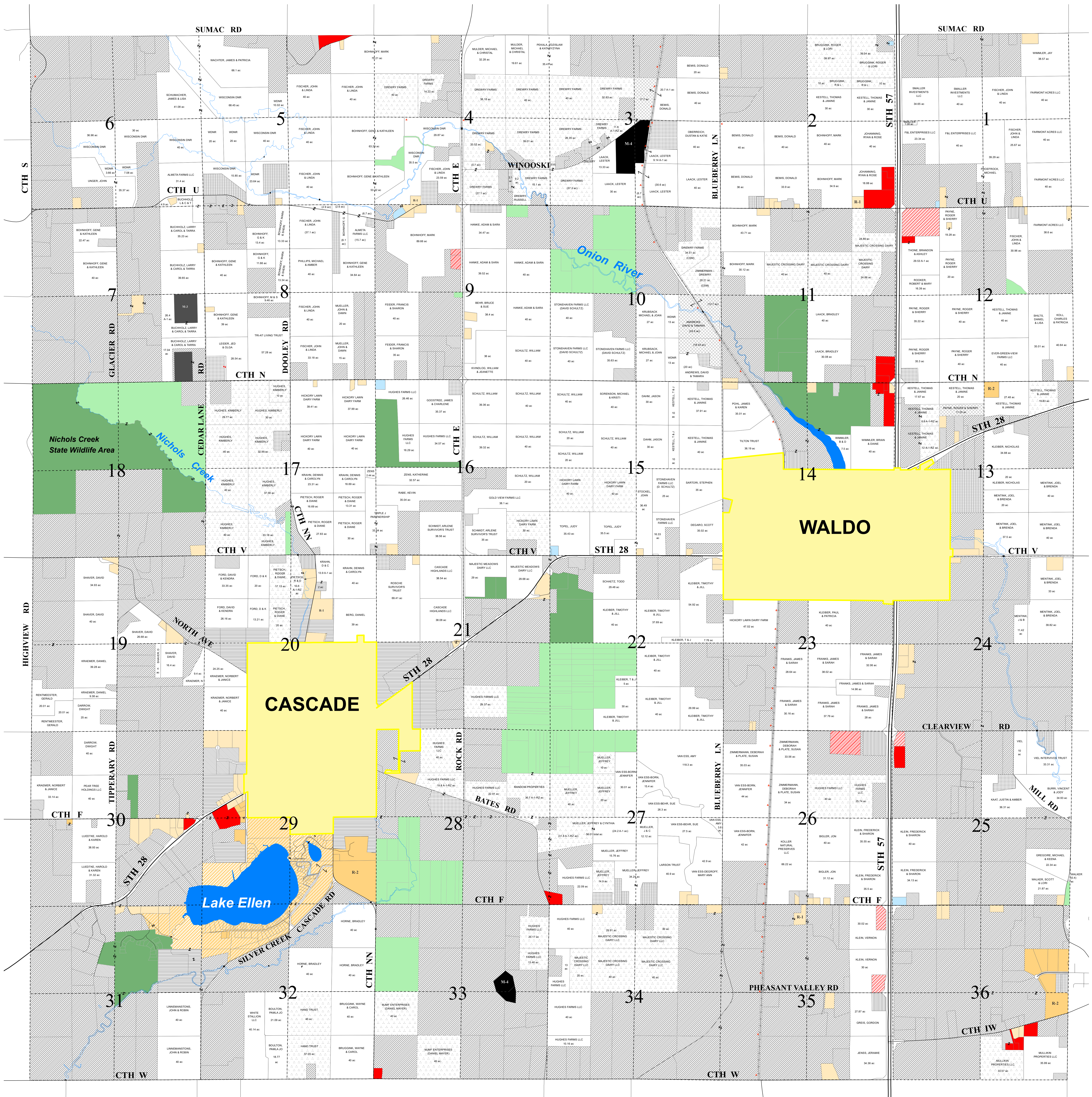
Chapter 9, Section 13 – Violations and Section 14 - Penalties of the Zoning Ordinance shall apply to any person who owns or controls any building or property that violates this Ordinance.

W. Conflict and Severability:

1. Conflicts with other ordinances: Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.
2. Severability: The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

ZONING MAP

TOWN OF LYNDON, SHEBOYGAN COUNTY, WI



Map prepared by:
 UW-Extension Sheboygan County for rezonings up through 12/31/22

Zoning boundaries were compiled from information provided by the Town of Lyndon. Sheboygan County does not have countywide general land use zoning and therefore has no jurisdiction relative to this map. Questions should be directed to the Town of Lyndon Clerk.

This map is not a survey of the actual boundary of any property this map depicts.

LEGEND

	A-1*		A-2		B-1		M-2		R-1
	A-1-RZ*		A-3		B-2		M-3		R-2
	A-1-S*		A-4		B-3		M-4		R-5
	A-1-PR*		A-5		C-1		P-1		R-6
			A-6		C-2				

N or ↘
 indicates a single tax parcel



AN ORDINANCE TO ADD STANDARDS AND REQUIREMENTS FOR SOLAR ENERGY SYSTEMS TO THE ZONING ORDINANCE OF THE TOWN OF LYNDON CODE

WHEREAS, solar energy systems are an increasingly viable renewable energy option; and

WHEREAS, there are three major categories of solar energy systems that include large-scale (100 megawatts or more), mid-scale (less than 100 megawatts but more than 30 kilowatts), and small-scale (30 kilowatts or less); and

WHEREAS, large-scale systems are primarily regulated by the Wisconsin Public Service Commission, while regulations for mid- and small-scale systems are primarily under the purview of local ordinances; and

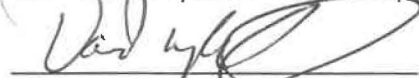
WHEREAS, to promote the health, safety, prosperity, aesthetics, and general welfare of the Town, the Plan Commission has recommended certain revisions and additions to the Zoning Ordinance as detailed in Exhibit "A", attached to and made a part of this ordinance.

NOW, THEREFORE, the Town Board of the Town of Lyndon does amend its existing Zoning Ordinance to make the revisions and additions referenced above.

EFFECTIVE DATE: The herein revisions and additions to the Ordinance shall take effect immediately upon adoption and posting as provided by law.

Adopted this 8th day of March, 2023.

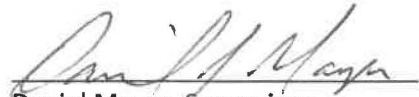
The Town of Lyndon Board of Supervisors:



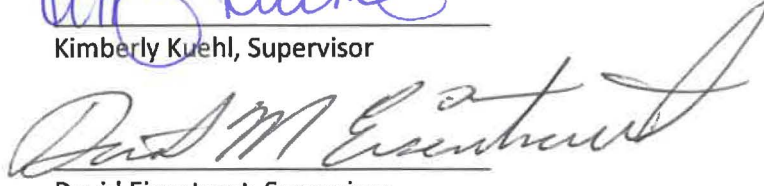
David Roll, Chairperson



Kimberly Kuehl, Supervisor



Daniel Mayer, Supervisor



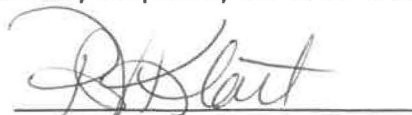
David Eisentraut, Supervisor



Jennifer Wiskirchen, Supervisor

CERTIFICATE OF ADOPTION

This is to certify that the foregoing Ordinance was duly adopted by the Town Board of the Town of Lyndon on the 8 day of March, 2023.



Rhonda Klatt, Clerk/Treasurer

EXHIBIT "A"

Add to SECTION 9.20 DEFINITIONS

Solar Energy System (SES):

A device, array of devices, or structural design feature used for the collection, storage, and/or distribution of solar energy for space heating or cooling, lighting, electric generation, or water heating. This ordinance categorizes a facility with an electrical generation capability of 100 MW (megawatts) or more as a large-scale SES; a facility with a capability of less than 100 MW but more than 30 kW (kilowatts) as a mid-scale SES; and a facility with a capability of 30 kW or less as a small-scale SES. A large- or mid-scale SES may encompass multiple, non-contiguous parcels, within different zoning districts, if owned or leased by a single developing entity. (This definition is not intended to include ground or wall mounted solar powered light fixtures, solar powered electric fences, or similar solar devices.)

Create SECTION 9.28 GENERAL PROVISIONS

A. Reimbursement of Costs:

Costs of any legal, engineering, or other professional fees incurred by the Town regarding a Conditional Use Application, Performance Standards, or any other standards related to the administration of this Ordinance shall be paid to the Town by the applicant before issuance of associated permits. A decision by the Town Board to decline to issue a permit, or to impose conditions that the applicant finds unacceptable, shall not excuse the applicant from its obligations under this subsection. Further, after the issuance of a permit, any such fees incurred by the Town for the purpose of verifying compliance with Ordinance standards shall likewise be reimbursed by the applicant or subsequent property owner within 60 days of notice by the Town.

Revise CHAPTER 10 Zoning Districts

A-1, A-1-RZ, A-1-S, A-PR, B-1, B-2, M-3, and M-4

Permitted Uses: Add "Solar energy systems, small-scale"

Conditional Uses: Add "Solar energy systems, large-scale" and "Solar energy systems, mid-scale"

A-2, A-2-HD, A-3, and A-4

Permitted Uses: Add "Solar energy systems, small-scale"

Conditional Uses: Add "Solar energy systems, mid-scale"

A-5, A-6, B-3, B-4, C-1, C-2, P-1, R-1, R-2, R-3, R-5, R-6, and PUD

Permitted Uses: Add "Solar energy systems, small-scale"

Conditional Uses: None

Note: SES not allowed at all in H-1 Historic Preservation District

Create **SECTION 9.27 SOLAR ENERGY SYSTEMS (SES)**

- A. Applicability:
The standards in this Section apply only to mid-scale solar energy systems as described in subsection C below.
- B. Purpose:
There are hereby established standards for certain solar energy systems that will provide for the construction and operation of said systems. All regulations contained herein are adopted to preserve and protect public health and safety.
- C. Types of Solar Energy Systems and Permits Required:
1. Large-scale SES (100 MW or more): Must be approved by the Wisconsin Public Service Commission. Such systems are allowed only in the A-1, A-1-RZ, A-1-S, A-PR, B-1, B-2, M-3, and M-4 districts and require a building permit from the Town. A Sheboygan County Shoreland/Floodplain Zoning permit, if applicable, may also be required. The Town may require a conditional use permit and/or developer's agreement as long as no conditions, in the opinion of the SES developer, inhibit or preclude the project, per Section 196.491(3)(i), Wis. Stats.
 2. Mid-scale SES (less than 100 MW but greater than 30 kW): Are subject to the conditional use permit conditions set forth in Section 9.24 of this Ordinance and the requirements set forth in subsection D below, the Town's building permit requirements, the County's applicable Shoreland/Floodplain requirements, and any other applicable state or federal requirements. Such systems are allowed by conditional use only in the A-1, A-1-RZ, A-1-S, A-PR, A-2, A-2-HD, A-3, A-4, B-1, B-2, M-3, and M-4 districts.
 3. Small-scale SES (30 kW or less): Are considered to be accessory uses and are permitted uses in all districts except H-1. Such systems are allowed whether or not a principal structure exists on the parcel. Applicable permits from the Town are required, and a Sheboygan County Shoreland/Floodplain Zoning permit may also be required, if applicable.
- D. Requirements for Mid-Scale Solar Energy Systems:
1. Any mid-scale SES hereafter established, altered, or enlarged shall be subject to the following requirements unless less restrictive requirements are specifically granted by the Plan Commission in the conditional use permit.
 - a. Location: No portion of a large- or mid-scale SES shall occupy any parcel that lies within one-quarter mile of the corporate boundary of the villages of Cascade or Waldo existing at the time of application for said SES, unless approved by the Town Board after receiving convincing evidence that said SES will not impede the planned growth of Cascade or Waldo.
 - b. Setbacks: Any portion of the SES shall not encroach within 20 feet of any property line, non-navigable waterway ordinary high-water mark, easement, well, or septic field. Setbacks from roadways are 75 feet from the center line of Town and County Roads, and 75 feet from the right-of-way on State Roads. The project design shall be such that aboveground project components (excluding fences and access roads) shall not be closer than 200 feet to any nonparticipating landowner residential structure.
 - c. Height restrictions: Ground mounted components of a SES shall not exceed 15 feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening. Roof-mounted components shall not exceed a zoning district's height limit by more than 5 feet.
 - d. Glare: The SES, including reflectors, shall be positioned so that glare does not create unsafe conditions for travelers or nuisances for neighboring properties.
 - e. Sound: The SES project's inverters, substations, motors, and other noise emitting equipment collectively shall not exceed the Public Service Commission mandated maximum nighttime sound level that is applicable to a 100 MW system or larger at the walls of the noise sensitive receptor, which shall include as a minimum the residence on any non-participating property. To ensure

- noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in any pre- or post-construction sound analysis.
- f. Construction hours: Hours of construction shall be between 6:00 a.m. and 7:00 p.m., Monday through Saturday, and between 10:00 a.m. and 7:00 p.m. on Sunday.
 - g. Installer: All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.
 - h. Foundation: A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate.
 - i. Screening: A SES shall be appropriately buffered and screened from public view by the system owner or representative. Any structure or vegetation under the control of a neighboring property owner, however, that interferes with the function of a SES is considered to be a private nuisance per Section 844.22, Wis. Stats.
 - j. Town road rights-of-way: The construction, operation, and decommissioning of a SES shall not adversely impact transportation infrastructure within road rights-of-way in the Town of Lyndon or nearby municipalities. Prior to the issuance of any permits for an SES project, and following project completion, a Pavement Surface Evaluation and Rating (PASER) survey of roadways likely to be affected by the project, as identified by the Town of Lyndon, shall be conducted by an independent, qualified entity, at the expense of the applicant. The Town of Lyndon and any other affected municipalities shall be compensated for any damages resulting from activities related to the project, with the compensation determined by the Sheboygan County Transportation Department.
 - k. Code compliance: A SES shall comply with all applicable local, state, and federal regulatory codes, including the State of Wisconsin electrical and plumbing codes and the National Electrical Code.
 - l. Power and communication lines: Power and communication lines running between banks of ground mounted solar panels to nearby electrical substations, or interconnections with or between structures, shall be buried underground.
 - m. Orderly development: Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.
 - n. Decommissioning: When decommissioning of a SES is required, all equipment, whether above the ground surface or below, shall be totally removed and properly recycled or disposed of. A bond, letter of credit, or an escrow account is required for all SES with a nameplate rating of 1 MW or greater to ensure proper decommissioning. The Town of Lyndon shall be named as obligee in the bond, letter of credit, cash, or other surety and must approve the bonding company.
2. In addition to the application submittal requirements of Section 9.24 of this Ordinance, the application for a SES conditional use permit shall include the following:
- a. Solar energy system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.
 - b. Site layout, including the location of property lines, structures, SES; as well as the total extent of system movements, and the interconnection points with the electrical grid.
 - c. Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and any other applicable codes.
 - d. Surrounding property uses, including distances to any adjacent nonparticipating landowner residential structures.
 - e. Percentage of land coverage by the SES when panels are in the position that has the largest horizontal area.
 - f. A decommissioning plan that outlines the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of a SES must occur in the event the SES is not in use for 12 consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established and cost

estimates shall be made by a competent party such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Lyndon to have suitable expertise or experience. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Plan Commission shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and properties within the Town. The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or if the SES is not in use for 12 consecutive months. Decommissioning shall be completed within 9 months from the start of decommissioning activities.

Town of Lyndon, Sheboygan County, Wisconsin

**AN ORDINANCE REPEALING AND RECREATING
CHAPTER 8 OF THE TOWN OF LYNDON MUNICIPAL CODE
REGARDING BOATING REGULATIONS**

WHEREAS, there exists entirely within the boundaries of the Town of Lyndon an inland lake known as Lake Ellen, which is entirely within the jurisdiction of the Town of Lyndon; and

WHEREAS, in the interest of public health, safety, or welfare, including the public's interest in preserving the state's natural resources, the Town of Lyndon has the authority to enact ordinances applicable to waters within its jurisdiction if the ordinances are not contrary to or inconsistent with Chapter 30, Wis. Stats., and they relate to the equipment, use, or operation of boats or to any activity regulated by ss. 30.60 to 30.71, Wis. Stats.; and

WHEREAS, the Town of Lyndon submitted a draft of this ordinance to the Wisconsin Department of Natural Resources for its advisory review at least 60 days prior to passage, pursuant to s. 30.77(3)(d), Wis. Stats.; and

WHEREAS, the Town Board, after taking into consideration public comments and any suggested changes of the DNR, determines that adopting the following boating regulations would promote the public health, safety and welfare, including the public's interest in preserving the state's natural resources;

NOW, THEREFORE, the Board of Supervisors of the Town of Lyndon, Sheboygan County, Wisconsin, does hereby ordain as follows:

Section 1. Repealing and Recreating Code. Chapter 8 (“Boating Regulations”) of the Town of Lyndon Municipal Code (and any conflicting or inconsistent ordinances or regulations) is repealed in its entirety and recreated to read as set forth on the attachment.

Section 2. Severability. Should any portion of this Ordinance or the affected Code Sections be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

Section 3. Effective Date. Upon adoption, this Ordinance shall take effect the day after publication or posting.

Enacted: June 8, 2022

TOWN OF LYNDON

By: _____

David Roll, Town Chair

CLERK'S CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the Town of Lyndon Board of Supervisors on the date indicated above.

Dated: June 8, 2022



Rhonda J. Klatt, Clerk/Treasurer

Published/Posted on June 13, 2022 by RJK.

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**TOWN OF LYNDON
CODE OF ORDINANCES**

CHAPTER 8: BOATING REGULATIONS

8.01 Applicability and Enforcement. The provisions of this Chapter apply to the waters of Lake Ellen and shall be enforced by the Town’s contracted law enforcement (currently the Village of Cascade Police Department).

8.02 Intent. The intent of this Chapter is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with the public rights and interests and the capability of the water resources.

8.03 State Boating and Safety Laws Adopted. State boating laws as found in ss. 30.50 to 30.71, Wis. Stats., (as may be amended) are adopted herein by reference.

8.04 Penalties. Wisconsin state boating penalties as found in s 30.80, Wis. Stats., and deposits established in the Uniform Deposit and Bail Schedule established by the Wisconsin Judicial Conferences, are hereby adopted by reference except that all references to fines amended to forfeitures and all references to imprisonment are deleted.

8.05 Definitions.

(1) “Waterski” means a boat towing a person using water skis, aquaplane, innertube or similar device.

(2) “High Water” is a water level at or exceeding the definition currently set by the Town of Lyndon Sanitary District No. 1.

(3) “Transition speed” is the speed at which a boat is operating at greater than slow – no wake speed, but not fast enough so that the boat is planing.

8.06 Slow-No-Wake Operation Required. No person shall operate a motorboat at a speed of greater than slow-no-wake during the following periods:

(1) Daily. Between the hours of 6:00 PM and 10:00 AM daily.

(2) Sundays. Between the hours of 12:00 noon and 3:00 PM on Sundays.

(3) High Water. When the water level exceeds the high water bench mark located at the public boat landing on Ellen View Road. The slow-no-wake high water restriction will be posted with signage and flags at the kiosk which is the public access point at Ellen View Road.

8.07 Water Skiing, Fast Boating, Towing. The traffic pattern for fast boating (over 10 mph), water skiing and towing on Lake Ellen shall be counterclockwise and shall be conducted in the

center of the lake, within the confines of the buoys.

8.08 Personal Watercraft. No person shall operate a personal watercraft faster than slow-no-wake speed.

8.09 Enhanced Wakes – Prohibited Equipment and Prohibited Operation.

(1) No person may use or employ water sacks, ballast tanks, submersible wings or any other device which causes a boat to operate in a bow-high manner, or which increases or enhances a boat's wake.

(2) No person may operate a boat in an artificially bow-high manner in order to increase or enhance the boat's wake. Such prohibited operation shall include wake enhancement by use of ballast, mechanical hydrofoils, uneven loading or operation at transition speed (the speed at which the boat is operating at greater than slow-no-wake speed, but not fast enough so that the boat is planing).

8.10 Posting Requirements. The Town Board of the Town of Lyndon shall place and maintain a synopsis of this ordinance at all public access points within the jurisdiction of the Town pursuant to the requirements on NR 5.15, Wis. Adm. Code.

[Include standard Severability, Effective Date and Repeal of Conflicting Provisions in the adopting ordinance.]

Ordinance # 2022-04
Municipality Code 59010
Town of Lyndon
Sheboygan County, Wisconsin

ORDINANCE REGULATING THE USE OF WIND ENERGY SYSTEMS

The Town Board of the Town of Lyndon, Sheboygan County, Wisconsin, does ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Town of Lyndon, Sheboygan County, Wisconsin. This Ordinance is adopted pursuant to Wis. Stat., § 66.0401 and PSC 128 and pursuant to the Town's general police powers. All regulations contained herein are adopted to preserve and protect the public health and safety.

Section 2: Definitions

Wind Energy System: Has the meaning given in Wis. Stat., § 66.0403(l) (m) and is used to convert wind energy to electrical energy.

Small Wind Energy System: A Wind Energy System that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

Other Definitions: The remaining definitions set forth in PSC 128.01 are incorporated by reference as though fully set forth herein.

Section 3: Permit Required

No Wind Energy System may be installed, constructed or expanded in the Town without a Wind Energy System Permit granted pursuant to this Ordinance.

Section 4: Application

Every application for a Wind Energy System Permit shall be made in writing accompanied by the fees required by this Ordinance and shall include the following information:

- 1) Wind Energy System description and maps showing the location of all proposed wind energy facilities.
- 2) Technical description of wind turbines and wind turbine sites.

- 3) Timeline and process for constructing the Wind Energy System.
- 4) Information regarding anticipated impact of the Wind Energy System on local infrastructure.
- 5) Information regarding noise anticipated to be attributable to the Wind Energy System including options considered to eliminate noise, GIS maps showing noise levels surrounding wind turbines, computer modeling of noise impacts, information on ground absorption coefficients used to model noise, measures used to address low frequency noise and infrasound, and any other information necessary for the Town to assess noise impacts.
- 6) Information regarding shadow flicker anticipated to be attributable to the Wind Energy System including alternate turbine locations considered by the applicant that would eliminate shadow flicker, GIS maps showing shadow flicker zones for each turbine, shadow flicker computer monitoring results, and any other information necessary for the Town to assess shadow flicker impacts.
- 7) Information regarding the anticipated effects of the Wind Energy System on existing land uses within 0.5 mile of the Wind Energy System.
- 8) Information regarding the anticipated effects of the Wind Energy System on airports and air space.
- 9) Information regarding the anticipated effects of the Wind Energy System on line- of-sight communications.
- 10) A list of all state and federal permits required to construct and operate the Wind Energy System, copies of all correspondence with state and federal agencies, statements as to whether each permit has been approved or denied, and, for those permits that have not yet been obtained, the anticipated timeline for obtaining the permit.
- 11) Information regarding the planned use and modification of roads within the Town during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.
- 12) A copy of all emergency plans developed in collaboration with appropriate first responders under PSC 128.1 8(4) (b). An owner may file plans using confidential filing procedures as necessary.
- 13) A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with PSC 128.1 9.

- 14) A representative copy of all notices issued under Section 7 of this Ordinance and PSC 128.105(l)(a) and 128.42(l).
- 15) Certification that the pre-application notice requirements of PSC 128.105(l) were met, including a list of all landowners who received pre-application notices under PSC 128.105(l)(a) and the date that the landowners were provided pre-application notices.
- 16) Information regarding any additional turbines that may be added to the project in the future.
- 17) Copies of all correspondence to or from Town residents.
- 18) Any other information necessary to understand the construction, operation or decommissioning of the proposed Wind Energy System.

Section 5: Accuracy of Information.

The owner shall certify that the information contained in an application is accurate. The Town may reject or deny the application if it contains false, misleading, or inaccurate information.

Section 6: Duplicate Copies.

The applicant shall file an original and three copies of the application with the Town. One copy shall be an electronic copy. Each copy shall include, but is not limited to, all worksheets, maps, and other attachments included in the application.

Section 7: Notice to Property Owners and Residents.

- 1) On the same day an owner files an application for a Wind Energy System, the owner shall, under s. 66.0401(4) (a) 3. Stats. use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. At the same time, a copy of the written notice shall be provided to the Town. The notification shall include all of the following:
 - a) A complete description of the Wind Energy System, including the number and size of the wind turbines.
 - b) A map showing the locations of all proposed Wind Energy System facilities.
 - c) The proposed timeline for construction and operation of the Wind Energy System.
 - d) Locations where the application is available for public review.
 - e) Owner contact information.

- 2) After the Town receives an application for a Wind Energy System, the Town shall publish the notice required by Wis. Stat., § 66.0401(4) (a) (I), which shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town, and the approximate schedule for review of the application by the Town.

Section 8: Public Participation.

- 1) The Town shall make a copy of an application for a Wind Energy System available for public review at a local library and at the Town Hall or location where the Town maintains records for public access, and it may make an application available on the Town website.
- 2) The Town shall accept written public comments on an application for a Wind Energy System filed with the Town Clerk and shall make them part of the record at the public hearing held pursuant to subsection (3).
- 3) Town shall hold at least one public meeting to obtain comments on and to inform the public about a proposed Wind Energy System.

Section 9: Joint Application Review Process.

If a Wind Energy System is proposed to be located in the Town and at least one other municipality with jurisdiction over the Wind Energy System, the Town may participate in the joint application review process set forth in PSC 128.30(7).

Section 10: Application Completeness:

- 1) COMPLETE APPLICATIONS.
 - a. An application is complete if it meets the filing requirements set by this Ordinance and PSC 128.50(1).
 - b. The Town shall determine the completeness of an application , and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed, unless the application was filed prior to adoption of this Ordinance, in which case the Town shall notify the owner in writing of the completeness determination no later than 45 days after the day this Ordinance is adopted. An application is considered filed the day the owner notifies the Town in writing that all the application materials have been filed. If the Town determines that the application is

incomplete, the notice provided to the owner shall state the reasons for the determination.

- c. The owner may file a supplement to an application that the Town has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. b.
- d. An additional 45-day completeness review period shall begin the day after the Town receives responses to all items identified in the notice under par. b.
- e. If the Town does not make a completeness determination within the applicable review period, the application is considered to be complete.

2) REQUESTS FOR ADDITIONAL INFORMATION.

The Town may request additional information necessary to understand the Wind Energy System after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.

Section 11: Owner Requirements

Pursuant to PSC 128.10(I), the Town incorporates by reference all owner requirements set forth in Subchapter 11 of PSC 128 (and all subsequent amendments thereto) to their fullest extent. (For example all permissive provisions are mandatory and all quantifiable standards are adopted in their most stringent form.) A copy of Subchapter II is attached for reference as Exhibit A. The attached Exhibit A is a current version of Subchapter II. It may be replaced without further notice, hearing, or Town approval in the event it is amended.

Section 12: Written Decision.

- 1) The Town shall issue a written decision to grant or deny an application. The written decision shall include findings of fact, supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. The Town shall provide its written decision to the owner and to the Public Service Commission of Wisconsin. If the Town approves an application for a Wind Energy System, the Town shall provide the owner with a duplicate original of the decision. If an application is approved, the Town will issue a written permit with conditions.
- 2) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Sheboygan County, Wisconsin.

- 3) The Town shall keep a complete written record of its decision-making relating to an application for a Wind Energy System. The record of a decision shall include all of the following:
 - a. The approved application and all additions or amendments to the application.
 - b. A representative copy of all notices issued under ss. PSC 128.105(1) (a), 128.30(5) and 128.42(1).
 - c. A copy of any notice or correspondence that the Town issues related to the application.
 - d. A record of any public meeting under s. PSC 128.30(6) (c) and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.
 - e. Copies of any correspondence or evidentiary material that the Town considered in relation to the application, including copies of all written public comments filed under s. PSC 128.30(6) (b).
 - f. Minutes of any Town Board or committee meetings held to consider or act on the application.
 - g. A copy of the written decision under s. PSC 128.32(3) (a).
 - h. Other materials that the Town prepared to document its decision-making process.
 - i. A copy of any Town ordinance cited in or applicable to the decision.
- 4) If the Town denies an application, the Town shall keep the record for at least seven (7) years following the year in which it issues the decision.
- 5) If the Town approves an application, the Town shall keep the record for at least seven (7) years after the year in which the Wind Energy System is decommissioned.
- 6) The Town may deny without a hearing an application for approval of a Wind Energy System with a nominal capacity of at least one megawatt if the proposed site of the Wind Energy System is in an area primarily designed for future residential or commercial development as shown on a map adopted as part of the Town's comprehensive plan prior to June 2, 2009 or on such maps adopted by the Town after December 31, 2015 under Wis. Stat., § 66.100 I (2) (I).

Section 13: Effect of Ownership Change on Approval

Approval of a Wind Energy System remains in effect if there is a change in ownership of the Wind Energy System. However, a Wind Energy System owner must provide notice within 30 days to the Town of any change of ownership of the Wind Energy System.

Section 14: Fees

- 1) The applicant shall deposit an application fee of \$15,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts shall be billed against the deposit. The applicant shall maintain a minimum of \$2,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$2,000, the applicant shall deposit additional money to bring the account balance to \$5,000 within five (5) business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.
- 2) The Town's fee or reimbursement requirement under par. (1) is based on the actual and necessary cost of the review and processing of the Wind Energy System application, and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

Section 15: Additional Requirements

The Town requires the following as conditions for approval of an application to construct a Wind Energy System:

- 1) **INFORMATION.** The owner shall inform the Town in writing whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the Wind Energy System from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the Wind Energy System.
- 2) **STUDIES.** The owner shall cooperate with any study of the effects of Wind Energy System coordinated by a state agency.
- 3) **MONETARY COMPENSATION.** The owner of a Wind Energy System shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation shall be \$800. For three or more turbines located within 0.5

mile of a nonparticipating residence, the initial annual monetary compensation shall be \$1,000. The initial monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stat., § 196.374(5)(b)2.b., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under PSC 128.

- 4) **AERIAL SPRAYING.** The owner of a Wind Energy System shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
 - a. Substantial evidence of a history, before the wind energy system owner gives notice under s. PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
 - b. A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.
- 5) **PERMITS.** The owner shall submit to the Town copies of all Necessary County, state, and federal permits and approvals.
- 6) **ANNUAL REPORTS.** The owner shall file an annual report with the Town documenting the operation and maintenance of the Wind Energy System during the previous calendar year. The annual report must be filed on or before the anniversary date of the issuance of the owner's permit.

Section 16: Post-Construction Filing Requirement

Within 90 days of the date a Wind Energy System commences operation, the owner shall file with the Town an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities and current information identifying the owner of the Wind Energy System. An owner shall in the filings under this section label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under s. PSC 128.18(l)(g).

Section 17: Modifications to an Approved Wind Energy System

MATERIAL CHANGE.

- 1) An owner may not make a material change in the approved design, location of construction of a Wind Energy System without the prior written approval of the Town, unless the Town automatically approves the material change by taking either of the steps specified in s. PSC 128.32(2)(b)1. or 2.
- 2) An owner shall submit to the Town an application for a material change to an approved Wind Energy System.

REVIEW LIMITED.

- 1) The Town, upon receipt of an application for a material change to a Wind Energy System may not reopen the merits of the earlier approval but may consider only those issues relevant to the proposed change.
- 2) An application for a material change is subject to ss. PSC 128.30(1), (3) to (5), (6)(a) and (b) and (7) and 128.31 to 128.34.
- 3) An application for a material change shall contain information necessary to understand the material change as determined by the Town.
- 4) The Town may hold at least one public meeting to obtain comments on and to inform the public about a proposed material change to an approved Wind Energy System.

Section 18: Monitoring Compliance

- 1) **MONITORING PROCEDURE.** The Town may establish a procedure to monitor compliance by the owner with any condition on an approved Wind Energy System or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public. Such procedures shall be included in the permits granted under this Ordinance. The Owner shall cooperate with the Town during its monitoring.
- 2) **THIRD-PARTY INSPECTOR DURING CONSTRUCTION.** The Town may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Town regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

Section 19: Notice of Complaint Process

- 1) **NOTICE OF PROCESS FOR MAKING COMPLAINTS.** Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within 0.5 mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC 128.40(1) for submitting a complaint to the owner, a petition for review to the Town, and an appeal to the Commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.
- 2) **NOTICE TO TOWN.** An owner shall provide a copy of the notice provided under subsection (1) to the Town, and the owner shall keep the contact person and telephone number current and on file with the Town.

Section 20: Revocation and Enforcement

Any permit granted for the installation, construction or expansion of a Wind Energy System may be revoked by the Town if the permit holder, its heirs, or assigns, violates the provisions of this Ordinance or the provisions of a Wind Energy System Permit granted pursuant to this Ordinance. Violations of this Ordinance are also punishable by forfeitures of not less than \$200 and not more than \$500 per violation plus costs and attorneys' fees. Each day a violation exists constitutes a separate offense. The Town may also seek equitable and injunctive relief in the event of a violation. Further, the Town may deny a pending application in the event of the applicant's failure to comply with the provisions of this Ordinance.

Section 21: Severability

If any section, subsection, sentence or phrase of this Ordinance shall be held invalid, illegal, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance; and there shall be substituted for the provision at issue a valid and enforceable provision as similar as possible to the provision at issue.

Section 22: Relationship of Parties

By filing an application, the owner agrees that neither the owner nor the Town is an agent, employee, contractor, vendor, representative, or partner of the other and that neither shall owe a fiduciary duty to the other or hold itself out to third parties that it is capable of binding the other party to any obligation or liability. The Town's approval of an application does not create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Town and the owner.

Section 23: Interpretation

In their interpretation and application, the provisions of this Ordinance shall be considered minimum requirements. Where the provisions of this Ordinance impose greater restrictions than any statute, other

regulation, ordinance or covenant, to the extent allowed by law the provisions of this Ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance, or covenant impose greater restrictions than the provisions of this Ordinance, to the extent allowed by law the provisions of such statute, other regulation, ordinance or covenant shall prevail. All references to statutes and regulations in this Ordinance and in Exhibit A refer to the current version of the statute or regulation referenced, as amended from time to time.

Section 24: Guaranty/Warranty

Nothing in this Ordinance may be interpreted as guaranteeing or warranting that any method, construction, product, service, building, or structure is free from risk. No issuance of a license or permit, approval, inspection, or other action by any Town official, employee, or agent shall constitute a warranty or guaranty that any method, construction, product, service, building, or structure is free from risk.

Section 25: Effective Date

This Ordinance shall take effect and be in force on 4/18, 2022.

Section 26: Directive to Town Clerk and Town Attorney

The Town Clerk and the Town Attorney are directed to make all changes necessary in the current Code of Ordinances to implement the terms of this Ordinance.

Adopted this 13 day of April 2022

Town of Lyndon

By: 
David Roll, Town Chair

Attest:


Town Clerk

sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity

(20) "Small wind energy system" means a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts

(21) "Turbine host property" means real property on which at least one wind turbine is located

(22) "Wind access easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property

(23) "Wind energy system" has the meaning given in s 66.0403 (1) (m), Stats, and is used to convert wind energy to electrical energy

(24) "Wind energy system easement" means a written document that creates a legal interest in real property that permits an owner to place, construct or operate a wind turbine or other wind energy system facility on the property

(25) "Wind energy system emergency" means a condition or situation at a wind energy system that presents a significant threat of physical danger to human life or a significant threat to property or a natural event that causes damage to wind energy system facilities

(26) "Wind energy system facility" means any component of a wind energy system, such as a wind turbine, collector circuit, access road, electric system interconnection facility or operation and maintenance facility

(27) "Wind energy system lease" means a written agreement between a landowner and an owner that establishes the terms and conditions associated with the placement, construction or operation of a wind turbine or other wind energy system facility on a landowner's property

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.02 Applicability. (1) **POLITICAL SUBDIVISION APPLICATIONS** (a) Except as provided in par (b), this chapter applies to a political subdivision's review of a proposed wind energy system or regulation of a wind energy system under s 66.0401, Stats

(b) This chapter does not apply to any of the following:

1. A wind energy system for which construction began before March 1, 2011
2. A wind energy system placed in operation before March 1, 2011
3. A wind energy system approved by a political subdivision before March 1, 2011
4. A wind energy system proposed by an owner in an application filed with a political subdivision before the March 1, 2011

(c) Notwithstanding par (b) 4, if an owner withdraws an application for a proposed wind energy system that is filed with a political subdivision before March 1, 2011, this chapter applies to the wind energy system if the owner re-files the application with the political subdivision on or after March 1, 2011

(3) **COMMISSION APPLICATIONS** The commission shall consider whether the installation or use of a wind energy system is consistent with the standards specified in this chapter when reviewing an application under s 196.491 (3) (d), Stats, filed on or after March 1, 2011

(4) **INDIVIDUAL CONSIDERATION** Nothing in this chapter shall preclude the commission from giving individual consideration to exceptional or unusual situations and applying requirements to an individual wind energy system that may be lesser, greater, or different from those provided in this chapter

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.03 Political subdivision authority. A political subdivision may not place any restriction, either directly or in effect, on the installation or use of a wind energy system except by adopting an ordinance that complies with this chapter and s 66.0401, Stats, and is not more restrictive than this chapter

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.04 Enforcement. (1) **POLITICAL SUBDIVISIONS.** A political subdivision shall be responsible for enforcing its wind energy system ordinance and permit provisions

(2) **COMMISSION** The commission shall enforce its rules and orders under this chapter in the manner prescribed in s 196.66, Stats, or by such other means as provided in the statutes or administrative code.

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

Subchapter II — Owner Requirements

PSC 128.10 Incorporating owner requirements into local ordinances. (1) **ORDINANCES WITH ALL THE OWNER REQUIREMENTS** A political subdivision may enact an ordinance that incorporates all the owner requirements specified in this subchapter, but may not enact an ordinance whose requirements on the installation or use of a wind energy system are more restrictive than specified in this subchapter

(2) **ORDINANCES WITH LESS RESTRICTIVE OWNER REQUIREMENTS** Except as provided in sub (4), a political subdivision may enact an ordinance whose requirements on the installation or use of a wind energy system are less restrictive than specified in this subchapter.

(3) **NO ORDINANCE** Except as provided in sub. (4), if a political subdivision does not enact an ordinance establishing requirements on the installation or use of a wind energy system, this subchapter does not apply within the political subdivision

(4) **MANDATORY REQUIREMENTS** (a) Section PSC 128.105 applies to every owner of a wind energy system, regardless of the political subdivision in which the wind energy system is located and regardless of the contents of a political subdivision's ordinance or the lack of an ordinance

(b) Section PSC 128.13 (2) (a) applies to every political subdivision, regardless of the contents of its ordinance or the lack of an ordinance.

(c) Section PSC 128.19 applies to every owner of a wind energy system of at least one megawatt, regardless of the political subdivision in which the wind energy system is located and regardless of the contents of a political subdivision's ordinance or the lack of an ordinance

(5) **SMALL WIND ENERGY SYSTEMS** For a small wind energy system, this subchapter applies as provided in ss PSC 128.60 and 128.61

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.105 Development of a wind energy system; notice requirements. (1) **PRE-APPLICATION NOTICE** At least 90 days before an owner files an application to construct a wind energy system, an owner shall use commercially reasonable methods to provide written notice of the planned wind energy system to all of the following:

(a) Landowners within one mile of a planned wind turbine host property.

(b) Political subdivisions within which the wind energy system may be located

(c) Emergency first responders and air ambulance service providers serving a political subdivision within which the wind energy system may be located

(d) The Wisconsin department of transportation

(e) The commission

(f) The DNR.



(g) The Wisconsin department of agriculture, trade and consumer protection

(h) The office of the deputy undersecretary of the U S department of defense

(1m) ADDITIONAL PRE-APPLICATION NOTICE TO COMMISSION. At least 180 days before filing an application to construct a wind turbine with a maximum blade tip height exceeding 600 feet, or a wind energy system in those portions of Lake Michigan or Lake Superior that are within the jurisdiction of the state, the owner shall provide written notice of the planned wind energy system to the commission

(2) PRE-APPLICATION NOTICE REQUIREMENTS The owner shall include all of the following in a notice under sub (1) or (1m):

(a) A complete description of the wind energy system, including the number and size of the planned wind turbines

(b) A map showing the planned location of all wind energy system facilities

(c) Contact information for the owner

(d) A list of all potential permits or approvals the owner anticipates may be necessary for construction of the wind energy system

(e) Whether the owner is requesting a joint application review process under s PSC 128 30 (7) and the name of each political subdivision that may participate in the joint review process

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128.11 Real property provisions. (1) EASEMENT RECORDING REQUIRED. A wind energy system easement or wind access easement shall be recorded under ch 706, Stats. A wind energy system easement or wind access easement shall include the term of the easement and a full legal description of the property subject to the easement

(2) WIND LEASE AND WAIVER PROVISIONS A wind energy system lease and any waiver under s PSC 128 14 (5) or 128 15 (4) shall hold harmless and indemnify the real property owner for all of the following:

(a) Any violation of federal, state or local law by the owner of the wind energy system

(b) Any damages or bodily injury caused by the construction, operation or decommissioning of the wind energy system

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128.12 Existing property uses. (1) LAND USE AND COMMERCIAL ENTERPRISES An owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a nonparticipating property within 0.5 mile of a proposed wind turbine site if the land use or commercial enterprise exists when the owner gives notice under s PSC 128.105 (1), or if complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date the owner gives notice under s PSC 128 105 (1)

(2) AGRICULTURAL USE An owner shall design a wind energy system to reasonably minimize the conversion of land from agricultural use

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11.

PSC 128 13 Siting criteria. (1) SETBACK DISTANCE AND HEIGHT REQUIREMENTS (a) An owner shall design and construct a wind energy system using the wind turbine setback distances shown in Table 1

Table 1

Setback Description	Setback Distance
Occupied Community Buildings	The lesser of 1,250 feet or 3 1 times the maximum blade tip height
Participating Residences	1 1 times the maximum blade tip height
Nonparticipating Residences	The lesser of 1,250 feet or 3 1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1 1 times the maximum blade tip height
Public Road Right-of-Way	1 1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution Lines — Not including utility service lines to individual houses or outbuildings	1 1 times the maximum blade tip height
Overhead Utility Service Lines — Lines to individual houses or outbuildings	None

(b) An owner shall measure wind turbine setback distances as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable

(c) An owner shall work with a political subdivision and owners of participating and nonparticipating properties to site wind turbines to minimize individual hardships

(d) The owner of a nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances in Table 1 for those structures to a minimum setback distance of 1 1 times the maximum blade tip height. The owner of a nonparticipating property may waive the applicable wind turbine setback distance in Table 1 from a nonparticipating property line.

(2) POLITICAL SUBDIVISION CRITERIA (a) A political subdivision may not establish long-term land use planning requirements or practices that preclude the construction of a particular type, or any type, of wind turbine or wind energy system within the political subdivision's jurisdiction, except as provided in s 66 0401 (4) (f) 2, Stats

(b) A political subdivision may not set height or setback distance limitations for a wind turbine near a public use airport or heliport that are more restrictive than existing airport and airport approach protection provisions under ss 114 135 and 114 136, Stats. If no provisions have been established for public use airports or heliports under s 114 135 or 114 136, Stats, the political subdivision may adopt wind turbine height or setback distance provisions that are based on, but not more restrictive than, the federal aviation administration obstruction standards in 14 CFR Part 77

(c) A political subdivision may set height or setback distance limitations for wind turbines near a private heliport at a medical

facility used for air ambulance service that are based on, but not more restrictive than, federal aviation administration obstruction standards that apply to public use heliports

(d) A political subdivision may not set height or setback distance limitations for a wind turbine near a private use airport or heliport except as provided in par (c)

History: CR 10-057; cr Register February 2011 No. 662, eff. 3-1-11.

PSC 128.14 Noise criteria. (1) **DEFINITIONS** In this section, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily

(2) **PLANNING** (a) The noise limits in this section apply at the outside wall of a nonparticipating residence or occupied community building that exists when the owner gives notice under s. PSC 128.105 (1) or for which complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date on which the owner gives notice under s. PSC 128.105 (1)

(b) An owner shall design the proposed wind energy system to minimize noise at a residence or occupied community building to the extent reasonably practicable

(c) An owner shall design a wind energy system to comply with the noise standards in this section under planned operating conditions

(3) **NOISE LIMITS** (a) Except as provided in par (b), subs (4) (c) and (5), an owner shall operate the wind energy system so that the noise attributable to the wind energy system does not exceed 50 dBA during daytime hours and 45 dBA during nighttime hours

(b) In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the owner shall promptly take corrective action to permanently eliminate the noise. This paragraph does not apply to sound the wind energy system produces under normal operating conditions

(4) **COMPLIANCE** (a) If an owner uses sound level measurements to evaluate compliance with this section at a nonparticipating residence or occupied community building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the nonparticipating residence or occupied community building. The owner may take additional measurements to evaluate compliance in addition to those specified by this section

(b) Upon receipt of a complaint regarding a violation of the noise standards in sub. (3) (a), an owner shall test for compliance with the noise limits in sub. (3) (a). A political subdivision or monitoring committee established under s. PSC 128.41 may not require additional testing to show compliance with sub. (3) (a) if the owner has provided the results of an accurate test conducted within 2 years of the date of the complaint showing that the wind energy system is in compliance with sub. (3) (a) at the location relating to the complaint

(c) Methods available for the owner to comply with sub. (3) shall include operational curtailment of one or more wind turbines. Upon receipt of a complaint about a noise under sub. (3) (b), the owner shall use operational curtailment to eliminate the noise until the owner permanently corrects the problem

(d) An owner shall evaluate compliance with sub. (3) (a) as part of pre- and post-construction noise studies. An owner shall conduct pre- and post-construction noise studies under the most current version of the noise measurement protocol as described in s. PSC 128.50 (2)

(5) **WAIVER** Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the owner of the wind energy system of the requirement to meet any of the noise limits in this section at the affected residence or occupied community building by written contract with the wind energy system owner

Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property, runs with the land until the wind energy system is decommissioned, and shall be recorded under ch. 706, Stats.

(6) **NOTIFICATION** (a) Before entering into a contract under sub. (5), an owner of a wind energy system shall provide written notice of the requirements of this section to the owner of an affected nonparticipating residence or occupied community building

(b) Before the initial operation of the wind energy system, an owner of a wind energy system shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within 0.5 mile of a constructed wind turbine that has not entered into a contract under sub. (5)

History: CR 10-057; cr Register February 2011 No. 662, eff. 3-1-11

PSC 128.15 Shadow flicker. (1) **PLANNING** (a) The shadow flicker requirements in this section apply to a nonparticipating residence or occupied community building that exists when the owner gives notice under s. PSC 128.105 (1) or for which complete publicly-available plans for construction are on file with a political subdivision within 30 days of the date on which the owner gives notice under s. PSC 128.105 (1)

(b) An owner shall design the proposed wind energy system to minimize shadow flicker at a residence or occupied community building to the extent reasonably practicable

(c) An owner shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a wind energy system and shall design the wind energy system so that computer modeling indicates that no nonparticipating residence or occupied community building will experience more than 30 hours per year of shadow flicker under planned operating conditions

(2) **SHADOW FLICKER LIMITS** An owner shall operate the wind energy system in a manner that does not cause more than 30 hours per year of shadow flicker at a nonparticipating residence or occupied community building. If a nonparticipating residence or occupied community building experiences more than 30 hours per year of shadow flicker under the wind energy system's normal operating conditions, the owner shall use operational curtailment to comply with this subsection

(3) **SHADOW FLICKER MITIGATION** (a) An owner of a wind energy system shall work with an owner of a nonparticipating residence or occupied community building to mitigate the effects of shadow flicker to the extent reasonably practicable

(b) An owner shall provide reasonable shadow flicker mitigation at the owner's expense for a nonparticipating residence or occupied community building experiencing 20 hours or more per year of shadow flicker

(c) An owner shall model shadow flicker and a nonparticipating residence or occupied community building is eligible for mitigation if computer modeling shows that shadow flicker at the nonparticipating residence or occupied community building will be 20 hours or more per year. An owner of a nonparticipating residence or occupied community building is not required to document the actual hours per year of shadow flicker if modeling indicates the nonparticipating residence or occupied community building is eligible for mitigation. A nonparticipating residence or occupied community building that experiences 20 hours or more per year of shadow flicker based on records kept by the resident of a nonparticipating residence or the occupant of an occupied community building shall also be eligible for mitigation

(d) An owner may provide shadow flicker mitigation for any residence or occupied community building in addition to the mitigation required under par (b).

(c) The requirement under par. (b) to mitigate shadow flicker applies when the owner receives a complaint or request for mitigation regarding shadow flicker for an eligible nonparticipating residence or occupied community building. If shadow flicker mitigation is required, the owner of the wind energy system shall allow the owner of the nonparticipating residence or occupied community building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the wind energy system owner's expense.

(4) **WAIVER** Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the wind energy system owner of a requirement under sub. (2) or (3) (b) at the affected nonparticipating residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property and runs with the land until the wind energy system is decommissioned, and shall be recorded under ch. 706, Stats.

(5) **NOTIFICATION** (a) Before entering into a contract under sub. (4), a wind energy system owner shall provide notice of the requirements of this section to individual owners of an affected nonparticipating residence or occupied community building.

(b) Before the initial operation of the wind energy system, a wind energy system owner shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within 0.5 mile of a constructed wind turbine that has not entered into a contract under sub. (4).

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.16 Signal interference. (1) **PLANNING** (a) Except as provided in sub. (4), the signal interference requirements in this section apply to commercial communications and personal communications in use when the wind energy system begins operation.

(b) A owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.

(c) An owner may not construct wind energy system facilities within existing line-of-sight communication paths that are used by government or military entities to provide services essential to protect public safety. A political subdivision may require an owner to provide information showing that wind turbines and other wind energy system facilities will be in compliance with this paragraph.

(2) **COMMERCIAL COMMUNICATIONS INTERFERENCE MITIGATION** An owner shall use reasonable and commercially available technology to mitigate interference caused by a wind energy system with commercial communications in use when a wind energy system begins operation. Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in sub. (4), an owner shall mitigate commercial communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

(3) **PERSONAL COMMUNICATIONS INTERFERENCE MITIGATION** (a) An owner shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a wind energy system begins operation caused by a wind energy system. A political subdivision may require an owner to use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial opera-

tion, if a wind energy system is causing the interference and the interference occurs at a location at least 0.5 mile from a wind turbine.

(b) Before implementing mitigation measures, the owner shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in sub. (4), an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

(4) **MITIGATION PROTOCOL** A political subdivision may, under a protocol established under s. PSC 128.50 (2), require an owner to implement a new mitigation solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under sub. (2) or (3) and for which the original mitigation solution implemented is only partially effective.

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11; correction in (1) (a) made under s. 13.92 (4) (b) 7, Stats., Register February 2011 No. 662.

PSC 128.17 Stray voltage. (1) **TESTING REQUIRED** (a) An owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within 0.5 mile of a wind energy system facility pursuant to the stray voltage protocol established by the commission before any wind energy system construction activity that may interfere with testing commences and again after construction of the wind energy system is completed, except as otherwise specified by commission staff under par. (b).

(b) Before any testing under par. (a) begins, an owner shall work with commission staff to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under par. (a) shall conduct or arrange to conduct all required testing at the expense of the owner.

(2) **RESULTS OF TESTING** An owner and the electric distribution company shall provide to commission staff the results of all stray voltage testing in writing.

(3) **REQUIREMENT TO RECTIFY PROBLEMS** An owner shall work with the electric distribution company and farm owner to rectify any stray voltage problems attributable to the construction and operation of the wind energy system, in compliance with the commission's stray voltage protocol.

History: CR 10-057; cr. Register February 2011 No. 662, eff. 3-1-11

PSC 128.18 Construction and operation. (1) **PHYSICAL CHARACTERISTICS** (a) An owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An owner may attach a safety feature or wind monitoring device to a wind turbine.

(b) An owner shall ensure that a wind turbine has a conventional or unobtrusive finish.

(c) An owner shall install lighting at a wind energy system that complies with standards established by the federal aviation administration. A political subdivision may not establish lighting requirements for a wind energy system that conflict with standards established by the federal aviation administration. A political subdivision may require use of shielding or control systems approved by the federal aviation administration to reduce visibility of lighting to individuals on the ground.

(d) An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel

(e) An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present

(f) An owner shall place appropriate warning signage on or at the base of each wind turbine

(g) An owner shall post and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the owner, and sufficient information to identify the location of the sign within the wind energy system. An owner shall post these signs at every intersection of a wind energy system access road with a public road and at each wind turbine location.

(h) An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions

(2) ELECTRICAL STANDARDS (a) An owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and ch PSC 114 and shall construct, maintain, and operate all wind energy system facilities in a manner that complies with the national electrical code

(b) An owner shall construct collector circuit facilities for a wind energy system underground to the extent practicable

(c) An owner shall establish an inspection schedule for all overhead collector circuits to ensure that third-party facilities, including cable television and telecommunications cables, are not attached or bonded to overhead collector circuit grounding. If third-party facilities are found attached to the overhead collector facilities, the owner shall ensure that the third-party facilities are promptly removed

(3) CONSTRUCTION, OPERATION, AND MAINTENANCE STANDARDS (a) An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition and in a manner that protects individuals from injury

(am) An owner shall minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land during the construction or decommissioning of the wind energy system. A political subdivision may establish reasonable requirements designed to minimize soil compaction, topsoil mixing and damage to drainage systems on agricultural land

(b) Except for the area physically occupied by the wind energy system facilities, an owner shall restore the topography, soils and vegetation of the project area to original condition after construction is complete, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements

(c) An owner shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation or decommissioning of the wind energy system and shall include turbine host property owners as additional insured persons on the policy

(4) EMERGENCY PROCEDURES (a) An owner shall notify a political subdivision of the occurrence and nature of a wind energy system emergency within 24 hours of the wind energy system emergency

(b) An owner shall establish and maintain liaison with a political subdivision and with fire, police, and other appropriate first responders serving the wind energy system to create effective emergency plans that include all of the following:

1. A list of the types of wind energy system emergencies that require notification under par (a)

2. Current emergency contact information for first responders and for the wind energy system owner, including names and phone numbers

3. Procedures for handling different types of wind energy system emergencies, including written procedures that provide for shutting down the wind energy system or a portion of the system as appropriate

4. Duties and responsibilities of the owner and of first responders in the event of a wind energy system emergency

5. An emergency evacuation plan for the area within 0.5 mile of any wind energy system facility, including the location of alternate landing zones for emergency services aircraft

(c) The owner shall review the emergency plan at least annually in collaboration with fire, police and other appropriate first responders to update and improve the emergency plan as needed

(d) The owner shall distribute current copies of the emergency plan to the political subdivision and fire, police and other appropriate first responders as identified by the political subdivision

(e) A political subdivision may require the owner to provide annual training for fire, police and other appropriate first responders regarding responding to a wind energy system emergency until the wind energy system has been decommissioned

(f) An owner of a wind energy system shall do all of the following:

1. Furnish its operator, supervisors and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures

2. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective

3. As soon as possible after the end of a wind energy system emergency, review employee activities to determine whether the procedures were effectively followed

History: CR 10-057; cr Register February 2011 No 662, eff 3-1-11

PSC 128.19 Decommissioning. **(1) REQUIREMENT TO DECOMMISSION** (a) An owner of a wind energy system shall decommission and remove the wind energy system when the system is at the end of its useful life

(b) A wind energy system is presumed to be at the end of its useful life if the wind energy system generates no electricity for a continuous 360-day period. This presumption may be rebutted under par (c)

(c) Upon application by the owner, and except as provided in par. (d), a political subdivision shall grant an extension of the time period for returning the wind energy system to service by one or more additional 180 day periods if the owner demonstrates it is likely the wind energy system will operate again in the future and any of the following occur:

1. The owner submits a plan to the political subdivision that demonstrates an ongoing good faith effort to return the wind energy system to service and outlines the steps and schedule for returning the wind energy system to service in a reasonable period of time, including by repairing, replacing or repowering the wind energy system facilities as necessary to generate electricity

2. The owner demonstrates that the wind energy system is part of a prototype or other demonstration project being used for ongoing research or development purposes

3. The owner demonstrates that the wind energy system is being used for educational purposes

(d) A political subdivision may deny a request for an extension under par (c) if the wind energy system has not generated any electricity for a continuous period of 540 days or more and the political subdivision finds that the owner is not capable of return-

ing the wind energy system to service within a reasonable period of time

(c) A wind energy system is irrebuttably presumed to be at the end of its useful life if the wind energy system generates no electricity for a period of 540 days and any of the following occur:

1 The owner does not request an extension of the time period for returning the wind energy system to service under par (c)

2 The political subdivision denies a request for an extension under par (d) and any appeal rights have expired

(f) When decommissioning is required, the owner shall begin decommissioning within 360 days after the wind energy system has reached the end of its useful life. The owner shall complete decommissioning and removal of the wind energy system within 540 days after the wind energy system has reached the end of its useful life

(2) **DECOMMISSIONING REVIEW** A political subdivision may establish a decommissioning review process to determine when a wind energy system has reached the end of its useful life

(3) **FINANCIAL RESPONSIBILITY** (a) The owner of a wind energy system with a nameplate capacity of one megawatt or larger shall maintain proof of the owner's ability to fund the actual and necessary cost to decommission the wind energy system and shall ensure the availability of funds necessary for decommissioning throughout the expected life of the wind energy system and through to completion of the decommissioning activities

(b) A political subdivision may require an owner of a wind energy system with a nameplate capacity of one megawatt or larger to provide financial assurance of the owner's ability to pay for the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities such as blasting or foundation construction at the wind energy system site. An owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for decommissioning throughout the expected life of the wind energy system and through to completion of the decommissioning activities

(c) A political subdivision may require an owner to provide the financial assurance under par (b) in an amount up to the estimated actual and necessary cost to decommission the wind energy system. If a political subdivision requires an owner to provide financial assurance under par (b), the political subdivision may do any of the following:

1 Require the owner to provide the political subdivision with up to 3 cost estimates of the actual and necessary cost to decommission the wind energy system that are prepared by third parties agreeable to the owner and the political subdivision

3 Require an owner to establish financial assurance that places the political subdivision in a secured position, and that any secured funds may only be used for decommissioning the wind energy system until either the political subdivision determines that the wind energy system has been decommissioned under sub. (5) (b), or until the political subdivision has otherwise approved the release of the secured funds, whichever is earlier

4 Require an owner to establish financial assurance that allows the political subdivision to access funds for the purpose of decommissioning the wind energy system if the owner does not decommission the wind energy system when decommissioning is required

(d) If a political subdivision requires an owner to provide cost estimates under par (c) 1, a political subdivision may not require the amount of the financial assurance to exceed the average of the cost estimates provided

(c) A political subdivision may condition its approval of a wind energy system on the owner's compliance with pars (b) and (c)

(f) During the useful life of a wind energy system, the political subdivision may periodically request information from the owner regarding the industry costs for decommissioning the wind energy system. If a political subdivision finds that the future anticipated cost to decommission the wind energy system is at least 10 percent more or less than the amount of financial assurance previously provided under par (b), the political subdivision may correspondingly increase or decrease the amount of financial assurance required for the wind energy system. A political subdivision may not adjust the financial assurance under this paragraph more often than once in a 5-year period

(g) A political subdivision may require an owner to submit to the political subdivision a substitute financial assurance of the owner's choosing under par. (b) if an event occurs that raises material concerns regarding the viability of the existing financial assurance

(4) **SITE RESTORATION** (a) Except as provided in par (b), if a wind energy system was constructed on land owned by a person other than the owner of the wind energy system, the owner of the wind energy system shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements

(b) If a wind energy system was constructed on a brownfield, as defined in s 560.13 (1) (a), Stats, the owner shall restore the property to eliminate effects caused by the wind energy system, except for the effects of environmental remediation activities, as defined in s 560.13 (1) (d), Stats

(5) **DECOMMISSIONING COMPLETION** (a) An owner shall file a notice of decommissioning completion with the political subdivision and the commission when a wind energy system approved by the political subdivision has been decommissioned and removed

(b) Within 360 days of receiving a notice of decommissioning, a political subdivision shall determine whether the owner has satisfied the requirements of subs (1) (a) and (4)

History: CR 10-057: cr Register February 2011 No. 662, eff 3-1-11

Subchapter III — Political Subdivision Procedure

PSC 128.30 Application and notice requirements.

(1) **APPLICATION REQUIRED** An owner shall file an application to construct a wind energy system with all political subdivisions with jurisdiction over the wind energy system

(2) **CONTENTS OF AN APPLICATION** An owner shall complete and file with the political subdivision an application that includes all of the following:

(a) Wind energy system description and maps showing the locations of all proposed wind energy facilities

(b) Technical description of wind turbines and wind turbine sites

(c) Timeline and process for constructing the wind energy system

(d) Information regarding anticipated impact of the wind energy system on local infrastructure

(e) Information regarding noise anticipated to be attributable to the wind energy system

(f) Information regarding shadow flicker anticipated to be attributable to the wind energy system

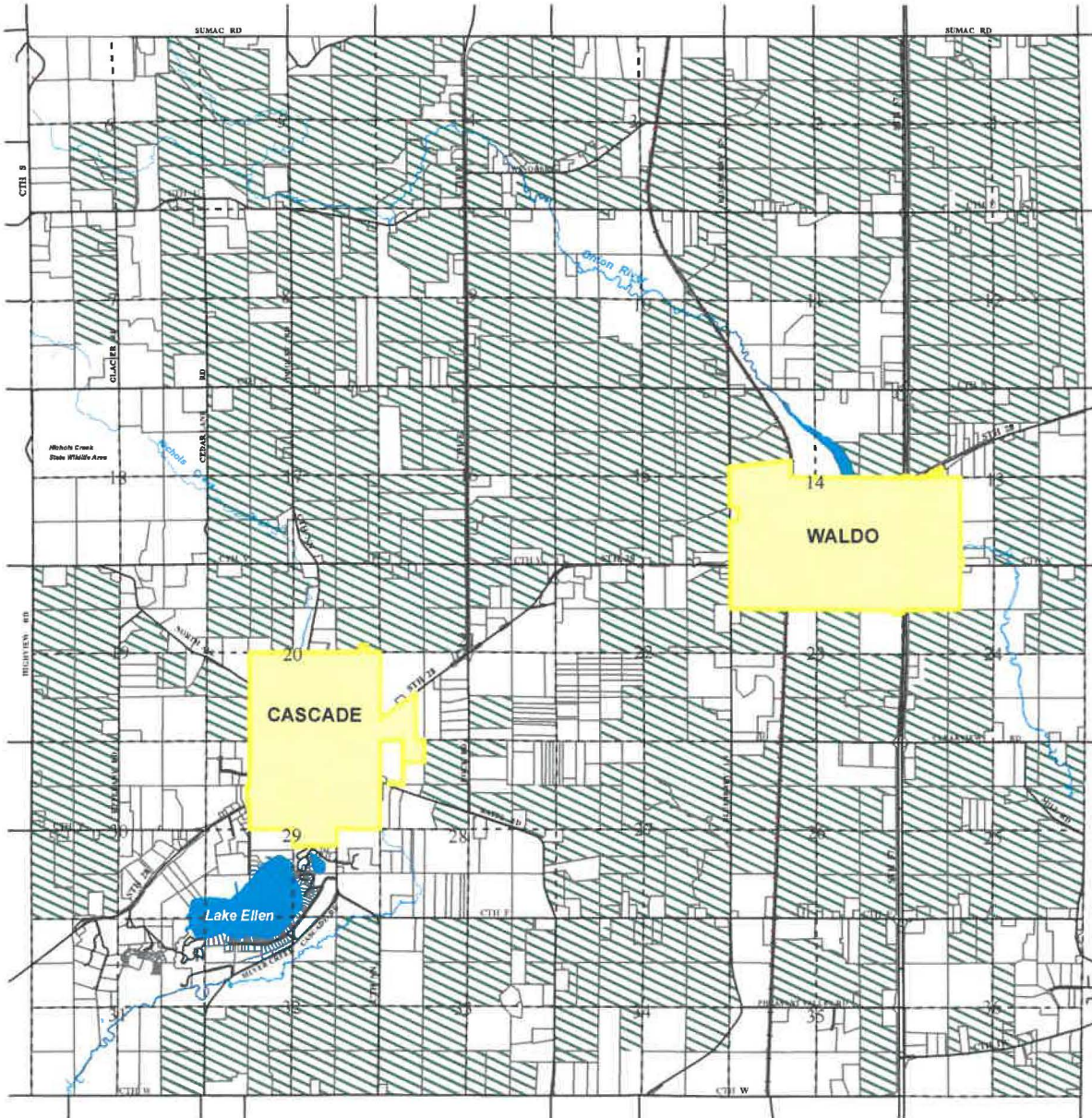
(g) Information regarding the anticipated effects of the wind energy system on existing land uses within 0.5 mile of the wind energy system

(h) Information regarding the anticipated effects of the wind energy system on airports and airspace






(i) Information regarding the anticipated effects of the wind energy system on line-of-sight communications

(j) A list of all state and federal permits required to construct and operate the wind energy system

FARMLAND PRESERVATION AREA (FPA) Town of Lyndon, Sheboygan County, WI



LEGEND

-  FPA adopted 11/9/17
-  Section lines
-  railroad
-  transmission tower
-  Parcel lines - Apr 2020

Map prepared by Sheboygan County Extension. FPA adopted by Town on 11/9/2017.
Only lands within the FPA can be zoned for farmland preservation.

Town of Lyndon, Sheboygan County, Wisconsin

**AN ORDINANCE CREATING SECTION 3.03 OF THE
MUNICIPAL CODE OF THE TOWN OF LYNDON
REGARDING PUBLIC NUISANCES**

WHEREAS, the Town of Lyndon has the authority to regulate public nuisances within the Town, pursuant to ss. 66.0407, 169.01 and ch. 823 of the Wisconsin Statutes and the Town's general authority to exercise village powers under s. 60.22, Wis. Stats.; and

WHEREAS, the Town Board has determined that regulating certain public nuisances, uses and activities described below would promote the public health, safety and welfare of the Town and its inhabitants;

NOW, THEREFORE, the Town Board of the Town of Lyndon does hereby ordain as follows:

Section 1. Creating Code Section. Section 3.03 of the Municipal Code of the Town of Lyndon is hereby created to read as follows:

3.03 Public Nuisances.

(1) Prohibited Activity. No person or entity shall cause, allow or permit any person or entity to create a public nuisance on premises owned, leased or controlled by that person or entity in the Town.

(2) Defined. The following are specifically declared to be public nuisances (which should not be construed to exclude other activities or uses from being considered public nuisances affecting public health, safety and order):

a. **Noises Disturbing the Public Peace.** Any noise tending to unreasonably disturb or annoy the peace and quiet of persons or normal sensitivities in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health and safety of some person.

b. **Accumulation of Matter.** Allowing an accumulation of decayed animal or vegetable matter, trash, rubbish, scrap lumber or metal, bedding or other waste material where flies, mosquitoes, insects, rats or other vermin are attracted.

c. **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliances or manner of operation, interferes with the effectiveness of any such device, sign or signal.

d. Fireworks. All use or display of fireworks except as provided by the laws of the State of Wisconsin.

e. Grass and Weeds. Lawns, grasses and noxious weeds on residentially zoned land which exceed eight inches in height, as these are determined to adversely affect the public health and safety of the public in that they tend to emit pollen and other discomfoting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interfere with the public convenience and adversely affect property values of other land within the Town, especially within densely populated areas.

f. Abandoned Refrigerators. All abandoned coolers, refrigerators and freezers from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(3) Enforcement. If any public nuisance described above becomes known to the Town, the following may be used to correct the violation:

a. Warning. Provision of a written warning to correct the violation in an appropriate amount of time.

b. Citation. Issuance of a municipal citation with a forfeiture of \$100.00 plus applicable court costs for each day the violation continues to exist. Penalties are doubled for second and subsequent offenses within two years.

c. Corrective Action. For violations of (2)e., above, the Town may cause said lawn, grass or weeds to be cut and the cost thereof assessed against the property as a special charge for current services pursuant to s. 66.0627, Wis. Stats., but only after the owner or tenant has been served with at least 5 days advance written notice to correct the violation, which includes the Town's intention to proceed with such corrective action.

d. Corrective Action. For violations of (2)f., above, the Town may cause said abandoned items to be removed and the cost thereof assessed against the property as a special charge for current services pursuant to s. 66.0627, Wis. Stats., but only after the owner or tenant has been served with at least 5 days advance written notice to correct the violation, which includes the Town's intention to proceed with such corrective action.

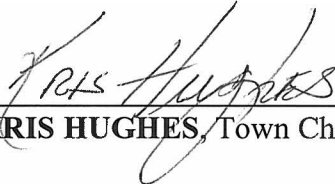
e. Equitable Relief. The Town may seek a court order or other equitable relief to enjoin violations.

Section 2. Severability. Should any portion of this Ordinance or the affected code sections be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

Section 3. Effective Date. This Ordinance shall take effect the day after publication or posting.

Enacted on: **August 12, 2020.**

TOWN OF LYNDON


By: 

KRIS HUGHES, Town Chair

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the Town Board of the Town of Lyndon on the date indicated above.

Dated: **August 12, 2020.**



Rhonda Klatt, Town Clerk/Treasurer

Published on August 21, 2020, and posted on August 17, 2020 by Rhonda J. Klatt, pursuant to s. 60.80, Wis. Stats.

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CHAPTER 13 DRIVEWAYS & ROADWAYS

13.1 Driveways

1. **Purpose:** The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification, enlargement or the reconstruction (collectively “construction”) of driveways in the Town to assure that the location of the driveway and the method of construction will promote the public health, safety and general welfare of the community, preserve agricultural land and productivity, and enforce the goals and policies set forth in the Town of Lyndon Ordinances. For the safety of the general public, the Town shall determine the location, size, use, construction and number of access points to public highways within the Town. This ordinance does not apply to re-surfacing, or the repairs of up to 12 square yards of existing driveways.

2. **Definitions:**
 - a. Agricultural land: Unimproved land on parcels zoned Agricultural or Conservancy in the Town of Lyndon.
 - b. Driveway: A private driveway, road, or other avenue of travel that runs through a parcel of land or that connects or will connect with any public roadway, but shall not include any field road lying outside of the right-of-way of a public highway.
 - c. Field Road: A road principally used for agricultural purposes or to access agricultural land.
 - d. Improvement: Applying a layer of pavement over existing driveway.
 - e. Private Road: A road on private property which is accessed by one or more driveways and which provides access to a public highway.
 - f. Public Highway: All public ways and thoroughfares, including without limitation, town roads and county and state highways.
 - g. Resurfacing: Applying additional layer of material over existing impervious surface.
 - h. Town Board: The Town Board of Lyndon.
 - i. Town Clerk: Clerk of the Town of Lyndon.

3. **New Driveway permit required:**
 - a. Permit requirement: No person or public or private entity shall construct a new driveway, road or other access from a property line to a public highway or to a private road without first filing an application for and obtaining a Driveway Construction Permit from the Town of Lyndon.
 - b. Application: Application for a Driveway Construction Permit shall be made in writing to the Town Clerk or Zoning Administrator. The application shall contain

a sworn statement that the application is true and accurate. The application shall include the following information as may be needed:

- i. A map or diagram identifying the slopes on the property.
 - ii. A copy of any erosion control plan required by Sheboygan County.
 - iii. A Driveway Construction Plan consisting of a drawing or diagram showing the following information:
 1. The length and width of proposed driveway, and turning radius of all curves of the driveway.
 2. The relationship of the driveway to property lines, structures and existing private and public highways.
 3. The location and size of any culverts.
 4. Provisions for passing lanes, parking, and turnarounds.
 5. All slopes of the driveway.
 6. The location and structure of any retaining walls.
 7. A cross section of the driveway
 - iv. State and County permits where applicable
 - v. Any other information relevant to the application that is required by the Town of Lyndon.
- c. Application fee: The applicant shall pay a non-refundable fee as set in the fee schedule at the time of making the application for a Driveway Construction Permit
- d. Application fee: The applicant shall pay a non-refundable fee as set in the fee schedule at the time of making the application for a Driveway Construction Permit.
- e. Review: Upon filing of the complete application and application fee with the Town Clerk, the application shall be reviewed in a reasonable amount of time as follows:
- i. The Zoning Administrator may issue the Driveway Construction Permit or, if the Zoning Administrator in his/her discretion determines that the application presents issues that should be resolved by the Plan Commission and the Town Board, schedule a meeting on the application before the Town Plan Commission.
 - ii. If requested by the Zoning Administrator, the Town Plan Commission shall hold a meeting on the application.
 - iii. After the Plan Commission holds the meeting on the application, it shall recommend approval, conditional approval, denial or tabling of the application.
 - iv. Once the Plan Commission has made a recommendation on the application, the Town Board shall consider the application and at its sole discretion, approve, conditionally approve or deny the application. If the Town Board approves the application, the Zoning Administer shall issue a Driveway Construction Permit. If the Town Board conditionally

approves the application, the Zoning Administrator shall issue a Driveway Construction Permit once the conditions of the approval have been fulfilled.

- f. Permit Period: The Driveway Construction Permit is effective for 12 months from the date of issuance. Driveways not completed by this time must have a new permit to continue construction.
- g. Driveway Inspection: The holder of the Driveway Construction Permit shall notify the Town Zoning Administrator within 30 days of completion of the construction. Within 30 days of notification, the Town Zoning Administrator shall conduct an inspection of the driveway to ensure full compliance with all of the provisions of this Ordinance.
- h. Building Permits: No Building Permits for new residential construction shall be issued until a Driveway Construction Permit has been approved.

4. Specifications for construction of driveways:

- a. Slope: No land with a slope of more than 25% measured over a minimum distance of 20 feet slope be disturbed for the construction of the driveway.
- b. Width: Driveways less than 300 feet long shall be constructed with a minimum of 12 feet in width, those 300 feet or greater shall have a minimum of 18 feet of road surface and none shall exceed 24 feet in width. Instances where the nature of a commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board in its discretion may permit a driveway of additional width.
- c. Culverts: Each driveway shall have a steel or concrete culvert at least 15 inches in diameter at the ditch line where the driveway meets the public or private road, unless modified by the Zoning Administrator. The culvert length and type will be determined by the Zoning Administrator.
- d. Juncture with Public Road: A length of driveway a minimum of 24 feet shall have a maximum of 5% slope at the point where the driveway enters onto a highway or private road. A slight dip (6 inches lower than the road surface) across the drive shall be placed just before the culvert at the entrance to a public highway or private road to prevent water and debris from washing onto the public highway or private road.
- e. Drainage: Ditches along the right-of-way, roadway crowning, and culverts shall be provided by the property owner for acceptable drainage. The driveway shall be planned, constructed, and maintained in a manner that prevents diversion of surface water onto the public road and the lands of other persons.
- f. The sidebanks shall be graded to a slope of no more than 1 foot of vertical rise in each 2 feet of horizontal distance. Excluded from this grading requirement are driveways for which retaining walls and/or other erosion control measures

are installed as specified in the Driveway Plan approved by the Town Board. The sidebanks shall be constructed using earthen materials.

- g. Radius of Curves: Curves in the driveway shall have an inside radius of no less than 48 feet.
- h. Erosion Control: Once the construction of the driveway has begun, all specified erosion controls, including retaining walls, ditching, culverts, crowning, mulching, matting, and bank seeding, shall immediately. For winter construction, erosion alternatives must be implemented immediately until specified controls are available.
- i. Substrata: The driveway shall have at least 4 inches of 3-to-4-inch rock on the roadbed, covered with 2 inches of 3/4-inch gravel. If it can be shown there is a suitable base, the provision requiring 4 inches of 3-to-4-inch rock may be modified or waived by the Zoning Administrator. A Field road is exempted from this provision.
- j. Clearance for Emergency Vehicles: An area 12 feet from the center line of the driveway and a minimum of 14 feet in height shall be maintained free of obstructions to permit safe passage of emergency vehicles. In cases where such clearing would be environmentally damaging the Zoning Administrator may waive the restrictions only with written approval of the local fire department.
- k. All premises, public or private, which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads and fire lanes so that all buildings on the premises are accessible to fire and emergency vehicles.
- l. Adequate turnaround at residences for ambulance or fire equipment to be able to drive out instead of backing out. Dead-end roads: Any dead-end road more than 300 feet long shall provide a turn-around at the closed end of the roadway. Turnaround can be T-type or hammerhead, 100 foot diameter cul-de-sac or curved driveway.
- m. Costs: All costs of construction of said driveway, including the cost of culverts and Driveway Plan, if required, shall be paid by the owner requesting the permit.
- n. Joint Driveways: Joint driveways will not be permitted without prior review and specific approval by the Town Board of the legally recorded Joint Driveway Agreement establishing the proposed joint driveway and the manner of its construction, maintenance and use.
- o. General Design: A driveway shall be such width and so located that all such driveway is within the limits of the public highway or private road fronting on the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the public highway required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the public

highway or private road as determined by the zoning Administrator. Driveway approaches shall be at least twenty (20) feet apart and there shall be at least ten (10) feet from the edge of the driveway to the property line except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

- p. More than one driveway: There shall be no more than one driveway to serve individual residential or commercial property fronting on a street, except where deemed necessary and feasible in the sole discretion of the Town Board or designee for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.
- q. Driveways intended to serve two or more lots for residences; commercial establishments or any other purposes shall meet the specifications set forth under REQUIRED ROAD RIGHT-OF-WAYS AND ROAD SURFACES of the Town of Lyndon Ordinance.
- r. Waiver of Specifications: Any specifications in this ordinance may be waived or modified by the Town Board if it determines the specification would impose an unnecessary hardship. Any request by an applicant for a waiver or modification of any provision in this Ordinance must accompany the initial application and must state the reason for the request. The Board may require written approval from the local fire department.
- s. Town Approval: The Town's approval of a Driveway Construction Permit application does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for the public. No person may rely on the issuance of a permit to determine that a driveway is fit for any purpose.

5. Existing driveways:

- a. Permit requirement: No person or public or private entity shall improve a driveway, road or other access from a property line to a public highway or to a private road without first filing an application for and obtaining a Driveway Improvement Permit from the Town of Lyndon.
- b. Hazardous Conditions: When washing or other conditions created by existing driveways or field roads obstruct or become a potential hazard to a public highway or private road, the Town Board shall notify the property owner of the conditions. Any property owner failing to correct such condition within 30 days after notice by the town Board shall be subject to the penalties described in the penalty section of this ordinance.
- c. Conform to Ordinance: In the event that a residential dwelling located on property served by an existing driveway is reconstructed or razed and a new dwelling is constructed, the existing driveway shall be made to conform to the requirements of this Ordinance. If a structure is added or repaired in excess of \$50,000.00 in value, any existing driveway shall be made to conform to the requirements of this Ordinance.

6. **Field roads:** Field Roads shall access public highways only at locations approved by the Zoning Administrator or Town Board.
7. **Penalties/Forfeitures:** Should a driveway be constructed or modified in violation of the provisions of this Ordinance, or create a hazard that is not corrected within 30 days of notification, the owner(s) of the land through which the driveway passes shall pay a forfeiture of up to \$100.00 per violation. Each day the violation continues to exist shall constitute a separate offense. A driveway that is constructed in violation of this Ordinance constitutes a public nuisance and may be enjoined.
8. **Agricultural productivity:** No driveway shall be approved in the Town of Lyndon if the Town Board finds that the driveway will adversely affect productive agricultural land, unless the Town Board finds that the driveway is necessary to enhance the agricultural productivity of an adjacent parcel. Under any circumstance, the Town Board shall approve a driveway with the least impact on agricultural land.

13.2 Roads

1. **Purpose:** The purpose of this Ordinance is to regulate the required road rights-of-way and road surfaces of minimum width on private roads and private drives in the Town of Lyndon for access to public highways and to provide for liability for failure to properly maintain private roads and private drives.
2. **Required road rights-of-way and road surfaces:**
 - a. Anyone who subdivides real estate in the Town of Lyndon so as to create two (2) or more lots for residences, commercial establishments or any other purpose on a private drive or private road shall provide for a minimum 66 foot wide, road right of way and a minimum 20 foot wide, cleared, road surface for access to a public highway.
 - b. Anyone who creates or extends the use of a private road or private drive in the Town of Lyndon for use by one (1) or more residences, commercial establishments or any other purposes, either by sole ownership, joint ownership, easement, or in any other manner, shall provide a minimum 66 foot wide, road right of way and a minimum 12 foot wide, cleared, road surface in the case of one (1) residence, commercial establishment or other purpose and a minimum 20 foot wide, cleared, road surface in the case of two (2) or more residences, commercial establishments or other purposes, for access to a public highway.

- c. Anyone who constructs a residence, commercial establishment or any other structure on an existing lot in the Town of Lyndon, on a private road or private drive, so as to require a building permit, shall provide a minimum 66 foot wide, road right of way and a minimum 12 foot wide, cleared, road surface for access to a public highway. An area 12 feet from the center line of the driveway and a minimum of 14 feet in height shall be maintained free of obstructions to permit safe passage of emergency vehicles. In cases where such clearing would be environmentally damaging the Zoning Administrator may waive the restrictions only with written approval of the local fire department.
 - d. Anyone who subdivides real estate in the Town of Lyndon so as to create one (1) lot for a residence, commercial establishment or any other purpose on a private drive or private road either by sole ownership, joint ownership, easement, or in any other manner, and anyone who constructs a residence, commercial establishment or any other structure in the Town of Lyndon on an existing lot, so as to require a building permit, shall provide a minimum 66 foot wide road right of way and a minimum 12 foot wide, cleared, road surface for access to a public highway.
 - e. In the event anyone creates, extends or extends the use of a private road or private drive in the Town of Lyndon for use by one (1) or more residences, commercial establishments or any other purposes, either by sole ownership, joint ownership, easement, or in any other manner, which is located on or near a previously existing private road or private drive, shall provide a minimum 66 foot wide road right of way on the extended part of the private drive or private road and a minimum 12 foot wide, cleared, road surface in the case of one (1) residence, commercial establishment or other purpose, and a minimum 20 foot wide, cleared, road surface in the case of two (2) or more residences, commercial establishments or other purposes, on the entire private road or private drive, for access to a public highway, but shall not be required to provide a minimum 66 foot wide right of way on the previously existing private road or private drive.
3. **Liability:** Anyone who owns real estate on a private road or private drive in the Town of Lyndon shall maintain that private road or private drive in such a fashion as to permit the entrance and exit of emergency vehicles and emergency persons. In the event any emergency vehicle is damaged or emergency person is injured as a result of the failure of the resident to properly maintain the private road or private drive shall be liable for any damage to emergency vehicles or injury to emergency persons caused by such failure.

13.3 Minimum Town Road Design Standards

1. **Definitions:**
 - a. Approach: that portion of road extending 100 feet on each side of a culvert or bridge.
 - b. Base Course: the supporting base material of the roadway, including shoulder.
 - c. Drainage: the gradual drying of highway by system of ditches, trenches, channels, etc.
 - d. Grade: the rate of ascent or descent of roadway.
 - e. Highway: the road or way over which the public generally has a right to pass, to include the complete right-of-way.
 - f. Road Bed: the whole material laid in place and ready for travel.
 - g. Roadway: the traveled portion of the highway.
 - h. Surface ½: the top of the roadway, or traveled surface.

2. **Applicability:** This ordinance shall be applicable to all highways laid out by the Town Board after adoption of this ordinance, including any highways dedicated in plats for proposed subdivisions submitted for review pursuant to 236 of Wisconsin Statutes, any private highways being donated to the town, and any other highways being accepted by the town as public highways in the town.

3. **Minimum road design standards:** The following minimum design standards shall apply under this ordinance:
 - a. All town highways shall be classified as local roads unless designated by the town as collector or arterial.
 - b. The classification of all roads under this ordinance shall be within the complete discretion of the town board considering such factors as traffic count, character of anticipated traffic, and relation of highway to traffic patterns within the town and other highway systems.
 - c. It is intended that local roads are those with the lowest traffic count, with access to private property as principal function.
 - d. Collector highways are intended to be highways acting as collectors from local roads to higher priority roads or developed areas.
 - e. Arterials are intended to serve as corridors through the town serving intra-regional and inter-area traffic movement.

	Residential		Commercial/Industrial	
	With C/G*	Without C/G*	With C/G*	Without C/G*
Minimum R.O.W.	66'	66'	66'	66'
Minimum width of base course (including curb, gutter or shoulders)				
Local	30'	28'	32'	32'
Collector	32'	32'	40'	50'
Arterial	40'	34'	40'	50'
Minimum width - surfacing				
Local	30'	20'	32'	24'
Collector	32'	22'	40'	30'
Arterial	40'	24'	48'	48'
Maximum grade (percent)				
Local**	10	10	8	8
Collector**	8	8	6	6
Arterial**	6	6	6	6
Minimum radius of horizontal curve (in feet)				
Local	100	100	200	200
Collector	100	100	200	200
Arterial	300	300	400	400
Corner radius at intersections	15'	30'	15'	30'
Minimum length of vertical curve				
Local	100', but not less than 20' for each algebraic difference in grade			
Collector	200', but not less than 50' for each one percent			
Arterial	300', but not less than 50' for each algebraic difference in grade			
Minimum length of tangents between reverse curves (in feet)				
Local	100	100	200	200
Collector	100	100	200	200
Arterial	200	200	300	300
Minimum sight distance (in feet)				
Local	200	200	200	200
Collector	250	250	250	250
Arterial	300	300	300	300
Design speed (miles per hour)				
Local	30	30	30	30
Collector	35	35	35	35
Arterial	40	40	40	40
Cul-De-Sacs (permanent)				
Maximum Length:	Maximum desirable length of roads with cul-de-sacs is 1,000 feet. Through roads are most desirable.			
Minimum R.O.W. Radius at Cul-de-sac (in feet)				
Local	60	60	60	60
Minimum Base Course Radius (in feet)				
Local	40	42	40	42
Minimum Pavement Radius (in feet)				
Local	40	40	40	40

*C/G means curb and gutter

**Minimum Grade .5

Base Course. Base course must be of a quality, thickness, and composition suitable for the location and be a minimum of 9 inches.

Surface Course. Surface course must consist of either asphalt concrete or bituminous concrete composition suitable for anticipated traffic loads. The minimum amount of pavement necessary for acceptance must be at least 2 ½ inches in thickness.

Ditching and Culverts. The ditching of the roadway must be complete and have proper elevation to provide for adequate drainage. Any culverts necessary for proper drainage shall be installed after elevation and location is obtained from the Town of Lyndon. The minimum length of any culvert installed in a road bed shall be at least two feet greater than the base course width. Apron end walls shall be used. The diameter and length will be subject to the approval of the Town of Lyndon, after the amount of the flowage is determined. In no case shall the culver be less than 24 inches in diameter.

Bridges. All bridges shall meet the minimum requirements of state and federal law. In the even it is decided by the Town Board, that the construction of a bridge would be of a size and cost; that it would create a hardship to the owner of land, required to build said bridge, then the Town Board may proceed to accept the road, complete as required above, except that part extending 100 feet on each side of said bridge. This portion of the road shall be known as the approach. The approach will be accepted incomplete, with the reservation that the town will bill back to the owner a portion of the cost of construction of such bridge. The Town will proceed to build said bridge and approach with the help of bridge aid if available, and bill the balance not covered by the aid or portion back to the owner.

4. **Authority for higher standards.** The road design standards in Section 3 as state above are intended to be minimum design standards. The Town Board shall have the discretion to impose higher design standards where in the opinion of the Town Board local conditions require higher standards or anticipated traffic in quantity or quality will require higher standards.
5. **Application for determination of applicable standards.** Any person may apply to the Town Board to determine what design standards should apply in a particular location, giving the description of the proposed highway and proposed design standards being requested to be approved for any proposed highway being proposed to be built. No person shall commence construction of any highway anticipated to be turned over to the town without having written approval of the proposed highway design signed by the Town Board.
6. **Final inspection and acceptance by the Town Board.** Upon completion of the proposed highway, the Town Board will proceed to make the final inspection, accepting or rejecting the highway as the case may be in the discretion of the Town Board. If the highway is rejected, then corrections must be made as stated by the Town Board before final inspection will be made again. If the final acceptance is made by the Town Board, the owner or owners will turn over to the Town, a

warranty deed free and clear of any liens necessary to convey free and clear title to the Town for the highway.

7. **Penalty.** As listed in the ordinance book.
8. **Effective Date.** This ordinance shall be effective upon its passage, posting and publication according to law.

Adopted this 9th day of September, 2009

Amendments approved and adopted this 14th day of April, 2021