

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

**CHAPTER 22: ZONING****SUBCHAPTER 1: INTRODUCTION AND DEFINITIONS****22.100 TITLE**

This Chapter shall be known, cited and referred to as the TOWN OF LYNDON ZONING ORDINANCE except as referred to herein, where it shall be known as “this Chapter”.

**22.101 AUTHORITY**

This Chapter is enacted pursuant to the authority granted by the State of Wisconsin Statutes (see *generally*, § 60.62, 61.35, 62.23, 87.30 and 289.22, Wis. Stats.) and pursuant to the grant of “Village Powers” (see, 60.10(2)(c) Wis. Stats). Specific statutory references are provided within the body of this Chapter solely as a means of assisting the reader. Such references are not to be considered as all inclusive and shall in no manner be construed to limit the application or interpretation of this Chapter.

**22.102 PURPOSE**

- (1) The overall purpose of this Chapter is to implement the Town’s Master Plan to the extent possible under zoning, as authorized by law. By implementing the goals and objectives of the Master Plan, this Chapter is adopted for the purpose of protecting the public health, safety, morals, comfort, convenience and general welfare of Town residents and visitors. Additional purposes of this Chapter may be specified throughout this Chapter.
- (2) Specifically, this Chapter is designed, among other things, (i) to enhance safety and convenience on Town roads; (ii) to secure safety from fire, panic, and other dangers; (iii) to promote health and general welfare by the adoption of standards for such things as noise, odors, vibration, air pollution, glare and heat, and hazardous or dangerous materials; (iv) to encourage the protection of groundwater resources by regulating and promoting such things as storm water drainage, natural resource areas and landscaping; (v) to avoid undue concentration of population and to prevent the overcrowding of land by controlling the density of residential development and the intensity of non-residential development; (vi) to preserve, protect and promote property values; and (vii) to preserve burial sites as defined in s.157.70(1).

**22.103 GENERAL APPLICATION OF THIS ORDINANCE**

All development, redevelopment, construction, maintenance, and use of real estate, and all buildings, structures, fixtures, and appurtenances located thereon or affixed thereto, shall comply with all the regulations and requirements of this Chapter, the Town Master Plan, the Subdivision Ordinance, and all other ordinances of the Town which are applicable.

**22.104 LEGISLATIVE INTENT**

In enacting this Chapter, special attention has been given to ensuring a direct relationship between these regulations and the Town’s Master Plan. The general intent of this Chapter is to implement those goals and objectives of the Master Plan which are best addressed through zoning, as enabled by the Wisconsin Statutes.

**22.105 RESERVED FOR FUTURE USE****22.106 COMPLIANCE**

The use, or change of use to a different use, of any lands or structures; the size, shape and placement of lots; the use, occupancy, size, location or alteration of structures; and all other matters dealt with in this ordinance, shall be in full compliance with the terms of this ordinance and other applicable regulations, including the securing of necessary permits. It shall be unlawful

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**SUBCHAPTER 1: INTRODUCTION & DEFINITIONS**

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for a use, structure, or occupancy to change to a new or different use, structure, or occupancy in non-compliance with the terms of this ordinance and other applicable regulations. Any change to a different use or any enlargement of an existing use requires compliance with this ordinance.

- (1) **Exemptions:** No application or permit is required for:
- (a) changes in cultivation or husbandry in an AG district;
  - (b) remodeling, repair, or alteration of single family or ag buildings that do not increase or change the exterior dimensions or increase the square footage of the building;
  - (c) storage in pre-existing accessory buildings, provided such storage does not involve an improvement to or a change in the exterior dimensions of the building.

**22.110 RE-ENACTMENT AND REPEAL**

This Chapter, in part, carries forward by re-enactment some of the prior provisions of the regulations governing zoning and related matters, being previously known collectively as the "Town of Lyndon Zoning Ordinance," adopted prior to the effective date of this Chapter. It is not the intention of this Chapter to repeal zoning in the Town, but rather to revise, amend, and continue in force zoning in the Town so that all rights and liabilities that have accrued under the previous zoning ordinance are preserved and may be enforced, unless explicitly surrendered by specific provisions of this Chapter or altered by the Official Zoning Map. The adoption of this Chapter shall not waive or adversely affect the Town's right to prosecute any violation of the predecessor Zoning Ordinance, provided the violation occurred while that Ordinance was in effect.

**22.111 PREVIOUSLY APPROVED PLANS**

All permits and plans approved under previous zoning regulations shall be valid for a period of not more than 6 months after the effective date of this Chapter.

**22.113 ADDITIONAL RULES OF INTERPRETATION**

- (1) Where property is affected by the regulations imposed by any provision of this Chapter and by other governmental regulations, the regulations which are more restrictive or which impose higher standards or requirements shall prevail. Regardless of any other provision of this Chapter, no land shall be developed or used, and no structure erected or maintained in violation of any state or federal regulations.
- (2) No structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, and without full compliance with the provisions of this chapter and all other applicable local, county and State regulations.
- (3) Nothing herein shall require any changes in plans, construction, size, or designated use of any building or part thereof, for which a zoning or building permit has been issued before the effective date of this chapter and the construction of which shall have been started within 6 months from the date of such permit.

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

- (4) Except as provided in this Chapter, under provisions for Nonconforming Uses (Section 22.403), Nonconforming Developments, Substandard Lots (Section 22.540), and Nonconforming Structures and Buildings (Section 22.541), no building, structure, development or premises shall be hereinafter used or occupied and no applicable permit granted, that does not conform to the requirements of this Chapter.
- (5) In cases of mixed-occupancy or mixed-use, the regulations for each land use shall apply to the portion of the structure or land so occupied or so used.

**22.116 ABBREVIATIONS**

The following abbreviations in this Chapter are intended to have the following meanings:

<u>Abbreviation</u>	<u>Meaning</u>
ABC	Accessory Building Coverage
Ac	acre
Acc.	Accessory
AG	Agriculture (zoning district)
Bldg	Building
CLA	Community Living Arrangement
db	decibel
DNR	Wisconsin Department of Natural Resources
du	dwelling unit
F	Floor
FAR	Floor Area Ratio
FEMA	Federal Emergency Management Agency
ft	foot/feet
GB	General Business (zoning district)
GDP	General Development Plan (Section 22.914)
GFA	Gross Floor Area
GSA	Gross Site Area
GSR	Green Space Ratio
HI	Heavy Industrial (zoning district)
ISR	Impervious Surface Ratio
J	Lot Width (when shown on drawing)
K	Street frontage (when shown on drawing)
L	Front setback to principal building (when shown on drawing)
LI	Light Industrial Zoning District
LA	Landscaped Area

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

LSR	Landscape Surface Ratio
M	Front setback to accessory building (when shown on drawing)
max	maximum
MBC	Maximum Building Coverage
MBS	Maximum Building Size
MF	Multi-family Zoning District
MGD	Maximum Gross Density
min	minimum
MH	Maximum Height
MLA	Minimum Lot Area
MSA	Minimum Site Area
MZA	Minimum Zoning District Area
N	Side setback to principal building (when shown on drawing)
na	not applicable
NDA	Net Developable Area
nonres	nonresidential
O	Side setback to accessory building (when shown on drawing)
P	Rear setback to principal building (when shown on drawing)
PB	Planned Business (zoning district)
PBC	Principal Building Coverage
PD(_-_)	Planned Development (zoning district)
PIP	Precise Implementation Plan (Section 22.914)
Princ.	Principal
Q	Rear setback to accessory building (when shown on drawing)
R	Peripheral setback (when shown on drawing)
res	residential
RPA	Resource Protection Area
RR	Rural Residential (zoning district)
S	Paved Surface Setback (when shown on drawing)
SF	Single Family Zoning District
sq. ft.	square feet
T	Separation of principal buildings (when shown on drawing)
U	Separation of accessory buildings (when shown on drawing)
WECS	Wind Energy Conversion System
X	Parking space (when shown on drawing)

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

Y	Dwelling core dimensions (when shown on drawing)
ZDA	Zoning District Area
#F	number of floors
A-A	or fewer (e.g. A8-A means A8 or fewer@)
A+@	or more (e.g. A9+@ means A9 or more@)

**22.125 DEFINITIONS**

The following words, terms and phrases, wherever they occur in this Chapter, shall have the meanings ascribed to them by this Section. Some of the following definitions may not, at this time, be used in this Chapter.

**Abutting:** Having a common border with, or being separated from such common border only by an alley or easement.

**Access:** A means of vehicular or non-vehicular approach, i.e. entry to or exit from a property, street or highway.

**Access, direct:** A condition of immediate physical connection resulting from adjacency of a road or right-of-way abutting a property.

**Accessory use or structure:** A use or structure subordinate to, and serving, the principal use or structure on the same lot and customarily incidental thereto. Land uses permitted as an accessory use are permitted subject to all the requirements of the specific standard zoning district (Subchapter 2) and overlay zoning district (Subchapter 3) in which the use is located, plus any additional requirements applicable to that particular land use (Subchapter 4).

**Active Outdoor Public Recreation:** All recreational land uses located on public property, such as play courts for tennis or basketball, play fields for baseball, football or soccer, swimming areas, public golf courses and similar land uses.

**Agriculture:** Bee keeping; commercial feed lot; dairying; egg production; floriculture; forest and game management; grazing; livestock raising; orchards, greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; sod farming; placing land in federal programs in return for payments in kind; land in the conservation reserve program; participation in the milk production termination program; and vegetable raising.

**Alteration, structural:** Any change in the supporting members of a building such as bearings, wall columns, beams or girders, or any substantial change in the roof or exterior wall.

**Antenna:** Any system of wires, poles, rods, reflecting discs, or similar devices, external to or attached to the exterior of any building, and used for the transmission or reception of electromagnetic waves (e.g. television, radio, microwave, telephone, internet access or shortwave signals).

**Basement:** A portion of a building located partly underground, but having one-half (½) or less of its floor to ceiling height below the average grade of the adjoining ground.

**Building:** Any structure which has a supported roof built, maintained, or intended for use for the shelter or enclosure of persons, animals, or property of any kind. The term is exclusive of portions of the structure not intended for shelter such as decks, balconies, pools, carports, etc. Where independent units with separate entrances are divided by shared walls, each unit is a building.

**Building, accessory:** A building which:

- (a) Is subordinate to and serves a principal structure or a principal use;
- (b) Is subordinate in area, extent, and purpose to the principal structure or use served;

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

- (c) Is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this Chapter; and
- (d) Is customarily incidental to the principal structure or use.

Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

**Building line:** An imaginary line on a lot, generally parallel to a lot line or road right-of-way line, located a sufficient distance therefrom to provide the minimum yards required by this Chapter. The building lines on a lot determine the area in which buildings may be placed, subject to all other applicable provisions of this Chapter. This is also referred to as a “setback” line.

**Building, principal:** A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

**Camping Unit:** Travel trailers, recreational vehicles (RVs), motor homes, fifth-wheelers, pop-up campers, and other mobile or portable shelters or vehicles which are designed and customarily used for a temporary, mobile, human dwelling (excluding tents).

**Cellar:** That portion of the building having more than one-half ( $\frac{1}{2}$ ) of the floor-to-ceiling height below the average grade of the adjoining ground.

**Commission:** The Town of Lyndon Plan Commission.

**Comprehensive Plan:** The Comprehensive Plan of the Town of Lyndon, Ordinance 21 herein, and as subsequently amended.

**Condominium:** Property subject to Condominium Declaration including but not limited to land, buildings or a part of the building, or group of buildings including all the land, co-owned and operated within the law of the State of Wisconsin for the mutual protection and benefit of an association of all the members of the ownership agreement pursuant to state statute 703 and its successors.

**Crawl space:** An enclosed area below the first usable floor of a building, generally less than five feet in height, used for limited access to plumbing and electrical utilities.

**Day Care:** See family day care home, intermediate day care home, or group day care center.

**Deck:** A structure that has no roof or walls. Can be attached or detached to the principal structure. If attached, it must comply with the principal setback requirements. If detached, shall be an accessory structure.

**Density:** A term used to describe the maximum number of dwelling units and the minimum amount of landscaping required for residential projects. Each zoning district contains density standards which determine the maximum amount of development permitted on any given site, taking into consideration a variety of factors, including (but not limited to) 1) the area of the site; 2) the proportion of the site not containing sensitive natural resources; 3) the zoning district(s) in which the site is located; 4) the development option(s) under which the site is developed; and 5) the use(s) considered for development. (Cf. “Intensity” which is the term used to describe the same standards for nonresidential sites.)

**Developer:** The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including an optionee or contract purchaser.

**Development:** The division of a parcel of land into two or more parcels, or any man made change to real estate including the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building; or any use or change in use of any buildings or land; or any extension of any use of land; or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Chapter.

**Development option(s):** The type of residential or nonresidential land uses which may develop on a lot as determined by the requirements of this Chapter.

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

- Development pad:** The area of a lot where site disruption will occur, including building areas, paved areas, yards and other areas of non-native vegetation, and areas devoted to septic systems.
- Drainage:** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff, to minimize erosion and sedimentation during and after development, and the means necessary for water supply preservation or prevention or alleviation of flooding.
- Drainageway:** Drainageways are non-navigable, aboveground watercourses, detention basins and/or their environs which are identified by the presence of one or more of the following: (a) All areas within 75 feet of the ordinary high water mark of a “perennial stream” as shown on USGS 7.5 minute topographic maps for the Town of Lyndon and its environs; (b) All areas within 50 feet of the ordinary high water mark of an “intermittent stream” or “open channel drainageway” as shown on USGS 7.5 minute topographic maps for the Town of Lyndon and its environs.
- Dryland access:** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough to accommodate wheeled vehicles.
- Dwelling:** A residential building or one or more portions thereof occupied or intended to be occupied exclusively for residence purpose, but not including habitations provided in nonresidential uses such as lodging uses and commercial campgrounds.
- Dwelling, attached:** A dwelling which is joined to another dwelling at one (1) or more sides by a party wall or walls.
- Dwelling, detached:** A dwelling which is entirely surrounded by open space on the same lot.
- Dwelling unit:** A room or group of rooms, providing or intended to provide permanent living quarters for not more than one (1) family.
- Dwelling unit separation:** The narrowest distance between two dwelling units. See Minimum dwelling unit separation.
- Easement:** Written authorization by a property owner for another party to use for a specified purpose any designated part of his property which has been recorded in the Register of Deeds' office.
- Elevated Building:** A non-basement building built to have its lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings columns (post and piers), shear walls, or breakaway walls.
- Encroachment:** Any unauthorized and/or unpermitted fill, structure, building, use, or development in or on a floodway, easement, right-of-way or property.
- Environmental Control Facility:** Any facility, temporary or permanent, which is reasonably expected to abate, reduce, or aid in the prevention, measurement, control or monitoring of noise, air, or water pollutants, solid waste or thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
- Family:** An individual or two (2) or more persons, each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common household.
- Fence:** An artificially constructed barrier of wood, masonry, stone, wire, metal or other manufactured material or combination of materials, erected to enclose, screen or separate areas.

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

**Floor area:** The sum of the gross horizontal areas of the several floors of a building including interior balconies, mezzanines, basements and attached accessory buildings, fitting rooms, stairs, escalators, unenclosed porches, detached accessory buildings utilized as dead storage, heating and utility rooms, inside off-street parking or loading space. Measurements shall be made from the outside of the exterior walls.

**Foundation:** The structural system supporting a structure serving the function of transferring building load to the ground; anchoring it against the winds; isolating it from frost heaving; isolating it from expansive soil; and holding it above ground moisture. The foundation designs are basement, crawlspace or slab of poured concrete, masonry or wood.

**Freeboard:** Represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors may include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

**Garage (residential):** A detached accessory building or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles, trailers, or trucks.

**General floor plans:** A graphic representation of the anticipated utilization of the floor area within a building or structure, but not necessarily as detailed as construction plans.

**Green space:** (A/k/a Permanently Protected Green Space) The area of a site upon which site disruption and site development are strictly limited. Green space consists of the following: (i) Resource Protection Areas (RPA), and (ii) areas devoted to land uses which incorporate natural resources, such as Passive Outdoor Public Recreational Land Use, and (iii) portions of a site which are prevented from development by deed restrictions or agreement.

**Gross density:** The result of dividing the number of dwelling units located on a site by the gross site area. See Maximum gross density.

**Gross floor area (GFA):** The total habitable floor area on all levels of a building.

**Gross site area (GSA):** The total area of a site or parcel, minus all of the following:

1. Existing and proposed rights-of-way of roads and public facilities;
2. Land which, although part of the same site, parcel or lot, is not contiguous to, or is not accessible from, the existing or proposed road network serving the site;
3. Land which is proposed for a different development option or a different zoning district; and
4. Areas of navigable waters (lakes and streams).

GSA is calculated whenever a person wishes to develop a parcel or site, e.g. campgrounds or mobile home parks. The determination of GSA is designed to help the developer calculate how much land is available for development after subtracting the undevelopable land from the proposed site.

**Hearing Notice:** Publication or posting which meets the requirements of Chapter 985, Stats. Class 1 notice is the minimum required for appeals: published once at least one week (7 days) before hearing. Class 2 notice is the minimum required for enactment of all new zoning ordinances and amendments including map amendments: published twice, once each week consecutively, the last at least a week (7 days) before the hearing.

**High flood damage potential:** Any danger to human life or public health or the potential for any significant economic loss to a structure or its contents.



## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

**Intensity:** A term used to describe the maximum amount of gross floor area and the minimum amount of landscaping required for nonresidential projects. Each zoning district contains intensity standards which determine the maximum amount of development permitted on any given site, taking into consideration a variety of factors, including (but not limited to) (1) the area of the site; (2) the proportion of the site not containing sensitive natural resources; (3) the zoning district(s) in which the site is located; (4) the development option(s) under which the site is developed; and (5) the use(s) considered for development. (Cf. "Density" which is the term used to describe the same standards for residential sites.)

**Intensive agricultural (land use):** See § 406(3).

**Junkyard (land use):** See § 409(4).

**Land use:** The type of development and/or activity occurring on a piece of property.

**Legal non-conforming use:** See "Use, legal non-conforming."

**Livable Space (Residential):** The sum of the gross horizontal areas of the several floors of a dwelling. Measurements shall be made from the outside of the exterior walls. This does not include attached garages, unenclosed porches, etc.

**Local residential street:** A road which primarily serves to collect traffic originating directly from residential driveways and private residential courts and streets.

**Lot:** A parcel of land that: (a) is undivided by any street or private road; (b) is occupied by, or designated to be developed for, one principal building or principal use; and (c) is designated as a lot on a Plat or Certified Survey map.

**Lot area:** The area contained within the property boundaries of a recorded lot. Lot area has the affect of limiting the density and intensity of development on a lot.

**Lot, corner:** A lot abutting 2 or more streets at their intersection.

**Lot depth:** The average distance between the front lot line and the rear lot line of a lot, as measured at each side lot line.

**Lot frontage:** Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by this Chapter shall be provided at each such line.

**Lot, interior:** A lot other than a corner lot.

**Lot line:** The property line bounding a lot, except that where any portion of a lot extends into an existing or proposed public right-of-way, the line of such public right-of-way shall be the lot line for applying this Chapter.

**Lot line, front:** A lot line which abuts a public or private street right-of-way. In the case of a lot which has two or more street frontages, the lot line along the street from which the house is addressed shall be the front lot line.

**Lot line, rear:** In the case of rectangular or most trapezoidal shaped lots, that lot line which is parallel to and most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be the lot line opposite the front lot line as defined above.

**Lot line, side:** Any boundary of a lot which is not a front lot line, a street side lot line, or a rear lot line.

**Lot line, street side:** Any lot line which abuts a public or private street right-of-way which is not the front lot line.

**Lot of record:** A platted lot; or lot described in a certified survey map which has been approved by the Town or by Juneau County and has been recorded in the office of the Register of

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

Deeds; or a lot described by a metes and bounds description which has been approved by the Town or by Juneau County and has been recorded in the office of the Register of Deeds.

**Lot, through:** A lot which has a pair of opposite lot lines abutting two substantially parallel streets (one or more of which may be a portion of a cul-de-sac). Except for through lots which abut an arterial or nonresidential collector street, through lots shall be prohibited under the provisions of this Chapter.

**Lot width:** The maximum horizontal distance between the side lot lines of a lot, measured parallel to the front lot line and at the rear of the required front yard. See Minimum lot width.

**Lowest floor:** The lowest enclosed floor (including basement). Any unfinished or flood resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosed area is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

**Maximum accessory building coverage:** The largest permitted area of all accessory buildings on a lot.

**Maximum gross density (MGD):** The maximum number of dwelling units permitted on one acre (or 43,560 sq. ft.) of lot area in a specific zoning district and land use.

**Minimum lot area (MLA):** The minimum size lot permitted within the specified zoning district and land use. MLA has the effect of limiting the "density" of a residential site, and the "intensity" of a nonresidential site.

**Minimum lot width:** The smallest permissible lot width for the applicable dwelling unit type or nonresidential development option.

**Minimum setback:** The narrowest distance permitted from a street, side, or rear property line to a structure.

**Minimum site area (MSA):** The minimum gross site area in which the specified development option may occur. See gross site area (GSA).

**Minimum Zoning District Area (MZA):** The minimum area of a zoning district. This is intended to prevent "spot zoning" of small areas.

**Navigable water:** All rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state which are navigable under the laws of this state. The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. [Muench v. Public Service Commission, 261 Wis. 492 (1952), and DeGaynor & Co., Inc. v. DNR, 70 Wis.2d 936 (1975)] For the purposes of this Chapter, rivers and streams will be presumed to be navigable if they are designated as either continuous or intermittent waterways on the US Geological Survey quadrangle maps until such time that the DNR has made a determination that the waterway is not, in fact, navigable.

**Net Developable Area (NDA):** The area of a parcel or site which may be disturbed by development activity. Net Developable Area is the result of subtracting Resource Protection Areas (RPA) from the Gross Site Area (GSA). The purpose for calculating NDA is to assist a developer in determining what percentage of a site is available for development (See, Site Evaluation Worksheet, Appendix 4 for calculation of NDA)

**Nonconforming building or structure:** Any building or other structure which does not conform to the provisions of this Code. An "illegal nonconforming building or structure" did not conform to the requirements of previous zoning ordinances. A "legal non-conforming building or structure" was either lawfully existing prior to the adoption of an zoning ordinance by the Town or was lawfully erected under the prior zoning ordinance but does not conform to this Code. (See § 541 for regulations).

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

**Nonconforming development:** A lawful development approved under provisions preceding the effective date of this Chapter, which would not conform to the applicable regulations if the development were to be created under the current provisions of this Chapter. See § 403.

**Nonconforming use:** An active and actual use of land, buildings or structures lawfully existing prior to this Chapter which has continued as the same use to the present and which does not comply with all the applicable regulations of this Chapter. (See § 403 for regulations).

**Noxious matter or materials:** Material capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

**Official map:** The map adopted by the Town Board which indicates the existing and proposed location of streets, highways, parks, playgrounds, roads, rights-of-way, waterways, public transit facilities and other public facilities as authorized by State Statutes.

**Onsite:** Located on the lot in question, except in the context of onsite detention, when the term means within the boundaries of the development site as a whole.

**Opacity:** The degree to which vision is blocked by bufferyard. Opacity is the proportion of a bufferyard's vertical plane which obstructs views into an adjoining property.

**Open sales lot:** An unenclosed portion of a lot or lot of record where goods are displayed for sale, rent or trade.

**Open space, useable:** That part of the ground level of a lot which is unoccupied by driveways, off street parking spaces, principal buildings and accessory buildings. This space of minimum described dimension shall be available for greenery, recreational space, gardening and other leisure activities normally carried on outdoors. Ground level for this purpose may include open terraces above the average level of the adjoining ground, but may not include a permanently roofed-over terrace or porch.

**Ordinary high water mark:** The point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

**Outdoor Institutional Uses:** These land uses include cemeteries, privately held permanently protected green space areas, country clubs, non-public golf courses, and similar land uses.

**Overlay zoning district:** A zoning district which imposes uniform restrictions on all properties within its area which are in addition to the restrictions specific to the standard zoning districts described in Subchapter 2, as well as the general restrictions of this Chapter. See Subchapter 3, if any.

**Owner:** The person or entity which holds legal title to a lot or parcel of land.

**Pad, Development:** See Development pad.

**Parcel:** (a/k/a Site) A tract of land designated for development or redevelopment. Typically, a parcel is either (i) a tract of land under single ownership, has not been designated for a principal use, and has not been divided into recorded lots, or (ii) in the case of redevelopment, a tract of multiple lots with multiple principal uses which the developer intends to acquire or has acquired for combination into a single redevelopment. A parcel is to be differentiated from a lot, which is ready for development without combination with other property or without subdivision into smaller lots.

**Passive Outdoor Public Recreation:** All recreational land uses located on public property involving passive activities such as arboretums, natural areas, wildlife areas, hiking trails, nonmotorized bike trails, cross-country ski trails, horse trails, open grass areas, picnic areas, gardens and fishing areas.

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

**Performance guarantee:** A financial guarantee to ensure that all improvements, facilities, or work required by this Chapter will be completed in compliance with the Chapter, regulations and the approved plans and specifications of a development.

**Performance standard:** Criterion established to control and limit the impacts generated by, or inherent in, uses of land or buildings. See Subchapter 5.

**Peripheral setback:** The distance between a structure and the boundary of a zoning district or development option. Peripheral setbacks are used to provide a setback in addition to (not overlapping with) regularly required building setbacks. Bufferyards are distinct from peripheral setbacks, but may be located within the peripheral setback.

**Principal use:** Any and all of the primary uses of a property, as determined by the Zoning Administrator, which uses are allowable as uses permitted by right or by conditional use, and not allowable as an accessory use or a temporary use per Subchapters 2, 3 and 4.

**Private Residential Recreational Facility:** All active outdoor recreational facilities such as children's playhouses, basketball courts, tennis courts, swimming pools and recreation-type equipment.

**Private Sewage System a/k/a Individual Septic Disposal System:** Any sewage treatment and disposal system within the Town which is not owned and operated by the Town. This term includes alternative sewage systems approved by the Department of Industry, Labor, and Human Relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.

**Protected natural resources:** Resources such as floodways, floodfringes, floodplain conservancy areas, wetlands, drainageways, woodlands, steep slopes, and lakeshores, which are protected by the provisions of this Chapter.

**Public improvement:** Any improvement, facility, or service, together with customary improvements and appurtenances thereto, intended to provide for public needs such as: streets, roads, alleys or pedestrian walks or paths, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

**Recorded lot:** See, Lot of record.

**Recreational vehicle:** A vehicle designed and used principally for the transport of persons.

**Residentially zoned:** A property located in a residential district per Subchapter 2.

**Resource Protection Area:** The area of a site which contains floodways, floodplain areas, floodfringes, wetlands, drainageways, lakeshores, woodlands and steep slopes, and in which development activity is limited to protect these natural resources.

**Restrictive, more (less):** A regulation imposed by this Chapter is more (less) restrictive than another if it prohibits or limits development to a greater (lesser) extent or by means of more (less) detailed specifications.

**Restaurant:** See indoor commercial entertainment.

**Restaurant, fast food:** See in vehicle sales and service.

**Scale (of development):** A term used to describe the gross floor area, height, or volume of a single structure or group of structures.

**Setback:** The shortest distance between a building's or structure's exterior and the nearest point on the referenced lot line or right-of-way line, whichever is closer. Various setback requirements are established in each zoning district (Subchapters 2 and 3). (See also, "minimum setback"). (NOTE: Front lot lines and right-of-way lines do not necessarily coincide with the edge of the road. Therefore, in measuring front yard setbacks, care should be taken to measure from the correct point).

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

**Site:** See, Parcel.

**Site area:** See Gross site area.

**Site Evaluation Worksheet:** This worksheet is designed to assist persons interested in developing a site, parcel or lot in the Town (e.g., development of a parcel into a residential subdivision, or a multifamily development, or a commercial development). This worksheet helps calculate the amount of land which is actually available for development, after things like wetlands and rights-of-way have been subtracted from the total area of the parcel. For example, if a developer needs 1 acre of developable property, this worksheet will help the developer determine whether a proposed site will accommodate a 1-acre development after subtracting rights-of-way, lakes, streams, floodplains, drainage ways, and other areas protected under this Chapter.

**Standard pavement width:** Required pavement width per the Town of Lyndon Subdivision Ordinance in residential subdivisions on a street that allows parking or as otherwise determined by the Town Board.

**Standard zoning districts:** Zoning districts which primarily regulate the use of land and intensity or density of such use. See Subchapter 2.

**Start of Construction:** The actual start of activity means either the first placement of permanent construction of a structure on the site such as the pouring of a slab or footings, the installation of piles, or the construction of columns, or setting the poles for pole buildings. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations; nor does it include the erection of temporary forms; nor does it include, in the case of a principal building, the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

**Steep Slope:** Steep slopes are areas which contain a gradient of 12% or greater, (equivalent to a 10 foot elevation change in a distance of 83 feet or less), as shown on USGS 7.5 minute topographic maps for the Town of Lyndon and its environs.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. Basements, cellars, crawl spaces and attics shall not be counted as a story.

**Street:** Unless specifically designated otherwise by the Town Board, any public or private way that is dedicated or permanently open to pedestrian and vehicular use, which is twenty-two (22) feet or more in width if it exists at the time of enactment of this Chapter; and any such public right-of-way sixty (66) feet or more in width when established after the effective date of this Chapter.

**Street Line:** See Lot line, front.

**Strip development:** A pattern of land uses typified by nonresidential and/or multifamily development located along one or both sides of a street which is generally only one lot deep and which is characterized by many curb cuts, low green space ratios, low landscape surface ratios, high floor area ratios, and/or low quantities of landscaping.

**Structure:** Anything constructed, placed or erected, the use of which requires a more or less permanent location on the ground, or attached to something having a permanent location on the ground, for use, occupancy or ornamentation whether installed on, above or below the surface. The following shall be construed as a structure, but the definition is not limited to these: billboards or other advertising medium detached or projecting, buildings, docks, dwellings, garages, mobilehomes, sheds, tool houses and walls.

**Substandard lot:** A lot of record which lawfully existed prior to this Chapter, which would not conform to the applicable regulations if the lot were to be created under the current provisions of this Chapter. See § 205.

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

**Substantial improvement:** Any structural repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either:

- (a) Any project to improve a structure to comply with existing state or local health, sanitary, or safety code specifications solely necessary to assure safe living conditions; and
- (b) Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society, or listed on the National Register of Historic Places.

Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other non-structural components. (For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.)

**Swale:** A linear depression in land running downhill or having a marked change in contour direction in which sheet runoff would collect and form a temporary watercourse.

**Unnecessary hardship:** The circumstance where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this Chapter.

**Use:** The purpose or activity for which land or any building or structure thereon is designed, arranged, or intended, or for which it is occupied or maintained.

**Use, Conditional:** A land use which requires a conditional use permit in order to develop. In general, conditional uses are those land uses, which are of such a special nature or which are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this Chapter of specific standards, regulations or conditions which would permit such determination in each and every individual situation. Conditional uses, when granted, are subject to all the requirements of the specific standard zoning district (Subchapter 2) and overlay zoning district (Subchapter 3) in which the use is located, plus any requirements applicable to that particular land use as contained in Subchapters 4 and 5, plus any additional requirements imposed as part of the conditional use process contained in Subchapter 9. Each application for, and instance of, a conditional use shall be considered a unique situation and shall not be construed as creating a precedent for similar requests. Conditional uses are granted pursuant to the procedures of § 905.

**Use, Illegal Non-conforming:** A building or structure which does not conform to this Code, which does not conform to any prior zoning ordinance of the Town, and which was not lawfully existing prior to the adoption of a zoning ordinance by the Town.

**Use, Legal Non-conforming:** A building or structure which does not conform to this Code, but was either (i) lawfully existing prior to the adoption of any zoning ordinance by the Town, or (ii) was lawfully erected under a prior zoning ordinance of the Town. (See § 541 for regulations).

**Use, Limited Conditional:** Limited conditional uses are the same as regular conditional uses except that limited conditional uses are not permanent, but instead, they are limited in time or duration because of

- (a) their particularly specialized nature, or
- (b) their particular locations within a district, or

## SUBCHAPTER 1: INTRODUCTION &amp; DEFINITIONS

(c) the peculiar relationship or needed compatibility of uses to involved individuals, or

(d) any other reason(s) the Plan Commission deems relevant to limit the scope thereof.

**Use, Permitted:** A land use which is allowed to develop without special oversight by the Plan Commission through the conditional use process (§ 905), but instead, is allowed to develop subject to the zoning permit process (§ 904) administered by the Zoning Administrator. However, permitted uses (like conditional uses) are subject to all the requirements of the specific standard zoning district (Subchapter 2) and overlay zoning district, if any, in which the use is located, plus the general land use requirements of Subchapter 4, the general standards and regulations of Subchapter 5, and the other applicable provisions of this Chapter. Before any permitted use is commenced, changed, or altered, a zoning permit must be obtained. (See, § 904).

**Use, Temporary:** A land use, identified in § 413, which is present on a property for a limited and specified period of time, and which is subject to all the requirements of the specific standard zoning district (Subchapter 2) and overlay zoning district, if any, in which the temporary use is located, plus any requirements applicable to that particular temporary land use as contained in Subchapter 4. Temporary uses are granted pursuant to the procedures of § 906.

**Utility Shed:** A utility shed does not include a structure originally built to be licensed as a vehicle or trailer, such as semi-trailers or cube vans.

**Variance:** Permission to depart from the literal requirements of this Chapter granted pursuant to § 910.

**Vision Clearance Triangle:** An occupied triangular space at the corner of intersecting roads, designed for the purpose of maintaining an unobstructed area at each intersection to assist motorists and pedestrians using such intersections.

**Woodland:** Woodlands are areas of trees whose combined canopies cover a minimum of 80% of an area of one acre or more, as shown on USGS 7.5 minute topographic maps for the Town of Lyndon and its environs.

**Yard:** A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky, except as expressly permitted in this Chapter. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

**Yard, front:** A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such lot is located.

**Yard, rear:** A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

**Yard, side:** A yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

**Zoning Board:** The Town of Lyndon Board of Zoning Appeals.

**Zoning district:** A geographic area of the Town, which is identified on the Official Zoning Map and which is subject to the rules and regulations set forth in this Chapter. Subchapter 2 identifies the standard zoning districts into which the entire Town is divided, and Subchapter 3, if any, identifies the overlay zoning districts which cover part of the Town.

**Zoning district categories:** Zoning Districts are divided into categories of similar districts. For example, zoning districts which establish different types of residential land uses are all contained in the "residential category."