

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.

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 Nonconforming Lots:

In any residential or agricultural district, a one-family detached dwelling 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.

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 parcel excludes 20,000 square feet (just under one-half acre) as the “house area.”
2. Any part of the parcel 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.

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 deckline 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:

An animal confinement facility used or designed for the feeding or holding of 1,000 or more animal units for a period of 30 days or more.

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.

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 Resource 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.)

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 detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

Dwelling, Detached:

A dwelling entirely surrounded by open space on the same lot.

Dwelling, Multiple-Family:

A dwelling containing three or more dwelling units.

Dwelling, Single-Family:

A dwelling containing one dwelling unit either attached, semi-attached, or detached, not including 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 contiguous land under common ownership 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:

1. A single-family residence that is the only residential structure on the farm or is occupied by any of the following:
 - a. An owner or operator of the farm.
 - b. A parent or child of an owner or operator of the farm.
 - c. An individual who earns more than 50 percent of his or her gross income from the farm.
2. 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.

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.

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 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, 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.

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 dwelling is the principal structure in the A-1-S, A-2, A-3, A-5, and "R" Zoning Districts.

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.

Retirement Home:

A building or institution for the accommodation of elderly persons, with or without nursing or medical care, provided that if such nursing or medical care is to be provided on a continuing basis for at least 3 persons during not less than 72 hours in each week, such building or institution shall be classified as a nursing home.

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.

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.

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.

Use, Principal:

The main use of land or building as distinguished from a subordinate or accessory 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 Personal Wireless Service Facilities

A. Title:

This Ordinance shall be known and cited as the “Personal Wireless Service Facilities Siting Ordinance: of the Town of Lyndon, Sheboygan County, Wisconsin, (hereafter referred to as the “Siting Ordinance”).

B. Authority:

This Ordinance is adopted pursuant to the enabling provisions of Chapter 60, subchapter VIII; and Wis. Stat. § 61.35 and 62.23.

C. Premises:

1. Section 704 of the Telecommunications Act of 1996, 47 U.S.C. § 332 (c) (7) (the “Act”) governs federal, state and local government oversight of siting of Personal Wireless Service Facilities (as herein defined).
2. The Act provides that:
 - a. The Town shall not unreasonably discriminate among providers of functionally equivalent services; and shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
 - b. The Town shall act on any request for authorization to place, construct, or modify Personal Wireless Service Facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.
 - c. Any decision by the Town to deny a request to place, construct, or modify Personal Wireless Service Facilities shall be in writing and supported by substantial evidence contained in a written record.
 - d. The Town shall not regulate the placement, construction, and modification of Personal Wireless Service Facilities on the basis of the environmental effects of radio frequency emissions to the extent that such Facilities comply with the regulations of the Federal Communications Commission (“FCC”) concerning such emissions.

3. The Zoning Ordinance for the Town of Lyndon was adopted before enactment of the Act, and therefore the Ordinance does not include siting standards in conformity with the Act.
4. Unregulated siting of Personal Wireless Service Facilities in the Town may adversely affect and cause irreparable harm to the public health, welfare, safety and property values.

D. Definitions:

1. “Antenna” means an implement or device designed and constructed primarily to receive and transmit radio signals necessary to Personal Wireless Services.
2. “Antenna Array” means a grouping of one or more antennae.
3. “Co-location” means the use of a Personal Wireless Service Facility by more than one wireless telecommunications provider.
4. “Designated Scenic Resource” means that specific location, view, or corridor, as identified as a scenic resource in the Town’s Comprehensive Plan or by State or Federal agency that consists of:
 - a. a three-dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or
 - b. lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area
5. “Expansion” means the addition of antennas, towers, other devices, or height to an existing structure.
6. “FAA” means the Federal Aviation Administration, or its lawful successor.
7. “FCC” means the Federal Communications Commission, or its lawful successor.
8. “Height” means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.
9. “Historic or Archaeological Resources” means resources that are:
 - a. listed individually in the National Register of Historic Places or eligible for listing on the National Register;
 - b. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
 - c. individually listed on the Wisconsin Register of Historic Places as defined in Wis. Stat. § 44.36, as amended;
 - d. individually listed on a list of locally designated historic places as defined in Wis. Stat. § 44.45, as amended; or
 - e. areas identified by a governmental agency such as the Wisconsin Historical Society as having significant value as an historic or archaeological resource and any areas identified in the Town’s Comprehensive Plan, which have been listed or are eligible to be listed on the National or Wisconsin Register of Historic Places or list of locally designated historic place
10. “Historic District” means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the Town’s Comprehensive Plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

11. “Historic Landmark” means any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the Town’s Comprehensive Plan, which have been listed or are eligible to be listed on the National or Wisconsin Register of Historic Places or list of locally designated historic places.
12. “Line of sight” means the direct view of the object from the designated scenic resource.
13. “Parabolic Antenna” (also known as a satellite dish antenna) means an antenna, which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.
14. “Permitee” means the person to whom the Town issues a Siting Conditional Use Permit, and that person has permitted successors and assigns. To the extent the Permitee does not own all or part of a Personal Wireless Service Facility, the term “Permitee” shall apply to such other owner or owners.
15. “Personal Wireless Services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.
16. “Personal Wireless Service Facilities” or “Facilities” means facilities for the provision of personal wireless services.
17. “Principal Use” means the use other than one that is wholly incidental or accessory to another use on the same premises.
18. “Public Recreational Facility” means a navigable stream, natural navigable lake, publicly owned or administered park, playground, trail, county or state forest or scientific area, as defined and identified either by Wisconsin statute or regulation or in the Town’s adopted Comprehensive Plan, designed to serve the recreational needs of the public.
19. “Qualified Engineer” means a professional engineer registered in Wisconsin or any state or territory of the United States and holding a baccalaureate or higher degree in electrical engineering from a college or university accredited by the Engineering Accreditation Commission of the (USA) Accreditation Board for Engineering and Technology (EAC/ABET) and appearing on the reference list of Educational Programs of the Institute of Electrical and Electronics Engineers, Inc. (IEEE).
20. “Siting Conditional Use Permit” means a conditional use permit issued pursuant to the procedures, terms and conditions of this Siting Ordinance.
21. “Support Structure” means a structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower, and other similar structures.
22. “Targeted Market Coverage Area” means the area that is targeted to be served by this proposed Personal Wireless Service Facility.
23. “Unlicensed Wireless Service” means the offering of Personal Wireless Services using duly authorized devices that do not require individual licenses, but does not mean the provision of direct-to-home satellite services.
24. “Unreasonable Adverse Impact” means that the proposed project would produce an end result which is:
 - a. excessively out-of-character with the Public Recreational Facility or viewpoint affected, including existing buildings structures and features within a Public Recreational Facility or Viewpoint, and
 - b. would significantly diminish the scenic value of the Public Recreational Facility or Viewpoint
25. “Viewpoint” means a location identified either in the Town’s adopted Comprehensive Plan or by a federal or Wisconsin agency, and which serves as the basis for the location and determination of a particular scenic resource.

E. Applicability:

This local land use ordinance applies to all construction and expansion of Facilities, except as provided in subsection F.

F. Exemptions:

1. The following are exempt from the provisions of this ordinance:
2. Emergency Facilities. Temporary wireless communication facilities for emergency communications by public officials.
3. Amateur (Ham) Radio Stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
4. Satellite Antenna. Satellite antennas less than two feet in diameter, as provided in Wis. Stat. § 60.61 (3c), as amended.
5. Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

G Review and Approval Authority:

1. No person shall construct or expand a Facility without first obtaining a Siting Conditional Use Permit.
2. The Plan Commission shall review all applications 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 Facility; traffic conditions on public highways serving the site, and any other factors consistent with the requirements of this 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.
3. The Town Board, in its discretion, may authorize the Town Clerk to issue a Siting Permit after review of the Plan Commission recommendation and public hearing, consistent with the requirements of this Ordinance in the interests of the public health, welfare, safety and property values.
4. Applications. Applications for a Siting Conditional Use Permit shall be filed with the Town Clerk and shall include the following materials and information:
 - a. documentation of the applications right, title, or interest in the property where the Facility is to be sited, including the name and address of the property owner and the applicant
 - b. a copy of the FCC license for the Facility or certification by the applicant attesting that the Facility complies with current FCC regulations
 - c. a USGS 7.5 minute topographic map showing the location of all structures greater than 50 feet in height and Facilities within the greater of the proposed signal propagation area or a 5-mile radius of the proposed Facility, unless this information has been previously made available to the Town. This requirement may be met by submitting current information (within 30 days of the date the application is filed) from the FCC Tower Registration Database
 - d. a site plan prepared and certified by a Qualified Engineer indicating the location, type, and height of the proposed Facility, primary and co-location antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes
 - e. certification by a Qualified Engineer that the proposed Facility complies with all FCC standards for radio emissions
 - f. a boundary survey for the lot on which the Facility is proposed to be located, performed by a professional engineer or land surveyor licensed by the State of Wisconsin
 - g. the following bearing on the feasibility of co-location of the proposed Facility:
 - [1] a propagation map of the area proposed to be covered under the application, certified by a Qualified Engineer

- [2] a co-location feasibility analysis pertaining to the area shown on said propagation map, under the design configuration most accommodating to co-location, including a survey of all existing structures that may be feasible sites for co-locating a Facility
 - [3] written requests to, and by, owners of all such existing structures for their use as co-location sites
- h. a scenic assessment, consisting of the following:
- [1] elevation drawings of the proposed Facility, and any other proposed structures, showing height above ground level;
 - [2] a landscaping plan indication the proposed placement of the Facility on the site; location of existing structures, trees, and other significant site features; the type and location of the plants proposed to screen the Facility; the method of fencing, the color of the structure, and the proposed lighting method
 - [3] photo simulations of the proposed Facility taken from perspectives determined by the Town Board, or their designee, during the pre-application conference; each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph; the photos must show the color of the Facility and method of screening
 - [4] a narrative discussing:
 - (a) the extent to which the proposed Facility would be visible from or within a Public Recreational Facility or Viewpoint
 - (b) the tree line elevation of vegetation within 100 feet of the Facility
 - (c) the distance to the proposed Facility from the Public Recreational Facility or Viewpoint
 - [5] a written description of how the proposed Facility fits into the applicant's telecommunications network; this submission requirement does not require disclosure of confidential business information
 - [6] evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed Facility, the evidence for which may consist of any one or more of the following:
 - (a) evidence that no existing Facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements
 - (b) evidence that existing Facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements
 - (c) evidence that existing Facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment, specifically:
 - i. planned, necessary equipment would exceed the structural capacity of the existing Facility, considering the existing and planned use of those Facilities, and these existing Facilities cannot be reinforced to accommodate the new equipment
 - ii. the applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing Facility would cause interference with the applicant's proposed antenna
 - iii. existing or approved Facilities do not have space on which planned equipment can be placed so it can function effectively
 - (d) for facilities existing prior to the effective date of this Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing Facility are unreasonable; costs exceeding the pro rata share of a new Facility development are presumed to be unreasonable; this evidence shall also be satisfactory for a tower built after the passage of this ordinance
 - (e) evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing Facility, building, or structure, and has been denied access
- i. identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470 w (5); 36 CFR 60 and 800) or list of locally designated historic places (see Wis. Stat. § 44.45)

- j. location map and elevation drawings of the proposed Facility and any other proposed structures, showing color, and identifying structural materials
- k. for proposed expansion of a Facility, a signed statement that commits the Permittee, and his or her successors in interest to:
 - [1] respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual costs of preparing a response
 - [2] negotiate in good faith for shared use by third parties
 - [3] allow shared use if an applicant agrees in writing to pay reasonable charges for co-location
 - [4] require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles; this charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference
- l. a signed statement stating that the Permittee and his or her permitted successors and assigns agree to:
 - [1] respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response
 - [2] negotiate in good faith for shared use of the Facility by third parties
 - [3] allow shared use of the Facility if an applicant agrees in writing to pay reasonable charges for co-location
 - [4] require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles; this charge may include but is not limited to a pro rata share of the of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference; the amortization of the above costs by the Facility owner shall be accomplished at a reasonable rate, over the useful life span of the Facility
- m. a form of surety approved by the Town Board to pay for the costs of removing the Facility if it is ceased to be used as a Personal Wireless Service Facility
- n. evidence that a notice of the application has been published in a local newspaper of general circulation in the community
- o. The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et Seq. (47CFRCh.I).
 - [1] The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:
 - (a) wilderness areas
 - (b) wildlife preserves
 - (c) endangered species habitats
 - (d) historical sites
 - (e) Indian religious sites
 - (f) floodplains
 - (g) wetlands
 - (h) high intensity white light in residential neighborhoods
 - (i) excessive radio frequency radiation exposure
 - [2] At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC.

5. Waiver: The Town Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Plan Commission finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.
6. Fees:
 - a. An application shall include payment of an administrative application fee as set forth in the fee schedule. The application shall not be considered complete until this fee is paid. The Town shall refund the fee if the applicant withdraws its application 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 applicant within 20 calendar days following receipt by the Town of written notice of withdrawal.
 - b. Professional Review Fee: An applicant shall pay all reasonable and customary professional fees, including without limitation, engineer and attorney fees, estimated by the Town as necessary to review the application 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 applicant within 20 days of the Town Board's decision.
7. Notice of Complete Application:
 - a. Upon receipt of an application, the Town Clerk shall provide the applicant with a dated receipt. Within 5 working days of receipt of an application the Town Clerk shall review the application and determine if the application 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 application.
 - b. If the Town Clerk determines the application is complete, the Town Clerk shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the Plan Commission.
 - c. If the Town Clerk determines the application is incomplete, the Town Clerk shall notify the applicant in writing, specifying the additional materials or information required to complete the application.
 - d. If the Town Clerk determines the application is complete, the Town Clerk 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 G.8., that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Plan Commission meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.
8. Plan Commission Review and Recommendation: Plan Commission, at its next regular meeting for 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 the application and make a recommendation to the Town Board.
9. 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.
 - a. Each person wishing to speak or otherwise present evidence at said hearing shall:
 - [1] 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
 - [2] provide a copy of all documents and things upon which he or she relies to the keeper of the record
 - b. 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.

- c. The chair, at his or her sole discretion, may cause persons wishing to speak to be sworn on their oaths or may cause the hearing to be conducted as nearly as possible as a contested case hearing of appropriate class pursuant to Wis. Stat. §227.44 through 227.50, as amended.
10. 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. 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 issued within 60 days of the public hearing. This time period may be extended upon agreement between the applicant and the Town Board.

H. Standards of Town Board Review:

To obtain approval from the Town Board, an application must comply with the standards of this section.

1. Priority of Locations: The applicant shall demonstrate that a Facility of a higher priority cannot reasonably accommodate the applicant's proposed Facility. New facilities must be located according to the priorities below:
 - a. Co-location on an existing Facility or other existing structure in the A-1 Agricultural Land District or the A-2 Agricultural Land District, as identified in the Town of Lyndon Zoning Ordinance, within 1,320 feet on either side of the right-of-way of STH 57;
 - b. a new Facility on public or private property in the A-1 Agricultural Land District or the A-2 Agricultural Land District, as identified in the Town of Lyndon Zoning Ordinance, within 1,320 feet on either side of the right-of-way of STH 57.
 - c. Co-location on an existing Facility or other existing structure in the B-1 Light Industrial Business District, the B-2 Heavy Industrial Business District, or the B-3 Highway Commercial Business District, as identified in the Town of Lyndon Zoning Ordinance, within 1,320 feet on either side of the right-of-way of STH 57;
 - d. a new Facility or other existing structure in the B-1 Light Industrial Business District, the B-2 Heavy Industrial Business District, or the B-3 Highway Commercial Business District, as identified in the Town of Lyndon Zoning Ordinance, within 1,320 feet on either side of the right-of-way of STH 57.
 - e. Co-location on any existing Facility or other existing structure in the A-1 Agricultural Land District or the A-2 Agricultural Land District, as identified in the Town of Lyndon Zoning Ordinance;
 - f. a new Facility on public or private property in the A-1 Agricultural Land District or the A-2 Agricultural Land District, as identified in the Town of Lyndon Zoning Ordinance.
 - g. Co-location on an existing Facility or other existing structure in the B-1 Light Industrial Business District, the B-2 Heavy Industrial Business District or B-3 Highway Commercial Business District, as identified in the Town of Lyndon Zoning Ordinance;
 - h. a new Facility or other existing structure in the B-1 Light Industrial Business District, the B-2 Heavy Industrial Business District or the B-3 Highway Commercial Business District, as identified in the Town of Lyndon Zoning Ordinance.
 - i. New Facilities or expansion of any antenna, antenna array or support structure in any residential district or the A-5 Agricultural Living District or A-6 Agricultural Estate Land District, as identified in the Town of Lyndon Zoning Ordinance, shall be prohibited.
2. Design for Co-location:
 - a. A Facility or expansion of any antenna, antenna array or support structure shall share an existing Facility where feasible and appropriate, thereby reducing the number of stand-alone Facilities.
 - b. A new Facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional Facilities or providers. However, the Town Board may waive or modify this standard where the district height limitation effectively prevents future co-location.

3. Height: A new Facility must meet the following height standards, in the following districts:
 - a. In A-1 Agricultural Land District, the A-2 Agricultural Land District, B-1 Light Industrial Business District, the B-2 Heavy Industrial Business District or the B-3 Highway Commercial Business District, within 1,320 feet on either side of the right-of-way of STH 57, the maximum height shall be 300 feet.
 - b. In any permitted district more than 1,320 feet on either side of the right-of-way of STH 57, the maximum height shall be 200 feet.
4. Setbacks: A new or expanded Facility must comply with the setback requirements for the zoning district in which it is located, or be set back 105 percent of its height from all property lines and all buildings, parking lots, parking spaces and driveways not serving the Facility itself, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:
 - a. In the A-1 Agricultural Land District and the A-2 Agricultural Land District, the setback may be reduced by the Town Board upon a showing by the applicant that the Facility is designed to collapse in a manner that will not harm other property.
 - b. An antenna is exempt from the setback requirement if it extends no more than 5 feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.
5. Landscaping: A new Facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
6. Signs: A new Facility shall contain no signs except those necessary in quantity and size to warn trespassers, identify the Permittee in the event of emergency, or as required by regulations of the FFC.
7. Security: A new Facility must include a fence of not less than 6 feet to discourage trespass on the Facility and to discourage climbing on any structure by trespassers. The Facility must be free of devices or structural elements within 20 feet from the ground that would permit climbing.
8. Lighting: A new Facility must be illuminated only as necessary to comply with FFA, or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.
9. Color and Materials: A new Facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
10. Structural Standards: A new Facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
11. Visual Impact: The proposed Facility will have no unreasonable adverse impact upon Public Recreational Facility or Viewpoint within the Town, as identified either in the Town's adopted Comprehensive Plan, or by a State of Wisconsin or federal agency.
 - a. In determining the potential unreasonable adverse impact of the proposed Facility upon the designated scenic resources, the Town Board shall consider the following factors:
 - [1] the extent to which the proposed Facility is visible above the tree line, from the viewpoint(s) of the impacted Public Recreational Facility or Viewpoint
 - [2] the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed Facility
 - [3] the extent to which the proposed Facility would be visible from the Public Recreational Facility or Viewpoint
 - [4] the amount and type of vegetative screening
 - [5] the distance of the proposed Facility from the Public Recreational Facility or Viewpoint and the Facility's location within the Public Recreational Facility or Viewpoint; ~~and~~

[6] the presence of reasonable alternatives that allow the Facility to function consistently with its purpose

12. Historic & Archaeological Properties: The proposed Facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places, the Wisconsin Register of Historic Places, or the list of locally designated historic places.

I. 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:

1. The Permittee and its successors and assigns agree to:
 - a. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response
 - b. negotiate in good faith for shared use of the Facility by third parties
 - c. allow shared use of the Facility if an applicant agrees in writing to pay reasonable charges for co-location
 - d. require no more than a reasonable charge for shared use of the Facility, based on community rates and generally accepted accounting principles; this charge may include, but is not limited to, a pro rata share of the costs of site selection, planning project administration land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference; the amortization of the above costs by the Facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the facility
2. Certification by a Qualified Engineer that the Facility, as designed, will comply with all applicable FCC radio frequency emissions regulations.
3. 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 Facilities or the violation of any applicable statute or ordinance.
4. Prior to commencement of construction of the Facilities, the Permittee shall obtain comprehensive general liability and property damage insurance, as follows, and file certificates thereof with the Town Clerk:
 - a. Coverage shall protect the Permittee and any contractor during the performance of work covered by this Permit from claims for damages for personal injury, including accidental death as well as claims for property damages, which may arise from operation under this 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 the Town and the amounts of such insurance shall be subject to the following minimums:

<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	\$1,000,000 Per Person
	\$1,000,000 Per Occurrence
	\$1,000,000 Aggregate
	\$10,000 Medical Per Person

Property Damage	\$500,000 Per Occurrence
	\$500,000 Aggregate
Excess Liability	\$4,000,000
Each Occurrence	\$4,000,000

- b. The certificate of insurance shall contain a 10 day notice of cancellation and shall name the Town as an additional insured.
 - c. The Permittee shall be required to maintain such coverage in full force and effect until such time as all above ground portions of the Facility (not including any part of the foundation) have been removed and all other conditions of the Conditional Use Siting Permit have been satisfied.
5. Prior to commencement of construction of the Facilities, Permittee, shall file with the Town Clerk a \$25,000.00 cash bond, as adjusted from time to time by resolution of the Town Board, to secure costs of removing all above ground portions of the Facility (not including any part of the foundation) in the event the applicant shall fail to do so within 60 days of failing to show that the Facility is in active operation under subsection K.2. The applicant shall be required to continue such or other security until such time as the Facility has been removed and all other conditions of the Permit have been satisfied.

J. Amendment to an Approved Application:

The Town Board must approve any changes to an approved application, in accordance with subsection G above.

K. Abandonment:

- 1. A facility that is not operated for a continuous period of 12 months shall be considered abandoned. The Town Clerk shall notify the Permittee of an abandoned Facility in writing and order the removal of the Facility within 90 days of receipt of the written notice. The Permittee shall have 14 calendar days from the receipt of the notice to demonstrate to the Town Clerk that the Facility has not been abandoned.
- 2. If the Permittee fails to so demonstrate, the Town Clerk shall so notify the Permittee, and the order of removal shall stand. If the Facility is not removed within the 90 day time period, the Town may remove the Facility at the expense of the Permittee. The Permittee shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.
- 3. If a surety has been given to the Town for removal of the Facility, the Permittee may apply to the Town Board for release of the surety when the Facility and related equipment are removed to the satisfaction of the Town Board.

L. Assignment:

Permittee shall have the right to assign or transfer all of any portion of its interests, rights or obligations under this Conditional Use Siting Permit or in the Personal Wireless Service Facility to third parties acquiring an interest or estate in the Facilities or any portion thereof, only upon a consent resolution of the Town Board and the express written assumption of any of Permittee's obligations under this Conditional Use Siting Permit by its assignee or transferee. An application for consent to assignment shall demonstrate Permittee's compliance with all conditions of the Permit and the ability of the assignee or transferee to comply in the future. The Town Board may conduct any hearings or inquiry it deems necessary, and may deny such application at will. This section shall create no expectation in the Permittee or its assignee or transferee that the Town Board will consent to such assignment or transfer.

M. Compliance Review:

- 1. Upon prior written notice to the Permittee, the Plan Commission may Review compliance with a Conditional Use Siting Permit upon a determination of any of the following:
 - a. the use has not continued in conformity with the Permit or any amendments thereto

- b. violations of other statutes, ordinances or laws
 - c. changes in the use of other property, such that the Facility would no longer satisfy the standards of review set forth in subsection H
2. Upon completion of said compliance review, the Plan commission may recommend to the Town Board that no action be taken, revision be made to the Permit, or that the Town Board conduct a public hearing for possible termination of the Permit. Any such hearing shall conform to the standards of subsection G.9.
 3. The Town may employ professional services and charge a review fee as set forth in subsection G.6.b. The Permittee shall pay the fee prior to review by the Plan Commission, as a condition of continuation of said Permit.

N. Term:

1. Conditional Use Siting Permits shall terminate at the earliest of:
 - a. a date determined by the Town Board, and identified on the Permit, to represent the end of the useful life of the Facility, taking into account the term of the FCC license and probable obsolescence and physical depreciation
 - b. changes in the use of other property, such that the Facility would no longer satisfy the standards of review set forth in subsection H
 - c. ten years from the date of issuance

O. Inspection and Fee:

The Town shall have the right, at its sole option, to inspect the Facility 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 G.6.b.; provided, however, the Permittee shall pay the fee prior to said inspection, as a condition of continuation of said permit.

P. 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.

Q. 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.

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 for 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 Resource 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 or poultry raising in the A-2, A-2-HD, 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-2-HD, 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, propagation, or boarding of animals such as dogs, mink, rabbit, and foxes in the A-2 and A-3 Districts
7. Egg production in the A-2, A-2-HD, 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 Resource Conservation Service standards
9. 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 premises
- 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

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.

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 on other than agricultural lands. 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.

1. Amusement activities such as fairgrounds, roller skating rinks, go-cart tracks, race tracks, and recreation centers
2. Archery ranges, golf driving ranges, firearm ranges, sports fields, polo fields, and skating rinks
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
4. Cultural activities, such as aquariums, art galleries, botanical gardens, arboreta, historic and monument sites, libraries, museums, planetarium, and zoos
5. Golf courses and country clubs in all Residential, Conservancy, and Business Districts
6. Hunting and fishing clubs
7. Public assembly uses, such as amphitheaters, arenas, field houses, gymnasiums, natatoriums, auditoriums, exhibition halls, music halls, legitimate theaters, motion picture theaters, and stadiums
8. Public or private campgrounds

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. One-family detached dwellings; one-family semi-detached dwellings; one-family attached dwellings-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 dwellings
	Width	Minimum of 2/3 of the minimum lot width for the district in which located; minimum 20 feet for attached single-family dwellings

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. Variances: 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 variances 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 variances 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.
 - a. **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.
2. **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 dwelling 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 dwelling.
4. No more than 25 percent of the area of one story of a single-family dwelling 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

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:
1. Contact Plan Commission
- E. Procedure for Conditional Use Permit:
1. 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 land under common ownership. A landowner with 40 vacant, contiguous A-1 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 land, start with the total A-1 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.

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

C. 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
2. Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:
 - a. apiculture (beekeeping)
 - b. dairying
 - c. fish or fur farming
 - d. floriculture (cultivation of ornamental flowering plants)
 - e. forest and game management

- f. grazing
 - g. livestock raising
 - h. orchards
 - i. owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836
 - j. participating in the milk production termination program in 7 USC 1446 (d)
 - k. placing land in federal programs in return for payment in kind
 - l. plant nurseries
 - m. poultry raising (except commercial production)
 - n. raising of grain, grass, mint, and seed crops
 - o. raising of tree fruits, nuts and berries
 - p. sod farming or tree production
 - q. vegetable raising
 - r. 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 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 meet the standards of Chapter 280-43A and 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. § 91.46(1)(c), 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. Commercial raising, propagation, or boarding of animals such as dogs, mink, rabbit, foxes, goats, pigs, fowl, and beef
10. Land restoration when conducted in accordance with the appropriate Natural Resource Conservation Service Standards
11. A lease for oil or natural gas exploration and extraction
12. Non-metallic mineral extraction that qualifies under Wis. Stat. § 91.46(6)
13. A migrant labor camp certified under Wis. Stat. § 103.92

E. Area, Height, and Setback Requirements:

Lot:	Size	Minimum 20 acres
Dwelling:	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

If a parcel in the Sheboygan County tax parcel database is listed with acreage of 40 or 20, and upon survey by a registered land surveyor is found to be less than 40 or 20 but more than 37.5 or 18.75 acres respectively, the residential density of said parcel shall be based on the acreage listed in the tax parcel database.

F. 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:

1. 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.

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:

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

1. Lands best suited for truck farming, horse farming, hobby farming, orchards, niche farming, organics, and similar agricultural-related farming activities
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

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
2. Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:
 - a. apiculture (beekeeping)
 - b. dairying
 - c. fish or fur farming

- d. floriculture (cultivation of ornamental flowering plants)
 - e. forest and game management
 - f. grazing
 - g. livestock or poultry raising, with a maximum of one animal unit per acre
 - h. orchards
 - i. owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836
 - j. participating in the milk production termination program in 7 USC 1446 (d)
 - k. placing land in federal programs in return for payment in kind
 - l. plant nurseries
 - m. raising of grain, grass, mint, and seed crops
 - n. raising of tree fruits, nuts and berries
 - o. sod farming or tree production
 - p. vegetable raising
 - q. 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 meet the standards of Chapter 280-43A and 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 or poultry raising that exceeds one animal unit per acre
9. Livestock sales barns
10. Animal hospitals, shelters, and kennels that qualify under Wis. Stat. § 91.46(1)(c), 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, propagation, or boarding of animals such as dogs, mink, rabbit, and foxes
12. Land restoration when conducted in accordance with the appropriate Natural Resource Conservation Service Standards
13. A lease for oil or natural gas exploration and extraction
14. Non-metallic mineral extraction that qualifies under Wis. Stat. § 91.46(6)
15. A migrant labor camp certified under Wis. Stat. § 103.92

E. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 3 acres; Maximum 19.99 acres
	Width	Minimum 200 feet
Dwelling:	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 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.

10.06 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.

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 Resource Conservation Service Standards
3. Non-metallic mineral extraction that qualifies under Wis. Stat. § 91.46(6)

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 G.

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 associate 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 dwellings
2. Apiculture (beekeeping)
3. Dairying
4. Equestrian trails
5. Fish or fur farming
6. Floriculture (cultivation of ornamental flowering plants)
7. Forest and game management
8. Gas and electric utility uses not requiring authorization under Wis. Stat. § 196.491.
9. Grazing
10. Greenhouses
11. Livestock or poultry raising, maximum of one animal unit per acre on tracts less than 20 acres
12. Natural trails and walks
13. Orchards
14. Owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836.
15. Paddocks
16. Participating in the milk production termination program under 7 USC 1446 (d)
17. Placing land in federal programs in return for payment in kind
18. Plant nurseries
19. Raising of grain, grass, mint, and seed crops
20. Raising of tree fruits, nuts and berries
21. Roadside stands
22. Sod farming or tree production
23. Stables
24. Vegetable raising
25. Viticulture (grape growing)

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
	Width	Minimum 200 feet
Dwelling:	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
	Width	Minimum 200 feet
Dwelling:	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 dwellings
2. Apiculture (beekeeping)
3. Dairying
4. Equestrian trails
5. Fish or fur farming
6. Floriculture (cultivation of ornamental flowering plants)
7. Forest and game management
8. Gas and electric utility uses not requiring authorization under Wis. Stat. § 196.491.
9. Grazing
10. Greenhouses
11. Livestock or poultry raising, maximum of one animal unit per acre on tracts less than 20 acres
12. Natural trails and walks
13. Orchards
14. Owning land, at least 20 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836
15. Paddocks
16. Participating in the milk production termination program under 7 USC 1446 (d)
17. Placing land in federal programs in return for payment in kind
18. Plant nurseries
19. Raising of grain, grass, mint and seed crops

- 20. Raising of tree fruits, nuts and berries
- 21. Roadside stands
- 22. Sod farming or tree production
- 23. Stables
- 24. Vegetable raising
- 25. Viticulture (grape growing)

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
Residential Density:		Minimum 20 acres per residence
Dwelling:	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

D. Conditional Uses include, 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

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

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
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:

1. 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
	Width	Minimum 200 feet
Dwelling:	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:

1. 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.
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 or B-5 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.

B. Permitted Uses:

Subject to approval by the Town Board of Supervisors of building, site, and operational plans as set forth in this Ordinance:

1. Any uses permitted by right or by conditional use in the B-3 and B-4 Districts
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. General merchandising and wholesaling establishments

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. Bakeries
3. Confectioneries
4. Automotive repairs and body work
5. Automotive upholstery shops
6. Commercial bakeries
7. Commercial greenhouses
8. Distributors
9. Farm machinery plants
10. Manufacture and bottling of non-alcoholic beverages
11. 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

- 12. Manufacturing of electronic products and components
- 13. Manufacturing and/or assembling from substances such as wood, cork, glass, leather, fur, plastic, felt, ceramics, precious metals, and other textiles
- 14. Printing, publishing, and binding plants
- 15. Research laboratories
- 16. Warehouses and storage yards, not including scrap or junkyards
- 17. Caterers

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.
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.

B. Permitted Uses:

Subject to approval by the Town Board of Supervisors of building, site and operational plans as set forth in this Ordinance:

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:

Subject to approval by the Town Board of Supervisors of building, site, and operational plans:

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

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

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.
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.

B. Permitted Uses:

The following classes of uses subject to approval by the Town Board of Supervisors of building, site, and operational plans:

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
2. 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
3. Offices for the professions, businesses and utilities, studios, clinics
4. 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
5. Offices, whether for single or multiple tenant use, including business, professional, governmental or other institutional occupancy as well as for medical and dental clinics

C. Permitted Accessory Uses:

The following subject to approval by the Town Board of Supervisors of building, site and operational plans:

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-5 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

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. Professional offices
16. Restaurants
17. Second-hand stores
18. Self-service and pick up laundry and dry cleaning establishments
19. Shoe stores
20. Sporting goods stores
21. Tobacco stores
22. Building material sales and storage
23. Business offices
24. Cleaning, pressing and dyeing
25. Food lockers
26. Machinery sales
27. Painting studios
28. Radio and television broadcasting stations and electric equipment
29. Wholesale outlets
30. Road maintenance shop, storage buildings, and solid waste collection center
31. Bars and taverns
32. Automobile and truck rental services
33. Hotels, motels, and tourist courts
34. Public parking lots
35. Churches
36. Schools
37. Arcades

38. 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. 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

10.16 B-4 Neighborhood Business District**A. Statement of Intent:**

This district is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood, and the character, appearance and operation of these establishments are compatible with the surrounding or adjacent area which in most cases will be residential.

1. Limitations: The expected close proximity of this district to residential areas makes it necessary to regulate uses, structures, and their placement on their lots within this district so as to limit the bulk of buildings to a mass similar to residential buildings as permitted in this Ordinance; to limit the amount of land area at any one location placed within this district; to limit certain deleterious aspects of some businesses as a precondition to their locating in this district; and to treat as conditional uses certain other uses which, without substantial modification, would otherwise constitute as incompatible use to existing or planned nearby residential development.

B. Permitted Uses:

The following classes of uses are subject to approval by the Town Board of Supervisors:

1. Retail stores and shops offering convenience goods and personal services and individually not exceeding 3,200 square feet of primary floor area
2. Business, professional, or public service offices not exceeding 2,400 square feet of primary floor area
3. Customer service establishments such as financial services, shoe repair, barber, and beauty shops, studios and similar uses, each not exceeding 1,600 square feet of primary floor area, and not offering drive-through facilities
4. Public utility transmission and distribution lines, poles, and other accessories, provided that when a utility proposes a main intercity transmission facility, they shall give notice to the Town Clerk of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Town Clerk mapped description of the route of such transmission line

C. Permitted Accessory Uses:

The following subject to approval by the Town Board of Supervisors:

1. Garages for storage of vehicles used in conjunction with the operation of the business
2. Off-street parking and loading areas
3. Signs subject to the provisions of Chapter 9, Section 21 – Signs of this Ordinance
4. Residential quarters for the owner, proprietor, commercial tenant, employee, or caretaker located in the same building as the business
5. Any other structure or use normally accessory to the principal uses permitted

D. Conditional Uses:

1. Arts, crafts, antique, and hobby shops
2. Barbershops
3. Beauty shops
4. Book and stationary stores
5. Business offices
6. Clinics
7. Clothing and apparel stores

8. Clothing repair shops
9. Confectioneries
10. Dancing schools
11. Drugstores
12. Florists
13. Gift stores
14. Music stores
15. Optical stores
16. Personal service establishments
17. Photographic supply stores
18. Professional offices
19. Second-hand stores
20. Shoe stores
21. Sporting goods store
22. Tobacco stores
23. Automotive upholstery shops
24. Painting studios
25. Municipal meeting hall
26. Churches
27. Schools
28. Caterers
29. Funeral homes
30. Residential dwelling units not to exceed one per principal use when attached to the principal structure
31. Automobile fuel sales
32. Restaurants, taverns, and bars not offering live entertainment
33. Small animal veterinary clinics and accessory indoor boarding kennels
34. Centers such as children or adult day care, nursing or convalescent centers including hospice but not hospital

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

E. Special Regulations:

1. This district should not normally be applied to parcels or groups of parcels whose primary floor area would total as a group more than 20,000 square feet.
2. Outside storage uses such as travel and moving vehicles such as motor home, travel trailer, or trailer rental, sale of motor vehicles, outside display of merchandise or goods, storage, are not permitted.
3. Outdoor sound systems, cooking odors from food preparation, high intensity site lighting, drive-through facilities, and late hours of operation—each pose special stress to nearby residential uses and should not be ordinarily approved in this district as part of permitted uses, unless the Commission is satisfied in the specific circumstances that the degree of such aspects would be

reduced below stress levels, or that mitigation measures would adequately protect nearby residential areas.

F. Uses Not Provided For:

Whenever in any zone a use is not 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 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.
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, and other wetlands on the “Shoreland Zoning Maps, Sheboygan County, Wisconsin”, as described in the SHORELAND – FLOODPLAIN ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN, 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 Resource Conservation Service and do not involve dumping 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

D. Conditional Uses:

The following uses may be conditionally permitted except that issuance of a “Conditional Use Shoreland Zoning Permit” (pursuant to the SHORELAND – FLOODPLAIN ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN) 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 telephone, telegraph, gas lines, 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 Resource Conservation Service standards
2. Forest and game management
3. Forest preservation
4. Hunting and fishing clubs
5. Parks and recreation areas
6. Stables
7. Single-family detached dwellings

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
	Width	Minimum 200 feet
Dwelling:	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.

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

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

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. 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

C. Conditional Uses:

1. Incinerators
2. Resource recovery plants
3. Sanitary landfill operations
4. Other resource landfill operations

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. 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

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
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 dwellings on land without public sewers.

B. Permitted Uses:

1. Single-family detached dwellings on lots not served by public sanitary sewers
2. Home occupations, provided all the requirements in Chapter 9, Section 26 – Home Occupations are met

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:

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. 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.

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 dwellings on land served by public sewers or shared on-site sewage disposal systems.

B. Permitted Uses:

1. Single-family detached dwellings on lots served by public sanitary sewers
2. Home occupations, provided all the requirements in Chapter 9, Section 26 – Home Occupations are met

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
	Width	Minimum 80 feet
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 dwellings. 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 dwellings
2. Home occupations, provided all the requirements in Chapter 9, Section 26 – Home Occupations are met

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 Requirement:

Multiple-Family Density		Maximum 6 dwelling units per net residential acre
	Lot (Sewered)	Width and area of all lots to be determined
	Lot (Unsewered)	Width and area of all lots to be determined
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 dwellings
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

D. Area, Height, and Setback Requirements:

Lot:	Area	Minimum 10,000 square feet
	Width	Minimum 65 feet
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 dwellings
2. Home occupations, provided all the requirements in Chapter 9, Section 26 are met

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.

D. Area, Height, and Setback Requirements:

Site Development	Area	Minimum 10 acres
	Width	Minimum 450 feet
	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. Purposes:

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:

1. 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.

C. Permitted Accessory Uses:

1. 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:

1. 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 noted
 - [2] one 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 petition 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:

To obtain approval from the Town Board, an application must comply with the standards in this section.

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. 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.