

Chapter 395

ZONING

- | | |
|---|---|
| § 395-1. Purpose. | § 395-14. Minimum size of dwellings. |
| § 395-2. Districts established; Zoning Map. | § 395-15. Parking facilities. |
| § 395-3. Agricultural land. | § 395-16. Building permit. |
| § 395-4. Classifications of use. | § 395-17. Zoning Board of Appeals. |
| § 395-5. Prohibited uses. | § 395-18. Regulation of signs. |
| § 395-6. Nonconforming uses. | § 395-19. Off-premises advertising signs. |
| § 395-7. Public utilities and railroads. | § 395-20. Conditional uses. |
| § 395-8. Minimum lot area per family. | § 395-21. Violations and penalties. |
| § 395-9. Minimum lot width. | § 395-22. Interpretation. |
| § 395-10. Setback building lines. | § 395-23. Personal Wireless Services Antennas and Antenna Towers. |
| § 395-11. Side yards. | § 395-24. Fences |
| § 395-12. Rear yards. | § 395-25. Ground Protection Overlay District |
| § 395-13. Rear houses. | |

[HISTORY: Adopted by the Village Board of the Village of Lyndon Station 12-10-1984 by Ord. No. 76. Amendments noted where applicable.]

GENERAL REFERENCES

Plan Commission - See Ch. 101.

Building construction - See Ch. 162.

Mobile homes and mobile home parks - See Ch. 254.

Shoreland-wetland zoning - See Ch. 325.

Subdivision of land - See Ch. 352.

§ 395-1. Purpose.

For the purpose of promoting public health, safety, morals, comfort and general welfare, to conserve and protect property and property values, to secure the most appropriate use of land, and to facilitate adequate economical provision of public improvements, all in accordance with a Comprehensive Plan, the Village Board finds it necessary and advisable to regulate the location, dimension and size of buildings and other structures, lot size and occupation, the density of population, the uses of buildings and other structures and the uses of land for trade, industry, residence, recreation or other purposes and for such other purposes divides the Village into districts or zones.

§ 395-2. Districts established; Zoning Map.

- A. For the purpose of carrying out the provisions of this chapter, the Village is hereby divided into the following districts:

- (1) Residential, which shall be designated as R Districts.
 - (2) Business and Commercial, which shall be designated as B Districts.
 - (3) Industrial and Manufacturing, which shall be designated as I Districts.
- B. The districts as shown on the Zoning Map are hereby established, and such map is made a part of this chapter.¹ No building or premises shall be used and no building shall be erected except in conformity with the regulations prescribed herein for the district in which it is located.

§ 395-3. Agricultural land. ²

All land within the Village limits not designated R, B or I Districts shall be considered agricultural. No building permit shall be required for the construction of buildings incident to the use for agricultural purposes on this land. For the purpose of this chapter, “agricultural” shall include agriculture, farming, dairying, pasturing, horticulture, and animal and poultry husbandry.

§ 395-4. Classifications of use.

For purposes of this chapter, the various uses of buildings and premises shall be classified as follows:

A R District (Residential).

- (I) The following uses and no other shall be deemed class R uses and permitted in all R Districts:
 - (a) Single- to four-family dwellings and buildings accessory thereto, but excluding tents, cabins and mobile homes, except that not more than one mobile home may be temporarily used as a residence on a lot while a dwelling is being constructed thereon, but such excluded use shall not be continued for more than one year after the mobile home is placed on the lot. Accessory buildings must be built on the same parcel of land on which the primary home is located, shall not be more than 1,200 square feet and shall not have an eave height of over 12 feet. All accessory buildings must be consistent with the primary home's style and color.³
 - (b) Tourist homes, rooming houses and boarding homes accepting not more than four guests at any one time.
 - (c) Church, school, library, community center, fire station, Village Hall, publicly owned park, and publicly owned playground.

1. Editor's Note: The Zoning Map is on file at the office of the Village Clerk-Treasurer.

2. Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. II).

- (d) Any person may maintain an office or may carry on a customary home occupation in the dwelling house used by him as a private residence, provided that such use does not involve any extension or modification of said dwelling which will alter its outward appearance as a dwelling, and provided that such use does not involve any outward evidence of such use other than as authorized under this chapter.
- (2) The above uses shall be permitted only providing such use is not noxious, dangerous or offensive by reason of odor, dust, smoke, gas, noise, fumes, flame, appearance or vibration.

B. B District (Business and Commercial).

- (1) The following uses and no other shall be deemed class B uses and permitted in all B Districts:
 - (a) Any use permitted in an R District shall be permitted in a B District.
 - (b) Apartment house, rooming house, hotel, living quarters over business establishment, restaurant, lunch room, or garage.
 - (c) Retail store, shop, repair shop, beauty parlor, funeral home, mercantile establishment, bank, office or office building, or studio.
 - (d) Lodge hall.
 - (e) Gasoline filling and service station, provided that storage tanks are underground.
 - (f) Theater, bowling alley, dance hall, skating rink or tavern.
 - (g) Builders' supply or plumbing and heating supply.
 - (h) Locker plant.
- (2) Conditional uses. Notwithstanding whether the following uses might otherwise be a permitted use as set forth above, the subsequently identified specific uses shall be considered conditional uses and shall be subject to the restrictions and permitting process set forth in § 395-20, Conditional uses: **[Added 11-14-2002 by Ord. No. 76B; amended 4-14-2003 by Ord. No. 76C; 6-16-2006 by Ord. No. 2006-1; 12-11-2006 by Ord. No. 2006-2⁴]**
 - (a) Recreational vehicle campgrounds.
 - (b) Sexually oriented land uses.

[1] Sexually oriented land uses are defined as any facility which rents, sells or displays sexually oriented materials, such as X-rated videos, movies, slides, photos, books or magazines. For the purpose of this chapter, "sexually specified areas" includes any one or more of the following:

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

genitals, anal area, and female areola or nipple; and "sexually oriented material" includes any media which displays sexually specified area(s). Establishments which sell or rent sexually oriented materials shall not be considered sexually oriented land uses if:

- [a] The store area devoted to the sale or rent of said materials is less than 5% of the sales area devoted to nonsexually oriented materials;
 - [b] Such materials are placed in generic covers or are placed in an area which is separate from and not visible from the areas devoted to nonsexually oriented materials; and
 - [c] Such materials are not advertised by any advertising located or visible outside of the store.
- [2] Rationale: The incorporation of this subsection into this chapter is designed to reflect the Village Board's official finding that sexually oriented commercial uses have a predominate tendency to produce certain undesirable secondary effects on the surrounding community, as has been demonstrated in other, similar jurisdictions. Specifically, the Village Board is concerned with the potential for such uses to limit the attractiveness of nearby locations for new development, the ability to attract and/or retain customers, and the ability to market and sell nearby properties at a level consistent with similar properties not located near such facilities. It is explicitly not the intent of this subsection to suppress free expression by unreasonably limiting alternative avenues of communication but rather to balance the need to protect free expression opportunities with the need to implement the Village's long-term planning goal and protect the character and integrity of its commercial and residential neighborhoods.

(c) Light manufacturing.

- (3) The above uses shall be permitted only providing such use is not noxious, dangerous or offensive by reason of emission of odor, dust, smoke, gas, noise, fumes, flame, appearance or vibration.

C. I District (Industrial and Manufacturing). The following uses and no other shall be deemed class I uses and permitted in all I Districts:

- (1) Any use permitted in an **R** District or B District shall be permitted in an I District.
- (2) Any normal industrial or manufacturing use, provided that such use is not noxious, dangerous or offensive by reason of emission or odor, dust, smoke, gas, noise, flame, appearance or vibration, except uses specifically prohibited in this chapter.

§ 395-5. Prohibited uses.

The following uses shall be deemed to constitute a nuisance and shall not be permitted in any R, B or I District:

- A Manufacturing or storage of explosives, gunpowder or fireworks.
- B. Slaughterhouses.
- C. Dumping, storing, burying, reducing, disposing of or burning garbage, refuse, rubbish (except incidental to other use of the premises), offal or dead animals.

§ 395-6. Nonconforming uses. ⁵

- A A nonconforming use existing at the time of adoption or amendment of this chapter may be continued, except that if it is voluntarily discontinued for 12 months or more, it shall then be deemed abandoned and any further use must be in conformity with the uses permitted in such district.
- B. Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the adoption or amendment of this chapter but not completed, may be completed and put to such nonconforming use, provided it is done within one year after the adoption or amendment of this chapter.
- C. Any building or structure existing as a nonconforming use at the time of adoption or amendment of this chapter which is destroyed by fire or the elements may be reconstructed and restored, provided that the same is done within two years from the date of destruction.
- D. A building or structure devoted to a nonconforming use at the time of adoption or amendment of this chapter may not be altered or enlarged so as to extend such nonconforming use for more than 50% in area.
- E. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted or nonconforming use.

§ 395-7. Public utilities and railroads.

This chapter shall not apply to public utilities or railroads.

§ 395-8. Minimum lot area per family.

No single-family dwelling shall be erected or building altered to accommodate one family as a residence on less than 12,500 square feet of lot area unless such lot was designated on a recorded plat or separately owned at the time this chapter takes effect and cannot practicably be enlarged to conform with this requirement.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 395-9. Minimum lot width.

No dwelling shall be erected in any district, on a lot having a frontage of less than 100 feet on a public thoroughfare unless such lot was designated on a recorded plat or separately owned at the time this chapter took effect and cannot practicably be enlarged to comply with this requirement. No minimum lot width shall be required in a B or I District for uses other than dwellings except such as is necessary to comply with the requirements for yard and lot areas or parking facilities.

§ 395-10. Setback building lines.

A. No structure or building or any portion thereof, except steps, shall be erected within 20 feet of the right-of-way side line of any road or street. If there is no established right-of-way side line for any road or street, such side line shall be deemed to be 33 feet from the center of the road.

B. Exception. [Added 6-13-1996 by Ord. No. 76A]

- (1) The above restrictions shall not apply to the following described areas within the Village:
 - (a) Lots 1, 2, 14 and 15 of Block 5 of the Original Plat.
 - (b) Lots 2 and 3 of Assessor's Plat.
 - (c) Lots 1 through 10 of Block 6 of the Original Plat.
- (2) For all properties located within the above-defined area, buildings may be constructed no closer than the existing sidewalk or, if no sidewalk exists, no closer than the closest building to the street on either side of the proposed structure.

§ 395-11. Side yards.

For every building erected in an R District and for every dwelling erected in any district there shall be a minimum side lot clearance on each side of such building of not less than eight feet, which space shall remain open and unoccupied by any building or structure.

§ 395-12. Rear yards. ⁶

For every building erected in an R District and for every dwelling erected in any district there shall be a minimum rear lot clearance at the rear of the building of at least 15 feet, which space shall remain open and unoccupied by any building or structure.

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 395-13. Rear houses.

No dwelling or apartment house shall be erected or altered or used unless the same shall have access to a public street and, if located in the rear of another building and having no immediate street frontage, then a permanent easement for access shall be provided over an unoccupied strip of land at least 15 feet in width, and such reserved strip may not form a part of any lot width or lot yard or lot area required by this chapter. Easements shall be executed with the requirements provided by law for deeds and shall be recorded with the Register of Deeds.

§ 395-14. Minimum size of dwellings.

Every dwelling or residence shall have a first floor space designed and used for living quarters of not less than 720 square feet per family unit exclusive of basements, utility rooms, porches, garages, breezeways, terraces, attics or partial stories.

§ 395-15. Parking facilities.

All new dwellings and apartment houses shall provide parking space off the road or street and outside of the public right-of-way, together with means of ingress and egress thereto, for not less than one motor vehicle per dwelling unit or apartment. Not less than 200 square feet of area shall be deemed necessary for each such vehicle.

§ 395-16. Building permit.

- A. The Building Inspector shall keep records of all applications for building permits and the action taken thereon.⁷
- B. Before constructing, changing the use of, or altering any building, including accessory buildings, or changing the use of any premises, application shall be made to the Village Building Inspector for a building permit. The application shall indicate the exact location of the proposed construction, alteration or change of use and shall include a plot plan, showing in detail the proposed description, location and dimensions and the proposed use. Within 10 days after receipt of the application, the Building Inspector shall issue a building permit if the application complies with the requirements of this chapter and the application is accompanied by the proper fee. The Village Building Inspector shall be paid a fee as set by the Village Board for issuing a building permit and for making subsequent inspection for alterations, remodeling or new construction jobs.⁸
- C. The above application procedure shall be coordinated with the building permit application procedure outlined in Chapter 162, Building Construction, Article I, Building Permits, of this Code.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 395-17. Zoning Board of Appeals. [Amended 7-9-2008 by Ord. No. 2008-2]

There is created a Zoning Board of Appeals.

A. Members, compensation and vacancies.

- (1) Members. The Zoning Board of Appeals shall consist of five members appointed by the Village President, subject to approval of the Village Board, to three-year staggered terms, except that of those members first appointed, one shall serve for one year, two for two years and two for three years. The members may be removed by the Village President for cause upon written charges and after a public hearing. The Village President shall designate one of the members as Chair of the Zoning Board of Appeals and the Zoning Board of Appeals may employ a secretary and other employees.
- (2) Alternate members. The Village President shall appoint, for staggered terms of three years, two alternate members of the Zoning Board of Appeals, in addition to the five members above provided for, except that of the first alternates appointed, one shall serve for one year and one shall serve for three. Annually, the Village President shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act with full power only when a member of the Zoning Board of Appeals refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Zoning Board of Appeals so refuses or is absent.
- (3) Compensation. The members of the Zoning Board of Appeals shall serve without compensation.
- (4) Vacancies. Vacancies shall be filled for the unexpired term of members whose terms become vacant in the same manner as original appointments.

B. Rules of procedure. The Zoning Board of Appeals may adopt bylaws or rules of procedure not inconsistent with statute or other Village zoning ordinances, as necessary. If the Zoning Board of Appeals adopts rules of procedure or bylaws, the Zoning Board of Appeals shall review them annually. A copy of the Zoning Board of Appeals' bylaws shall be available from the Village Clerk-Treasurer.

C. Meetings. Meetings of the Zoning Board of Appeals shall be held at the call of the Board Chair and at such other times as the Zoning Board of Appeals may determine. The Chair or, in the Chair's absence, the Acting Chair may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Zoning 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, indicating 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 Zoning Board of Appeals and shall be a public record.

D. Voting. If a quorum is present, the Zoning Board of Appeals may take action by a majority vote of the members present.

- E. Scope of appeals. Appeals to the Zoning Board of Appeals may be taken from a decision of any Village officer, department, clerk, building inspector or other administrative official ("administrative official") relating to any zoning ordinance by any person aggrieved or affected by that decision. The appeal shall be taken within 30 days of the decision by filing with the administrative official who made the decision at issue and with the Secretary of the Zoning Board of Appeals, identified below in Subsection L, a notice of appeal specifying the grounds of the appeal, together with payment of a filing fee as may be established from time to time by the Village Board. The administrative official whose decision is being appealed shall forthwith transmit to the Secretary of the Zoning Board of Appeals all papers constituting the record upon which the initial decision was based.
- F. Filing fee. The fee for filing an appeal or application for a variance or other action with the Zoning Board of Appeals shall be determined from time to time by the Village Board.
- G. Stay of proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the administrative official who issued the decision being appealed certifies to the Zoning Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the administrative official who made the decision being appealed and on due cause shown.
- H. Power of the Zoning Board of Appeals.
- (1) In addition to those powers enumerated elsewhere in the Village ordinances, the Zoning Board of Appeals shall have the following powers:
 - (a) Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official relating to or required or permitted by any zoning ordinance, including any decision denying any permit required by the Village's ordinances.
 - (b) Variances. To authorize upon appeal in specific cases such variance from the terms of a zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the 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.
 - (2) The Zoning Board of Appeals may permit in appropriate cases, and subject to appropriate conditions and safeguards in harmony with the general purpose and intent of the zoning ordinances, 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.

- (3) Discretion in the exercise of powers. In the exercise of its powers, the Zoning Board of Appeals may, in conformity with the provisions of statutes and Village ordinances, 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 administrative official whose decision formed the basis of the appeal, and may grant or direct the issue of a permit.
- I. Hearing on appeal and decision. The Zoning Board of Appeals shall fix a reasonable time for any hearing, give public notice of the hearing at least seven days prior to the hearing, give at least 10 days' notice to all parties in interest by regular mail or personal service, hear the matter and decide the appeal all within a reasonable time, but in no event later than 20 days after notice of the appeal or application for a variance is received by the Zoning Board of Appeals.
- J. Decisions of the Zoning Board of Appeals.
 - (1) Delivery. The Zoning Board of Appeals shall transmit a signed copy of the Board's decision to the appellant or applicant and the Village Clerk-Treasurer or his/her designee.
 - (2) Conditions. Conditions may be placed upon any building permit ordered or authorized by this Zoning Board of Appeals.⁹
 - (3) Validity. Variances or permits granted by the Board shall expire unless substantial work has commenced pursuant to such grant within six months of the grant.
- K. Variances.
 - (1) Purpose.
 - (a) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this chapter would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
 - (b) The Zoning Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the zoning ordinances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinances will result in unnecessary hardship and so that the spirit of the zoning ordinances shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection elevation for the particular area or permit standards lower than those required by state law.

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (c) For the purposes of this section, "unnecessary hardship" shall be defined by applicable law.
- (2) Application for variance. The application for a variance shall be filed with the Building Inspector, accompanied by a fee which shall be set by the Village Board from time to time. The application shall contain the following information:
 - (a) Name and address of applicant and all property owners of record within 200 feet of the property at issue.
 - (b) Statement of the applicant's interest.
 - (c) Address and description of the property.
 - (d) A site plan showing an accurate depiction of the property.
 - (e) Additional information required by the Village Engineer, Village Board, Zoning Board of Appeals or Village Clerk-Treasurer or his/her designee.
- (3) Public hearing of application. The Zoning Board of Appeals shall conduct at least one public hearing on the proposed variance. Notice of such hearing shall be given not more than 30 days and not less than 10 days before the hearing in one or more of the newspapers in general circulation in the Village and shall give due notice to the parties in interest, the Building Inspector, and the Village Board. Additionally, notice shall be mailed at least 10 days before the hearing to the fee owners of record of all land within 200 feet of any part of the subject building or property. At the hearing, the appellant or applicant may appear in person, by agent or by attorney. The Zoning Board of Appeals shall thereafter reach its decision within 30 days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.
- (4) Action of the Board. For the Zoning Board of Appeals to grant a variance, it must find that:
 - (a) Denial of variation may result in hardship to the property owner due to natural physical condition of the property. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of so general or recurrent nature as to suggest that the zoning ordinance should be changed.
 - (b) The conditions upon which a petition for a variation is based are unique to the property for which a variance is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (c) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.

- (d) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
- (e) The proposed variance will be consistent with the spirit and general and specific purposes of the zoning ordinance.
- (5) Conditions. The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.
- L. Clerk-Treasurer to serve as Secretary. The Village Clerk-Treasurer shall serve as Secretary of the Zoning Board of Appeals, and all notices, appeals or other documents required to be served on the Zoning Board of Appeals must be served on the Clerk-Treasurer.
- M. Review by court of record. Any person or persons aggrieved by any decision of the Zoning Board of Appeals may seek judicial review of the decision by way of certiorari, as set forth in the Wisconsin Statutes.

§ 395-18. Signs, Canopies, Awnings and Billboards. [Added 7-14-2014 by Ord. No.]

A. Purpose of Sign and Billboard Regulations.

The purpose of this chapter is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every lessee and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the Village of Lyndon Station painting, posting and general maintenance are excepted.

B. Signs, Canopies, Awnings And Billboards-Definitions.

The following definitions are used in this Chapter:

- (1) Awning. A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.
- (2) Animated Sign. An animated sign shall mean a sign projecting moving motion pictures, moving images, film, or videos.
- (3) Billboard. A sign which advertises goods, products or facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.
- (4) Blanketing. Blanketing is the unreasonable obstruction of view of a sign caused by the placement of another sign.
- (5) Canopy. A canopy is a shelter, with or without a sign, attached to or connected with a building and extending into a setback or over the public sidewalk.
- (6) Sign. A sign shall include anything that promotes, calls attention, or invites patronage (or anything similar to the aforementioned) to a business, location, or product.
- (7) Directly Illuminated Sign. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- (8) Directory Sign. Shall mean any sign on which the names and locations of occupants or the

use of a building is given. This shall include offices and church directories.

(9) Electronic Message Unit Sign. Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises.

This also includes traveling, animated, or segmented message displays.

(10) Erect. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. Erect does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of a sign structure.

(11) Festoons. A garland, flag, or wreath hanging in a depending curve or graceful loop used in decoration for festivals, special events, etc. or anything arranged in this way.

(12) Flashing Sign. Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

(13) Free Standing Sign. A free standing sign is any sign supported by structures or supports in or upon the ground and independent of support from any building. (Also referred to as "Ground and/or Pole Sign").

(14) Ground and/or Pole Sign. A ground and/or pole sign is any sign supported by structures or supports in or upon the ground and independent of support from any building. (Also referred to as "Free Standing Sign").

(15) Identification Sign. Any sign carrying only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

(16) Illuminated Sign. An illuminated sign is lighted from a source inside of the actual sign. Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

(17) Indirectly Illuminated Sign. Shall mean a sign that is illuminated from a source outside of the actual sign.

(18) Marquee Sign. Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall a generally designed and constructed to provide protection against weather.

(19) Nonconforming Sign. A nonconforming sign is any sign, which does not conform to the regulations of this Chapter.

(20) Off-Premise Sign. Any sign, devise or display, which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the service is located.

(21) Operational Modes for Message Sign Transitions.

(a) Level 1: Segmented static display only (messages change with no transition.

(b) Level 2: Static display with "fade" or "dissolve" transitions, or similar subtle transitions and frame effects that do not have the appearance of moving text or images.

(c) Level 3: Static display with "travel" or "scrolling" transitions, or similar transitions

and frame effects that have text or animated images that appear to move or change in size, or be revealed sequentially rather than all at once.

(d) Level 4: Full animation, flashing, and video.

(22) Portable Sign. Any sign not permanently attached to the ground, which is designed to be easily moved from one location to another.

(23) Projecting Sign. Any sign installed on an arm or mast or spar that is not permanently fastened to an adjacent wall or upright pole to limit or prevent free swing. A projecting sign is any sign extending more than eighteen (18) inches, but less than four (4) feet from the face of a wall or building; such sign may not extend more than three (3) feet into the right-of-way.

(24) Real Estate Sign. Any sign offering for sale, lease, or rent the property upon which the sign is placed.

(25) Roof Sign. Any sign erected upon or over the roof or parapet of any building.

(26) Segmented Message. A static display Level 1 Operational Mode for message transitions. A static or segmented message display changes with no transitions.

(27) Static Display. A static display is a Level 1 Operational Mode for message transitions. A static display means messages change with no transition.

(28) Swinging Sign. Any sign installed on an arm or mast or spar that is not permanently fastened to an adjacent wall or upright pole to limit or prevent free swinging. See definition of Projecting Sign.

(29) Temporary Sign. Any sign intended to be displayed for a short period of time, including real estate, political or construction site signs, and banners, decorative-type displays or anything similar to the aforementioned.

(30) Tethered Balloons. Inflatable signs or balloons fastened by a rope or chain.

(31) Wall Sign. Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than eighteen (18) inches from such wall.

(32) Window Sign. Any sign located completely within an enclosed building and visible from a public way.

(C) Required Permits For Signs, Canopies, Awnings And Billboards.

(1) Application. Except those specified in Section 395-18(D), no signs, billboards, awnings or canopies shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Chapter. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Village of Lyndon Station. Signs shall not be erected or altered until the Building Inspector has issued a permit. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.

(2) Required Information. Application for a sign permit shall be made in writing upon forms furnished by the Village Clerk which contain the following information about the sign: drawing or picture of sign applied for; dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign.

(3) Fee. The fee for each sign permit shall be as set on the sign permit application.

(a) Sign Permit Violation....4 times Permit Amount

(4) Insurance. Any person, firm or corporation engaged in the business of erecting, repairing, maintaining or relocating any sign shall maintain in effect at all times a policy of liability insurance with limits of Three Hundred Thousand Dollars (\$300,000.00) for bodily injury and One Million Dollars (\$1,000,000.00) aggregate and One Hundred Thousand Dollars (\$100,000.00) property damage. Proof of insurance shall be presented to the Village Clerk before the sign permit is granted.

(5) Inspection. Every sign shall be inspected and approved by the Building Inspector within thirty (30) days after it is erected or altered.

(D) Signs Excepted.

All signs, awnings and canopies must have a sign permit, except the following, provided that the following exempt signs may not be located over a public road right-of-way or in, on, or over public water:

(1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.

(2) Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

(3) Name, occupation and warning signs not to exceed four (4) square feet located on the premises.

(4) Bulletin boards for public, charitable or religious institutions not to exceed thirty-five (35) square feet in area located on the premises.

(5) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.

(6) Official signs, such as traffic control, parking restriction, information, and notices.

(7) Temporary signs for a period not to exceed sixty (60) days.

(8) Rummage sale and auction sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale.

(9) A sign for the purpose of designating a new building or development, for promotion of a subdivision, for announcement of a special event or for similar promotion of a subdivision, for announcement of a special event or for similar special informational purposes may be permitted for a limited period of time in any district with the approval of the Building Inspector and subject to the following:

(a) Drawings showing the specific design, appearance and location of the sign shall be submitted to the Building Inspector for approval.

(b) The permitted size and location of any such sign shall be at the discretion of Building Inspector based upon the character of the area, the type and purpose of the sign and the length of time permitted.

(c) Where the sign is to be located on the premises involved, such may be permitted for a period up to one (1) year. An extension may be permitted for a period not to exceed two (2) years total.

(d) Where the sign is not to be located on the premises involved, such sign may be permitted for a period not to exceed nine (9) months.

(10) Signs designating entrances, exits, service areas, parking areas, restrooms, and other such signs relating to functional operation of the building or premises shall be permitted without limitation other than reasonable size and necessity.

(11) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers or names of occupants of premises.

(12) Flags and insignia of any government, (not affiliated with a religion or fascist creed), except when displayed in connection with business promotion.

(13) Legal notices, identification information, or directional signs erected by governmental bodies.

(14) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

(15) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(16) Sandwich board signs. Sandwich board signs cannot be more than three (3') X four (4') foot and no more than four (4') feet tall and are limited to one (1) per business to be located not more than twenty (20') feet from the main entrance of the business they advertise. Sandwich board signs cannot be illuminated nor interfere with pedestrian or vehicular traffic to or from the business and must allow at least four (4') of sidewalk for pedestrians. Sandwich board signs are allowed only during business hours.

(E) Signs Permitting.

(1) Business and Industrial Districts. Signs are permitted in all Business Districts and the Industrial Districts subject to the following restrictions:

(a) Downtown Business District. No animated, illuminated, electronic, flashing, or static signage is allowed in the downtown Business District.

(b) Wall Signs placed against the exterior walls of buildings shall not extend more than twelve (12) inches out from a building's wall surface, shall not exceed five hundred (500) square feet in area or forty percent (40%) of the wall surface (whichever is smaller) for any one (1) premises, and shall not exceed twenty (20) feet in height above the centerline street grade.

(c) Projecting signs fastened to, suspended from or supported by structures shall not exceed one hundred (100) square feet in area for any one (1) premises, shall not extend more than six (6) feet into any required yard, shall not extend into any public right-of-way, shall not be less than ten (10) feet from all side lot lines, shall not exceed a height of twenty (20) feet above the mean centerline street grade and shall not be less than eight (8) feet above a driveway or an alley.

(d) Ground signs or free standing signs shall not exceed forty-five (45) feet in height above the centerline of the grade of the street from which access to the premises is obtained, shall be set back a minimum of ten (10) feet from the property line or meet all yard requirements for the district in which it is located (whichever is less), and shall not exceed two hundred (200) square feet on one (1) side, nor four hundred (400) square feet on all sides for any one (1) premise. The lowest sign on a sign cabinet shall be no less than ten (10') feet from grade unless the

sign is setback ten (10') feet from property line. Any sign in excess of forty-five (45) feet in height requires a conditional use permit.

(e) Roof signs shall not exceed fifteen (15) feet in height above the roof, shall meet all yard requirements for the district in which it is located, shall be considered part of the structure in meeting all height requirements for the district in which it is located and shall not exceed three hundred (300) square feet on all sides for any one (1) premises.

(f) Window signs shall be placed only on the inside of business buildings and shall not exceed twenty-five percent (25%) of the glass area of the pane upon which the sign is displayed. Temporary painted specials on windows shall not be considered signs, but limited to twenty-five (25%) percent of glass area.

(g) Off-premise signs, displays and devices on or within the "adjacent areas" of all State, Freeway and Federal Aid Primary Systems, as defined in Chapter 84.30 of the Wisconsin Statutes, shall be regulated pursuant to Chapter 84.30 of the Wisconsin Statutes and Chapter Trans. 201, as revised, of the Wisconsin Administrative Code, provided the maximum size of the sign shall not exceed 672 square feet per side and a maximum height of the sign shall not exceed 45 feet above the centerline of the grade of the street from which access to the premises is obtained, also to allow for a 64 square foot extension, however, that where this Section (g) establishes more restrictive criteria for signs, then the provisions of this Section (g) shall supersede the State criteria. Spacing of signs along non-interstate highways shall be measured from other off-premise signs along the same side of the street and shall be at least three hundred (300) feet apart and not cover two hundred (200) square feet per side. A State permit must be issued before a Village permit is issued. This is the sole Section for regulating off-premise signs for size and spacing.

(h) No new billboards of any type within the Village limits

(i) A digital billboard shall be separated from another digital billboard by a minimum distance of 1,000 feet.

(j) Each conversion shall require that two (2) square feet of static billboard sign face shall be eliminated for every one (1) square foot of new digital EMU sign face (cabinet size) with the sign company providing the list of sign faces and square footage to be removed and the list shall be approved by the Village Plan Commission.

For example if a 672 square foot static billboard is converted to a digital display a total of 1,344 square feet of static off-premise sign face shall be removed. In addition, the entire support structure and sign shall be removed prior to the issuance of any permit for the newly converted off-premise EMU.

(k) Directory signs for multi-tenant building complexes are permitted as an alternative to ground signs, free standing signs, projecting signs, and roof signs for individual stores in the multi-tenant building complex. The top of a directory sign shall not exceed thirty (30) feet in height above the mean centerline street grade. The supporting structure shall not be greater than ten (10) feet wide. That portion of the directory sign which advertises the multi-tenant building complex name shall not exceed eighty (80) square feet for one (1) side and a total of one hundred sixty (160) square feet for all sides. That portion of the directory sign which advertises the individual business name shall not exceed fifteen (15) square feet for one (1) side and a total of thirty (30) square feet for all sides. Directory signs measuring less than ten (10) feet from grade to the bottom sign cabinet must be set back ten (10) feet and shall meet all yard requirements for all zoning district in which the signs are located.

(l) Any sign qualifying as more than one (1) of the above-listed types shall meet the requirements for each type.

(m) Bills and posters shall not be posted on the exterior of buildings or windows.

(2) Residential, Conservancy and Agricultural Districts. All signs are prohibited in the R-1 Residential, R-2 Residential, Conservatory, Agricultural, Planned Unit Development, Flood Districts, including all Traditional Neighborhood Development and Conservation Design Subdivision Overlay Districts, except the following, but in no case are private signs permitted in any public rights-of-way:

(a) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed four (4) square feet.

(b) Real estate signs not to exceed four (4) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

(c) Name, occupation and warning signs not to exceed two (2) square feet located on the premises.

(d) Bulletin boards for public, charitable or religious institutions not to exceed eight (8) square feet in area located on the premises.

(e) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(f) Official signs, such as traffic control, parking restrictions, information and notices.

(g) Temporary signs or banners, when authorized by the Village Clerk.

(h) Awnings or canopies servicing only a particular single-family dwelling unit, provided the same shall conform to the regulations applicable to the zoning district in which the same are located.

(i) House numbers or signs identifying parks or country clubs or official bulletin boards.

(j) An approved professional sign shall be a sign not exceeding three (3) square feet in area, stating only the name and business or profession of the occupant or the character or the use of the premises on which the sign is maintained. It shall not be illuminated and shall not move. Only one (1) such approved professional sign shall be maintained on a premise.

(F) Construction And Maintenance Regulation For Signs.

(1) Installation. All signs shall be properly secured, supported, and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors, and supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector.

(2) General Requirements.

(a) Construction Standards. Signs shall be constructed in a safe structural manner in accordance with the National Building Code and the National Electrical Code with fireproof and fire-resistant materials and the Wisconsin State Codes, if more restrictive. All signs shall withstand a wind load pressure of thirty (30) p.s.f. of surface and shall also be fastened, supported and maintained so as to withstand a wind load pressure of thirty (30) p.s.f. per American Society of Engineering.

(b) Roof Signs. No sign shall be located so as to project above the parapet line, unless approved by the Village Planning Commission. Roof sign structures shall be constructed entirely of steel

or aluminum, and all faces shall be constructed of fire-resistant materials and shall withstand a wind pressure of thirty (30) p.s.f. per American Society of Engineering.

(c) Illuminated Signs, intermittent signs, flashing signs, or moving light signs. Any illuminated signs shall not interfere with surrounding properties or traffic. Signs may be illuminated, subject to the following restrictions:

- (i) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those specified in (d) below, and those giving public service information such as time, date, temperature, weather, or similar information.
- (ii) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the interstate or federal-aid primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
- (iii) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

(d) Signs may contain multiple or variable messages, including messages on louvers that are rotated and messages formed solely by use of lights or other electronic digital displays that may be changed by any electronic process, subject to all of the following restrictions:

- (i) Each change of message shall be accomplished in one (1) second or less.
- (ii) Each message shall remain in a fixed position for at least six (6) seconds.
- (iii) All electronic message unit signs must obtain a conditional use permit with the exception of electronic numeric price message units.
- (iv) The Building Inspector may prohibit or establish restrictions on the illumination of messages to a degree of brightness that is greater than necessary for adequate visibility.

(e) Prohibited Mountings. No signs shall be painted on, attached to or affixed to any trees, rocks, or other similar organic or inorganic natural matter, including utility poles or apparatus.

(f) Blanketing. Blanketing of signs shall not be allowed.

(g) Maintenance. All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.

(h) Annexed Areas. All signs in newly annexed areas shall comply with this Article within five (5) years of annexation.

(3) Specific Requirements.

(a) Electronic Message Unit Signs.

- (i) All electronic message unit signs must obtain a conditional use permit with the exception of electronic numeric price message units.
- (ii) Operational Mode Level 1 as defined in 395-18(B)(20) is the only Level allowed for electronic message unit signs, and all messages must be displayed in a fixed position for at least six (6) seconds.
- (iii) Traveling or scrolling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second. Such signs may be used only to advertise activities conducted on the premises or to present public service information pursuant to Section 395-18(F)(1)(c).

(iv) The Building Inspector may prohibit or establish restrictions on the illumination of messages to a degree of brightness that is greater than necessary for adequate visibility.

(b) Portable Signs. Portable signs shall be limited to use to thirty (30) days at a time following approval by the Village Board, provided, however, that the Village Board shall not give approval for placement of a portable sign if it presents a vision obstruction and not more frequently than four (4) times per year at any one (1) location. The maximum sign of portable signs shall be twenty-five (25) square feet on each face, back-to-back.

(4) Search Lights. Temporary use of search lights, pennants, streamers, or spinners for advertising purposes are allowed in any district, provided, that the use will not be located in any public right-of-way, will not be located closer

than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Temporary use shall not be granted for a period of more than five (5) days in any six (6) month period.

(5) Festoons. Festoons and all other fluttering, spinning, or similar type devices are prohibited except for national flags and flags of political subdivisions of the United States, of bona fide civic, charitable, fraternal, and

welfare organizations and except during federal legal public holidays, or during a special civic event, or for a time period not to exceed thirty (30) consecutive days.

(6) Tethered Signs. Only one (1) inflatable sign or tethered balloon shall be allowed per zoning lot. Display of inflatable signs or tethered balloons shall be limited to one (1) week per month.

(7) Signs on Public Rights-of-Way. Signs shall not be permitted on public rights-of-way except for traffic control, parking and directional signs and as otherwise specified in this Chapter.

(G) Prohibited Signs.

(1) Signs Facing Residential Districts. No sign, except those permitted in Section 3.07(D) shall be permitted to face a Residential district within fifty (50) feet of such district boundary.

(2) Traffic Interference. Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness

of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape. No sign, awning or canopy shall

be placed so as to obstruct or interfere with traffic visibility. No signs, billboards or other advertising media, which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.

(3) Number of Signs Permitted. No more than one (1) ground sign or free standing sign exceeding ten (10') feet in height and one (1) ground sign less than ten (10) feet in height shall be located on any one premise. No more than two (2) signs of all other types shall be located on any premise. Said sign shall not exceed two hundred (200) square feet on one side nor more than four hundred (400) square feet on all sides for any one premise. Premises occupied by a multi-tenant building complex may, as an alternative, have one (1) detached sign plus one (1) flat sign illuminated or otherwise for each place of business located in said multi-tenant building complex provided that the aggregate total of all signs located on any premises so occupied shall not exceed six (600) hundred square feet. This Paragraph shall not apply to directional on-site signs or flat identification signs attached to buildings.

(4) Signs on Public Right-of-Way. Signs shall not be permitted on any public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Chapter, or be located within five (5) feet of a property line.

(H) Dangerous And Abandoned Billboard Signs.

(1) All billboards and/or sign messages shall be removed by the owner or lessee of the premises upon which an off-premise or premise sign/billboard is located when the business it advertised is no longer conducted where advertised or when, in the judgment of the Building Inspector, such sign is so old, dilapidated, or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove the sign/billboard, the Village Board, or its designee, shall give the owner thirty (30) days' written notice to remove said sign/billboard, and, thereafter, upon the owner's or lessee's failure to comply, may remove such sign/billboard, any costs for which shall be charged to the owner of the property or may be assessed as a special assessment against the property, and/or the Village Board or designee may take any other appropriate legal action necessary to attain compliance.

(2) Alterations. Any sign which was erected before the adoption of this sign Article shall not be rebuilt or relocated without conforming to all of the requirements of this Article.

(3) Violations. All signs constructed or maintained in violation of any of the provisions of this Article are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the penalty provisions for violation of this Chapter, the Village Board, or its designee, may bring an action to abate the nuisance in the manner set forth in the Wisconsin State Statutes.

(I) Nonconforming Signs.

(1) Signs Eligible for Characterization as Legal Nonconforming. Any sign located within the Village of Lyndon Station limits of the date of adoption of this Chapter hereafter, which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted, providing it meets the following requirements:

(a) The sign was covered by a proper sign permit prior to the date of adoption of this sign ordinance.

(b) If no permit was required under the applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of this sign ordinance.

(2) Loss of Legal Nonconforming Status. A sign loses its nonconforming status if one (1) or more of the following occurs:

(a) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Chapter than it was before alteration;

(b) The sign is relocated.

(c) The sign fails to conform to the Village requirements regarding maintenance and repair, abandonment or dangerous or defective signs;

(d) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Chapter with a new permit secured therefore or shall be removed.

(3) Legal Nonconforming Sign Maintenance and Repair. Nothing in this Chapter shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Chapter regarding safety, maintenance and repair of signs.

(J) Variances or Exceptions. The Village Board, following a recommendation from the Village Planning Commission, may grant variances or exceptions to these sign regulations through Conditional Use Permits.

(K) Awnings And Canopies.

(1) Permitted Awnings. No awnings shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:

(a) Support. Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.

(b) Height. All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the public sidewalk or public thoroughfare.

(c) Setback. No awning shall extend beyond a point four (4) feet into the right-of-way.

(d) Advertising. No advertising shall be placed on any awning, except that the name of the establishment within the building to which the awning is attached may be painted or otherwise permanently placed in a space not exceeding twelve (12) inches in height on the front and side edges.

(2) Permitted Canopies. No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:

(a) Support. The structural support of all canopies shall be designed by a licensed professional engineer and approved by the Building Inspector as in compliance with the Building Code of the Village of Lyndon Station. All frames and supports shall be of metal and designed to withstand a wind pressure as provided in Section (I) of this Code. All canopies shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and the sidewalk or ground below.

(b) Height Above Sidewalk. All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.

(c) Setback. No awning shall extend beyond a point four (4) feet into the right-of-way.

d) Advertising. No advertising shall be placed on any canopy, except that the name of the establishment may be painted or placed in a space not exceeding twenty (20) inches in average height on the front and side edges. Such name may be so painted or placed irrespective of any prohibition otherwise applicable hereunder, providing, however, that if such canopy shall contain more or other than the name of the establishment in letters more than twelve (12) inches on the front and side edges, it shall be considered as a sign and be subject to all the provisions hereof.

(e) Canopy Insurance Requirements. Every applicant for a canopy permit, which will overhang the public street or sidewalk shall, before the permit is granted, file with the Administrator a liability insurance policy with minimum limits of Three Hundred Thousand Dollars (\$300,000) for personal injury to any person and One Hundred Thousand Dollars (\$100,000.00) for property damage which shall indemnify and save harmless the Village from any and all damages, judgments, costs or expense which the said Village may incur or suffer by reason of the granting of said permit.

(N) Violations Of Sign Code.

(1) Any person, firm or corporation who begins, erects or completes the erection or construction of any sign controlled by this Chapter prior to the granting of a permit shall pay a penalty of four (4) times the amount of the permit otherwise required.

(2) If the Village Board or Building Inspector finds any sign regulated herein unsafe or insecure or is a menace to the public, it shall give written notice to the sign owner and to the property owner.

(3) If such sign owner fails to remove or alter the sign so as to comply with the standards herein set forth within five (5) days after such notice, the Village Board may cause such sign to be removed or altered at the expense of the owner of the sign or the owner of the property upon which it is located so as to comply with the provisions of this Chapter.

(4) Any person, firm or corporation who violates any provision of this Chapter shall be subject to the penalty as set forth in Appendix "A" Fee Schedule. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

§ 395-19. Off-premises advertising signs. [Added 12-13-2006 by Ord. No. 2006-3; amended 7-9-2008 by Ord. No. 2008-2]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

OFF-PREMISES ADVERTISING SIGN A commercial sign which directs the attention of the public to a business activity conducted or product sold or offered at a location not on the same premises where such commercial sign is located. For purposes of this section, easements and other appurtenances and noncontiguous parcels under the same ownership shall be considered off the premises of the parcel of land on which the business or activity is located or conducted. Signs which are no more than 12 square feet in area and no more than five feet above uniform grade and provide only directions to a business or establishment are excluded from the definition of an off-premises advertising sign.

- B. Off-premises advertising signs are not permitted. Off-premises advertising signs are not permitted within the jurisdiction of the Village of Lyndon Station.
- C. Nonconforming signs.
- (1) Intent. This section is intended to encourage the eventual elimination of signs which do not comply with this section. The elimination of nonconforming signs is important to the purpose stated above. However, it is also the intent of this section to avoid unreasonable invasion of property rights while accomplishing removal of nonconforming signs.
 - (2) Compliance. A sign not complying with this section but in place on the effective date of this section shall be brought into compliance with this section, if it is practical to do so, as determined by the owner of the sign.
 - (3) Continuance. A nonconforming sign may be continued if it is maintained in good condition. It shall not, however, be replaced by another nonconforming sign. It may not be structurally altered so as to prolong the life of the sign. It may not be reestablished after damage or destruction by natural causes if the Village Board or its designee determines that the estimated cost of reconstruction exceeds 50% of the estimated replacement cost. However, it may be replaced if intentionally damaged or destroyed by persons who are proven to be unconnected to the owner(s) of the sign.¹⁰
 - (4) Nuisance. An unsafe or abandoned sign is declared a public nuisance which shall be abated by the owner within 60 days of receiving notice from the Village Board or its designee. After 60 days the sign may be removed by the Village Board or its designee.¹¹
- D. Protection of First Amendment rights. Any sign allowed under this section may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business, activity conducted or product sold or offered at a location not on the same premises where such business sign is located.

§ 395-20. Conditional uses. [Added 11-14-2002 by Ord. No. 76B]

- A. Statement of purpose. The development and execution of this chapter is based upon the division of the Village into districts, within which districts the use of land and buildings and bulk and location of buildings and structures in relation to the land are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

location, development and operation of such uses. Such uses are classified as conditional uses.

B. Authority of the Village Board; requirements.

- (1) The Village Board hereby authorizes the Building Inspector (or Village Board if no Building Inspector is currently appointed) to issue a conditional use permit after review, public hearing, and approval from the Village Board, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this chapter and are further found not to be hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such permit shall specify the period of time for which effective, if specified, the name of the permittee, and the location and legal description of the affected premises. Prior to the granting of a conditional use, the Village Board shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.¹²
 - (2) Any development within 500 feet of the existing or proposed rights-of-way of freeways and expressways and within 1/2 mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Village Board shall request such review and await the highway agency's recommendation for a period not to exceed 20 days before taking final action.
 - (3) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Village Board upon its finding that these are necessary to fulfill the purpose and intent of this chapter.
 - (4) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses.
- C. Initiation of conditional use. Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for in this chapter in the zoning district in which such land is located.
- D. Application for conditional use. An application for a conditional use shall be filed with the Village Clerk-Treasurer. The application shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures and the existing and proposed use of each structure and lot and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Subsection G hereinafter. The Village Board

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

may require such other information as may be necessary to determine and provide for the enforcement of this chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, and specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; and plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

- E. Hearing on application. All requests for conditional uses shall be to the Village Board and the Village Board can, on its own motion, apply conditional uses when applications for rezoning come before it. Upon receipt of the application and statement referred to in Subsection D above, the Village Board shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Village Board. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Village Board shall, by rule, prescribe from time to time.
- F. Notice of hearing on application. Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 notice under the Wisconsin Statutes in one or more of the newspapers in general circulation in the Village. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Building Inspector (or Village Board if no Building Inspector is currently appointed), members of the Village Board, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within 100 feet of the boundaries of the properties affected, said notice to be sent at least 10 days prior to the date of such public hearing.³
- G. Standards for conditional uses.
 - (1) Standards. No application for a conditional use shall be recommended for approval by the Village Board unless the Village Board shall find all of the following conditions are present:
 - (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
 - (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
 - (g) That the proposed use does not violate floodplain regulations governing the site.
 - (h) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.
- (2) Application of standards. When applying the above standards to any new construction of a building or an addition to an existing building, the Village Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (3) Additional considerations. In addition, in passing upon a conditional use permit, the Village Board shall also evaluate the effect of the proposed use upon:
 - (a) The maintenance of safe and healthful conditions.
 - (b) The prevention and control of water pollution, including sedimentation.
 - (c) Existing topographic and drainage features and vegetative cover on the site.
 - (d) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (e) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (f) The location of the site with respect to existing or future access roads.
 - (g) The needs of the proposed use for a shoreland location.
 - (h) Its compatibility with uses on adjacent land.
 - (i) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.
- H. Denial of application for conditional use permit. When an advisory recommendation of denial of a conditional use application is made by the Village Board, the Village Board shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate the reasons the Village Board has used in determining that each standard was not met.
- I. Conditions and guarantees. The following conditions shall apply to all conditional uses:
 - (1) Conditions. Prior to the granting of any conditional use, the Village Board may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed

necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in Subsection G above. In all cases in which conditional uses are granted, the Village shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (a) Landscaping;
 - (b) Type of construction;
 - (c) Construction commencement and completion dates;
 - (d) Sureties;
 - (e) Lighting;
 - (f) Fencing;
 - (g) Operational control;
 - (h) Hours of operation;
 - (i) Traffic circulation;
 - U) Deed restrictions;
 - (k) Access restrictions;
 - (l) Setbacks and yards;
 - (m) Type of shore cover;
 - (n) Specified sewage disposal and water supply systems;
 - (o) Planting screens;
 - (p) Piers and docks;
 - (q) Increased parking; or
 - (r) Any other requirements necessary to fulfill the purpose and intent of this chapter.
- (2) Site review. In making its recommendation, the Village Board shall evaluate each application and may request assistance from any source which can provide technical assistance. The Village Board may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- (3) Alteration of conditional use. No alteration of a conditional use shall be permitted unless approved by the Village Board.

- (4) Architectural treatment. Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Village Board may require the use of certain general types of exterior construction materials and/or architectural treatment.
 - (5) Sloped sites; unsuitable soils. Where slopes exceed 6% and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
 - (6) Costs to be reimbursed to Village. In addition to any other conditions identified above, the Village may also require the applicant to reimburse it for any costs reasonably incurred by the Village in reviewing a conditional use application, including but not limited to engineering fees, attorney fees, publication costs and other professional fees. In the event that the Village anticipates substantial costs prior to holding a public hearing, it may require a deposit against those costs. Prepaying the costs shall in no way commit the Village to granting the conditional use permit, and regardless of whether the permit is granted or not all costs reasonably incurred by the Village may be billed to the applicant at the conclusion of the process.
- J. Validity of conditional use permit. Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within 24 months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately 45 days prior to the automatic revocation of such permit, the Building Inspector (or Village Board if no Building Inspector is currently appointed) shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of 90 days for justifiable cause, if application is made to the Village Board at least 30 days before the expiration of said permit.¹⁴
- K. Complaints regarding conditional uses. The Village Board shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Building Inspector (or Village Board if no Building Inspector is currently appointed) to order the removal or discontinuance of any unauthorized alterations of an approved conditional use and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Village Board shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

more of the standards set forth in Subsection G above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Subsection F above; Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Village Board may, in order to bring the subject conditional use into compliance with the standards set forth in Subsection G or condition previously imposed by the Village Board, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Subsection G(1) and (2) will be met, the Village Board may revoke the subject conditional approval and direct the Building Inspector (or Village Board if no Building Inspector is currently appointed) and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Village Board shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.¹⁵

§ 395-21. Violations and penalties.

- A It shall be unlawful to construct, reconstruct, enlarge, change, maintain or use any building or to use any land in violation of any regulation or any provision of this chapter or any amendment thereto. Any person, firm, or corporation violating this chapter or any regulation, provision or amendment thereto shall be fined not more than \$100. Each and every day during which such illegal erection, construction, reconstruction, enlargement, change, maintenance or use continues shall be deemed a separate offense.
- B. In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land is or is proposed to be used in violation of law or of this chapter or any amendment thereto, the Village Board, the Building Inspector or adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.¹⁶

§ 395-22. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of public health, safety, morals, comfort and general welfare.

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§. 395-23. Personal Wireless Services Antennas and Antenna Towers. [Added 08-09-2010 by Ord. No. _____]

(a) Definitions.

- (1) *"Personal Wireless Services"* means commercial mobile telecommunications services, unlicensed wireless telecommunication services, and common carrier wireless telecommunications exchange access services.
- (2) *"Personal Wireless Services Antenna"* means an antenna used in connection with the provision of personal wireless services.
- (3) *"Personal Wireless Services Antenna Tower"* means any structure, whether freestanding or attached to an existing building or structure, that is designed and constructed primarily for the purpose of supporting one or more personal wireless services antennas, including, but not limited to, self-supporting lattice towers, guy towers, or monopole towers.

(b) Permit Required.

- (1) No person shall, within the zoning jurisdiction of the Village of Lyndon Station, build, construct, use or place any personal wireless services antenna or personal wireless services antenna tower until a conditional use permit shall have first been obtained in accordance with Sec. 395-20. However, notwithstanding anything to the contrary in Sec. 395-20, a denial of a conditional use permit under this section must be in writing.
- (2) Notwithstanding anything to the contrary in this chapter, the construction, use, or placement of Personal Wireless Services Antennas or Personal Wireless Services Antenna Towers in the Village shall constitute conditional uses in all zoning districts, except in the residential district, where the construction, use, or placement of Personal Wireless Services Antennas or Personal Wireless Services Antenna Towers is prohibited.
- (3) Applications. In addition to the application requirements of this chapter, all applications for a conditional use permit for wireless communications facilities shall include the following:
 - (i) A report from a professional engineer registered in the State of Wisconsin which:
 - a. Certifies the facility's compliance with structural and electrical standards.
 - b. Describes the tower's capacity, including the potential number and type of antennas that it can accommodate.
 - c. Describes the lighting and/or painting to be placed on the tower if required by the FCC or FAA.
 - d. Certifies that the applicant or tenant has a valid license from the FCC to operate the proposed facilities and identifies both the class of the license and the license holder.
 - e. Describes the tower height and design, including a cross section, elevation, and foundation design.
 - f. Identifies the location of all sites that were considered as possible alternatives to the site being applied for.
 - (ii) A facility plan. The Village will maintain an inventory of all existing and proposed wireless communication site installations, and all providers shall provide the following information in each plan:
 - a. Written description of the type of consumer service each provider will provide to its customers.
 - b. A map which shows the geographic service areas for the existing and proposed telecommunication sites affecting the Village.

(iii) Landowner acknowledgment. Written acknowledgment by the landowner of a leased site that he/she will abide by all applicable terms and conditions of the conditional use permit. Such acknowledgment shall be in recordable form and made to all successors, heirs and assignees. Such acknowledgment, after approval by the Village, shall be recorded by the provider or landowner at the Juneau County Register of Deeds Office.

(iv) Additional information.

a. The Building Inspector or Village Board, at his/her/its discretion, may require visual impact demonstrations, including mock-ups and/or photo montages, screening and painting plans, network maps, alternative site analysis, lists of nearby wireless communication facilities, or facility design alternatives for the proposed facilities.

(c) Standards.

a. The Village may require the Building Inspector or an independent technical expert to review technical materials submitted by the applicant at the applicant's cost.

(1) Applications for a permit to add a new antenna to an existing tower or structure shall be exempt from the requirements of Subparagraph (b)(2)(ii) of this section. *Location.* Personal wireless services antennas shall be located on lawfully pre-existing antenna support structures or other lawfully pre-existing buildings or structures wherever possible. No conditional use permits authorizing construction of a new personal wireless services antenna tower or addition to or expansion of an existing personal wireless services antenna tower shall be authorized unless the applicant is able to demonstrate that no lawfully pre-existing building or structure is available, on commercially reasonable terms, and sufficient for the location of an antenna necessary for the provision of personal wireless services.

(2) *Design of New Personal Wireless Services Antenna Towers for Co- Location.* Unless otherwise authorized by the Village Board for good cause shown, every new personal wireless services antenna tower shall be designed, constructed and installed to be of a sufficient size and capacity to allow the location of additional personal wireless services antennas to accommodate at least two (2) additional personal wireless service provider(s) on such structure in the future. Any conditional use permit for such a support structure may be conditioned upon the agreement of the applicant to allow co-location of other personal wireless service providers on commercially reasonable terms specified in such conditional use permit.

(3) *Modification of Personal Wireless Antenna Towers.* Unless otherwise provided herein, a conditional use permit is required for any modification of a personal wireless services antenna tower which significantly alters the appearance or structural integrity of the tower or which involves the installation of antennas or equipment differing in size and function from that previously installed on the tower. The Village Board shall consider the reasonableness, based on economic and technological feasibility, of conditioning the grant of the conditional use permit upon modifying the tower in a manner which would accommodate the co-location of one (1) or more additional antenna arrays.

(4) *Facilities Associated with Personal Wireless Services Antennas.* All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services antenna shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. When a new structure is required to house such equipment, such structure shall be harmonious with, and blend with, the natural features, buildings and structures surrounding such structure.

(5) *Abandonment and Removal.*

(i) Permit holders shall notify the Village Board when one (1) or more antennas, an antenna support structure, or related equipment are not operated for the provision of personal wireless services for a continuous period of twelve (12) months or more. If two (2) or more providers of personal wireless services use the antenna support structure or related equipment to provide personal wireless services, then the period of non-use under this provision shall be measured from the cessation of operation at the location of such antenna support structure or related equipment by all such providers. Such antenna, antenna support structure, or related equipment may be deemed to be abandoned by the Village.

(ii) The owner of such an antenna, antenna support structure, or related equipment shall remove such items within ninety-(90) days following the mailing of written notice that removal is required. Such notice shall be sent by certified or registered mail, return receipt requested by the Village to such owner at the last known address of such owner. If the owner fails or refuses to remove such items within the time prescribed, the Village may cause such items to be removed, and the cost of such removal shall be charged against the real estate on which such items are located, and if that cost is so charged it is a lien upon such real estate and may be assessed and collected as a special assessment.

(6) *Compliance with Conditional Use Permits.* Upon written inquiry by the Village Board, the recipient of a conditional use permit under this Section shall have the burden of presenting credible evidence establishing to a reasonable certainty the continued compliance with all conditions placed upon the conditional use permit. Failure to establish compliance with all conditions placed upon the conditional use permit shall be grounds for revocation of the permit.

(7) *Information Regarding Future Antennas or Towers.* The Village Board may require that an applicant for a conditional use permit under this Section provide information regarding the applicant's then current plans for future placement or construction of personal wireless services antenna towers in the Village of Lyndon Station, in addition to the tower which is the subject of the application.

(8) *Payment of Costs.* The applicant shall pay all reasonable costs and expenses, including fees charged by consultants and attorney's fees, incurred by the Village relating to any application for a conditional use permit to construct a new personal wireless services antenna tower or

related facilities, or to locate a personal wireless services antenna on an existing tower or other structure. Holders of conditional use permits shall also pay all reasonable costs and expenses relating to establishing and enforcing compliance with conditional use permits. If a dispute arises involving an applicant for a conditional use permit and a holder of a conditional use permit, the Village Board may allocate the costs and expenses incurred by the Village between the applicant and the permit holder. Failure to pay such costs and expenses or provide information requested by the Village Board shall be grounds for denial or revocation of a conditional use permit.

(9) *Limited to Applicant.* The rights granted under a conditional use permit granting approval of a personal wireless services antenna or a personal wireless services antenna tower shall not be assigned or transferred without prior approval of the Village Board.

(10) *Prohibitions.*

- (i) No advertising message or sign shall be affixed to any tower or antenna. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices but does not include weather devices.
- (ii) Towers and antennas shall not be artificially illuminated unless required by FCC or FAA regulations.
- (iii) No part of any tower or antenna shall extend across or over any right-of-way, public street, highway, sidewalk, or property line without the written permission of the Village and, in the case of extending over private property, the private property owner.
- (iv) No temporary mobile communication sites are permitted except in the case of testing purposes, equipment failure, equipment replacement or an emergency situation, which in any case must be authorized by the Building Inspector and/or Director of Public Works. Use of temporary mobile communications sites for testing purposes shall be limited to seven working days, and the use of temporary mobile communications sites for equipment failure, equipment replacement, or in the case of emergency situations shall be limited to 30 days, unless extended in writing by the Building Inspector and/or Director of Public Works.
- (v) No part of any tower or antenna shall extend beyond the fenced enclosure required by this article.

(11) *Performance Standards.*

- (i) Security fencing, lighting and signage.
 - a. All towers shall be reasonably protected against unauthorized access. The bottom of the tower from ground level to 12 feet above ground shall be designated to prevent unauthorized climbing and shall be enclosed with a minimum of a six-foot- high fence with a locked gate. Fence design, materials, and colors shall reflect the character of the surrounding area.
 - b. Security lighting for on-ground facilities and equipment is permitted, as long as it is shielded to keep the light within the boundaries of the site.
 - c. Signs shall be mounted on the fenced enclosure, or adjacent to the gate prohibiting entry without authorization, warning of the danger from electrical equipment and/or unauthorized climbing of the tower and identifying the owner of the tower and telephone number for contact in case of emergency.
- (ii) Aesthetics.
 - a. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
 - b. Towers shall maintain either a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a light gray, so as to reduce visual obtrusiveness and blend in to the natural setting.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

- d. Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscape strip at least five feet in width outside the perimeter of the tower compound. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers placed on large wooded lots, natural growth around the property perimeter may be a sufficient buffer.

(12) *Accessory Equipment and Buildings.*

- (i) Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with an antenna may be located on a roof, provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or

cabinets shall comply with all applicable building and zoning requirements.

- (ii) The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the zoning district in which it is located. Equipment cabinets or structures shall be screened from view by an evergreen hedge or suitable vegetation, except where the use of nonvegetative screening would reflect and complement the architectural character of the surrounding neighborhood. Additional screening will not be required if the cabinet or structure is located within the screened compound.

- (13) *Exceptions.* If the applicant can show that one or more standards under this Section would prohibit the applicant from siting an antenna or antenna tower in a location essential to providing satisfactory coverage to Village residents, then the application may be granted notwithstanding its failure to meet such standards.

§ 395-24. Fences. [Added 08-12-2013 by Ord. No. _____]

A. Permit Required

No person, firm or corporation except on a farm and for farming purposes and security fences at construction sites, shall hereafter construct or cause to be constructed or erected within the Village of Lyndon station territorial and extraterritorial limits, any fence without first obtaining a building permit from the Building Inspector, paying the appropriate fee and complying with the following minimum requirements:

- (1) Locations: All boundary line fences shall be located entirely on private property of the person, firm or corporation constructing, or causing the construction of such fence. The applicant for a fence permit shall submit to the Building Inspector a survey thereof prepared by a registered Land Surveyor, before the fence permit is issued.
- (2) Construction and Maintenance: Every fence shall be constructed in a workman like manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used and the finished side shall face out to the adjoining property. Every boundary line fence shall be maintained in good repair and shall not be allowed to become and remain in a condition of disrepair or constitute a hazard or nuisance, public or private. Any fence which is dangerous to the public safety, health, or welfare shall constitute a public nuisance and the Building Inspector shall commence proper proceedings for the abatement thereof.

B. Electric Fences

Electric Fences shall only be permitted on extraterritorial farms when related to farming, but not as boundary fences. Barbed wire fences shall only be permitted on extraterritorial farms, except as hereinafter provided.

C. Standards

(1) Materials:

- (a) Residential Districts: Acceptable materials for constructing fencing, landscape walls, and decorative posts include wood, stone, brick, wrought iron, chain link, polyethylene and similar materials approved by the Village Board, except that wire mesh and chain link fencing is not permitted within required front yard or street yard areas. Barbed wiring fencing shall not be permitted. Any fence within a street yard, including along property lines which intersect a right-of-way, shall not exceed a maximum of 60% opaque.

[1] Fences on all corner lots shall not interfere with the vision of drivers or bicyclists.

[2] Fences may be constructed to a height of no more than six (6') feet on a side boundary line from the rear lot line to the front setback line of the principal building. From the front setback line of the principal building toward the street, the maximum height of a side boundary fence shall be four (4') feet. In a case where a side boundary fence is within ten (10') feet of a driveway, the fence shall have a minimum fifteen (15') front setback.

[3] Fences along any rear boundary line that is also the rear boundary line of an abutting lot shall not exceed six (6') feet in height.

[4] Fences along a rear boundary line which line constitutes the side lot line of an abutting lot shall not exceed six (6') feet in height, and shall not exceed four (4') feet in height when abutting a front yard line.

[5] No fence shall be erected within two (2') feet of any public right-of-way.

[6] Fencing for swimming pools shall be provided per the Model Swimming Pool Enclosure Code established by the National Spa and Pool Institute (NSPI).

- (b) Nonresidential Districts: Acceptable materials for constructing fencing, landscape walls, and decorative posts include wood, stone, brick, wrought iron, chain link, wire mesh, polyethylene and similar materials approved by the Village Board, except that wire mesh and chain link fencing is not permitted within required front yard or street yard areas. Barbed wire fencing shall not be permitted, except that security fences may include up to 4 strands of barbed wire on top of fences provided that (i) the lowest strand of barbed wire is at least 8 feet above grade, (ii) the entire structure, including any outward projecting barbed wire supports, shall stay within the property lines, and (iii) the total height of the barbed wire portion of the fence shall not exceed 2 feet. Any fence within a street yard, including along property lines which intersect a right-of-way, shall be maximum of 60% opaque.

[1] Boundary line fences within all business districts shall not exceed six (6') feet in height except that the Village Board may grant a Permit for a fence up to eight (8') feet in height, provided:

[A] The applicant has an approved open sales lot; or

[B] An open sales lot classified as a non-conforming use; or

[C] A commercial operation which has approved storage of equipment outside the building; or

[D] The use could be dangerous to the public; or

[E] The use is for an unattractive nuisance and the applicant can show that for security reasons a fence six (6') feet in height will not be adequate

(c) Industrial Districts: Boundary line fences in all industrial districts shall not exceed eight (8') feet in height, except that:

[1] Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire may be fastened, commencing at a point at least seven (7') feet above the ground.

[2] Fences erected within the required front yard shall not be over six (6') feet in height.

[3] Any use required to be screened in accordance with this Section shall be contained within an opaque fence or wall six (6') feet high or higher if greater height is required to screen materials being stored.

(D) Temporary Fencing

Temporary fencing, including the use of wood or plastic snow fences for the purposes of limiting snow drifting between November 1 and April 1, protection of excavation and construction sites, and the protection of plants during grading and construction is permitted for up to 180 consecutive days and no more than 180 consecutive days per calendar year.

(E) Snow Fences

Snow fences constructed of wood and wire, and/or plastic shall be permitted only as Temporary fences.

(F) Alleys

Fences that abut an alley must allow a four (4') feet setback from the alley right away.

(G) Existing Fences, Landscape Walls, and Decorative Posts

All existing fencing, landscape walls, and decorative posts when being replaced need to abide by the above ordinance and amendments. If existing fencing, landscape walls, and decorative posts cannot be repaired to the same appearance or use the same materials all construction must comply with the above ordinance and amendments.

(H) Fees

The permit cost is \$20.00.

§395-25 Groundwater Protection Overlay District [Created by ordinance 03-2024]

- A. Purpose. The residents of the Village of Lyndon Station depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Ordinance is to establish a groundwater protection overlay district to institute land use regulations and restrictions within a defined area which contributes water directly to the municipal water supply providing protection for the aquifer and municipal water supply of the Village and promoting the public health, safety and general welfare of Village residents.
- B. Authority. Statutory authority of the Village to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection, in §59.97(1) {which has since been renumbered as §59.69(1)} and §62.23(7)(c), Wis. Stats., to the statutory authorization for county and municipal planning and zoning to protect the public health, safety and welfare. In addition, §62.23(7)(c) and 60.10(2), Wis. Stats., the Village has the authority to enact this ordinance, effective in the incorporated areas of the Village, to encourage the protection of groundwater resources.
- C. Application. The regulations specified in this Wellhead Protection Ordinance shall apply within the area surrounding each municipal water supply well that has been designated as a “wellhead protection area” by the Village in the most recent & up to date wellhead protection plan, and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this chapter and the zoning ordinance, the more restrictive provision shall apply.
- D. Definitions
- (1) Groundwater protection overlay district. “Groundwater Protection Overlay District” means the area set forth in the Village of Lyndon Station’s most recent and up to date wellhead protection plan on the map titled “Wellhead Protection Area” [on file in the Village of Lyndon Station office] incorporated herein and hereby made a part of this ordinance. Said figures, together with everything shown thereon and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein. Wellhead protection areas are derived from hydrologic studies and are based on the area surrounding a well where groundwater takes 5-years or less to travel from the land surface to the pumping well
 - (2) Hazardous Chemicals. “Hazardous Chemicals” means those substances or compounds that are identified by OSHA under 29 CFR 1910.1200(c) and by OSHA under 40 CFR Part 370.
 - (3) Well Field. “Well Field” means a piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.
- E. Permitted Uses. The following uses are permitted in the Groundwater Protection Overlay District subject to the separation’s distances in Section H *Separation Distances*.
- (1) Parks, playgrounds or wildlife areas, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
 - (2) Non-motorized trails, such as bike, skiing, nature and fitness trails.
 - (3) Residential, commercial and industrial establishments that are municipally sewered and whose use, *Aggregate of Hazardous Chemicals* in use, storage, handling and/or production may not exceed 20 gallons or 160 pounds at any time, with the exception for those uses listed as “conditional” or “prohibited” in Sections F or G.
 - (4) Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources are accounted for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.

F. Conditional Uses. The following uses may be conditionally permitted under §395-20 *Conditional Uses*, in the Groundwater Protection Overlay District subject to the separation's distances in *Section H Separation Distances below*.

- (1) Hydrocarbon, petroleum or hazardous chemical storage tanks.
- (2) Motor vehicle services, including filling and service stations, repair, renovation and body work.
- (3) Residential, commercial and industrial establishments that are municipally sewered and whose use, *Aggregate of Hazardous Chemicals* in use, storage, handling and/or production exceeds 20 gallons or 160 pounds at any time.
- (4) Stormwater infiltration basins
- (5) Geothermal wells, also known as ground source heat pump along with any associated piping and/or ground loop component installations.

G. Prohibited Uses. The following uses are prohibited in the Groundwater Protection Overlay District.

- (1) Animal waste storage areas and facilities.
- (2) Application of fertilizer to manicured lawns or grasses in excess of the nutrient requirements of the grass.
- (3) Asphalt product manufacturing plants.
- (4) Dry cleaning establishments.
- (5) Fertilizer manufacturing or storage facilities.
- (6) Foundries and forge plants.
- (7) Hazardous chemical processing or manufacturing facilities.
- (8) Industrial liquid waste storage areas.
- (9) Landfills or other areas for dumping, disposal or transferring of garbage, refuse, recycling, trash, or demolition material, including auto salvage operations.
- (10) Metal reduction or refinement facilities.
- (11) Mining operations, including metallic, gravel pits, industrial or frac-sand mining.
- (12) Motor freight terminals.
- (13) Petroleum or hazardous chemical storage greater than 110 gallons in any single wall petroleum storage tank (double wall storage tanks installations shall meet the requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110).
- (14) Road salt or de-icing materials storage areas.

H. Separation Distances. The following separation distances as specified in s. NR 811.12(5), Wis. Adm. Code, shall be maintained within the Groundwater Protection Overlay District.

- (1) Ten feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the installation requirements of s. [ATCP 93.260](#) and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. [ATCP 93.110](#).
- (2) Fifty feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully air pressure tested in place. The air pressure test shall meet or exceed the requirements of the 4 psi low pressure air test for plastic gravity sewer lines found in the latest edition of Standard Specifications for Sewer & Water Construction in Wisconsin. Force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements for one hour at 125% of the pump shut-off head.
- (3) Two hundred feet between a well field and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one- or two-family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.
- (4) Three hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the

system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

- (5) Three hundred feet between a well field and any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260, Wis. Admin. Code, and receive written approval from the department of commerce or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (6) Four hundred feet between a well field and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.
- (7) Six hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.
- (8) One thousand feet between a well field and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.
- (9) Twelve hundred feet between a well field and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds [sch.NR 140](#) enforcement standards; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or single wall farm above ground storage tank or other single wall underground storage tank or above ground storage tank that has or has not received written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code, for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

I. Existing Non-Conforming Uses. In accordance with §395-6 *Nonconforming Uses*, the lawful nonconforming use of a structure or land existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

J. Requirements for Existing Non-Conforming Uses.

- (1) Such uses shall provide copies of all federal, state and local facility operation approvals or certificate to the Village zoning administrator and ongoing environmental monitoring results to the Village director of public works.
- (2) Such uses shall provide additional environmental or safety structures/monitoring as deemed necessary by the Village, which may include but are not limited to stormwater runoff management and monitoring.
- (3) Such uses shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.
- (4) Such uses shall have the responsibility of devising and filing with the Village a contingency plan satisfactory to the Village zoning administrator for the immediate notification of Village officials in the event of an emergency.

K. Enforcement. The following remedies are available in addition to any other remedies set forth in § 395.21 or otherwise available in law or equity.

- (1) In the event the individual and/or facility engaging in permitted use(s) under this chapter causes the release of any contaminants which endangers the WPA, the activity causing said release shall immediately cease and a cleanup satisfactory to the Village shall occur.
- (2) The individual/facility causing the release of contaminants shall be responsible for all costs of cleanup. The costs of cleanup shall include, but not be limited to, Village consultant fees, at the invoice amount plus administrative costs for oversight, review and documentation.
 - (a) The cost of Village employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the Village representing the Village's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;
 - (b) The cost of Village equipment employed;
 - (c) The cost of mileage reimbursed to Village employees attributed to the cleanup.
- (3) Following any such discharge the Village may require additional test monitoring and/or bonds/sureties as it deems necessary and reasonable.
- (4) Penalties for noncompliance shall be provided pursuant to Section 19.75.080 of this code.[§ 395.21?]

L. Conflict and Severability. If any section, subsection, sentence, clause, paragraph or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or other applicable administrative or governing body, such decision shall not affect the validity of any other section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

M. This ordinance shall take effect upon passage and posting as provided by law.