

Chapter 395

ZONING

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[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).
- (1) 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. 1, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, 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. I, 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. Regulation of signs. [Added 7-9-2008 by Ord. No. 2008-2]

- A. All signs within the jurisdiction of the Village of Lyndon Station must conform to the following standards:
- (1) Regulation of sign size. No sign face shall be larger than eight feet in height by 16 feet in width.
 - (2) Regulation of sign height. No sign shall be any taller than 20 feet, measured from the base of the sign at normal grade to the top of the highest attached component of the sign or from the elevation of the center line of the nearest public road to the top of the highest attached component of the sign, whichever results in the shortest measurement. Normal grade shall be construed to be the lower of:
 - (a) Existing grade prior to construction; or
 - (b) The newly established grade after construction, exclusive of any filling, berming, mounding or excavating for the purpose of locating the sign.
- B. Permit required.
- (1) Prior to constructing, placing, erecting or modifying within the jurisdiction of the Village any sign not exempted from this permitting provision, the owner of the lot on which the sign is to be placed shall secure a sign permit. No permit will be issued unless the proposed sign both conforms to the provisions of this section and is not prohibited by § 395-19.
 - (2) All applications for sign permits must be submitted to the Village Clerk-Treasurer and must contain at least the following information:

- (a) Name, address and telephone number of the applicant.
 - (b) Address of the building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.
 - (c) For commercial signs, the address of the business to which the sign directs the attention of the public.
 - (d) Two ink drawings of the sign, indicating the height, as measured pursuant to Subsection A(2) of this section, and the size of the sign.
 - (e) Name of person, firm, corporation, or association erecting the structure.
 - (f) Written consent of the owner of the building, structure or land to which or on which the structure is to be erected.
- (3) Fee. Each application for a sign permit shall be accompanied by a fee in an amount that is determined by the Village Board from time to time.
 - (4) Completeness. Within five workdays of receiving an application for a sign permit the Building Inspector shall review it for completeness. If the Building Inspector finds that it is complete, the application shall be processed. If the Building Inspector finds that it is incomplete, the Building Inspector shall, within two workdays, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this chapter.
 - (5) Action. Within five workdays of the submission of a complete application for a sign permit, the Building Inspector shall either issue the sign permit if the sign that is the subject of the application conforms in every respect to the requirements of this section and does not violate § 395-19 or reject the sign permit if the sign fails in any way to conform to the requirements of this section or violates § 395-19. In case of a rejection, the Building Inspector shall specify in the rejection the section or sections of the ordinance with which the sign is inconsistent.
 - (6) Revocation. All rights and privileges acquired under the provisions of this section or any amendment thereto are licenses revocable at any time by the Village Board.
- C. Exceptions to permit requirement. All signs are subject to the size and height restrictions set forth in this section and the restrictions set forth in § 395-19. However, no permit is required for the following signs:
- (1) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance.
 - (2) Works of art that do not include a commercial message.
 - (3) Holiday lights and decorations with no commercial message.
 - (4) Traffic control signs, such as "Stop," "Yield" and similar signs which contain no commercial message of any sort.

- (5) Any sign erected by the Village.
- (6) Home improvement signs, but only during the time home improvements are being made.
- (7) Election signs that are in place not more than 60 days before an election and not more than 30 days after an election.
- (8) Real estate signs (for sale/for rent) during the period in which a home is for sale or rent.
- (9) Garage and yard sale signs within one week prior to and during a garage or yard sale.

D. Violations, enforcement remedies and penalties.

- (1) Violations. It shall be a violation of this section to construct, erect, place or modify any sign without a permit where a permit is required. Such violations shall be subject to the enforcement remedies and penalties provision.
- (2) Enforcement remedies. Any violation or attempted violation of this section or § 395-19 may be restrained, corrected or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law.
- (3) Penalties.
 - (a) Any person who violates this section or § 395-19 or fails to comply with any of their requirements shall, upon conviction thereof, be fined not less than \$100 nor more than \$1,000. Each day such violation continues shall be considered a separate offense. **[Amended 8-6-2008]**
 - (b) Any person, whether owner or tenant of a rental building, structure, premises, or part thereof, who participates in, maintains, or allows another to commit or maintain a violation of this chapter may be found guilty of a separate offense and suffer the penalties herein provided.

§ 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.¹³
- 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;
 - (j) 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).

ORDINANCE NO. 395-23

**AN ORDINANCE CREATING SECTION 395-23 OF THE MUNICIPAL CODE
OF THE VILLAGE OF LYNDON STATION, WISCONSIN
RELATED TO PERSONAL WIRELESS ANTENNAS AND ANTENNA TOWERS**

The Village Board of the Village of Lyndon Station, Juneau County, Wisconsin, do ordain that the Municipal Code of the Village of Lyndon Station, Wisconsin is amended as follows:

Section 395-23 is created to read:

Sec. 395-23. Personal Wireless Services Antennas and Antenna Towers.

(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.

- b. 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.
- c. 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.

(c) Standards.

- (1) *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.

The foregoing ordinance was duly adopted by the Village Board of the Village of Lyndon Station at a meeting held on _____, 10.

VILLAGE OF LYNDON STATION

Donald Coughlin, Village President

(seal)

Lori Scully, Village Clerk

ENACTED: _____

PUBLISHED: _____